

IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH KOLKATA

आयकर अपीलिय अधीकरण, न्यायपीठ “C” कोलकाता,

**BEFORE SHRI SONJOY SHARMA, JUDICIAL MEMBER
AND SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER****ITA No.1529/Kol/2018
Assessment Year: 2014-15**

Mukesh Kumar Dugar 75, B B D Road, Eliza 3, 4 th floor, Hind Motor, Hooghly- 712233 PAN: AHBPD9712G)	Vs.	Income Tax Officer, Ward- 35(2), Kolkata.
(Appellant)		(Respondent)

Present for:

Appellant by : Shri A. N. Keshari, FCA
Respondent by : Smt. Ranu Biswas, Addl. CIT, DR

Date of Hearing : 01.11.2022
Date of Pronouncement : 09.11.2022

ORDER**PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is against the order of Ld. CIT(A)-10, Kolkata vide Appeal No. 521/CIT(A)-10/W-35(4)/2014-15/2016-17/Kol dated 18.04.2018 passed against the assessment order by the ITO, Ward-35(4), Kolkata u/s. 143(3) of the Income-tax Act, 1961 (hereinafter referred to as the “Act”) dated 29.12.2016.

2. We have gone through the record carefully. The grievance of the assessee is that ld. CIT(Appeals) has erred in dismissing the appeal filed by the assessee and in confirming the addition of LTCG alleged to be bogus on the basis of report received

from DIT (Investigation) Kolkata in respect of shares of Unno Industries Ltd., amounting to Rs.80,10,750/- u/s. 68 of the Act which was claimed exempt u/s. 10(38) of the Act on the ground that assessee has earned bogus long-term capital gain. During the course of assessment proceedings, Ld. AO observed that assessee purchased shares of Basukinath Real Estate Pvt. ltd. from M/s. Maa Durga Mercantile Pvt. Ltd. on 05.05.2011 for Rs.2,50,000/-. Subsequently, the assessee received 22,500 bonus shares of Basukinath Realestate Ltd. @ 18:1 on 16.03.2012, thereby total share count increased to 23,750. These shares were later amalgamated via a scheme of arrangement with Unno Industries Ltd. vide order of Hon'ble High Court of Bombay on 18.01.2023. The shares were split in the ratio of 1:10 and assessee was allotted 2,37,500 shares of Unno Industries Ltd. During the FY 2013-14, assessee sold 2,37,500 shares of Unno Industries Ltd. through the broker named M/s. Ashika Stock Broking Ltd. and claimed LTCG of Rs.77,19,247/- as exempt u/s. 10(38) of the Act. Ld. Assessing Officer disbelieved the same and stated that the claim of LTCG u/s. 10(38) of the Act is established to be bogus and added the same to the total income of the assessee as unexplained cash credit u/s. 68 of the Act. On appeal, Ld. CIT(A) after elaborate discussion in his order confirmed the action of AO holding the claim of LTCG of Rs.80,10,750/- as bogus. Aggrieved, assessee is in appeal before the Tribunal.

4. We find that there are large number of assesseees, who have transacted with equity shares of Unno Industries Limited and claimed exemption under section 10(38) of the Act. Apart from this scrip, there are other scrips also in Kolkata, who

were found to be penny stock and transactions on papers only. The Hon'ble Calcutta High Court has recently considered this aspect in its judgment in the case of Swati Bajaj & Others (2022) 139 taxmann.com 352(Cal.). In a number of appeals, we have also rejected the claim of the assessee, where the assessee transacted in the shares of M/s. Unno Industries Limited. All these transactions have been held as bogus by the Hon'ble Jurisdictional High Court. Para 26 of the judgment contains details of transactions in the shares of Unno Industries Ltd. Therefore, relying upon the decision of the Hon'ble Calcutta High Court, we are of the view that Revenue Authorities have rightly rejected the claim of the assessee and made the additions. We do not find any merit in this appeal. Accordingly, it is dismissed.

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

Order pronounced in the open Court on 9th November, 2022.

Sd/-
(Sonjoy Sarma)
Judicial Member

Sd/-
(Girish Agrawal)
Accountant Member

Dated: 9th November, 2022

JD, Sr. P.S.

Copy to:

1. The Appellant:
 2. The Respondent:.
 3. CIT(A)-10, Kolkata
 4. The Pr. CIT, Kolkata.
 5. DR, ITAT, Kolkata Bench, Kolkata
- //True Copy//

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata