

**THE INCOME TAX APPELLATE TRIBUNAL
DELHIBENCH 'G', NEW DELHI**

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

Sh. Yogesh Kumar US, Judicial Member

ITA No. 3087/Del/2016 : Asstt. Year: 2007-08

Dr. Sanjeev Bagai, 43, Poorvi Marg, Vasant Vihar, New Delhi-110057	Vs.	ACIT, Circle-37(1), New Delhi
(APPELLANT)		(RESPONDENT)
PAN NO. AAAPB5125H		

Assessee by : Sh. Satyajeet Goel, Adv.

Sh. Rajat Garg, Adv.

Revenue by : Sh. Rajesh Kumar Dhanesta, Sr. DR

Date of Hearing: 21.02.2023

Date of Pronouncement: 24.02.2023

ORDER

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

The present appeal has been filed by the assessee against the order of the Id CIT(A)-XX, New Delhi dated 26.02.2015.

2. The assessee has raised the following grounds of appeal:-

- "1. *That on the facts and circumstances of the case, the Id CIT(A) is not justified in confirming reassessment u/s 148 without appreciating that reassessment was not based on any tangible material and recording of proper satisfaction.*
- 2(i) *That the Id CIT(A) is also not justified in sustaining addition of Rs. 5 lacs as income escaping assessment by making reference to provisions of Sec. 28(iv) of the IT Act, 1961.*
- (ii) *That there is no factual or legal basis for any such addition.*

3. *That orders of the lower authorities are merely based on presumption and surmises and not sustainable under the law."*

3. The AO made addition of Rs.5,00,000/- u/s 28(iv) of the Income Tax Act, 1961 on account of 2500 sweat equity shares of face value of Rs.10/- and premium of Rs.190/-.

4. The similar matter has been adjudicated in the case of Dr. Amita Mitra in ITA No. 932/Del/2016 wherein the issue has been taken up by the assessee before the Id. PCIT u/s 264 of the Income Tax Act, 1961. Further, the similar issue has been adjudicated and dismissed the appeal of the Revenue by the Co-ordinate Bench of Tribunal in the case of ACIT Vs. Harish Bhandari in ITA No. 3049/Del/2016 for A.Y. 2007-08 vide order dated 03.01.2023 which is available at www.itat.gov.in. Hence, in the absence of any change in the factual position, we hold that the addition made by the AO is liable to be deleted.

5. In the result, the appeal of the assessee is allowed.

Order Pronounced in the Open Court on 24/02/2023.

Sd/-

(Yogesh Kumar US)
Judicial Member

Sd/-

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

Dated: 24/02/2023

Subodh Kumar/AK, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR