

IN THE INCOME TAX APPELLATE TRIBUNAL: RANCHI BENCH, RANCHI

BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER

I.T.A No.345/Ran/2018

Assessment Year: 2014-15

Gautam Modi C/o D.P Paul(FCA), 718A, Nabin Mitra Road, Near Samsung Plaza, Burdwan Compound, Lalpur, Ranchi.	vs.	ITO, Ward-1(3), Ranchi
PAN/GIR No. : ACNPM5830B		
(Appellant)	..	(Respondent)

Appellant by	Sri P.S. Paul, CA
Respondent by	Sri Ajay Kumar, Addl. CIT(DR)

Date of hearing	03.03.2020
Date of pronouncement	03.03.2020

ORDER

S. S. Godara(Oral):

This assessee's appeal for assessment year 2014-15 arises against the Commissioner of Income Tax (Appeals), Jharkhand dated 06.09.2018 passed in case no.CIT(A),Ranchi/10411/2016-17 involving proceedings u/s 143(3) of the Income Tax Act, 1961 (in short 'the Act').

Heard both the parties. Case file perused.

2. The assessee's sole substantive grievance canvassed in the instant lis challenges correctness of both the lower authorities' action treating the alleged profits derived from sale of shares amounting to Rs.2589326/- as bogus unexplained cash credits during the course of assessment as upheld in the lower appellate proceedings. The Assessing Officer as well as CIT(A) held that keeping in mind the corresponding scrips upward/downward abnormal price movement coupled with the collateral circumstances sufficiently indicate that the assessee has derived bogus capital gains. They have also applied hon'ble apex court's decisions in Sumati Dayal 214 ITR 801 CIT v/s Durga Prasad More (82 ITR 540) that any explanation tendered in proceedings under the Act have to be considered as per human probabilities by removing all blinkers. Learned counsel's only plea during the course of hearing is that the CBDT has recently issued a standard operating procedure (SOP) in the year 2019 for examining such alleged share transactions on all factual/legal aspects.

Learned departmental representative's case on the other hand is that the assessee has failed to prove genuineness, creditworthiness of the impugned share transactions. Faced with this situation and more particularly keeping in mind the facts that the Board has itself prescribed an extensive exercise to the field authorities as well whilst dealing with the case of alleged bogus share transactions. I deem it appropriate to restore the instant issue back to CIT(A) for afresh adjudication as per law. The assessee sole grievance is accepted for statistical purposes.

3. This assessee's appeal is allowed for statistical purposes.

Order is pronounced in the open court on 03.03.2020.

Sd/-
(S. S. GODARA)
JUDICIAL MEMBER

Dated:03.03.2020.

RS

Copy of the order forwarded to:

1. The Appellant
2. The Respondent
3. The CIT concerned
4. The CIT(A) -
5. The DR, ITAT, Ranchi
6. Guard File

BY ORDER

Sr. P.S., ITAT, Ranchi (on Tour)