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HIGH COURT OF DELHI AT NEW DELHI

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ITA 716/2007

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Date of Decision: 13th May, 2008

COMMISSIONER OF INCOME TAX DELHI XIV Appellant
Through Mr.Jagdish Rai Goel, Advocate

versus

LATE SHRI RAJESH PILOT Respondent
Through Mr.K. Kapur, Advocate

CORAM:**HON'BLE THE CHIEF JUSTICE****HON'BLE DR. JUSTICE S.MURALIDHAR**

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether judgment should be reported in Digest?

AJIT PRAKASH SHAH, Cj. (Oral)

1. The appeal is by the department and it relates to the assessment year 1992 – 93. The assessee died on 29th July, 2000 and assessment has been made in the name of the legal heir of the deceased. The question that falls for consideration is whether the amount received is 'income'. The Commissioner of Income Tax(A) [for short CIT(A)] held that the amount could at best be in the nature of a gift or donation on account of the assessee's personal qualities and for the social work that he had been doing for the social upliftment of the people of his constituency and the country at large and consequently deleted the amount of Rs.10 lacs from the assessment. The order of the CIT(A) has been confirmed by the ITAT.

2. It is well settled that every receipt is not taxable as income. It



may be a receipt, but not necessarily 'income'. The question is whether the ingredients commonly embedded in the concept of 'income' are present.

3. Learned counsel appearing for the appellant placed reliance on the judgment of the Supreme Court in **A. Govindarajulu Mudaliar v. CIT, Hyderabad** reported in (1958) 34 ITR 807 and submitted that as the assessee has failed to prove specific nature of the receipt, it is open to the Income Tax Officer to infer that the receipt is taxable.

4. The judgment in **A. Govindarajulu Mudaliar** (supra) was considered and explained in the later judgment in the case of **Parimisetti Seetharamamma v. Commissioner of Income-tax, Andhra Pradesh** reported in (1965) 57 ITR 532:

“The observation relied upon does not lay down a proposition that it may be inferred that a receipt is taxable as income because the assessee fails to lead all evidence in support of the case pleaded by him that the receipt is not within the taxing provision. Whether a receipt is liable to be treated as income depends very largely upon the facts and circumstances of each case: it is open to the Income-tax authorities to raise an inference that a receipt by an assessee is assessable income where he fails to disclose satisfactorily the source and the nature of the receipt. But in this case the source of the income was disclosed by the appellant, and there was no dispute about the truth of that disclosure.”

5. In the instant case the income tax authorities themselves are in the knowledge of source of the receipt as also the purpose for which it was given by Mr.S.K.Jain to Mr.Kamal Singh for the assessee. It is on



that basis that the assessment was reopened and the amount was added as income of the assessee. Therefore, the ratio of the decision in **A. Govindarajulu Mudaliar** (supra) is not applicable but the ratio of **Parimisetti Seetharamamma** (supra) is applicable in the present case. At the relevant time the assessee was not holding any public post. It is also on record that he did not do any favour or help to Mr.Jain at any time, whether before or after he got elected to the Parliament, so that it can be said that there was quid pro quo for the receipt of the money. The money was in fact received by Mr.Kamal Singh, an election agent of the assessee, who is said to have spent it on the expenditure for jeeps required for the election campaign of the assessee. There is no evidence to show that the money was used by the assessee for acquiring movable or immovable properties in his name or in the name of his family members or even for his foreign travel or personal expenses.

6. In these circumstances, it is not possible to interfere with the concurrent findings recorded by the authorities below. The appeal has no merit and the same is dismissed.

CHIEF JUSTICE

MAY 13, 2008
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S.MURALIDHAR, J