

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
DELHI BENCH: 'G' NEW DELHI**

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER  
AND  
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

ITA No.5643/Del/2016  
Assessment Year: 2012-13

Sh. Sumer Singh, House No. 652, Sector-23, NIT Faridabad, Haryana	<b>Vs.</b>	ACIT, Central Circle -3, New Delhi
<b>PAN :AWMPS2884E</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Sh. Ved Jain, Advocate
Respondent by	Sh. H. K. Chaudhary, CIT (DR)

Date of hearing	10.03.2022
Date of pronouncement	17.05.2022

**ORDER**

**PER SAKTIJIT DEY, JM:**

This is an appeal by the assessee against order dated 30.08.2016 of learned Commissioner of Income Tax (Appeals)-25, Delhi, for the assessment year 2012-13.

**2.** At the outset, learned counsel appearing for the assessee, on instruction, did not press ground nos. 1, 2 and 3. Accordingly, these grounds are dismissed. Ground no. 6, being a general ground, does not require adjudication.

**3.** Common issue raised in ground nos. 4 and 5 relates to addition of Rs.9 lakhs towards unexplained investment.

**3.1** Briefly the facts are, the assessee is a resident individual. A search and seizure operation under section 132 of the Income-tax Act, 1961 (for short 'the Act') was conducted in case of M/s. Mauria Udhyog Ltd. and its group concerns on 07.08.2013. The assessee was also covered under the said search and seizure operations. In response to the notice issued under section 153A of the Act, the assessee filed its return of income on 21.09.2015 declaring total income of Rs.1,81,133/-. In course of assessment proceeding, the Assessing Officer noticing that the assessee, allegedly, had invested Rs.9 lakhs towards purchase in shares, called upon the assessee to furnish the source of such investment. Alleging that the assessee could not furnish the source of investment and being of the view that being a small employee of M/s. Mauria Udhyog Ltd. group the assessee did not had the wherewithal for making such investment, the Assessing Officer added back the amount of Rs.9 lakhs to the income of the assessee by treating it as unexplained investment. Though, the assessee contested the aforesaid addition by filing an appeal

before learned Commissioner (Appeals), however, he was unsuccessful.

**4.** Before us, learned counsel for the assessee submitted, under total factual misconception the Assessing Officer has taken the alleged investment in shares at Rs.9 lakhs. He submitted, in reality, the assessee had invested an amount of Rs.3 lakhs towards purchase of shares during the year under consideration. Proceeding further, he submitted, shares of M/s. Quality Synthetic Industries Ltd. and M/s. GL Estates Pvt. Ltd. were actually sold during the year and not purchased. He submitted, while shares of M/s. GL Estates Pvt. Ltd. were purchased by the assessee on 19.04.2004 for a sum of Rs. 1 lakh, they were sold during the year and the sale proceeds of Rs.2 lakhs were invested in purchase of shares of M/s. SSKS Estates Pvt. Ltd. Further, he submitted, shares of M/s. Quality Synthetic Industries Ltd. were actually purchased by assessee on 05.03.2000 and were sold during the year. He submitted, the sale proceeds of Rs.2 lakhs received from sale of aforesaid shares were invested in shares of M/s. SSKS Estates Pvt. Ltd. in the succeeding financial year, i.e., on 09.04.2012. Thus, he submitted, the assessee had actually

invested an amount of Rs.3 lakhs in purchase of shares during the year.

**5.** As regards the source of such investment, learned counsel submitted, Rs. 2 lakhs invested in shares of M/s. SSKS Estates Pvt. Ltd. was from the sale proceeds of shares of M/s. GL Estates Pvt. Ltd. and further Rs. 2 lakhs invested in shares of M/s. SSKS Estates Pvt. Ltd. in the succeeding financial year was out of sale proceeds of shares of M/s. Quality Synthetic Industries Ltd. purchased earlier. To demonstrate the aforesaid factual position, learned counsel drew our attention to the copy of bank statement, evidences showing purchase of shares of M/s. GL Estates Pvt. Ltd. and M/s. Quality Synthetic Industries Ltd. etc. Further, he submitted, the sale of shares made during the year cannot be doubted as the Assessing Officer has accepted the transaction at the hands of respective buyers while completing the assessment in their case. Thus, he submitted, the addition made should be deleted.

**6.** Learned Departmental Representative submitted, before the Assessing Officer and learned Commissioner (Appeals) the assessee had taken contradictory stand and has not filed the supporting evidences to demonstrate that only an amount of Rs.3

lakhs was invested in purchase of shares. He submitted, since, there is controversy regarding the actual investment made by the assessee, the issue may be restored back to the Assessing Officer for verifying assessee's claim.

7. We have considered rival submissions and perused materials on record. On going through the assessment order it is observed that the Assessing Officer has raised doubts regarding following investments in shares allegedly made by the assessee during the year:

<b>S. No.</b>	<b>Nature of Investment</b>	<b>Amount (₹)</b>
1.	Shares of M/s. SSKS Estates Pvt. Ltd.	4,00,000
2.	Shares of Quality Synthetics Industries Ltd.	2,00,000
3.	Shares of M/s. Biharji Estates Pvt. Ltd.	50,000
4.	Shares of M/s. Biharji Highrise Pvt. Ltd.	50,000
5.	Shares of M/s. GL Estates Pvt. Ltd.,	2,00,000
	<b>Total</b>	<b>9,00,000</b>

8. However, on a perusal of facts and materials on record, it is evident, in course of proceedings before the departmental authorities; the assessee did submit that so called investments in shares of M/s. Quality Synthetic Industries Ltd. were actually purchased by the assessee on 05.03.2000 for a total consideration of Rs.2 lakhs. During the year under consideration, the assessee had sold the shares for a consideration of Rs.2 lakhs. The sale proceeds have been credited to assessee's bank account on 03.04.2012. Similarly, the assessee has purchased

shares of M/s. GL Estates Pvt. Ltd. on 19.04.2004 for a consideration of Rs. 1 lakh and has sold them during the year for an amount of Rs. 2 lakhs. Such sale proceeds have also been credited in the bank account. Thus, from the aforesaid facts and materials on record, it is very much clear that the assessee did not make any investment in purchase of shares of M/s. Quality Synthetic Industries Ltd. and M/s. GL Estate Pvt. Ltd. The amount of Rs. 2 lakhs each considered towards investments in shares of the aforesaid two concerns are, in reality, sale proceeds received from sale of shares of these two entities. Thus, out of Rs. 9 lakhs taken by the Assessing Officer towards investments in shares of Rs. 4 lakhs has to be reduced at the threshold. From the remaining amount of Rs. 5 lakhs, the investment in shares of M/s. SSKS Estates Pvt. Ltd. is to the tune of Rs. 4 lakhs. However, perusal of the bank statement furnished in the paper-book clearly reveals that out of Rs. 4 lakhs invested in shares of M/s. SSKS Estates Pvt. Ltd, an amount of Rs. 2 lakhs was invested on 09.04.2012 falling in financial year 2012-13 corresponding to assessment year 2013-14. Therefore, the said investment in shares of Rs. 2 lakhs cannot be taken as the investment of the assessee in the impugned assessment year.

Thus, what remains is an amount of Rs.3 lakhs. Out of the said 3 lakhs, admittedly, the assessee has invested an amount of Rs.2 lakhs in shares of M/s. SSKS Estates Pvt. Ltd. From the materials placed before us, including the bank statement, it is very much clear that the sale proceeds received from sale of shares of M/s. GL Estates Pvt. Ltd. were invested in shares of M/s. SSKS Estates Pvt. Ltd. Therefore, the source of investment qua the shares of M/s. SSKS Estates Pvt. Ltd. stands explained. The balance investments of Rs.1 lakh is stated to be out of past savings/drawings from the bank account.

**9.** Considering the length of service of the assessee, it cannot be said that the assessee did not have the capacity to invest Rs. 1 lakh in shares. Thus, in our considered opinion, the source of investment in shares is properly explained. In view of the aforesaid, we delete the addition of Rs.9 lakhs.

**10.** In the result, the appeal is allowed.

***Order pronounced in the open court on 17<sup>th</sup> May, 2022***

***Sd/-***  
**(DR. B.R.R. KUMAR)**  
**ACCOUNTANT MEMBER**

***Sd/-***  
**(SAKTIJIT DEY)**  
**JUDICIAL MEMBER**

Dated: 17<sup>th</sup> May, 2022.  
RK/-  
Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi