

**IN THE HIGH COURT OF DELHI AT NEW DELHI 07.08.2009**

**Present:**

**ITA No. 463/2009**

**GIAN KAUR**

For ascertaining the capital gains, the Assessing Officer wanted to arrive at the market rate at the time of purchase of the property. He relied upon DDA land rates which were pre-determined rate for charging unearned increase and average auction rate in respect of various colonies. The assessee on the other hand wanted to rely upon the rates at which the MCD had carried out actual auction from time to time. The ITAT found that MCD land rate on the basis of actual auction would be preferable to the predetermined rates of the DDA, inasmuch as the rates at which actual auction took place at the hands of MCD would be realistic whereas DDA rates are notional. On this basis capital gain is arrived at by the ITAT. Relevant discussion in this behalf is contained in the orders of the Tribunal reads as under:

5. We have considered rival submission. The gain arising out of transfer of capital assets has to be computed as per Section 48 by deducting from the full value of the consideration received the cost of acquisition and cost of improvement thereto. Thus no question of law arises.  
Dismissed.

**A.K.SIKRI, J**  
**VALMIKI J.MEHTA, J**

**August 07, 2009**