



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **ITA 248/2006**

**COMMISSIONER OF INCOME TAX** ..... Appellant  
Through **Ms.P.L.Bansal, Advocate**  
versus

**M/S HINDUSTAN MGMT.& TECHNICAL** ..... Respondent  
Through **Mr.Ajay Vohra and Ms. Kavita Jha,**  
**Advocates**

**CORAM:**  
**HON'BLE MR. JUSTICE MADAN B. LOKUR**  
**HON'BLE MR. JUSTICE VIPIN SANGHI**

**ORDER**  
**07.09.2006**

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The Revenue is aggrieved by an order dated 17<sup>th</sup> March, 2005 passed by the Income Tax Appellate Tribunal in ITA No. 6581/Del/96 relevant for the assessment year 1992-93.

The assessee is engaged in the business of electronic data processing, technical analysis of data, providing computer systems etc.

In the year prior to the relevant previous year, the assessee purchased Rs. 4,34,100/- shares in IDM Ltd. However, subsequently in the relevant previous year the assessee converted this investment into stock-in-trade and that conversion took place at the market price i.e. Rs. 28 per share. The shares were then sold to four different parties at a loss which was quantified at Rs. 43 lacs.

The assessee filed its return which was assessed by the



Assessing Officer at a loss of about Rs. 28 lacs. In so far as transaction pertaining to the shares of IDM Ltd. is concerned, the Assessee had claimed this as a business loss while the Assessing Officer treated it as a long term capital loss on the ground that the conversion of the investment into stock-in-trade was not genuine.

Feeling aggrieved, the assessee preferred an appeal before the Commissioner of Income Tax (Appeals) who did not accept the contention of the assessee and on this aspect the appeal was dismissed.

In further appeal before the Tribunal, the assessee was successful. It was held by the Tribunal that there could be several reasons for the assessee to convert the investment into stock-in-trade. There was no dispute about the fact that the conversion took place at the prevalent market price as also the subsequent sale to four different parties. The assessee had filed its return which was assessed at a loss of about Rs. 28 lacs. Therefore, there could not be any ill motive. In any event, the assessee would not have been taxed since the Assessee had substantial amounts of brought forward losses and unabsorbed depreciation.

Having considered the submissions of the learned counsel for the parties, we find that the Revenue has not raised any substantial question of law for our consideration. The transaction that has been



entered into by the assessee was clear and the conversion which doubted by the Revenue has been adequately explained by assessee. It was open to the assessee to take a business decision to give up control of the company IDM Ltd. and therefore to convert the investment made in the shares of that company into stock in trade and thereafter to dispose them off. The Revenue cannot question that business decision of the assessee. All that the revenue could do was to see that the said decision was genuinely implemented, which the Tribunal finds as a matter of fact, to have been done. Considering the fact that the conversion of the shares into stock in trade and subsequent sale had taken place at market price, there could obviously be no motive when the assessee, in any event, was in losses.

In our opinion, no substantial question of law arises for our consideration.

Dismissed.

**MADAN B. LOKUR, J**

**VIPIN SANGHI, J**

**SEPTEMBER 07, 2006**  
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