

**आयकर अपीलीय अधिकरण, कोलकाता पीठ 'एसएमसी', कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH: KOLKATA**  
श्री संजय गर्ग न्यायिक सदस्य एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष  
[Before Shri Sanjay Garg, Judicial Member & Shri Rajesh Kumar, Accountant Member]

**I.T.A. No. 2432/Kol/2019**  
आयकर अपील संख्या-2432/कोल/2019  
**Assessment Year : 2013-14**  
निर्धारण वर्ष: 2013-14

Estate of Bhanwari Devi Laturia (PAN: ABWPL 4300 P)	Vs.	ITO, Ward-49(2), Kolkata
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	28.07.2022
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	29.08.2022
For the Appellant/ निर्धारिती की ओर से	None
For the Respondent/ राजस्व की ओर से	Shri Gautam Mondal, Addl. CIT

**ORDER / आदेश**

**Per Shri Rajesh Kumar, AM:**

This is the appeal preferred by the assessee is against the order of the Ld. Commissioner of Income Tax(Appeals)-10, Kolkata (hereinafter referred to as the Ld. CIT(A)”) dated 15.07.2019 for the AY 2013-14.

2. None appeared on behalf of the assessee at the time of hearing nor any application seeking adjournment was filed. Therefore we are deciding the appeal ex-parte after hearing the ld DR and after considering the merits of the case.

3. The sole issue raised in grounds of appeal is relating to the disallowance of claim of exemption u/s 10(38) in respect of long-term capital gains arising from the sale of shares.

4. At the outset, we note that since the issue is relating to the penny stock and the same is squarely covered against the assessee by the recent decision of the Calcutta High Court vide common order dated 14.06.2022 in a batch of 90 appeals with a lead case titled as PCIT vs. Swati Bajaj in IA No.GA/2/2022 and Others. We also note that the facts and issue involved in the above appeal of the assessee is identical to that as was before the Hon'ble Calcutta High Court. The Hon'ble Calcutta High Court vide its decision dated 14.06.2022 (supra) has affirmed the additions made by the Assessing Officer u/s 68 of the Income Tax Act in respect of bogus long-term capital gains. In view of this, the appeal of the assessee is hereby dismissed.

5. In the result, the appeal of the assessee stands dismissed.

Order is pronounced in the open court on 29<sup>th</sup> August, 2022

Sd/-  
(Sanjay Garg /संजय गर्ग)  
Judicial Member/न्यायिक सदस्य

Sd/-  
(Rajesh Kumar/राजेश कुमार)  
Accountant Member/लेखा सदस्य

Dated: 29<sup>th</sup> August, 2022

*SB, Sr. PS*

Copy of the order forwarded to:

1. Appellant- Estate of Bhanwari Devi Laturia (Through Legal Heir Sunil Maheshwari), 43, Cotton Street, 2<sup>nd</sup> Floor, JeeraKothi, Kolkata-700007.
2. Respondent – ITO, Ward-49(2), Kolkata
3. Ld. CIT(A)- 15, Kolkata
4. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata