

**(2003) 01 DEL CK 0108**

**Delhi High Court**

**Case No:** IT Reference No. 5 of 1984 30 January 2003

Commissioner of Income Tax

APPELLANT

Vs

Seth Sudhir Kumar Modi

RESPONDENT

**Date of Decision:** Jan. 30, 2003

**Citation:** (2003) 130 TAXMAN 266

**Hon'ble Judges:** Madan B. Lokur, J; D.K Jain, J

**Bench:** Full Bench

**Advocate:** Sanjeev Sabharwal and Rajeev Awasthi, for the Revenue S.K. Aggarwal and Vinay Vaish, for the assessee, for the Appellant;

### **Judgement**

@JUDGMENTTAG-ORDER

D.K. Jain, J.

At the instance of the revenue, the Income Tax Appellate Tribunal, New Delhi has referred u/s 256(1) of the Income Tax Act, 1961, the following question for the opinion of this court :

"Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was legally correct in holding that the value of perquisite in respect of residential accommodation at Modi Nagar be limited to the standard rent fixed by the prescribed authority u/s 9 of the UP Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 ?"

2. The reference relates to the assessment year 1973-74. Since answer to question stands concluded by the decision of this court, it is not necessary to state the facts. An issue, similar to the one raised in this reference, came up for consideration of this court in [Commissioner of Income Tax Vs. M.K. Modi](#), wherein it was held that for determination of the market value of the perquisite provided to the assessed by way of a rent-free accommodation, the basis has to be the standard rent fixed by the Rent Controller in respect of similar accommodation by another person u/s 9 of the

UP Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972. Following the said decision, we answer the question referred in the affirmative, i.e., in favor of the assessed and against the revenue.

3. The reference stands disposed of in the above terms with no order as to costs.