

IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
(DELHI BENCH 'F' : NEW DELHI)
BEFORE SH. SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
SH. ANUBHAV SHARMA, JUDICIAL MEMBER
ITA No. 1955/Del/2019, A.Y. 2015-16

Ranjana Wadhwa C/o. Kapil Goel Adv F-26/124 Sector -07 Rohini Delhi-110085 PAN : ABYPW1171F	Vs.	ITO, Ward - 41(1), New Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	None
Respondent by	Sh. Sanjay Tripathi, Sr. DR

Date of hearing:	10.05.2023
Date of Pronouncement:	16.05.2023

ORDER

PER ANUBHAV SHARMA, JM:

The appeal has been preferred by the Assessee against the order dated 30.01.2019 of CIT(A)-14, New Delhi (hereinafter referred as Ld. First Appellate Authority or in short Ld. 'FAA') in appeal No. 89/17-18/CIT(A)-14, New Delhi arising out of an appeal before it against the order dated 18.12.2017 passed u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred as 'the Act') by the I.T.O., Ward 41(5), New Delhi (hereinafter referred as the Ld. AO).

2. Heard and perused the record.

3. At the time of hearing, none has appeared for the assessee. Record shows, notices have been issued earlier on five occasions to the assessee. No more opportunity is justified. Arguments of Ld. DR were heard who supported the findings of Ld. Tax Authorities below.

4. A perusal of the record shows that the Ground raised by the assessee are argumentative in nature, however, the substantive ground arises from the fact that Ld. Tax Authorities below have made an addition of Rs. 2,09,93,738/- with the break up of Rs. 2,03,63,338/- u/s 68 of the Act as alleged bogus LTCG and Rs. 6,30,400/- as commission u/s 69C of the Act. It can be appreciated from the record and the order of Ld. Tax Authorities below that in regard to script KAPPAC Pharma Ltd. there was an investigation wing of Kolkata report for which the capital gain of assessee on sale of shares of M/s. KAPPAC Pharma was analysed. Genuineness of transaction claimed by the assessee where doubted. Ld. Tax Authorities had examined the investment of assessee in stock exchange of various parameters including the fact that share were purchased of the market whereas a script was listed in the stock exchange. It will be appropriate to reproduce the factual findings available at page no. 20-22 of the order of the Ld. AO reproduced as under :-

“The onus to prove the genuineness of share transactions was on the assessee which she failed to discharge with regard to claim of exemption u/s 10(38) for the following reasons:-

- i. Assessee purchased shares of a company/script which is devoid of any basic fundamentals and was suspended by the BSE for trading previously as well as afterward. A regular and genuine investor would hardly know that such a company is even listed on BSE.*
- ii. From the Audited financials filed by the company with BSE, It is a matter of fact that the **Listed company** does not have any significant/real business as seen from its last many P&L accounts and do not have any significant fixed assets or plant*

- and machinery (most of assets are either investment or loans.). Even the Basic & Diluted EPS of the share was constant downwards being of (-)0.02 to (-)0.03 during March,2011 to March,2014 in the case of M/s Kappac Pharma Limited.*
- iii. The price movement of Scrip is unrealistic and typically Bell shaped, that means huge rise over a short span, staying at peak over a short span of time and then sharp decline in price of share. And not matching with overall movement of share market in general and movement of other scrips in same line of business.*
 - iv. Price movement of scrip upward and down word done mainly through thin volume and all/most entities involved in the same are related in some way and are mainly operated by some entry operator and are bogus.*
 - v. There is hardly any history of dividend pay-outs.*
 - vi. The Trading in the scrip was suspended by the BSE pursuant to SEBI's directions vide Notice no. 20150101-24 dated 01.01.2015 and currently under suspension.*
 - vii. There existed circumstantial factors such as splitting of shares, change in name and address of the listed company, which is generally done in cases of pre-arranged manipulation of scrip prices to avoid SEBI's eyes.*
 - viii. From the Investigation Report On Manipulation of Penny Stocks and the statements of various Scrip operators, Managers and Brokers, it is self-evident that the scrip price movement was mainly on account of manipulation in a pre-arranged synchronized fashion to book accommodation entries in form of Bogus LTCG as well as provide Shortterm Capital loss to a huge no. of beneficiaries.*
 - ix. The shares were purchased off-market from a Private Party and not through exchange, whereas the scrip was listed in stock exchange.*
 - x. Non appearance of the assessee on oath, also leads to conclusion that the assessee had deliberately avoiding the proceedings, so that the department could not unearth the real transactions held by the assessee which has been given to color the genuine business transaction. The AR's submission that assessee was under pressure to surrender is not at all acceptable. All the facts*

mentioned above leads to the belief that the transaction made by the assessee was a sham transaction.”

5. As there is no matter before the bench to form a different opinion. There is no reason to differ from the findings of Id. Tax Authorities. The Grounds have no substance. **The appeal is dismissed.**

Order pronounced in the open court on 16th May, 2023.

Sd/-

(SHAMIM YAHYA)

ACCOUNTANT MEMBER

Sd/-

(ANUBHAV SHARMA)

JUDICIAL MEMBER

Date:-16th.05.2023

Binita, SR.P.S

Copy forwarded to:

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

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**