

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'F' NEW DELHI
BEFORE SHRI J. SUDHAKAR REDDY, ACCOUNTANT MEMBER
AND
SHRI LALIT KUMAR, JUDICIAL MEMBER
I.T.A .No.-1604/Del/2010
(ASSESSMENT YEAR-2006-07)

ACIT Central Circle 7, Room No. 363, E-2, ARA Centre, Jhandewalan Extn. New Delhi (APPELLANT)	Vs	Pramode Kumar Gupta B-1/26, Yamuna Vihar, Delhi AEGPG9999G (RESPONDENT)
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Appellant by	Sh. Kartar Singh CIT(A) (DR)
Respondent by	Sh. Amit Goel, CA

Date of Hearing	10.03.2016
Date of Pronouncement	11.03.2016

ORDER

PER LALIT KUMAR, JM

This is an appeal filed by the revenue directed against the order of the Commissioner of income tax (appeals -1) New Delhi dated 14/01/2010, assessment year 2006 – 07.

2. The grounds of appeal are as under:-

1. *The order of the Ld.CIT (A) CIT(A) is not correct in law and facts.*
2. *Whether on the facts and in the circumstances of the cases, the Ld.CIT(A) has erred in law and on the facts of the case in deleting the addition of Rs.62,90,000/- made by the A.O on account of long term capital gain earned on sale of shares.*
3. *Whether on the facts and in the circumstances of the case, the Ld.CIT(A) has erred in law and on the facts of the case in not accepting the authenticity of the document found during the survey when Section 292C of the Act expressly presumes the document to be genuine and its contents to be true.”*

3. The assessee is an individual and has filed his return of income on 7/9/2006, declaring total income of Rs. 11,15,970/-. Assessment was completed under section 143 (3) on 31/12/2008 determining the total income at Rs. 72 40,925/-, inter alia making an addition of Rs. 62, 90, 000/- on account of alleged long term capital gain on sale of shares. The AO has considered deduction U/S 54F Act. The assessee carried the matter in appeal. The 1st appellate authority allows the appeal of the assessee agreed the revenue is in appeal before us.

4. We have heard Sh. Kartar Singh Ld. CIT (VR) on behalf of the revenue and Sri Amit Goel the Ld. Counsel for the assessee. On a careful consideration of the facts and circumstances of the case and perusal of the papers on record and the orders of the authorities below we hold as follows expat the brief facts of the case are that during the year under consideration the assessee has sold 20,000 Leagues the shares of the company namely RS Bill 2 B PBT limited

as per the table below is extract table all the above shareholders are family members the above shareholders sold up of shares to Jamil harm and his family members as a mighty hits international builders Private the sale price shown and disclosed in the return was Rs. 1 25/- per share consequent to sell reaction U/S1 30 3A of the income tax act, 1961 the AO was of the view that an amount of Rs. 4 39/50 per sale was the actual consideration and that Rs. 1 25 per share was declared by the assessee and that Rs. 3 14.50 per share was not replied by the assessing the assessing officer recomputed the to gain of the assessee adopted slice of 439.50 per share instead of Rs. 1 25/- per share. The assessee carried the matter in appeal and the 1st appellate authority granted relief.

5. The issue now on hand is covered in favour of the assessee that the decision of the court met bench of the ITAT in ITA number 01/06/2003/DTS/2010 and ITA No. 1211/daily/11 in the case of Sh. Vinod Kumar Gupta and Sh. Bromal Gupta respectively order dated 23/12/2015. Who are rather shareholders in whose cases are similar addition was made on the very same facts by the assessing officer the Hon'ble Delhi High court restored the matter to ITAT for fresh adjudication. Pursuance of such directions the tribunal passed this order consistent with the view taken therein we uphold

the order of the 1st appellate authority and dismiss this appeal of the revenue.

The order is pronounced in the open court on 11th of March, 2016.

Sd/-

**(J. SUDHAKAR REDDY)
ACCOUNTANT MEMBER**

Dated: 11/03/2016
*R. Naheed **

Copy forwarded to:

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

Sd/-

**(LALIT KUMAR)
JUDICIAL MEMBER**

ASSISTANT REGISTRAR

ITAT NEW DELHI

		Date	
1.	Draft dictated on	11/03/2016	PS
2.	Draft placed before author	11/03/2016	PS
3.	Draft proposed & placed before the second member	.2016	JM/AM
4.	Draft discussed/approved by Second Member.		JM/AM
5.	Approved Draft comes to the Sr.PS/PS	11.03.2016	PS/PS
6.	Kept for pronouncement on		PS
7.	File sent to the Bench Clerk	11.03.2016	PS
8.	Date on which file goes to the AR		
9.	Date on which file goes to the Head Clerk.		
10.	Date of dispatch of Order.		

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