

THE INCOME TAX APPELLATE TRIBUNAL  
"SMC" Bench, Mumbai  
Shri Shamim Yahya (AM)

I.T.A. No. 138/Mum/2021 (Assessment Year 2012-13)

Bharat Sawalchand Jain C/o. D.C. Bothra & Co. LLP(CA) (Formerly known as D.C. Bothra & Co.) 297, Tardeo Road, Wille Mansion 1 <sup>st</sup> Floor, Opp. Bank of India Nana Chowk, Mumbai-400 004.  PAN : ADCPJ8401D (Appellant)	Vs.	ITO-19(1)(2) 2 <sup>nd</sup> Floor Matru Mandir Tardeo Mumbai-07.  (Respondent)
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Assessee by	None
Department by	Ms. Smita Verma
Date of Hearing	11.10.2021
Date of Pronouncement	11.10.2021

ORDER

This appeal by the assessee is directed against order of learned CIT-A dated 8.8.2019 pertaining to assessment year 2012-13.

2. The grounds of appeal read as under :-

1. That on facts of the case and in law notice issued u/s 148 dt. 12/09/2016 to initiate the reassessment proceeding and consequent assessment order passed u/s 143(3) r.w.s 147 of the I.T. Act on 26/12/2017 is without jurisdiction and bad in law.

2. That on facts of the case and in law both the Id. A.O. & and also Id. C.I.T.(Appeals) has erred in denying the exemption claim made u/s 10(38) and in making and upholding the addition u/s 68 at Rs. 7,81,950/- treating the gross sale proceeds of listed long-term equity shares subjected to collection of STT, sold on recognized stock exchange at the prevailing quoted rate after holding for more than one year as unexplained cash credit disregarding the supporting documentary evidences furnished, merely on the basis of untested report of D.I. Kolkata but without bringing any adverse evidence or material on assessment record.

3. That the alleged denial of exemption claim made u/s 10(38) and alleged addition made u/s 68 at Rs. 7,81,950/- is wrong on facts and bad in law since the copy of information and documents received from Investigation

Directorate, Kolkata have been relied upon by the Id. A.O. without verification and adjudication thereof and assessee appellant has not been provided with such material thus denying the opportunity of cross examination and or rebuttal of the same in gross violation of principal of natural justice.

4. That the appeal ground No.1 raised is independent grounds and without prejudice to appeal ground no. 2 to appeal ground no.3.

3. At the outset in this case it is noted that the assessee's counsel has submitted an application that the assessee wishes to withdraw the appeal, pursuant to resolution of dispute in the VSV scheme Learned departmental representative did not have any objection to this proposition.

4. Up on careful consideration I grant permission to withdraw the appeal. Accordingly this appeal is dismissed as withdrawn.

Pronounced in the open court on 11.10.2021.

Sd/-  
(SHAMIM YAHYA)  
ACCOUNTANT MEMBER

Mumbai; Dated : 11/10/2021

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Assistant Registrar)  
ITAT, Mumbai

PS