

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI "H" BENCH: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER &  
DR.B.R.R.KUMAR, ACCOUNTANT MEMBER**

**ITA No.323/Del/2020**

**[Assessment Year : 2016-17]**

Rotopack Laminators Ltd., C/o-SSAR & Associates, CA, 4852/24, 1 <sup>st</sup> Floor, Ansari Road, Near Sanjivan Hospital, Daryaganj, Delhi-110002. <b>PAN-AACCR0060J</b>	vs	ACIT, Circle-21(2), New Delhi-110002.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	Shri Sachin Jain, Adv.	
<b>Respondent by</b>	Shri Amit Katoch, Sr. DR	
<b>Date of Hearing</b>	13.03.2024	
<b>Date of Pronouncement</b>	15.03.2024	

**ORDER**

**PER KUL BHARAT, JM :**

The present appeal filed by the assessee is directed against the order dated 19.08.2019 passed by Ld.CIT(A)-7, New Delhi for the assessment year 2016-17.

The assessee has raised following grounds of appeal:-

1. *“That both the lower authorities were not justified in making and confirming the assessment order u/s 143(3) since the same was not in accordance with the Provisions of the Income Tax Act, 1961 and is illegal on account of various grounds.*
2. *That under the facts and circumstances of the case, an addition of Rs.2,10,00,000/- made by the Ld. AO u/s 50C of the Income Tax Act, 1961 and subsequently confirmed by the CIT (A) deserves to be deleted.*
3. *That the appellant craves leave to add, amend, alter or withdraw any ground of appeal at the time of hearing with the permission of the Hon'ble ITAT, Delhi Bench.”*

2. The only effective ground raised by the assessee in this appeal is against the sustaining of addition made by the Assessing Authority by invoking the provision of section 50C of the Income Tax Act, 1961 ("the Act").

3. Facts giving rise to the present appeal are that the assessee is a company, e-filed its return of income on 29.09.2016, declaring Long Term Capital Gain ("LTCG") at INR 1,32,81,724/-. The case of the assessee was taken up for scrutiny assessment and in response to the statutory notices issued by the Assessing Authority, Ld. Authorized Representative ("AR") of the assessee company, attended the proceedings. During the course of assessment proceedings, the Assessing Officer ("AO") noticed that the assessee had sold property bearing *No.H-1209, DSIIDC, Narela Industrial Area, Delhi-110040* for a sum of INR 1,32,81,724/- but as per the Stamp Valuation Authority, the value of the property was INR 3,60,00,000/-. Therefore, the AO invoking the provision of section 50C of the Act, adopted the stamp value of sale consideration of the property and computed capital gain at INR 1,32,81,724/-. Thereafter, the AO assessed the income of the assessee company at INR 3,25,12,934/- against the LTCG disclosed by the assessee. Thus, the AO made further addition of the excess amount of value as per stamp valuation i.e. INR 2,10,00,000/-.

4. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A), who after considering the submissions, sustained the addition and dismissed the appeal of the assessee company, observing that the assessee failed to comply with notice issued by the DVO.

5. Aggrieved against the order of Ld.CIT(A), the assessee company preferred appeal before this Tribunal.

6. At the outset, Ld. Counsel for the assessee submits that the lower authorities failed to appreciate the facts in right perspective. The assessee had not received any notice from the District Valuation Officer (“DVO”). Therefore, the contention that the assessee failed to respond to the notice issued by DVO is erroneous. He contended that the assessee ought to have been given fair and meaningful opportunity by the DVO.

7. On the other hand, Ld. Sr. DR for the Revenue opposed these submissions and supported the orders of the authorities below.

8. We have heard Ld. Authorized Representatives of the parties and perused the material available on record and gone through the orders of the authorities below. There is no dispute that section 50C of the Act, being deeming provision confers a statutory duty on the Assessing Authority for ascertaining the correct Fair Market Value (“FMV”) of the property. More particularly, where the assessee objects for adopting stamp valuation rate. It becomes incumbent upon AO to refer the matter to the DVO. In the instant case, it is transpired from the record that the issue was however, referred to DVO but the DVO without estimating any FMV, closed the matter on the basis of non-compliance of notice by the assessee. Admittedly, the authorities below have not made any further efforts for ascertaining the correct FMV by making independent inquiry in respect of the similarly situated property. Considering these facts, we deem it proper to restore this issue to the file of AO who would ascertain the FMV of the property by

referring the matter to DVO or otherwise making necessary field inquiry. The assessee is hereby, directed to co-operate in providing the necessary information to the Assessing Authority. Grounds raised by the assessee are accordingly, allowed for statistical purposes.

9. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 15<sup>th</sup> March, 2024.

**Sd/-**

**(DR.B.R.R.KUMAR)**  
**ACCOUNTANT MEMBER**

**Sd/-**

**(KUL BHARAT)**  
**JUDICIAL MEMBER**

*\* Amit Kumar \**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI