



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **ITA 1356/2006**

NARINDER JEET KANWAR
Through

..... Appellant
Mr. Salil Aggarwal, Adv.

versus

COMMISSIONER OF INCOME TAX
Through

..... Respondent
Mr. Ajay Jha, Adv.

CORAM:

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER
13.09.2006

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The Assessee is aggrieved by an order dated 18th November, 2005 passed by Income Tax Appellate Tribunal, Delhi Bench 'E' in ITA No. 4069/Del/2001 relevant for the assessment year 1997-98.

The Assessee claimed to have entered into transactions regarding the sale of shares in respect of two companies namely Chirau Finance Investment & Leasing Co. Limited and Nishtha Finance and Investment (India) Limited.

The Assessing Officer as well as the Commissioner of Income Tax(Appeals) did not accept the claim of the Petitioner with regard to the transactions in respect of both the companies, while the Tribunal deleted the addition made by the Assessing Officer on account of the transactions entered into by the Petitioner with regard to Nishtha



Finance and Investment (India) Limited.

In so far as the transactions of sale of shares pertaining to Chirau Finance Investment & Leasing Co. Limited are concerned, all the three Authorities have decided against the Assessee.

The sale of shares is said to have taken place through one J. K. Jain as a broker. Despite several opportunities being given to the Assessee to produce J. K. Jain, he was not produced. Summons was sent to him by the Assessing Officer but it came back unserved with the remark "no such firm exists at the given address". The Assessee offered to take the summons dasti and even the Advocate of the Assessee offered to produce J.K. Jain but he did not produce him. The identity of J. K. Jain had remained in mystery throughout the proceedings including at the stage of the hearing in the Tribunal.

In addition to this, the shares had a market value of about Rs.9.84 and were said to have been sold for about Rs.58/- for which there is no explanation. The Assessee relied on one solitary transaction in the Kanpur Stock exchange where this share was sold for Rs.61/- but that transaction was found to be not genuine.

Even the payments made by account payee cheques were under suspicious circumstances, in as much, as, when the cheque was issued to the Assessee, an equal amount was deposited in the account of the J.K. Jain & Co. from the account of one M/s Shubh Investment



with the same bank. In turn, the same amount was first deposited in cash in the account of M/s Shubh Investments, a sole proprietary concern of one Shri Devender Kumar. The holder of the bank account Mr. Davender Kumar was also not traced. No transaction of shares in respect of Chirau Investment was noted in Delhi and Jaipur Stock Exchange.

We see no merit in this appeal under Section 260A of the Income Tax Act. No substantial question of law arises for our consideration. Dismissed.


MADAN B. LOKUR, J


VIPIN SANGHI, J

SEPTEMBER 13, 2006
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