

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

**Before Sh. Amit Shukla, Judicial Member**

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

**(Through Video Conferencing)**

**ITA No. 3293/Del/2016 : Asstt. Year : 2011-12**

Income Tax Officer, Ward-4(1), New Delhi	Vs	BCI Optical Disc. Pvt. Ltd., 2-SSI, Indl. Area, G.T. Karnal Road, Delhi-110033
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AAACB0517G</b>		

**Assessee by : Sh. Vinod Kumar Bindal, Adv.  
Revenue by : Sh. S. Najmi, CIT DR**

<b>Date of Hearing: 02.09.2021</b>	<b>Date of Pronouncement: 20.09.2021</b>
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**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)-2, New Delhi dated 12.02.2016.

2. Following grounds have been raised by the revenue:

*"1. Whether on the basis of the facts and circumstances of the case, the Id. CIT (A) was right in adopting fair market value determined by the DVO as against the value as per Stamp Valuation Authority."*

3. Brief facts of the case are that the assessee company filed its original e-return of income on 27.06.2011 declaring total income of Nil. The assessee is engaged in the business of manufacturing and sales of Compact Discs (CD).

4. During the year, the assessee sold the property in question for a sale consideration of Rs.180,00,000/- as per the sale deed whereas the stamp duty has been paid on the circle rate of Rs.487,40,480/-. The value determined by the DVO was Rs.204,48,563/-. The AO considered the value of the circle rate on which stamp duty has been paid as the sale consideration and accordingly determined long term capital.

5. On the other hand, the Id. CIT (A) confirmed the addition taking into consideration, the valuation report of DVO and directed the AO to compute the capital gain accordingly.

6. Aggrieved with the order of the Id. CIT (A), the revenue filed appeal before us. The issue to be decided is whether the DVO report will have primacy over the stamp valuation authority?

7. We have gone through the provisions of the Act pertaining to Section 50C(2) and also Section 50C(3) and the judgments of Co-ordinate Bench of ITAT, VSP in the case of Pattabhiram Vs ITO 45 Taxman 141 wherein it was held that the FMV determined by the DVO has to be treated as full value of consideration received by the assessee for the purpose of computing capital gains. We also find that the revenue (AO) in the remand report submitted to the CIT (A) has also not

brought out any specific and apparent gross error in the DVO's report to merit its rejection. In view of the judicial pronouncement and the clear provisions of the Act, we decline to interfere with the order of the Id. CIT (A) on this ground.

8. In the result, the appeal of the revenue is dismissed.  
Order Pronounced in the Open Court on 20/09/2021.

Sd/-

**(Amit Shukla)**  
**Judicial Member**

**Dated: 20/09/2021**

Sd/-

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

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

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

**ASSISTANT REGISTRAR**