

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI  
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष  
Before Shri V. Durga Rao, Judicial Member &  
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. No. 338/Chny/2021  
निर्धारण वर्ष/**Assessment Year:2015-16**

Shri Shambulal Nilesh Khandoor,  
75, New Scheme Road,  
Pappanaickenpalayam,  
Coimbatore 641 037.

The Principal Commissioner of  
Income Tax - 2,  
Coimbatore.

**[PAN:ACVPN1616Q]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri K. Balasubramanian, Advocate  
प्रत्यर्थी की ओर से/Respondent by : Shri M. Rajan, CIT  
सुनवाई की तारीख/ Date of hearing : 01.08.2022  
घोषणा की तारीख /Date of Pronouncement : 24.08.2022

**आदेश /O R D E R**

**PER V. DURGA RAO, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order of the Id. Principal Commissioner of Income Tax-2, Coimbatore, dated 11.03.2020 relevant to the assessment year 2015-16 challenging the revision order passed under section 263 of the Income Tax Act, 1961 ["Act" in short].

2. The appeal filed by the assessee is delayed by 498 days in filing the appeal before the Tribunal due to outbreak of COVID-19 pandemic

and accordingly, the delay is condoned and admitted the appeal for adjudication.

3. Facts are, in brief, that the assessee filed his return of income on 01.09.2015 for the assessment year 2015-16 admitting total income of ₹.6,80,320/-. The return of income was processed under section 143(1)(a) of the Act. Subsequently, the case was selected for scrutiny through CASS and notice under section 143(2) of the Act dated 26.07.2016 was issued and served on the assessee. After verification of the details filed by the assessee, the assessment was completed under section 143(3) of the Act by accepting the income returned by the assessee. In the assessment order, the Assessing Officer has recorded as under:

*“The assessee furnished the details called for including the copy of return of income, bank account statements, details of Demand Account and contract note consisting of full details of quality and price at which each shares purchased, total sale consideration, brokerage fees, bills of brokers and mode of transaction etc. Letter noting the details of investment in shares and source for the same filed.*

*On verification it is seen that assessee has purchased shares of Subham Granites Limited on 30.06.2011 by cheque which subsequently changed its name as Blazon Marbles Ltd. The assessee sold the shares on 08.05.2014 through recognized stock broker namely M/s. Sugal & Damani Share Brokers Ltd. The Authorised representative furnished the copies of sale bills issued by the borker and also filed the details of purchase of shares. The Authorised representative argues that since the share transactions are genuine, the claim of long term capital gain exemption u/s 10(38) on sale of share is in order.”*

4. Against the assessment order passed by the Assessing Officer, the Id. PCIT has issued notice under section 263 of the Act. The assessee has filed detailed explanation and by considering the same, the Id. PCIT has passed revision order under section 263 of the Act dated 11.03.2020 setting aside the assessment order and directed the Assessing Officer to redo the assessment after allowing opportunity of being heard to the assessee by observing as under:

*“10. It is seen from the records that the assessee has admitted to have earned long term capital gain of Rs.21,15,899 from sale of 12500 shares of M/s. Blazon Marbles Ltd & 10000 Shares of Super Papers Ltd. and claimed the same as exempt u/s.10(38) of the Income tax Act. The assessee has sold 12500 shares of M/s. Blazon Marbles Ltd. and admitted Long Term Capital Gain of Rs.6,42,129/- and furnished copy of demat account, bank statement in support of the claim. During assessment proceedings, it was stated that 2500 equity shares (with value of Rs.10) of M/s. Subham Granites Ltd. at a cost of Rs.4,375/- and subsequently the name of the company changed to Blazon Marbles Ltd. It was further stated that the company's shares were split from Rs.10 to Rs.2 and number of shares increased from 2500 to 12500 on 07/05/2012. The Assessing Officer has not made any further enquiries with regard to purchase and sale of shares and has not done any verification with reference to the information shared by the investigation Directorate, Kolkata on the investigation done on accommodation entries on Long Term Capital Gains but on the basis of assessee's submission allowed the exemption claimed.”*

5. Before us, the Id. Counsel for the assessee has submitted that all the details were filed before the Assessing Officer and the Assessing Officer considered all the details and concluded the assessment order. Therefore, the assessment order passed by the Assessing Officer is neither erroneous nor prejudicial to the interest of the Revenue. He also pointed out that the case was selected for only to examine the suspicious

sale transaction and exempted long term capital gains and the Assessing Officer knowing very well that this case was selected for complete scrutiny and after examining the details, the assessment was concluded.

6. The Id. DR has submitted that without examining the records, by considering the explanations of the assessee that the transactions are genuine, the assessment order was passed. Therefore, the assessment order passed by the Assessing Officer is erroneous and prejudicial to the interest of the Revenue.

7. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. On perusal of the assessment order, we find that the Assessing Officer has examined the purchase of the shares, sale of shares through whom the shares were sold and gave a finding that the assessee sold the shares on 08.05.2014 through recognized stock exchange and through authorized stock broker namely M/s. Sugal & Damani Share Brokers Ltd. The AR of the assessee has furnished copies of sale bills issued by the broker and also filed the details of purchase of shares. After examining the sale and purchase details, the Assessing Officer gave a finding that the sale was made through recognized stock exchange and also the sale was made through authorized stock broker. Therefore, we are of the opinion that the order

passed by the Assessing Officer is neither erroneous nor prejudicial to the interest of the Revenue. Therefore, it is not a fit case to invoke the provisions of section 263 of the Act. Accordingly, the revision order passed under section 263 of the Act is quashed.

8. In the result, the appeal filed by the assessee is allowed.

Order pronounced on the 24<sup>th</sup> August, 2022 in Chennai.

Sd/-  
(G. MANJUNATHA)  
ACCOUNTANT MEMBER

Sd/-  
(V. DURGA RAO)  
JUDICIAL MEMBER

Chennai, Dated, 24.08.2022

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/  
Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5.  
विभागीय प्रतिनिधि/DR & 6. गार्ड फाईल/GF.