

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'SMC', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER**

**ITA No.1830/DEL/2019  
Assessment Year: 2010-11**

<b>Evergain Securities (P) L-7A(LGF), South Extension Part-II, New Delhi PAN No.AAACE2340J (APPELLANT)</b>	<b>Vs</b>	<b>ITO Ward- 8 (4) New Delhi (RESPONDENT)</b>
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Appellant by	Sh. Suraj Gupta, Advocate
Respondent by	Sh. Hemant Gupta, Sr. DR

Date of hearing:	25/01/2023
Date of Pronouncement:	25/01/2023

**ORDER**

**PER N. K. BILLAIYA, AM:**

This appeal filed by the assessee is directed towards the order of the CIT(A)-3, New Delhi dated 15.02.2019 pertaining to A.Y.2010-11.

2. The grievance of the assessee read as under :-

1. *That under the facts and circumstances, of the case the initiation of proceedings u/s.147 is without jurisdiction, without application of mind, mechanical, on borrowed satisfaction and unwarranted in law as well as on merits.*

2. *That under the facts and circumstances, the approval u/s. 151 of Pr. CIT is mechanical non speaking and without application of mind, which approval cannot provide a valid jurisdiction to proceed u/s. 147/148.*

3. *That under the facts and circumstances, both the lower authorities erred in law and on merits in disallowance the F & O business loss of Rs.20,04,174/- on sale purchase of shares on the ground of alleged manipulative change in Client Code (CCM) by the assessee.*

3.1 *That without prejudice, the disallowance of Rs.20,04,174/- made without fully confronting the alleged adverse material and without providing for the cross examination of required persons, in unwarranted.*

4. *That there is no legality, no justification and no basis for addition of Rs.60,125/- by estimating and assuming alleged unexplained expenditure for obtaining alleged bogus F & O loss, at the rate of 3 percent of Rs.20,04,174/-.*

5. *That the Ld. A.O exceeded his jurisdiction in examining the issue of disallowance u/s. 14A/Rule 8D as this issue is outside the scope of these 147 proceedings and also not a part of reasons and also since no such material available on record on the basis of which it can be said that it is an escaped income which has come to the notice of A.O. subsequently in the course of proceedings u/s. 147.*

5.1 *That there is absolutely no legality and justification for disallowing Rs.3,981/- u/s.14A r/w 8D, further more without recording any satisfaction for not accepting the claim of appellant of not incurring any such expenditure.*

3. This appeal has been listed pursuant to the order of this Tribunal in M. A. No.234/Del/2021 order dated 14.10.2022 by which after rectifying the mistake apparent from record inadvertently the appeal was recalled. Since the original appeal with Miscellaneous application subsist, the present appeal becomes infructuous.

4. Decision announced in the open court in the presence of both the sides on 25.01.2023.

Sd/-  
**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

\*NEHA\*

Date:- .01.2023

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI