



% 20.10.2009

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Present: Ms. Suruchi Aggarwal, Adv. for the appellant/Revenue.

+ ITA No.1069/2009


The admitted facts which are not in dispute are that the assessee herein was allotted a plot of land by the Delhi State Government Industrial Development Corporation (DSIDC) in the year 1991. Immediately thereafter, he entered into Agreement to Sell with Shri Kamal Arora for the total consideration of Rs.1,20,000/-. The DSIDC had raised a demand in respect of balance amount from the assessee against the allotment of the plot. Shri Kamal Arora had agreed to pay the balance amount. An amount of Rs.1,25,125/- was paid by Shri Kamal Arora in the form of pay order to DSIDC. On payment of complete amount, possession of the plot was taken over by Shri Kamal Arora. Thus as on the date, when DSIDC handed over the possession of plot to Shir Kamal Arora, transaction between the assessee and Shri Kamal Arora was complete, *viz.*, the assessee had taken full consideration for the said plot, which possession of the plot had been given to Shri Kamal Arora. Thereafter, Shri Kamal Arora entered into an Agreement to Sell dated 10.05.1999 in favour of



Smt. Anu Jindal @ Rs.3,10,000/- Since the plot could not be transferred without the signature of original allottee as per DSIDC bye-laws, he executed the paper for transfer of plot in favour of Smt. Anu Jindal on 18.07.1995. Apart from this, there was no act on the part of the assessee who had, as noted above, entered into the transaction with Shri Kamal Arora for a consideration of Rs.1,25,125/-.

In these circumstances, we are of the view that it could not be treated as deemed gift by the assessee in favour of Ms. Anju Jindal under the provision of Section 4(1)(a) of the Gift Tax Act and the assessee is fastened with the liability. When we keep in mind the aforesaid facts, we find that the Income Tax Appellate Tribunal has rightly dealt with the issue under the aforesaid circumstances.

Therefore, no substantial question of law arises in this appeal, which is accordingly dismissed.


A.K. SIKRI, J.


SIDDHARTH MRIDUL, J.

October 20, 2009
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