

**आयकर अपीलीय अधिकरण न्यायपीठ जोधपुर में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**JODHPUR BENCH, JODHPUR**

**माननीय श्री संदीप गोसाईं, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI SANDEEP GOSAIN, JM AND**  
**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**  
**(Hearing Through Video Conferencing Mode)**

आयकर अपील सं./ I.T.A. No.213/Jodh/2019  
(निर्धारणवर्ष / Assessment Year: 2014-15)

<b>Smt. Chanchal Kumari Jain</b> 143-A/A, Shastri Nagar Bhilwara, Rajasthan-311 001.	<b>बनाम/</b> Vs.	<b>Income tax Officer</b> <b>Ward-3, Bhilwara</b> Rajasthan-311 001.
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. <b>ADNPJ-8347-F</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Assessee by</b>	:	Shri Amit Kothari (CA)- Ld. AR
<b>Revenue by</b>	:	Shri A.S. Yadav - Ld. Sr. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	03/11/2020
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	21/12/2020

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member): -**

1. Aforesaid appeal by assessee for Assessment Year [in short referred to as 'AY'] 2014-15 contest the order of Ld. Commissioner of Income-Tax(Appeals), Ajmer, [in short referred to as 'CIT(A)'], *Appeal No.266/2017-18 dated 15/04/2019*. The only ground pressed in the appeal is ground no.2 which read as under: -

2. The Id. CIT(A) has erred in not allowing deduction of Rs.1,50,019/- out of expenses incurred towards Short Term Capital gains shown by the appellant. The determination of short term capital gains at Rs.3,40,759/- as against Rs. 1,90,740/- declared by the appellant is bad in law and bad on facts.

As evident, the assessee is aggrieved by re-computation of short-terms capital gains.

2. We have carefully heard the rival submissions and perused relevant material on record including written submissions and documents placed in the paper book. The judicial precedents as relied upon during the course of hearing have duly been deliberated upon. Our adjudication to the subject matter would be as given in succeeding paragraphs.

3.1 The material facts are that the assessee being resident individual was assessed u/s 143(3) r.w.s. 147 on 30/10/2017. The reassessment proceedings were triggered pursuant to receipt of certain information that the assessee procured bogus short-term capital gain (STCG). Accordingly, notice u/s 148 was issued on 26/09/2016.

3.2 The assessee reflected STCG of Rs.1.90 Lacs which arose from sale of 25000 shares of an entity namely M/s Anukaran Commercial Enterprises Ltd. (ACEL). The same were sold for Rs.5.40 Lacs during the year as against purchase price of Rs 3.50 Lacs. The sale as well as purchases took place on same date i.e. 01/01/2014. The shares were stated to be purchased from an individual namely *Shri Arvind Moonka*. However, the sale took place by way of sale note on plain paper and the shares were not held in

assessee's d-mat account which led Ld. AO to doubt the genuineness of the transaction. Further, M/s ACEL was listed as bogus suspicious entity by investigation entity, Kolkata. The shares of this entity were allegedly manipulated in order to provide entries of bogus STCG to various beneficiaries. Therefore, treating the entity as penny stock, the entire sale consideration of Rs.5.40 Lacs was added back to the income of the assessee u/s 68 which would be taxable @30% in terms of Sec.115BBE(1) of the Act. The Ld.AO also estimated commission of 1.5% on sale consideration and made another addition of Rs.8,111/- to be taxed at same rate i.e. 30%.

3.3 Before Ld. CIT(A), it was pointed out by the assessee that purchase consideration of Rs.2 Lacs was paid through banking channels whereas the balance Rs.1.50 Lacs was paid in cash. The shares were duly transacted through d-mat account held with stock broker M/s Mangal Keshav Securities Ltd. The shares were sold through mechanism of stock exchange and M/s ACEL was listed as well as regularly traded entity. The applicable stamp duty as well as securities transactions tax (STT) was paid on sale and net consideration was received in assessee's bank account. In support, documentary evidences like broker's sale note, bank statements, d-mat statement etc. was also filed. It was pleaded that since the assessee filed each and every document required to prove the genuineness of the transactions, the claim was to be accepted.

The Ld. CIT(A), while concurring with assessee's submissions, denied the benefit the purchase cost of Rs.1.50 Lacs stated to be

paid by the assessee in cash towards purchases price of the shares. Aggrieved, the assessee is in further appeal before us.

4. Upon due consideration of factual matrix, it is evident that substantial part of the sale as well as purchase transaction has already been accepted by Ld.CIT(A). The assessee has placed on record confirmation of accounts from Shri Arvind Moonka. Upon perusal of the same, it is quite evident that the shares have been purchased at total cost of Rs.3.50 Lacs. The purchase cost of Rs.2 Lacs has been paid through banking channel on 23/12/2013 whereas balance consideration of Rs.1.50 Lacs has been paid in cash on 17/04/2014. This being the case, there is no reason to deny the benefit of purchase cost of Rs.1.50 Lacs to the assessee. Therefore, we direct Ld. AO to allow deduction of purchase cost of Rs.1.50 Lacs.

5. The appeal stands partly allowed.

*Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal)  
Rules, 1963.*

**Sd/-**  
**(Sandeep Gosain)**  
न्यायिक सदस्य / **Judicial Member**

**Sd/-**  
**(Manoj Kumar Aggarwal)**  
लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 21/12/2020

Sr.PS:-Jaisy Varghese

**आदेश की प्रतिलिपि □ प्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त/ CIT– concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जोधपुर / DR, ITAT, Jodhpur

ITA No.213/Jodh/2019  
Smt. Chanchal Kumari Jain  
Assessment Year: 2014-15

6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायकपंजीकार (Dy./Asstt.Registrar)  
आयकरअपीलीयअधिकरण, जोधपुर / ITAT, Jodhpur.