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% 30.09.2010

Present: Ms. Suruchi Aggarwal, Advocate for the appellant.
Mr. C.S. Aggarwal, Sr. Advocate with Mr. Prakash Kumar,
Advocate for the respondent.

+ ITA 1080/2009

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In this appeal, notice was issued limited to questions of law proposed at serial Nos.1 and 2, which are as under:-

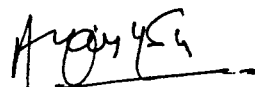
“(1) Whether in the facts and circumstances of the present case, ld. ITAT has erred in upholding the CIT(A) order wherein the learned CIT(A) has deleted the addition of ₹ 15,87,097/- on account of loss in respect of trading in units of mutual fund?

(2) Whether in the facts and circumstances of the present case, ld. ITAT has erred in deleting the addition of ₹ 2 lacs received as gift, as income from undisclosed source?”

Insofar as first question is concerned, Mr. Aggarwal, learned senior counsel appearing for the assessee submits that in a recent judgment in the case of *CIT vs. M/s. Wallfort Shares & Stock Brokers Ltd.*, 326 ITR 1, the Supreme Court has decided this issue in favour of the assessee. We have gone through that judgment and are in agreement with the learned senior counsel for the assessee. The learned counsel for the appellant could not point out any distinguishing features. In view thereof, question of law mentioned at serial No.1 does not arise for consideration.



In respect of question at serial No.2, concurrent finding of facts are recorded by the two authorities below accepting the source of gift. The Tribunal has, *inter alia*, observed that the identity of donor was not in dispute. His credit worthiness was also proved. It was also found that the same gift is given out of amount received by the donor back from M/s. AKS Farms Pvt. Ltd.. Copy of the confirmation was also filed in this behalf. These findings were arrived at after examining the donor. It would thus be a pure finding of fact and even the tax effect is negligible. Thus, no question of law arises for consideration. Dismissed.


A.K. SIKRI, J.


REVA KHETRAPAL, J.

SEPTEMBER 30, 2010
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