

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'A' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND**  
**SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **1373/CHNY/2023**

निर्धारण वर्ष/Assessment Year: 2013-14

**Shri Manakraj Naveen Munoth,**  
No.20, Ponnappan Lane,  
Park Town,  
Chennai – 600 003.

**The Income Tax Officer,**  
Vs. Non-Corporate Ward 5(1),  
Chennai.

**PAN: AAHPK 7227J**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri Abhishek Murali, FCA

प्रत्यर्थी की ओर से/Respondent by

: Shri AR.V. Sreenivasan, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 18.03.2024

घोषणा की तारीख/Date of Pronouncement

: 20.03.2024

**आदेश /ORDER**

**PER MAHAVIR SINGH, VICE PRESIDENT:**

This appeal by the assessee is arising out of the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in Order No.ITBA/NFAC/S/250/2023-24/1058090022(1) dated 21.11.2023. The assessment was framed by the Income Tax Officer, National Faceless Assessment Centre, Delhi for the assessment year 2013-14 u/s.147 r.w.s. 144B of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 29.03.2022.

2. The only issue in this appeal of assessee is against the order of CIT(A) in holding that the transactions in shares, "penny stock" are fraudulent and accommodation entries.

3. Brief facts are that the assessee is an individual and filed his return of income for the assessment year 2013-14 on 29.03.2014. Subsequently, the assessee's case was reopened u/s.148 of the Act dated 29.03.2021. Accordingly, assessment was completed u/s.147 r.w.s 144B of the Act dated 29.03.2022 wherein the AO on analyzing the financials of the company, whose shares were purchased by assessee i.e., Finalysis Credit and Guarantee Co. Ltd., and declared to have been earned long term capital gain of Rs.15,38,233/- as accommodation entries. The AO treated this sale consideration on sale of shares as unexplained money u/s.69A of the Act and added to the returned income of the assessee. The CIT(A) also confirmed the action of the AO. Aggrieved, assessee is in appeal before the Tribunal.

4. We noted that the assessee has purchased 25000 shares of Finalysis Credit and Guarantee Co. Ltd., on 29.04.2011 and sold this 25000 shares in May and June, 2012. The assessee received an amount of Rs.15,38,233/- on sale of these shares and declared long

term capital gain and claimed exempt u/s.10(38) of the Act. The assessee has filed complete supporting evidences like sale was effected through open market using an authorized SEBI broker, contract notes were also produced before the AO and also submitted Demat statement and bank account statement, where the assessee has made purchase and subsequently, sold the shares and received the amount. The AO has nowhere pointed out any defect in assessee's credit note or the shares entered into demat account or the amount paid for purchase of these shares and held these shares in Demat account for more than one year. The AO and CIT(A) both noted only that these are accommodation entries as observed from investigation proceedings, statement recorded from various operators, promoters and related persons, wherein they admitted how the unaccounted money of the beneficiaries get into the books of accounts of various assessee's in the grab of long term capital gain. The CIT(A) and AO based their decision only on one investigation report of investigation wing of income-tax department, which does not contain the name of the assessee. Both the parties below also noticed, sharp jump and sharp decline in price, wherein it was noted that the share price of Finalysis Credit and Guarantee Co. Ltd., arose from Rs.7 in March, 2012 to Rs.180 in March, 2013 and thereafter dipped to Rs.5 in October, 2013, in a period between 18

months only. We noted that all these are presumptions of the AO and CIT(A) and AO has nowhere pointed out any defects in the documents furnished by the assessee. Admittedly, the transaction carried on by the assessee is from open market and not grey market. Further, the assessee has produced copy of credit notes, contract notes, demat account and bank statements. The assessee has made payments through banking channel for purchase and even received sale consideration through banking channel only. The AO could not find any defect in the above but based his decision on assumptions and presumptions. Hence, we have no hesitation in reversing the order of the lower authorities and allowing the appeal of assessee. Therefore, the appeal of the assessee is allowed.

5. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 20<sup>th</sup> March, 2024 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

**(MANOJ KUMAR AGGARWAL)**

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

**(MAHAVIR SINGH)**

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 20<sup>th</sup> March, 2024

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.