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% 31.05.2011

Present: Mr. Harish Malhotra, Sr. Advocate with Mr. R.K. Modi, Advocate for the appellant.
Mr. Abhishek Maratha, Sr. Standing Counsel for the respondent.

+ ITA No. 790/2011

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1. In the return filed by the appellant/assessee for the assessment year 2001-02 the assessee had shown that it had received gifts from four persons for a total sum of Rs.5,24,000/-. The particulars thereof are as under:-

Shri Ram Chander Aggarwal	1,51,000
Smt. Meera Devi Sharma	1,01,000
Smt. Radha Sharma	1,21,000
Smt. Chanda Devi Dokani	1,51,000

2. All these gifts were received on the same date i.e., 23rd March, 2001. In order to adjudge the veracity of gifts and also the credit worthiness of the persons, who had given the aforesaid purported gifts to the appellant, Assessing Officer, directed the assessee to produce downers along with their bank pass books. However, the assessee showed his inability to produce these donars. In the first instant, the Assessing Officer had recorded the statement of appellant as well as Shri Anil Kumar Aggarwal. In his statement the appellant stated these downers were resident of Kolkata. He was not able to give their addresses. He also did not know the relationship of those persons. He however, stated that they may be distant relatives or family friends of his grandfather. He further said that the donees had come to Delhi on the death anniversary of his grandfather which falls on 25th January and



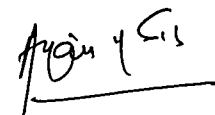
gave him the gifts. The assessee could not explain the favour done by him in lieu of the gifts received by the downers.

3. In the statement of Shri Anil Kumar Aggarwal, father of the assessee, he stated that his wife and children had never made any gifts to anyone in their life. As far as the aforesaid four persons are concerned, though he confirmed that his son had received gifts from them, but he could not give their residential address.
4. In order to clarify the credit worthiness and genuineness of these gifts, the Assessing Officer issued commission under section 131(1)(d) of the Income Tax Act, 1961 was issue to ITO, Ward 11(2), Kolkata. The ITO of Kolkata recorded the statements of the said four persons. As per their statement it was revealed that they were persons of low means. They had never come to Delhi at any time. They were not able to disclose the source from which they could give such huge amount. Some of them even stated that they do not know the assessee and had no relation with him. All these statements are analysed and discussed in detail by the Assessing Officer and ITAT in para 4 of the impugned order as well.
5. On the basis of material on record the Assessing Officer confirmed that the credit worthiness and genuineness was not established by the assessee. The assessee could not produce any material on record as to why these persons, who were not related to the assessee would, have given gifts of this amount to the assessee.
6. He thus came to the conclusion that it was a colourable transaction shown by the assessee without any credence. On this basis, addition



of Rs.5,24,000/- was made by the Assessing Officer in the Income of the assessee invoking the provisions of Section 68 of the Income Tax Act.

7. The CIT(A) as well as ITAT have confirmed the aforesaid findings of the Assessing Officer. These are pure findings of facts which are based on the evidence/material on record. We do not find any perversity therein. No question of law, much less substantial question of law arises for consideration. The appeal is accordingly dismissed.


A.K. SIKRI, J.


M.L. MEHTA, J.

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