

IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA

आयकर अपीलीय अधिकरण, न्यायपीठ "C" कोलकाता,

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER
AND SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER****ITA No.2188/Kol/2019
Assessment Year: 2014-15**

Sikha Kundalia C/o Lalchand Kundalia, S.F. Road, Siliguri-734005 (PAN: AEMPK1053M)	Vs.	Deputy Commissioner of Income Tax, Circle-2, Siliguri.
(Appellant)		(Respondent)

Present for:

Appellant by : None

Respondent by : Smt. Ranu Biswas, Addl. CIT, DR

Date of Hearing : 17.11.2022

Date of Pronouncement : 22.11.2022

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

This appeal filed by the assessee is against the order of Ld. CIT(A), Siliguri vide Appeal No. 50/CIT(A)/SLG/2016-17 dated 31.07.2019 passed against the assessment order by the DCIT, Circle-2, Siliguri u/s. 143(3) of the Income-tax Act, 1961 (hereinafter referred to as the "Act") dated 29.12.2016.

2. None appeared on behalf of the assessee. Smt. Ranu Biswas, Addl. CIT, DR appeared on behalf of the revenue.

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 M/s. Cressanda Solutions Limited amounting to Rs.78,15,767/- 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 as per contract note, submitted by the assessee, the sale of those shares were made on 20.11.2013 (2500 units), 26.11.13 (2000 units), 02.12.2013 (1000 units), 14.03.2014 :(10000 units), 26.03.2014 (40000) and 31.03.2014 (45000 units), through a single broker named M/s Ashika Stock Broking Ltd. (member: Bombay Stock Exchange). The rate of sale is stated to be Rs.54.90 to Rs.506.10. On further examination it is seen that the assessee has shown to have purchased 15000 nos. of shares of M/s Smartchamps IT and Infra Limited on 15.10.2011. According to Ld. AO, the assessee has stated that she had purchased 15000 nos. of shares of Smartchamps IT and Infra Limited, however, she has furnished that the total number of shares sold is 100500. The assessee in her written submission has mentioned that she purchased 15,000 Shares of Smartchamps IT and Infra Limited @ Rs. 10/- each. After amalgamation, she was allotted 15,000 shares of Cressanda Solutions Limited against the shares of Smartchamps and Infra Limited as per the order of Hon'ble Bombay High Court. Out of 15,000 shares, she sold 5,500 shares. Remaining 9500 shares got converted into 95,000 shares after split. 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.78,15,767/- 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 M/s. Cressanda Solutions 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 assesseees, where the assessee transacted in the shares of M/s. Cressanda Solutions Limited. All these transactions have been held as bogus by the Hon'ble Jurisdictional High Court. Therefore, respectfully following the decision of the Hon'ble Calcutta High Court, we affirm the view taken by the Revenue Authorities who have 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, appeal of the assessee is dismissed.

Order pronounced in the open Court on 22nd November, 2022

Sd/-
(Sanjay Garg)
Judicial Member

Sd/-
(Girish Agrawal)
Accountant Member

Dated: 22nd November, 2022

JD, Sr. P.S.

Copy to:

1. The Appellant:
 2. The Respondent:.
 3. CIT(A), Siliguri
 4. The Pr. CIT, Kolkata.
 5. DR, ITAT, Kolkata Bench, Kolkata
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By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata