

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

**14.12.2009**

**4#**

**Present: Ms. Rashmi Chopra, Advocate for the appellant.**

**W.P. (C) No. 1312/200**

**THE COMMISSIONER OF INCOME TAX-III**

**Vs.**

**SHRI S. CHAND & CO. LTD.**

**Advocate: RASHMI CHOPRA**

The business of the respondent-company concededly is that of publishing. In the assessment year in question, the Assessing Officer observed that the Assessee had shown a long term capital loss of Rs.7,39,623/- from dealing in shares. This was not allowed to be set off against the long term capital gain on the ground that it was speculative loss. The Tribunal has arrived at a finding that the Assessee was not in the business of shares at all. It was a solitary transaction of sale of shares in which the Assessee suffered loss. The Tribunal also noted that the Assessee had filed a return of Income of over Rs.12 Crores and entire income was from publishing business.

Another fact established on record is that as on 31.03.2000, the total investment declared by the Assessee is worth Rs.5.52 crores. From this ITAT observed that the Assessee was holding the shares by way of investment. It so happened that in the assessment year, shares worth Rs.34.66 lacs were purchased which were sold as it was found by the Assessee that value of these shares was repeatedly coming down and it was not profitable investment made by the Assessee.

In these circumstances, we are of the opinion that on the basis of the produced material, the income Tribunal has arrived at a finding of fact that the Assessee is not in the business of shares. The shares purchased by it were investment and not stock in trade and therefore, the loss suffered was not speculative loss. No question of law arises and appeal is accordingly dismissed.

**A.K. SIKRI, J.**

**SIDDHARTH MRIDUL, J.**

**December 14, 2009**

**rs**

