

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'SMC' BENCH, KOLKATA
[Before Shri J. Sudhakar Reddy, Hon'ble Accountant Member]**

I.T.A. No. 1398 /Kol/2019
Assessment Year: 2014-15

Shri Rakesh Kumar Khemuka.....Appellant
27, Shakespare Sarani
Flat 68
Kolkata - 700 017
[PAN: AFLPK 3692 P]

Vs.

Deputy Commissioner of Income Tax, Circle-1(2), Kolkata.....Respondent

I.T.A. No. 1399/Kol/2019
Assessment Year: 2014-15

Shri Mukesh Kumar Khemuka.....Appellant
27, Shakespare Sarani
Flat 68
Kolkata - 700 017
[PAN: AFLPK 3693 P]

Vs.

Deputy Commissioner of Income Tax, Circle-1(2), Kolkata.....Respondent

Appearances by:

None, appeared on behalf of the assessee.

Shri Dhrubojyoti Ray, JCIT, Sr. D/R, appearing on behalf of the Revenue

Date of concluding the hearing : November 6th, 2019

Date of pronouncing the order : December 5th, 2019

O R D E R

Per J. Sudhakar Reddy, AM :-

Both these appeals filed by the assessee are directed against separate orders of the Learned Commissioner of Income Tax (Appeals) - 09, Kolkata, (hereinafter the "ld.CIT(A)"), passed u/s. 250 of the Income Tax Act, 1961 (the 'Act'), dt. 08/03/2019 and dt. 26/03/2019, both for the Assessment Year 2014-15.

2. None appeared on behalf of the assessee. The ld. Counsel for the assessee has filed an application seeking adjournment. The same is rejected as, in our view, this is not a fit case for grant of adjournment. Under these circumstances, we dispose off the case *ex-parte qua* the assessee after hearing the ld. Departmental Representative.

3. As the issues arising in both these appeals are identical, for the sake of convenience, they are heard together and disposed off by way of this common order.

4. Heard the ld. D/R. The ld. CIT(A), in this case, has deleted the addition made u/s 68 of the Act by the Assessing Officer. The Assessing Officer has made the addition u/s 68 of the Act of long term capital gains earned by the assessee by way of sale proceeds, sale of shares of M/s. S.R.K. Industries Ltd.. He followed the decision of the jurisdictional Tribunal in the case of *Navneet Agarwal vs. ITO in ITA No. 2281/Kol/2017 (Kol. Trib)*. This deletion u/s 68 of the Act, is not before us. The department has accepted the deletion of addition u/s 68 of the Act. Only the consequential addition made u/s 69C of the Act, has been confirmed by the ld. CIT(A). When the main addition u/s 68 of the Act, has been deleted and the revenue has accepted the same. The consequential addition cannot be sustained. Thus, we delete the addition made u/s 69C of the Act and allow Ground No. 1 in both the appeals of the assessee.

5. Ground No. 2 in both the appeals are consequential in nature.

6. Ground No. 3 in both the appeals are premature and dismissed as such.

7. Ground No. 4 in both the appeals are general in nature.

8. In the result, both the appeals of the assessee are allowed in part.

Kolkata, the 5th day of December, 2019.

Sd/-
[J. Sudhakar Reddy]
Accountant Member

Dated : 5.12.2019
{SC SPS}

Copy of the order forwarded to:

**1. Shri Mukesh Kumar Khemuka
27, Shakespare Sarani
Flat 68
Kolkata - 700 017**

**2. Shri Rakesh Kumar Khemuka
27, Shakespare Sarani
Flat 68
Kolkata - 700 017**

3. Deputy Commissioner of Income Tax, Circle-1(2), Kolkata

4. CIT(A)-
5. CIT- ,
6. CIT(DR), Kolkata Benches, Kolkata.

} Sent through e-mail.

True copy
By order

Assistant Registrar
ITAT, Kolkata Benches