

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'G', NEW DELHI**

**Before Ms. Sushma Chowla, Vice President**

**Dr. B. R. R. Kumar, Accountant Member**

**ITA No. 1276/Del/2017 :Asstt. Year : 2011-12**

Smt. Smiti Golyan Nulon House, Ishwar Nagar, Mathura Road, 10 <sup>th</sup> Milestone New Delhi-110065	Vs	Income Tax Officer, Ward- 13(3) New Delhi
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AAPLG4650K</b>		

**Assessee by : Sh. K. R. Manjani, Adv.**

**Revenue by : Sh. H. K. Choudhary, CIT DR**

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<b>Date of Hearing: 28.01.2020</b>	<b>Date of Pronouncement: 20.04.2020</b>
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**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by the assessee against the orders of the Id. CIT(A)-42, New Delhi dated 16.01.2017.

2. Following grounds have been raised by the assessee:

*"1. The Learned CIT(A) has erred on facts as well as in law in holding that the profit of Rs. 10,26,926/- is Short Term Capital Gain, even though the amount of Rs. 9,67,645/- is Long Term Capital Gain and exempt, which is clear from the details of purchase of shares and Balance Sheets of the Appellant.*

*2. The Learned Assessing Officer. As well as CIT(A) have erred on facts as well as in law in taking the amount of Rs.2,32,000/- received from M.P. Golyan (HUF) as income though confirmation and PAN for which were duly filed.*

*3. It is prayed that the addition of Rs. 9,67,645/- on account of Long Term Capital Gain from sales of shares and Rs. 2,32,000/- received from M.P. Golyan(HUF) may be kindly be deleted."*

3. Brief facts of the case are that the assessee is a director in M/s Nulon India Limited and M/s Nulon Impex Limited. During the year, the assessee has received income from Directorship of the companies and investments in shares and mutual funds. The assessee is not engaged in any business activity during the year as per her own submission. Assessee declared long term and short term capital gain on sale of shares whereas the A.O. has considered it as business income in the hands of the assessee.

4. Before the Id. CIT (A), the assessee has failed to submit any evidence in respect of holding of shares for a period of more than 12 months. Accordingly, the claim of the assessee to treat the income under "Long Term Capital Gains" has been rejected by the Id. CIT (A).

5. Before us during the argument, the Id. AR filed the details of share holding as on 31.03.2009 and 31.03.2010 along with the copy of the balance sheet and pleaded that the case may be referred back to the file of the AO for verification.

6. Regarding the loan of Rs.2,32,000/- of the assessee, the addition has been confirmed by the Id. CIT (A) owing to non-production of confirmations and other details. The Id. AR pleaded that given an opportunity, the entire details would be submitted.

7. The Id. DR fairly accepted for the proposal. Since, the revenue has not got the benefit of examining the details, we hereby remand the matter back to the file of the AO with directions to the assessee to represent the case before the AO without seeking any unnecessary adjournments. We believe the assessee would not misuse the trust reposed in complying to the directions of the revenue authorities.

8. In the result, the appeal of the assessee is allowed for statistical purpose.

Order Pronounced in the Open Court on 20/04/2020.

Sd/-

**(Sushma Chowla)**  
**Vice President**

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**Dated: 20/04/2020**

\*Subodh\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**ASSISTANT REGISTRAR**