

**आयकर अपीलीय अधिकरण, कोलकाता पीठ 'सी', कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH: KOLKATA**  
श्री संजय शर्मा न्यायिक सदस्य एवं श्री गिरीश अग्रवाललेखा सदस्य के समक्ष ,  
[Before Shri Sonjoy Sarma, Judicial Member & Shri Girish Agrawal, Accountant Member]

**I.T.A. No.157/Kol/2021**  
**Assessment Year : 2015-16**

Sandeep Saraf (PAN: ALMPS 4599 M)	Vs.	ITO, Ward-43(6), Kolkata
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी(

Date of Hearing / सुनवाई की तिथि	29.09.2022
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	30.09.2022
For the Appellant/ निर्धारिती की ओर से	Shri Rajeeva Kumar, Advocate
For the Respondent/ राजस्व की ओर से	Shri D.K. Sonawal, CIT

**ORDER / आदेश**

**Per Shri Sonjoy Sarma, JM:**

This is the appeal preferred by the assessee is against the order of the Ld. Pr. Commissioner of Income Tax(Appeals)-15, Kolkata (hereinafter referred to as the Ld. PCIT(A)"] dated 22.06.2020 for the AY 2015-16.

2. Though the Registry has pointed out that the appeal is time barred, however, in view of the decision of the Hon'ble Supreme Court in the case of *Miscellaneous Application No. 665 of 2021 in SMW(C) No. 3 of 2020*, the period of filing appeal during the COVID-19 pandemic is to be excluded for the purpose of counting the limitation period. In view of this, the appeal is treated as filed within the limitation period.

2. The sole issue raised in grounds of appeal is relating to the order passed by the ld. PCIT u/s 263 by which ld. PCIT treating the LTCG of Rs. 62,21,909/- claimed on the sale of shares of CCL International Ltd. claimed to be bogus and setting aside the order dated 25.05.2017 passed by the ld. AO.

3. At the outset, the ld. AR of the assessee submitted before us stating that since the instant order passed by the ld. PCIT u/s 263 by which he setting aside the order dated 25.05.2017 is relating to issue of penny stock and 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 IT No. GA/2/2022 & others. We also note that the facts and issue involved in the above appeal of the assessee by which, ld. PCIT set aside the order of the AO is similar to that as was before the Hon'ble Calcutta High Court vide its decision dated 14.06.2022 (supra) has affirmed the such addition made by the Assessing Officer u/s 68 of the I.T. Act in respect of bogus long term capital gain. In view of this, we affirmed the order dated 22.06.2018 passed by the ld. PCIT u/s 263 of the I.T. Act, 1961 by which ld. PCIT set aside the assessment order dated 25.05.2022 passed by the ld. AO.

4. In the result, the appeal of the assessee is stands dismissed.

Order is pronounced in the open court on 30<sup>th</sup> September, 2022

Sd/-  
(Girish Agrawal / गिरीश अग्रवाल)  
Accountant Member/लेखा सदस्य

Sd/-  
(Sonjoy Sarma /संजय शर्मा)  
Judicial Member/न्यायिक सदस्य

Dated: 30<sup>th</sup> September, 2022

*Biswajit, Sr. PS*

Copy of the order forwarded to:

1. Appellant- Sandeep Saraf, Satyanarayan Park, A.C. Market, Upper Basement, D-120/143, 141, Cotton Street, Kolkata-700007.
2. Respondent – ITO, Ward-43(6), Kolkata.
3. Ld. CIT(A), Kolkata
4. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata