

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

Before Dr. B. R. R. Kumar, Accountant Member

ITA No. 8744/Del/2019 : Asstt. Year: 2011-12

Kishan Gupta, 215, Gulmohar Enclave, New Delhi-110049 (APPELLANT)	Vs	Income Tax Officer, Ward-14(4), New Delhi (RESPONDENT)
PAN No. AAVPG4818R		

**Assessee by : Sh. K. Sampath, Adv. &
Sh. V. Rajakumar, Adv.
Revenue by : Sh. Om Parkash, Sr. DR**

Date of Hearing: 16.05.2023	Date of Pronouncement: 20.06.2023
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ORDER

The present appeal has been filed by assessee against the order of Id. CIT(A)-5, New Delhi dated 28.06.2019.

2. Following grounds have been raised by the assessee:

"1. Determining taxable income of Rs.6,43,540/- as against the returned income of Rs.2,25,600/-.

2. Passing order U/s 144 r.w.s 147 of The Income Tax Act, 1961 relying on the information received from Investigation wing Mumbai without applying his own mind that assessee has suffered losses of Rs.10,205.15/- from trading of shares.

3. Accepting net loss as shown by assessee from trading of shares of Rs.10,205.15/-, inspite Ld. A.O. has given a categorical finding that appellant had only indulged in trading of shares which was categories as Penny Stock and think had not done any genuine business and rejected the book loss on that ground net loss shown in the return has lost it's relevance and should not be given any credence and added full

trading amount of Rs.4,17,940/- without applying his mind.

4. Wrong in the passing of assessment order by adding trading value of shares of Rs.4,17,940/- without considering loss on trading."

3. It is found that the Assessment Order has been passed u/s 144 of the Income Tax Act, 1961. The AO made addition of Rs.4,17,940/- on account of sale of shares worth Rs.4,17,917/- which have been purchased earlier for an amount of Rs.4,45,575/-. The assessee has incurred loss of Rs.27,634/- in this transaction. This loss was neither claimed by the assessee nor set off against any income. The source of investment is not in dispute. The assessee has conceded in assessment before the AO that he has neither made any material profit nor incurred sizeable loss out of those transactions and so the reason as advanced for not accepting the genuineness of the transactions of the assessee is *ex facie* wrong. Keeping in view that zero tax implication in the specific facts of this case, the addition wrongly made on account of the entire sale receipts of Rs. 4,17,940/- is hereby deleted.

4. In the result, the appeal of the assessee is allowed.

Order Pronounced in the Open Court on 20/06/2023.

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

Dated: 20/06/2023

Subodh Kumar, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR