

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

**BEFORE SHRI G.S. PANNU, HON'BLE PRESIDENT &
SHRI AMIT SHUKLA, JUDICIAL MEMBER**

ITA No. 9739/Del/2019
Assessment Year: 2015-16

Nischint Kanodia, D-627, Saraswati Vihar, Pitampura, New Delhi-1100 34	Vs.	ITO, Ward 42(3), New Delhi.
PAN :CLFPK3259K		
(Appellant)		(Respondent)

Appellant by	N o n e
Respondent by	Dr. Maninder Kaur, Sr. DR

Date of hearing	14.06.2023
Date of pronouncement	26.07.2023

ORDER

PER AMIT SHUKLA, JUDICIAL MEMBER:

The aforesaid appeal has been filed by the assessee against order dated 31.12.2019, passed by learned Commissioner of Income-Tax(Appeals)-43, New Delhi for the quantum of assessment passed under Section 143(3) of the Income-Tax Act, 1961 for the assessment year 2015-16.

2. In grounds of appeal, the assessee has challenged the addition of Rs.77,49,084 on account of treating the Long Term Capital Gain on sale of shares as non-genuine.
3. None appeared on behalf of the assessee despite service of notices on various occasions. Accordingly, the appeal is being decided ex parte.
4. The brief facts are that assessee has claimed exempt income of Rs.75,49,084 as Long Term Capital Gain on sale of 12900 equity shares of HPC Biosciences Ltd. The Assessing Officer has noted that assessee acquired 10,000 equity shares of M/s. HPC Biosciences Ltd. in physical form on 03.01.2013 @ Rs.10 per share in a public issue for Rs.1,00,000 on 13.01.2013. Further, on the same date bonus shares were issued to the shareholder in the ratio of 1:1, whereby assessee was allotted further 10,000 shares. During the year, assessee had sold 12,900 shares from 28.05.2015 to 17.06.2014 @ of Rs.592 to 597 per share. These shares were sold through stock broker, M/s. Pelf Finance Ltd. for a total consideration of Rs.76,308,000/- through Bombay Stock Exchange which resulted into Long Term Capital Gain of Rs.75,49,084.

5. The Assessing Officer noted that the Directorate of Investigation, Kolkata was found to be penny stock, whose scrips were used for providing bogus Long Term Capital Gain by various entry providers. Most of the bogus entry providers were using scrip of HPC Biosciences Ltd. was used for providing such bogus entries. He has also noted statement of one person, Shri Somain Chaudhary, who admitted to this fact. Thereafter, the Assessing Officer has also analyzed the financial condition of HPC Biosciences Ltd. and found that this company had no financial credibility or any future income and the earning of per share was almost negligible. These details have been provided at pages 6 to 9 of the Assessing Officer. After detailed discussion, he treated the Long Term Capital Gain earned by the assessee on sale of these shares as bogus and deemed income under Section 69A of the Act.

6. Learned Commissioner of Income-Tax (Appeals) has confirmed the finding of the Assessing Officer and after detailed discussion, he has reached to the same conclusion that the transactions are sham and is a colorable transaction.

7. Before us, learned Departmental Representative drew our attention to the various observations and the findings of the Assessing Officer and submitted that there is nothing on the record to rebut such finding of both the authorities.

8. After considering the relevant finding given in the orders, we find that nowhere the assessee has brought on record as to whether assessee has been regular investor or has purchased this as sole script, which neither had any financial credibility nor future prospect and the financial health of the said company was rated very poor. It has been found by the Investigation Wing of the Department that this company was only used for providing bogus accommodation entry of Long Term Capital Gain that the prices of the shares went sky rocket from Rs.10 to Rs.597 in a span of year without any financial credibility which itself points out that the prices of the shares in the stock exchange were rigged and later on price of these shares went too low. All this goes to show that only for providing fictitious and artificial gain this script was used for bogus accommodation entry of LTCG. no transaction . If these factors are analysed alongwith the information on record and inquiry by the department from various entry operators,

ostensibly the conclusion drawn by the authorities below cannot be found to be faulted with. Thus, in the absence of any documentary evidences or proper rebuttal by the assessee, we do not find any reason to deviate from the findings of the Assessing Officer and the learned Commissioner (Appeals) and accordingly the same is confirmed.

9. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on 26th July, 2023.

Sd/-
(G.S. PANNU)
PRESIDENT

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Dated: 26th July, 2023.

Mohan Lal

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi