

(2000) 08 DEL CK 0130

Delhi High Court

Case No: IT Case No. 16 of 2000

Smt. Satya Narayan Aggarwal

APPELLANT

Vs

Commissioner of Income Tax

RESPONDENT

Date of Decision: Aug. 10, 2000

Acts Referred:

- Income Tax Act, 1961 - Section 256(1)

Citation: (2001) 118 TAXMAN 19

Hon'ble Judges: Dr. Arijit Pasayat, C.J; D.K. Jain, J

Bench: Division Bench

Advocate: K.R. Manjani, for the Appellant; J.R. Goel and Ms. Prem Lata Bansal, for the Respondent

Final Decision: Dismissed

Judgement

1. This petition has been filed in relation to reference application No. 207 (Delhi) of 1998 which was filed by the assessee u/s 256(1) of the income tax Act, 1961 ("the Act"). Though the assessee had proposed four questions, the Tribunal, Delhi Bench D, referred two questions. The present petition has been filed in respect of the third question which reads as follows :

Whether the conclusion of the Tribunal that the applicant-assessee is not the owner of the silver is based on evidence and materials, opposed to evidences and materials, based on whims and fancies and is perverse in law ?

It is the case of the petitioner that the Tribunal, while drawing adverse inference, has not taken note of orders passed by this Court and has based its conclusions on irrelevant aspects. The dispute essentially relates to the question as to whom the silver which was seized in a search operation in the premises of one Bholaram belongs to. The petitioner who claimed to be tenant of Bholaram claims that seized

silver belongs to her. Strong reliance is placed on a decision of this High Court in which certain conclusions were arrived at regarding ownership of silver by the petitioner. The department did not go by the said decision on the ground that it was not a party to the proceedings. The Tribunal referred to various factual aspects to show fallacy of the petitioner's claim and held that the claim as made by the petitioner is untenable and unsustainable. It concluded that the petitioner had no means to acquire the silver. It doubted the claim that the silver was acquired by availing loans. It also noted that the decision of the Delhi High Court in the matter where there were some conclusions about ownership of the petitioner was by compromise and earlier order passed by the Court was not taken note of. The conclusions are essentially factual giving rise to no question of law. We, therefore, decline to entertain this petition. It is, accordingly, dismissed.