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Present: Ms. Rashmi Chopra, Advocate for the appellant/ Revenue.
Mr. O.P. Sapra, Advocate for the respondent/assessee.

+CM APPL. 17762/2009

For the reasons stated in the application, the delay in refiling the appeal is condoned.

ITA 1353/2009

A search took place at the residence of the respondent/assessee and her husband at A-22, Friends Colony, New Delhi as well as the lockers of the assessee with Punjab National Bank, Ashram Road and Canara Bank, Maharani Bagh on 19th April, 2006.

During the course of the search, some cash, jewellery and documents were found and seized. Notice under Section 158BC (c) of the Income-Tax Act was issued to the assessee pursuant to which the assessee filed her return for the block period 1st April, 1985 to 19th April, 1996. After going through the same the Assessing Officer passed assessment orders making two additions on account of undisclosed income which are as under:-

(1) Addition of ₹ 11,52,424/- on account of jewellery, silver and utensils etc.

(2) Addition of ₹ 31.5 lacs as undisclosed investment on construction of the property No. E-5, Jyoti Colony, Shahdara, Delhi.

The Tribunal has reduced the addition on account of jewellery to ₹ 7,01,281/- Insofar as addition on account of investment in construction is concerned, that has also been restricted to ₹ 6.50 lacs. Challenging this order, present appeal is preferred by the Revenue.

Insofar as first addition is concerned, it is held by the Tribunal that having regard to the status etc. of the assessee, allowance of ₹ 2 lacs needs to be given. It is further stated that allowance is given on the premise that the assessee had declared some of the jewellery under the Amnesty Scheme announced by the Ministry of Finance in the financial year 1996-97. Insofar as this addition is concerned, the Tribunal had reduced the same from ₹ 11,52,494/- to ₹ 7,01,281/- thereby deleting the addition only of ₹ 4.5 lacs.

On the facts of this case, we do not find any ground to interfere with this deletion made by the ITAT.

Asfar as second addition is concerned, the facts on record which emerged would reveal that the assessee had purchased the aforesaid property at Shahdara on 8th June, 1990 for a sum of ₹ 1,50,000/-. As per the purchase deed the property was constructed on ground floor only consisting of three halls, open courtyard with boundary wall. The

assessee made further construction in the basement, ground floor, f floor, and second floor in the same year i.e. in the year 1990-91. In the Income-Tax Return filed by the assessee for the block period, she herself disclosed that a sum of ₹ 6.5 lacs was spent on the construction and this amount was offered for taxation as 'undisclosed income'.

The Assessing Officer did not accept the figure towards the aforesaid construction given by the assessee. Instead, he referred the matter to the two Inspectors of Income-Tax to inspect the property and estimate the cost of construction. These Inspectors submitted their report on 14th April, 1997 as per which total cost of construction was estimated at ₹ 29.81 lacs. This report was taken as the basis for arriving at a cost of construction and addition of ₹ 31.50 lacs was made.

The ITAT, in our opinion, has rightly held that the two Inspectors were not qualified to assess the cost of construction and their report could not have been the basis of forming an opinion as what would be the cost of construction. It is to be kept in mind that construction for the period was carried out in the year 1990-91 and cost of construction of ₹ 6.50 lacs appears to be reasonable.

Be as it may, the reports of these Inspectors was rightly brushed aside by the Tribunal holding that it could not be the basis for addition and there was no other material to sustain the order of this Assessing Officer. We find nothing wrong in the approach of the Tribunal in

accepting the cost of construction as ₹ 6.50 lacs disclosed by assessee in the Income-Tax Return.

We thus find that no substantial question of law arises in this appeal which is accordingly dismissed.

A.K. SIKRI,J.

INDERMEET KAUR,J.

SEPTEMBER 01, 2011
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