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

+ ITA 220/2019 & CM No. 10774/2019

UDIT KALRA

..... Appellant

Through : Mr. Rajesh Mahna, Mr. Manu
Giri, Mr. Ramanand Roy, Mr.
Rohit Sharma and Mr. Dev Raj
Sharma, Advs.

versus

ITO WARD-50(1)

..... Respondent

Through : Mr. Zoheb Hossain, Sr.
Standing Counsel with
Mr. Deepak Anand, Jr. Standing
Counsel for Revenue.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **08.03.2019**

The assessee is aggrieved by the concurrent findings of the tax authorities – including the lower appellate authorities rejecting its claim for a long term capital gain reported by it, to the tune of Rs.13,33,956/- and Rs.14,34,501/- in respect of 4,000 shares of M/s Kappac Pharma Ltd. The assessee held those shares for approximately 19 months; the acquisition price was Rs.12/- per share whereas the market price of the shares at the time of their sale, was Rs.720/-. It is contended that the assessee was not granted fair opportunity.

Mr. Rajesh Mahna, learned counsel appearing for the assessee relied upon the orders of the co-ordinate Bench of the tribunal, in respect of the same company i.e. M/s Kappac Pharma Ltd., and



pointed out that the tax authority's approach in this case was entirely erroneous and inconsistent.

The main thrust of the assessee's argument is that he was denied the right to cross-examination of the two individuals whose statements led to the inquiry and ultimate disallowance of the long term capital gain claim in the returns which are the subject matter of the present appeal.

This court has considered the submissions of the parties. Aside from the fact that the findings in this case are entirely concurrent – A.O., CIT(A) and the ITAT have all consistently rendered adverse findings – what is intriguing is that the company (M/s Kappac Pharma Ltd.) had meagre resources and in fact reported consistent losses. In these circumstances, the astronomical growth of the value of company's shares naturally excited the suspicions of the Revenue. The company was even directed to be delisted from the stock exchange. Having regard to these circumstances and principally on the ground that the findings are entirely of fact, this court is of the opinion that no substantial question of law arises in the present appeal.

This appeal is accordingly dismissed.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 08, 2019

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