



4, 5, 10, 13, 14, 16  
% 07.07.2008

Present: Ms Prem Lata Bansal for the Appellant.  
Mr O. P. Sapra for the Respondent.

+ CM No. 7796/08 in ITA 664/2008, CM No. 7799/08 in ITA 665/2008, CM No. 7809/08 in ITA 670/2008, CM No. 7984/08 in ITA 687/2008 and CM No. 8353/08 in ITA 720/2008

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Allowed subject to all just exceptions.

ITA 664/2008, ITA 665/2008, ITA 670/2008, ITA 687/2008, ITA 720/2008 & ITA 685/2008

These six appeals arise out of the common order passed by the Income Tax Appellate Tribunal on 17.09.2001 in six different appeals. All the assesseees belong to the group known as the Tyagi Group. The assesseees held shares in Tyagi Anand & Co. Pvt. Ltd. In the assessment year 2001-02 the shares held by the members of the Tyagi Group were sold for consideration. There is no dispute with regard to the sale price of the shares. The question that arose before the Tribunal was with regard to the extent of capital gains at the hands of the assesseees. This arose in the context of arriving at the cost of acquisition of the shares.

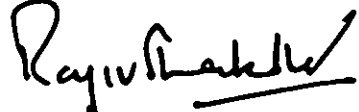


It is an admitted position that the shares of Tyagi Anand & Co. Pvt. Ltd. are unquoted equity shares and, therefore, it is not possible to arrive at a valuation by looking at the price of the shares as on 01.04.1981. The fair market value would have to be determined in terms of Section 2 (22B) (ii). Apparently, this exercise had already been done in the case of the Anand Group. The Anand Group also held shares in Tyagi Anand & Co. Pvt.Ltd. The valuation of their cost of acquisition has been done in their cases under the circumstances indicated in paragraph 2.2 of the Tribunal's order. The Tribunal has accepted the valuation as done in the Anand Group for the purposes of the shares sold by the Tyagi Group also. The Tribunal was of the view that the Assessing Officer had already got the fair market value determined of Natraj Cinema which was one of the assets of Tyagi Anand & Co. Pvt.Ltd. through the DVO and it is only thereafter that the fair market value of the share was arrived at in the cases of the Anand Group as on 01.04.1981. The Tribunal was of the view that there was absolutely no necessity to repeat the same exercise all over again and re-work the fair market value in the case of the Tyagi Group. The Tribunal also noted that neither in the



assessment order, nor in the order of CIT (A), nor during the course of hearing of the appeals before the Tribunal, any error had been pointed out in the fair market value worked out by the DVO, which had been worked out in respect of the cases of the co-owners (The Anand Group). It is in these circumstances that the Tribunal allowed the appeals of the assesseees and returned a finding against the revenue. The Tribunal has adopted the policy of consistency and has returned a finding in favour of the assesseees and against the revenue. We do not find any substantial question of law which arises for our consideration in these appeals. The appeals are dismissed.

  
BADAR DURREZ AHMED, J

  
RAJIV SHAKDHER, J

July 07, 2008  
SR