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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ ITA 582/2006

COMMISSIONER OF INCOME TAX Appellant
Through Ms.P.L. Bansal

versus

DINESH GUPTA Respondent
Through

CORAM:
HON'BLE MR. JUSTICE T.S.THAKUR
HON'BLE MR. JUSTICE SHIV NARAYAN DHINGRA

ORDER
21.04.2006

This appeal is concluded by concurrent findings recorded by the Commissioner of Appeals and the Income Tax Appellate Tribunal. The Tribunal has on an appraisal of the material available on record come to the conclusion that no evidence was discovered in the course of search conducted on the assessee's premises showing any investment made by the assessee over and above what was already disclosed. The Tribunal has observed:-

"In the present case in appeal no evidence was found as result of search on the assessee to show that there was any investment which can be said to have been made by the assessee over and above what was already disclosed by him. The actual sale consideration paid by the assessee had been disclosed in the regular books of accounts maintained by it. Merely on the basis of memorandum of Understanding in respect of investment being made by the assessee's brother or his relative in their own right could not be treated as evidence against the assessee unless the Assessing authority had brought some material on record to show that any payment of premium was made by the assessee or that the suppression in the purchase consideration there of in property No. G-49, Nizamuddin Extension was on account of the appellant



before us. There was thus no basis for making reference to the Departmental Valuation Officer. Since the property under consideration was already declared and there being no evidence found as a result of search to show that there is any suppression in purchase of property at Defence Colony by the assessee merely on the basis of DVO's report an addition as undisclosed investment cannot be made so as to treat the same as undisclosed income of the block period. On similar basis the addition in the case of R.K. Gupta relied upon by the learned CIT (A) has also been deleted. We, therefore, do not find any legal or factual infirmity in the decision taken by learned CIT (A) to delete the addition of Rs.37,50,000/- as undisclosed income of the block period. This ground in Revenue's appeal therefore stands rejected."

On the above findings of the fact, we do not see any substantial question of law arising for our consideration in this appeal which fails and is hereby dismissed.


T.S. THAKUR, J


SHIV NARAYAN DHINGRA, J

APRIL 21, 2006

'ns'