

**IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH, JABALPUR**

BEFORE SHRI NRS GANESAN, JUDICIAL MEMBER &
SANJAY ARORA, ACCOUNTANT MEMBER

ITA No.02/JAB/2020
Assessment Year 2014-15

Asst.CIT Circle-Katni, Jhinhri Katni (M.P.)-483501.	Vs.	Smt. Nirmala Pathak, Pathak Ward-1, Shanti Bhawan, Katni (M.P.)-483501. (PAN:AGIPP 6026B)
(Appellant)		(Respondent)

C.O. No.2/JAB/2020
Assessment Year 2014-15

Smt. Nirmala Pathak, Pathak Ward-1, Shanti Bhawan, Katni (M.P.)-483501. (PAN:AGIPP 6026B)	Vs.	Asst.CIT Circle-Katni, Jhinhri Katni (M.P.)-483501.
(Appellant)		(Respondent)

Appellant by	Shri I.B. Khandel, Sr.DR
Respondent by	Shri Dhiraj Ghai, C.A.
Date of hearing	30/12/2020
Date of pronouncement	31/12/2020

ORDER

Per Bench:

This appeal of the revenue and cross appeal by the assessee are directed against the order of Commissioner of Income Tax (Appeals)-1, Jabalpur [for short, the CIT(A)] dated 09.10.2019 and pertains to Assessment Year 2014-15.

2. Shri I.B. Khandel, Id. Departmental Representative (DR) for the revenue submitted that the Assessing Officer made addition of Rs. 98,34,260/- towards the Long Term Capital Gain (LTCG). The assessee purchased 54000 shares to CCL International. According to the Id. Representative, the price of the shares were manipulated for claiming capital gain or loss. Since the assessee has not furnished any details in this regard, the Assessing Officer has taken the LTCG/Short Term Capital Gain (STCG) at Rs. 98,34,260/-. In the remand report filed before the CIT(A) during the appellate proceeding, the Assessing Officer found that there is no transaction of sale of shares during the Assessment Year 2014-15. The CIT(A) mistaken the whole capital gain of Rs. 1,99,81,750/-. According to Id. Representative, CCL International was a penny stock company therefore, the CIT(A) ought not to have allowed the claim of the assessee. On a query from the bench how the second ground of appeal with regard to 50,30,000/- on account of unexplained investment arises for consideration when no such addition was made by the Assessing Officer, the Id. DR submitted that the source of investment to the extent of Rs. 50,30,000/- was not explained, therefore, the revenue has taken that ground also.

3. On the contrary, Shri Dhiraj Ghai, the Id. Representative for the assessee submitted that the assessee purchased the shares in two

Assessment Years i.e. A.Y.2014-15 & 2015-16 for Rs. 98,34,260/-. The assessee has purchased the shares to the extent of Rs. 50,30,000/- during the year 2014-15. The Assessing Officer called for explanation with regard to source of investment for the year under consideration i.e. 2014-15. The assessee explained before the Assessing Officer that 54,000 shares of CCL International was purchased for Rs. 50,31,000/-. The payments were made through banking channel. The assessee infact paid a sum of Rs. 25,00,000/- on 24.12.2013 and another sum of Rs. 25,000/- on 28.12.2013, the balance amount of Rs. 31,000/- was paid on 29.01.2014. All purchases and payments were made for the A.Y.2014-15. According to Id. Representative, there was no sale of share during the year under consideration. As on 31.03.2014 only investments were made. According to Id. Representative since there was no sale of shares till 31.03.2014, there is no question of any capital gain or capital loss arises for consideration. Infact the assessee is also not claiming any capital gain or capital loss. The Id. representative for the assessee further submitted that after calling for the source for making investment for the year under consideration, the Assessing Officer accepted the explanation of the assessee. Infact, the Assessing Officer reproduced the explanation of the assessee at page-5 of his order, accepted the explanation, and there was no addition was made.

Therefore, it is not correct to contend for the revenue that the source of investment was not explained.

4. The Id. representative for the assessee further submitted that the assessee sold the entire shares during the A.Y.2015-16 and claimed exemption under section 10(38) of the Act. Subsequently, the assessee declared the LTCG of Rs. 1,93,91,750/- under the Income Declaration Scheme 2016 and paid the entire taxes. According to Id. Representative, if at all any disallowance that may be made for the A.Y.2015-16 and not for A.Y.2014-15. Furthermore there cannot be any addition for A.Y.2015-16 also, since the assessee paid the taxes after declaring the LTCG under the Income Declaration Scheme, 2016.

5. We have considered the rival submission on either side and also perused the material available on record. The only issue arises for consideration is assessment of Long Term/Short Term Capital Gain of Rs. 98,34,260/-. The revenue has also taken a ground with regard to investment in the shares to the extent of Rs. 50,30,000/-. During the year under consideration, the material available on record clearly discloses that the assessee has invested in the share of CCL International to the extent of Rs. 50,31,000/-. The assessee has not sold any shares during the year under consideration, therefore, there is no question of any capital gain/capital loss arises for consideration. The source of investment was explained by

the assessee before the Assessing Officer and the Assessing Officer accepted source and no addition was made. Therefore, as rightly submitted by the Id. Representative for the assessee it cannot be said that the source of investment to the extent of Rs. 50,31,000/- was not explained. Now the assessee claims that the total purchase of shares to the extent of Rs. 98,34,260/- was for two AYs. This fact is admitted by the Assessing Officer. In other words, the purchases of shares of CCL International by the assessee was during the A.Y.2014-15 and 2015-16. This is very obvious from the remand report filed by the Assessing Officer before CIT(A). The scrutiny report filed by the Assessing Officer, the copy of which is produced before the Id. DR clearly reads as under:

“It is correct that a sum of Rs. 98,34,260/- purchased by the assessee of the script CCL Enterprises in two A.Yrs. and sold in A.Y. 2015-16. Hence, the assessee did not have any capital loss during the year under consideration i.e. A.Y. 2014-15. As per record for the A.Y. 2015-16 assessee has declared relevant capital gain in CCL shares under income declaration scheme 2016 amounting to Rs. 1,93,91,750/- under unverifiable capital gain and paid tax there upon.”

6. From the above observation in the scrutiny report, the copy of which is available on record, clearly indicate that there was no capital gain arises for A.Y.2014-15. For the A.Y. 2015-16, the assessee sold the shares and declared the same under Income Declaration Scheme, 2016 and paid the taxes. In such circumstances, this Tribunal is of the considered opinion that

the CIT(A) has rightly deleted the entire addition made by the Assessing Officer. Therefore, this Tribunal do not find any reason to interfere with the order of CIT(A). Accordingly, the same is confirmed.

7. Now coming to the C.O. of the assessee, the same is filed only to support the order of CIT(A). Since, the order of CIT(A) is confirmed on merit, the C.O. become infructuous.

8. In the result, both the appeal of the revenue and C.O. of the assessee stands dismissed.

Order pronounced in the open court on December 31st 2020.

Sd/-
(Sanjay Arora)
Accountant Member

Sd/-
(N.R.S.Ganesan)
Judicial Member

Dated: 31/12/2020
SK/P.S.

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