

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

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER**

ITA No.5353/Del/2019  
Assessment Year: 2014-15

Sh. Mohit Mittal, 30, Tarun Enclave, Pitampura, New Delhi	<b>Vs.</b>	ITO, Ward-16(1), New Delhi
<b>PAN :AIWPM9299F</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	None
Respondent by	Sh. Anil Kumar Sharma, Sr. DR

Date of hearing	06.02.2023
Date of pronouncement	13.02.2023

**ORDER**

This is an appeal by the assessee against order dated 22.03.2019 of learned Commissioner of Income Tax (Appeals)-6, Delhi, for the assessment year 2014-15.

2. When the appeal was called for hearing, none appeared on behalf of the assessee. On perusal of record it is noticed, though, on multiple occasions, beginning from January, 2021 till date, the appeal was fixed for hearing, either the assessee sought adjournment or mostly remained absent. Even the last notice of hearing issued to the assessee through speed-post on 4<sup>th</sup> January, 2023 returned back unserved with the comment 'left

without intimation'. The aforesaid facts reveal complete negligence of the assessee to the present proceeding. Since, sufficient opportunities have been granted to the assessee to represent his case, which the assessee has failed to avail, I proceed to dispose of the appeal ex-parte qua the assessee with the assistance of learned Departmental Representative and based on facts and materials on record.

3. Briefly the facts are, the assessee is a resident individual. For the assessment year under dispute, the assessee filed his return of income on 12.02.2015 declaring total income of Rs.7,21,260/-. Assessee's case was selected for scrutiny to examine suspicious long term capital gain on sale of shares. Based on information received from the Investigation Wing of the department the Assessing Officer found that the assessee is a beneficiary of accommodation entries by way of long term capital gain through scripts of penny stock companies. He found that in the year under consideration the assessee has shown long term capital gain of Rs.37,36,239/- from sale of shares of a penny stock company. In course of assessment proceeding, the Assessing Officer called upon the assessee to prove the genuineness of share transaction relating to shares of M/s.

Turbotech Engineering Ltd. In response to the query raised by the Assessing Officer, the assessee denied the allegations made and submitted that the share transaction is genuine. However, the Assessing Officer was not convinced with the submissions of the assessee. Ultimately, he proceeded to treat the long term capital gain shown from sale of shares as unexplained cash credit under section 68 of the Act and added back to the income of the assessee. Further, he observed that for availing such accommodation entries the assessee must have paid commission to the brokers, which the Assessing Officer estimated at 3% of the long term capital gain and added back an amount of Rs.1,12,687/- as unexplained expenditure under section 69C of the Act. The assessee contested the aforesaid additions before learned Commissioner (Appeals). However, the additions were confirmed.

4. I have considered the submissions of learned Departmental Representative and perused the materials on record. Facts and materials on record reveal that the Assessing Officer was in possession of material/information received from the Investigation Wing of the department indicating that the long term capital gain shown by the assessee from sale of shares of M/s.

Turbotech Engineering Ltd. is non-genuine as the said entity is a penny stock company. As noted by the Assessing Officer, price of each share of this company as on November, 2011 was Rs.2 per shares. However, by May, 2013, there was astronomical increase in the value of shares from Rs.2 to Rs.475, a jump of 23750%. Further, on examination of the capital structure of the entity, whose shares were sold to derive capital gain, revealed that the company had authorized and paid up share capital of Rs.0.84crores and share application money of Rs.3.60 crores in financial year 2009-10. Whereas, in financial year 2010-11, there was substantial increase in the equity capital to Rs.24 crores with no share application money. Thus, there was a quantum jump of Rs.19.60 crores in share capital without any justifiable reason having reference to disclosures made in the Annual Report of the company. Further, the profit and loss account of the company reveals that it has reported minimal expenditure in the financial years 2009-10 to 2012-13. The aforesaid facts clearly reveal that the assessee has availed accommodation entries through sale of penny stock to bring his unexplained income to mainstream. Neither before the departmental authorities, nor before me the assessee has furnished any cogent material to prove the

genuineness of the share transaction. Thus, keeping in view the concurrent factual findings of the departmental authorities, which have remained uncontroverted, I am inclined to sustain the additions. Accordingly, grounds raised are dismissed.

5. In the result, the appeal is dismissed.

***Order pronounced in the open court on 13<sup>th</sup> February, 2023***

**Sd/-  
(SAKTIJIT DEY)  
JUDICIAL MEMBER**

Dated: 13<sup>th</sup> February, 2023.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi