

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

I.T.A. No. 6583/Mum/2019 (Assessment Year 2014-15)

ITO-33(2)(5) Room No. 851 8 th Floor Kautilya Bhavan BKC, Mumbai-400051.	Vs.	Smt. Parul Richura A-1503/04, Shiv Shrusti, above Hyundai Showroom Link Road, Mahavir Nagar, Kandivali-W Mumbai-400 067. PAN : AEEPR1263E
(Appellant)		(Respondent)

Assessee by	Shri Atul Richura
Department by	Shri T. Sankar
Date of Hearing	27.12.2021
Date of Pronouncement	06.01.2022

ORDER

This is an appeal by the Revenue is directed against the order of Id CIT(A) dated 12.7.2019 pertaining to assessment year 2014-15.

2. The grounds of appeal read as under :-

1. On the facts and in the circumstances of the case and in law Id. CIT(A) erred in deleting the addition made by the AO on account of disallowance of LTCG under section 68 on transfer of listed securities on recognized stock exchange amounting to Rs. 38,32,009/-.

2. On the facts and in the circumstances of the case and in law Id. CIT(A) erred in deleting the addition made by the AO on account of commission paid on transfer of shares under section. 69C of the Act without appreciating the fact that the assessee had not tendered cogent evidence to explain as to how the shares in an unknown company earned the abnormal profit which was not at all possible as there was no economic or financial basis.

3. On the facts and in the circumstances of the case and in law Id. CIT(A) erred in deleting the disallowance without appreciating the fact that it was the finding of the Investigation Wing Kolkata that the sale purchase transaction routed through stock exchange with the main intent of providing bogus LTCG to the assessee, one of the beneficiaries of obtaining bogus LTCG entries to be exempt in the return of income filed by the assessee.

4. On the facts and in the circumstances of the case and in law ld. CIT(A) failed to appreciate the fact that the Hon'ble High Court in the case of Bimalchand Jain clearly stated that the authorities have recorded a clear finding of fact that assessee had indulged in a dubious share transaction meant to account for the undisclosed income in the garb of long term capital gain.
5. The appellant prays that the order of CIT(A) on the above grounds be set aside and that of the AO be restored.
3. At the outset ld counsel of the assessee submitted that the assessee has opted for resolution of dispute under Vivad Se Vishwas Scheme and has paid the determined amount. In this regard the assessee has also provided Form No. 5 dated 26.5.2021.
4. Ld Departmental Representative does not have any objection in this regard. Since the assessee has paid determined amount under dispute resolution scheme, we treat the Revenue's appeal as withdrawn as per scheme. Hence, this Revenue's appeal is dismissed as withdrawn.

Pronounced in the open court on 06.01.2022

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 06 /1/2022

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//

PS

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai