

Case Law

Pr. CIT vs. Jatin Investment Pvt. Ltd (Delhi High Court)

s.68 Bogus capital gains: A transaction cannot be treated as fraudulent if the assessee has furnished documentary proof and proved the identity of the purchasers and no discrepancy is found. The AO has to exercise his powers u/s 131 & 133(6) to verify the genuineness of the claim and cannot proceed on surmises.

The assessee has adduced the documentary evidences in support of the transaction in question. The identity of the purchasers of the shares was established as it was borne on the record of the Income Tax Department. The purchasers have PAN card as well. Turning to the shares which were sold by the appellant as per its version, there is no evidence or material to even suggest, as pointed out as on behalf of the assessee, that the cheques directly or indirectly emanated from the assessee so that it could be said that the assessee's own money was brought back in the guise of sale proceeds of the shares. Though, the purchasers of the shares could not be examined by the AO, since they were existing on the file of the Income Tax Department and their Income Tax details were made available to the AO, it was equally the duty of the AO to have taken steps to verify their assessment records and if necessary to also have them examined by the respective AOs having jurisdiction over them which has not been done by him.