

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

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

**Ms. Astha Chandra, Judicial member**

**ITA No. 697/Del/2023 : Asstt. Year: 2020-21**

Brahma Investments I Ltd., 3 <sup>rd</sup> Floor, Alphamega Akropolis Building, 10 Diomidous Street, Office-401-2024, Nicosia, Cyprus	Vs	DCIT, Circle-1(1)(2), International Taxation, New Delhi
(APPELLANT)		(RESPONDENT)
<b>PAN No. AAECB0714F</b>		

**Assessee by : Sh. Salil Kapoor, Adv.**

**Revenue by : Sh. Vizay B. Vasanta, CIT-DR**

**Date of Hearing: 21.12.2023**

**Date of Pronouncement: 26.12.2023**

**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by assessee against the order of Id. CIT(A)-42, New Delhi dated 17.01.2023.

2. Following grounds have been raised by the assessee:

"1. That on the facts and circumstances of the case and in law, the order passed by the Ld. CIT(A) under section 250 of the Act is bad in law/ void-ab-initio and liable to be quashed.

2. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in referring back the case to the file of the Assistant Director of Income Tax, Centralized Processing Centre, Bengaluru ('Learned Assessing Officer' or 'Ld. AO') and the above action of the Ld. CIT(A) is contrary to section 251 of the Act.

3. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in not giving specific directions

*for restricting the returned capital loss of INR 2,55,84,80,960 despite noting the apparent error in the Intimation passed by the Ld. AO under section 143(1) of the Act.”*

3. The assessee is a tax resident in Cyprus filed return of income on 15.02.2021 and declaring total income of Rs.1,13,33,890/-. The assessee has also claimed a long term capital loss of Rs.255,84,80,890/- computed on sale of shares of Indian company. The said long term capital loss was not carried forward by the assessee to subsequent years as the long term capital gains is exempt from taxation in India as per Article 13 of the DTAA.

4. The CPC processed the return u/s 143(1) of the Income Tax Act, 1961 determining the long term capital gains of Rs.511,69,61,920/- against the long term capital loss claimed by the assessee of Rs.255,84,80,890/- (surprisingly double than the LTCL).

5. Notwithstanding, the CPC has also erred in not following the provisions of Section 143(1)(a) of the Income Tax Act, 1961 as no intimation has been issued to the assessee for such adjustment either in writing or in electronic mode. The Id. CIT(A) has also confirmed this fact.

6. Both the parties have fairly agreed that the issue can be remanded to the file of the AO for rectification of the mistake in the "order giving effect to the directions of the ITAT". Hence, we direct the JAO to correct the error and also provide revised computation of income sheet to the assessee within 90 days from the date of this order.

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

Order Pronounced in the Open Court on 26/12/2023.

Sd/-

**(Astha Chandra)**  
**Judicial Member**

Sd/-

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

**Dated: 26/12/2023**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

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

**ASSISTANT REGISTRAR**