

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES "A", JAIPUR
श्री रमेश सी शर्मा, लेखा सदस्य एवं श्री विजय पाल राव, न्यायिक सदस्य के समक्ष
BEFORE: SHRI RAMESH C SHARMA, AM & SHRI VIJAY PAL RAO, JM

आयकर अपील सं./ITA No. 280/JP/2017
निर्धारण वर्ष /Assessment Year : 2011-12

Mamta Gupta, 29, Kailashpuri, Tonk Road, Jaipur.	बनाम Vs.	I.T.O., Ward 6(3), Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AFCPG 4368 Q		
अपीलार्थी /Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से / Assessee by: Shri H.M. Singhvi &
Shri Arun Gangwal (CAs).
राजस्व की ओर से / Revenue by: Shri Varinder Mehta (CIT-DR)

सुनवाई की तारीख / Date of Hearing: 02/04/2019
उदघोषणा की तारीख / Date of Pronouncement :22/05/2019

आदेश / ORDER

PER: VIJAY PAL RAO, J.M.

This appeal by the assessee is directed against the order dated 13/01/2017 of the Id. CIT(A), Ajmer for the A.Y. 2011-12. The assessee has raised following grounds:

- "1. That the learned CIT confirm the action of the AO initiating the proceedings U/S 153C and confirm the assessment without receiving the satisfaction note from the AO having jurisdiction assessing the searched party.*
- 2. That the learned CIT (appeals) erred in confirming the addition on the basis of zerox copy of zerox copy of document (alleged agreement) without production of original, on presumptions and assumptions, ignoring the decision of the jurisdictional High court, Supreme court and Delhi High court.*

3. *That the learned CIT (Appeals) has not care to make comments on the judgment referred in our submissions.*
4. *That the appellant craves leave to add, alter, amend, withdraw any grounds of appeal either before or at the time of hearing of appeal."*

2. Ground No. 1 of the appeal is regarding validity of initiation of proceedings U/s 153C of the Income Tax Act, 1961 (in short, the Act) without satisfaction recorded by the A.O. of the searched person. There was a search and seizure action U/s 132 of the Act on 31/07/2012 in the case of Siyaram Group (Katta) of Jaipur. During the course of search proceedings, certain documents/papers belonging to the assessee were stated to be found and seized. These documents/papers were found at the residence of Shri Satish Chand Katta including two sale agreements dated 15/10/2010 and 30/10/2010 as well as sale deed dated 11/11/2010. The A.O. having jurisdiction over the assessee, issued notice U/s 153C of the Act on 24/3/2015. In response to the said notice, the assessee filed return of income on 10/04/2015 declaring income of Rs. 11,55,666/- as declared in the return of income filed U/s 139(1) of the Act. The assessee demanded copies of the seized documents as well as statement of Shri Satish Chand Katta, which were supplied to the assessee as stated in the assessment order. The assessee filed objections on 08/2/2016 against the notice issued U/s 153C of the Act. The A.O. disposed off the objections of the assessee vide letter dated 15/02/2016. The assessee again filed a letter dated 22/02/2016 and

reiterated the earlier objections, the A.O. again recorded in the assessment order that the objections raised by the assessee vide letter dated 08/02/2016 were duly disposed off vide letter dated 15/02/2016, therefore, the objections raised by the assessee, subsequently on 22/02/2016, were not required to again dispose off. The A.O. consequently, framed the assessment U/s 153C of the Act whereby an addition of Rs. 1,22,54,640/- was made on account of undisclosed/unaccounted and unexplained investment made in the property.

3. The assessee challenged the action of the A.O. before the Id. CIT(A) and also raised ground of validity of initiation of proceedings U/s 153C of the Act. The Id. CIT(A) has rejected the objections after considering the remand report.

4. Before us, the Id AR of the assessee has submitted that during the search and seizure action in case of Siyaram Group (Katta) what was seized is only copies of agreement dated 15/10/2010 and 30/10/2010 bearing No. 208 to 215 in exhibit 1 to 5. These photo copies of the agreements recovered from the premises of Shri Satish Chand Katta do not belong to the assessee. Further there was no satisfaction recorded by the A.O. of the searched persons and therefore, the proceedings initiated U/s 153C of the Act in the case of the assessee are bad in law.

The Id AR has contended that the A.O. has initiated the proceedings based on the letter dated 26/09/2014 received from the A.O. of the searched person which does not constitute the satisfaction recorded by the A.O. of the searched persons and therefore, the proceedings so initiated on the basis of such letter are bad in law and deserves to be quashed. He has relied upon various decisions on this point that recording of satisfaction by the A.O. of the searched person is sine-qua-non and in absence of such satisfaction, the proceedings initiated U/s 153C are bad in law. The decisions relied upon by the Id AR are as under:

1. CIT Vs. Panchajanyam Management Agencies & Services 333 ITR 281 (ker).
2. Chandrekant Bhai Amrit lal Thakkar 337 ITR 258 (Guj)
3. ITAT Amritsar in the case of ACIT Central Circle-1, Jalandhar vs. Ripan Deep Takhar, delivered on 13/06//2016

He has also relied upon the decision of the Hon'ble Supreme Court in the case of CIT Vs. M/s Calcutta Knitwears, Ludhiana 362 ITR 673 and submitted that a satisfaction note is a sine-qua-non and must be prepared by the A.O. before transmitting the record to the other A.O. who has jurisdiction over such other person.

5. On the other hand, the Id CIT-DR has submitted that during the course of search and seizure action, two agreements to sell were found from the premises of Shri Satish Chand Katta whereby the assessee has

agreed to pay purchased consideration of Rs. 2,14,45,620/- whereas in the sale deed dated 11/11/2010, the consideration is shown as Rs. 91,90,980/-. Both the agreements as well as the sale deed are executed by same parties and the assessee has not disputed her signature on these documents found and seized during the course of search. The A.O. has duly recorded the fact that the documents were received from the A.O. of the searched person vide letter dated 16/09/2014 thus the A.O. received these documents from the ACIT, Central Circle-3, Jaipur and the said letters itself is a satisfaction recorded by the A.O. He has relied upon the orders of the authorities below.

6. We have considered the rival submissions as well as relevant material on record. The Id AR has referred to the letter dated 31/10/2014 of ITO, Ward 6(2), Jaipur whereby the Id. ACIT, Central Circle-3, Jaipur was requested to send the satisfaction note alongwith seized material belonging to the assessee in terms of provisions of Section 153C of the Act. We note that the notice U/s 153C of the Act was issued on 24/3/2015 i.e. subsequent to the said letter dated 30/10/2014 and therefore, the A.O. was very much conscious about the satisfaction note of the A.O. of the searched person and hence the said notice issued U/s 153C of the Act after receiving the satisfaction note is in accordance with the provisions of Section 153C of the Act. The Id AR has only raised a suspicion about the non-availability of the satisfaction

note, however, the letter dated 30/10/2014 itself shows that the A.O. has ensured the satisfaction note alongwith the documents before issuing the notice U/s 153C of the Act to the assessee. There is no dispute that the letter dated 26/09/2014 itself is a satisfaction of the A.O. of the searched person when the seized material was transmitted to the A.O. of the assessee, however, the A.O. to avoid any further dispute on the issue, has written to the A.O. of the searched person to send the satisfaction in the prescribed performa as per the CBDT guidelines dated 31/03/2014. The CBDT guidelines dated 31/3/2014 were issued to ensure the A.O. should not commit a procedural lapse while initiating the proceedings U/s 153C of the Act, therefore, proforma attached to the guidelines is nothing but the serial numbers of certain details are given. It is not suggested in the guidelines as to how the A.O. should record the satisfaction. Therefore, even if the satisfaction is recorded by the A.O. which is reflected in the letter through which seized documents belonging to the person other than the searched person is transmitted to the A.O. having jurisdiction of such other person then it satisfies the requirement of recording of satisfaction U/s 153C of the Act. The Hon'ble Supreme Court in the case of CIT Vs. M/s Calcuta Knitwears (supra) (supra) has considered this issue of recording of satisfaction by the A.O. of the searched person before transmitting

the seized material belonging to the person other than the searched person and has held in para 41 to 44 as under:

- “41. We would certainly say that before initiating proceedings under Section 158BD of the Act, the assessing officer who has initiated proceedings for completion of the assessments under Section 158BC of the Act should be satisfied that there is an undisclosed income which has been traced out when a person was searched under Section 132 or the books of accounts were requisitioned under Section 132A of the Act. This is in contrast to the provisions of Section 148 of the Act where recording of reasons in writing are a sine qua non. Under Section 158BD the existence of cogent and demonstrative material is germane to the assessing officers' satisfaction in concluding that the seized documents belong to a person other than the searched person is necessary for initiation of action under Section 158BD. The bare reading of the provision indicates that the satisfaction note could be prepared by the assessing officer either at the time of initiating proceedings for completion of assessment of a searched person under Section 158BC of the Act or during the stage of the assessment proceedings. It does not mean that after completion of the assessment, the assessing officer cannot prepare the satisfaction note to the effect that there exists income tax belonging to any person other than the searched person in respect of whom a search was made under Section 132 or requisition of books of accounts were made under Section 132A of the Act. The language of the provision is clear and unambiguous. The legislature has not imposed any embargo on the assessing officer in respect of the stage of proceedings during which the satisfaction is to be reached and recorded in respect of the person other than the searched person.*
- 42.** *Further, Section 158BE(2)(b) only provides for the period of limitation for completion of block assessment under section 158BD in case of the person other than the searched person as two years from the end of the month in which the notice under this Chapter was served on such other person in respect of search carried on after 01.01.1997. The said section does neither provides for nor imposes any restrictions or conditions on the period of limitation for preparation the satisfaction note under Section 158BD and consequent issuance of notice to the other person.*
- 43.** *In the lead case, the assessing officer had prepared a satisfaction note on 15.07.2005 though the assessment proceedings in the case of a searched person, namely, S.K. Bhatia were completed on 30.03.2005. As we have already noticed, the Tribunal and the High Court are of the opinion that since the satisfaction note was prepared after the proceedings were completed by the assessing officer under Section 158BC of the Act which is contrary to the provisions of Section 158BD read with Section 158BE(2)(b) and therefore, have dismissed the case of the Revenue. In our considered*

opinion, the reasoning of the learned Judges of the High Court is contrary to the plain and simple language employed by the legislature under Section 158BD of the Act which clearly provides adequate flexibility to the assessing officer for recording the satisfaction note after the completion of proceedings in respect of the searched person under Section 158BC. Further, the interpretation placed by the Courts below by reading into the plain language of Section 158BE(2)(b) such as to extend the period of limitation to recording of satisfaction note would run counter to the avowed object of introduction of Chapter to provide for cost-effective, efficient and expeditious completion of search assessments and avoiding or reducing long drawn proceedings.

- 44.** *In the result, we hold that for the purpose of Section 158BD of the Act a satisfaction note is sine qua non and must be prepared by the assessing officer before he transmits the records to the other assessing officer who has jurisdiction over such other person. The satisfaction note could be prepared at either of the following stages: (a) at the time of or along with the initiation of proceedings against the searched person under Section 158BC of the Act; (b) along with the assessment proceedings under Section 158BC of the Act; and (c) immediately after the assessment proceedings are completed under Section 158BC of the Act of the searched person.”*

Thus, the Hon'ble Supreme Court has observed that the provisions of Section 158BD of the Act clearly provides an adequate flexibility to the A.O. for recording satisfaction note and the same could be prepared by the A.O. either at the time of initiating the proceedings for completion of the assessment of the searched persons or during the stage of assessment proceedings. The satisfaction can be recorded even after the completion of the assessment of the searched person. Therefore, the Hon'ble Supreme Court has held that the legislature has not imposed any embargo on the A.O. in respect of stage of proceedings during which the satisfaction is to be reached and recorded in respect of the person other than the searched persons. In the case in hand, once the A.O. of the searched person has communicated the

information alongwith the seized material which clearly manifests the satisfaction of the A.O. of the searched person then the requirement of provisions of Section 153C are satisfied. The Id. CIT(A) has considered this issue in para 4.5 as under:

“4.5 I have gone through the assessment order, statement of facts, grounds of appeal, written submission, remand report, rejoinder and the judicial pronouncements relied upon by the appellant carefully. As far as validity of the assessment completed under section 153C read with section 143(3) is concerned the assessment has been made in pursuance of notice dated 24.03.2015 issued under section 153C. The copy of seized material alongwith the satisfaction note was sent by ACIT, Center Circle-3, Jaipur on 26.09.2014. As the satisfaction note was not in the performa prescribed by the CBDT vide instruction F. No. 29⁹/128/2013-DIR(Inv.III)/1547 dated 31.03.2014 therefore satisfaction note in the prescribed proforma was again sent by the ACIT, Central Circle-3, Jaipur to the AO. The notice under section 153C was issued only after receipt of satisfaction note dated 22.01.2015. Thus, the argument of the appellant that no satisfaction note was received by the AO alongwith the copy of the seized material is not found to be correct. The copy of seized material was received by the AO alongwith the satisfaction note only and the notice under section 153C was issued by the AO only after receipt of satisfaction note alongwith copy of seized material. Therefore, I am of the considered view that initiation of the proceedings, under section 153C and making of the assessment under section 143(3) read with section 153C by the AO in the case of the appellant was valid and in accordance with the provisions of law.”

Accordingly, in view of the facts as discussed above as well as the relevant provisions and binding precedents, we do not find any error or illegality in the initiation of the proceedings U/s 153C of the Act. Hence, we uphold the order of the Id. CIT(A) qua this issue.

7. Ground No. 2 of the appeal is regarding the addition made by the A.O. on the basis of the documents found and seized during the course of search and seizure action. The Id AR of the assessee has submitted that the photo copy of the agreement dated 15/10/2010 and 30/10/2010 do not belong to the assessee as per the provisions of Section 153C of the Act. The A.O. has not given any finding that these documents do not belong to the searched person and therefore, one document cannot belong to more than one person. He has referred to the amendments brought into the provisions of Section 153C of the Act w.e.f. 01/06/2015 and submitted that prior to the said amendment, the requirement for initiation of proceedings and assessment U/s 153C of the Act is that the documents found and seized during the course of search must belong to the person other than the searched person. Thus, the copy of agreements found at the place of the seller cannot be said to belong to the assessee, therefore, no addition can be made on such documents which do not belong to the assessee. In support of his contention, he has relied upon the decision of the Hon'ble Delhi High court in the case of CIT Vs Renu Constructions Pvt. Ltd. (ITA Nos.

499/2011, 32/2012, 35/2012, 41/2017, 125/2017 decided on 06/09/2017 and submitted that the proceedings U/s 153C of the Act can be initiated against a person only if seized material belongs to that person. He has also relied upon the decision in the case of Pepsi Foods Pvt. Ltd. Vs. ACIT (2014) 249 Taxman 0493 wherein the Hon'ble High Court has again reiterated that the A.O. must come to the conclusion that the documents in fact belong to some body else, thus the Id AR has submitted that once the requirement of satisfaction of the A.O. that the documents belong to the assessee is not fulfilled the satisfaction then the proceedings U/s 153C of the Act are bad in law. He has further contended that these were only zerox copies and in absence of the original papers the addition cannot be made on such deaf and dump paper. In respect of his contention, he has relied upon the decision of Hon'ble Jurisdictional High Court in the case of CIT Vs R.Y. Durlabhji 211 ITR 178 as well as decision of Hon'ble Supreme Court in the case of H. Siddiqui (Dead) By LRS Vs A. Ramalingam (2011) 5 S.C.R. 587 (2011) and submitted that consequently evidence relating to the contents of the documents is inadmissible until non-production of the original. Therefore, the addition made by the A.O. without any documentary proof of undisclosed investment is not sustainable in law.

8. On the other hand, the Id DR has submitted that since all the documents were executed by the same parties and the assessee has

signed both the agreements as well as sale deed, therefore, there is no dispute that these documents were executed by the assessee and belongs to the assessee. In absence of any contrary fact that these documents were either cancelled by a valid document or were not given effect the documents clearly made out a case of payment of 'on money' of Rs. 1,22,54,640/- for which the assessee has failed to explain the source. He has relied upon the orders of the authorities below.

9. We have considered the rival submissions as well as relevant material on record. During the course of search and seizure action, two agreements dated 15/10/2010 and 30/10/2010 in respect of plot No. 2A, Palm Court, Jagatpura, Jaipur were found whereby M/s Shantinath Buildcon Pvt. Ltd. has agreed to sale the said property to the assessee. As per the agreement dated 15/10/2010, the consideration was stated to be Rs. 2,14,45,620/- out of which a sum of Rs. 15.00 lacs were paid at the time of agreement in cash. Subsequently, an agreement dated 30/10/2010 was also entered into between the parties wherein the consideration is stated at Rs. 91,90,980/- out of which a sum of Rs. 10.00 lacs were paid through a bank draft. The assessee has not disputed the payment of the said amount of Rs. 10.00 lacs as stated in the agreement dated 30/10/2010. The main objection of the Id AR of the assessee is that these documents do not belong to the assessee. It is pertinent to note that these are the titled documents in respect of the

transfer of title of the immovable properties and therefore, the purchaser has the right over the title deeds not only the transfer deeds vide which the purchaser has acquired the property but also all the past titles deeds. Hence, once a transfer has taken place regarding an immovable property, the seller has to handover all the title deeds to the purchaser and therefore, the documents of title always belongs to the purchaser. Therefore, the purchaser has the legal right over the titled documents of the property acquired by him. Even otherwise the assessee has not disputed that these documents namely these agreements do bear the signature of the assessee as well as the seller who have also signed the sale deed dated 11/11/2010 by which the assessee has acquired the property in question. Therefore, sequence of these transactions clearly reveals that the original purchased consideration between the parties was agreed upon at Rs. 2,14,45,620/- which is duly recorded in the agreement dated 15/10/2010 which also mentioned the receipt of Rs. 10.00 lacs in cash by the seller from the assessee. Further a second agreement was entered into between the parties on 30/10/2010 wherein the sale consideration is stated as Rs. 91,90,980/- which shows that from the first agreement dated 15/10/2010 to second agreement dated 30/10/2010, the differential amount was paid by the assessee to the seller in cash and only after receipt of the said amount, the second

agreement was executed. This is also a practice prevailing in the real estate transactions where involvement of 'on money' is not ruled out. We further note that the A.O. has not only provided these documents to the assessee but also provided statement of Shri Satish Chand Katta, therefore, this is not a simple case of photo copies of these documents but there is a corroborating evidence of statements of Shri Satish Chand Katta. The A.O. has discussed this issue at page 3 to 5 of his order, which as under:

"Please refer to subject mentioned above. In this connection I have to inform you that assessment proceedings u/s 143(3) r.ws. 153C and documents provided to on 11.12.2015.

In thus connection, I have to inform you that a search and seizure action was carried out in the case of Siyaram Group (Katta) on 31.07.2012 at the business premises as well as residential premises of this group. During the course of search proceedings various incriminating documents/papers were found and seized by the Investigation Wing of the Department. Out of which some documents were belonging to you as per details given here under:

S. No.	Premises	Annexure/Exhibit No. (s)	Page No. which relates to you
1	Residence of Shri Satish Chand Katta at 16-18, Siyaram Street, Durga Pura, Jaipur.	6	Page No. 208 to 215
2	Factory premises of Siya Ram Export India Pvt. Ltd., Jaipur	5	Page No. 1 to 5

The copies of these documents have already been provided to you as stated above. On perusal of the documents as referred above it has been found that page number 208 to 215 are two sale agreement dated 30.10.2010 and 15.10.2010 in respect of plot No. 2A, Palm

Courts, Jagatpura, Jaipur between you and M/s Shantinath Buildcon Pvt. Ltd, Jaipur. According to sale agreement dated 30.10.2010 M/s Shantinath Buildcon Pvt. Ltd, Jaipur has received advance 'of Rs. 10,00,000/- through pay order dated 30.10.2010 against total agreed sale value of Rs. 91, 90,980/-from you and according to another sale agreement dated 15.10.2010 M/s Shantinath Buildcon Pvt. Ltd., Jaipur has received advance of Rs. / 00,000/- in cash against total agreed sale value of' Rs.2, 14,45,620/- from you. Whereas as per copy of sale deed dated 11.11.2010 seized from factory premised of Siyaram Exports India Pvt. Ltd and annexed at page Ala 1 to 5 of exhibit-5, the sale consideration of the plot was of Rs.91,90,980/-only. From these details it has been establish that you have made undisclosed/unexplained investment of Rs.1,22,54,640/- (2,14,45,620/- 91,90,980), for purchase of the said plot. Therefore, you are required to show cause as to why an amount of Rs.1,22,54,640/- may not be treated as undisclosed/unexplained investment u/s 69. Further, you are required to explain the source of investment in purchase of the above-mentioned property. If you have any objection, you may file the same by 08.02.12016 positively along with documentary evidences."

The transaction itself is not in dispute that the assessee has purchased the land in question from M/s Shantinath Buildcon Pvt. Ltd. vide sale deed dated 11/11/2010. The dispute is only regarding the 'on money' of Rs. 1,22,54,640/- as revealed by the agreement dated 15/10/2010. Once the chain of documents manifests how the transaction has been finally materialized and the parties after exchanging the 'on money' have then entered into the second agreement dated 30/10/2010 which is culminated in the sale deed dated 11/11/2010. Thus, the second

agreement dated 30/10/2010 is otherwise is not in dispute because the sale deed dated 11/11/2010 is based on the agreement dated 30/10/2010. Both the agreements were found during the course of search and seizure action. Since these documents are regarding the transfer of the title in favour of the assessee, therefore these belong to the assessee and none other. The decisions relied upon by the assessee on this issue are not applicable on these facts when these are titled documents whereby the assessee intended to acquire property in question and finally acquired vide sale deed dated 11/11/2010. The Id. CIT(A) has considered this issue as under:

“As far as the validity of addition of Rs.1,22,54,640/- is concerned, a search under section 132 was carried out at the residence of Shri Satish Chand Katta. During the course of search a copy of agreement to sale dated 15.10.2010 for plot no. 2A, Palm Court Scheme between M/s Shanti Nath Buildcon Pvt. Ltd. through Shri Satish Chand Katta director of the company and Smt Mamta Gupta (the appellant), for a consideration of Rs.2,14,45,620/- at the rate Rs.21,000/- per sq. yard was found and seized as per Annexure AS, Exh-5 (page 1 to 5) of the panchnama dated 01.05.2012. However, as per the registered sale deed dated 11.11.2010, the same plot was shown to have been sold by the same party (M/s Shanti Nath Buildcon Pvt. Ltd.) to Smt. Mamta Gupta, (the appellant) for a consideration of Rs.91,90,980/- only. Both the agreement to sale as well as the registered sale deed have been signed by the same persons, the description of the property sold is also the same in both the documents. The date of agreement to sale precedes the date of registered sale deed. The agreement to sale is on non-judicial stamp paper of Rs.100/-. The AO has made the addition of Rs.1,22,54,640/- (Rs.2,14,45,620 — Rs.91,90,980/-) relying on the copy of the agreement to sale dated 15.10.2010 wherein the sale

consideration has been recorded at Rs.2,14,45,620/-. The appellant has contended that no addition can be made on the basis of the copy of agreement to sale dated 15.10.2010 found and seized during the course of search, as no original agreement to sale was found. I am of the considered view that no prudent person will create a false or fabricated copy of any agreement to sale, which shows more sale consideration than the actual consideration for which the property is sold, as he knows that this, if found by the tax authorities, would be used against him to tax the undisclosed consideration (the difference between the sale consideration recorded in the agreement to sale and sale consideration recorded in the registered sale deed). Therefore, I do not accept the contention of the appellant that the copy of the agreement to sale dated 15.10.2010 found and seized during the course of search cannot be used by the AO against the assessee for the purpose of taxing the sale consideration paid by the appellant over and above the sale consideration recorded in the registered sale deed. The copy of agreement to sale was found during the course of search, at the residence of the director of the seller company. Therefore, the information recorded in this document cannot be ignored by the revenue authorities. It is well known fact that in the transactions of real estate, agreement to sale is prepared before getting the final sale deed registered. In the agreement to sale the actual consideration is recorded and when the total sale consideration including the cash portion of the consideration, not recorded in the sale deed, is received by the seller and the sale deed is registered, that agreement to sale is destroyed. Hence, I am not in agreement with the contention of the appellant that the copy of agreement to sale dated 15.10.2010 found during the course of search at the residence of the director of the seller company has no evidentiary value for the purpose of making assessment under the income tax Act, 1961. Observation made in any judicial pronouncements has to be read in the context in which it has been made by the judicial authority. The facts and circumstances on the basis of which the decision has been given has to be taken into account before applying the decision to any other case. In none of the judicial pronouncements relied upon

by the appellant, it has been held that the copy of an agreement to sale, made on a non-judicial stamp paper, signed by both the parties to the agreement sale, found at the residence of the seller himself, has no evidentiary value. I am of the considered view that the AO has rightly treated the difference (Rs.1,22,54,640) between the sale consideration recorded in the agreement to sale dated 15.10.2010 (Rs.2,14,45,620/-) and sale consideration recorded in the agreement to sale dated 11.11.2010 (Rs.91,90,980/-) as undisclosed investment of the appellant. Accordingly, the addition of Rs.1,22,54,640/- made by the AO is hereby confirmed. Both ground of appeal no. 1 and 2 are dismissed."

Accordingly, in the facts and circumstances of the case as discussed above, we do not find any error or illegality in the order of the Id. CIT(A) qua this issue. Hence, we uphold the same.

10. Ground No.3 of the appeal is not a separate ground but it is only in respect of ground No.2 and the only grievance of the assessee is that the Id. CIT(A) has not discussed each and every decision relied upon by the assessee. We may point out that the legal proposition as laid down by the Hon'ble High Court as well as Hon'ble Supreme Court is not in dispute, however, the law can be applied only on the facts. Therefore, once the Id. CIT(A) has considered that the decisions relied upon by the assessee are not applicable in the facts of the case then it is not necessary to discuss each and every decision relied upon by the assessee. We find that most of the decisions relied upon by the assessee are on the satisfaction note which we have already dealt with and

as regards the decision on the point of documents belongs to the assessee, we have discussed this issue at length and accordingly, those decisions will not help the case of the assessee.

11. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on 22nd May, 2019.

Sd/-
(रमेश सी शर्मा)
(RAMESH C SHARMA)
लेखा सदस्य / Accountant Member

Sd/-
(विजय पाल राव)
(VIJAY PAL RAO)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur
दिनांक / Dated:- 22nd May, 2019

*Ranjan

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Smt. Mamta Gupta, Jaipur.
2. प्रत्यर्थी / The Respondent- The ITO, Ward 6(3), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 280/JP/2017)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar