

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

Before Sh. Amit Shukla, Judicial Member

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

(Through Video Conferencing)

ITA No. 3780/Del/2010 : Asstt. Year : 2007-08

DCIT, Central Circle-12, New Delhi	Vs	Tushar Kumar, G-5, GTM House, Pushkar Enclave, Outer Ring Road, Pachim Vihar, New Delhi-110063
(APPELLANT)		(RESPONDENT)
PAN No. ABMPT5448C		

Assessee by : Sh. K. Sampath, Adv.

Revenue by : Ms. Sunita Singh, CIT DR

Date of Hearing: 13.01.2021

Date of Pronouncement: 10.02.2021

ORDER

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

The present appeal has been filed by the revenue against the order of Id. CIT(A)-1, New Delhi dated 28.05.2010.

2. Following grounds have been raised by the revenue:

"1. The order of the Ld. CIT (Appeals) is not correct in law and facts.

2. On the facts and circumstances of the case, the Learned CIT(A) has erred in law and on facts in deleting addition of Rs.1,25,00,000/- on protective basis, towards undisclosed income on sale of flats as recorded in documents seized during search in GTM Group and impounded during survey under section 133A in M/s Haryana Citizen Co-op Housing Society,

showing payments to the assessee while ignoring the provisions of section 132(4A) and 292-C of income tax Act, 1961. Learned CIT(A) has also deleted the addition of substantive basis in the case of Ms GTM Builders and Promoters Pvt. Ltd.

3. On the facts and circumstances of the case, the Learned CIT(A) has erred in law and on facts in deleting addition of Rs. 1,80,00,000/- on protective basis, towards undisclosed expenditure for acquiring certain rights in Wings CGHS Limited, Gurqaon, on the basis of seized documents while ignoring the provisions of section 132(4A) and 292-C of Income Tax Act, 1961. Learned CIT(A) has also deleted the addition of substantive basis in the case of M/s GTM Builders and Promoters Pvt. Ltd."

Undisclosed income on sale of flats of Haryana Citizen Co-op Housing Society and Wings CGHS Limited:

3. The ground nos. 2 & 3 of the appeal of the revenue deals with undisclosed income assessed in the hands of the assessee on protective basis. The amounts were held to be received from M/s Haryana Citizen Co-op Housing Society and Wings CGHS Limited, Gurqaon. The matter has already been dealt in the case of GTM Builders & Promoters Pvt. Ltd. in ITA No. 3783/Del/2010 AY 2007-08 while dealing with the Ground Nos. 7 & 8 income from the Cooperative Societies vide para no. 30 to 38 wherein it was held that the addition was unwarranted.

4. Hence, the appeal of the revenue on this ground is liable to be dismissed.

5. In the result, the appeal of the revenue is dismissed.

Order Pronounced in the Open Court on 10/02/2021.

Sd/-

(Amit Shukla)
Judicial Member

Dated: 10/02/2021

Subodh

Copy forwarded to:

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

Sd/-

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

ASSISTANT REGISTRAR