

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

**BEFORE SH. SAKTIJIT DEY, VICE PRESIDENT AND
SH. M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No. 224/Del/2024
(Assessment Year : 2016-17)

DCIT Central Circle – 15 New Delhi	Vs.	Deepti Agrawal 1-A, Maharaja Lal Lane, Civil Lines, New Delhi-110 054 PAN No. AAMPA 0573 C
(APPELLANT)		(RESPONDENT)

And

CO No. 48/Del/2024
(in ITA No.224/Del/2024)
(Assessment Year : 2016-17)

Deepti Agrawal 1-A, Maharaja Lal Lane, Civil Lines, New Delhi-110 054 PAN No. AAMPA 0573 C	Vs.	DCIT Central Circle – 15 New Delhi
(APPELLANT)		(RESPONDENT)

Assessee by	Shri Gautam Jain, Adv. and Shri Lalit Mohan, C.A.
Revenue by	Ms. Harpreet Kaur, Sr. D.R.

Date of hearing:	07.08.2024
Date of Pronouncement:	29.08.2024

ORDER

PER M. BALAGANESH, ACCOUNTANT MEMBER :

1. This appeal in ITA No.224/Del/2024 for A.Y. 2016-17 along with Cross Objection No. 48/Del/2024 arises out of the order by Commissioner of Income Tax (Appeals) - 26, Delhi in appeal No. 11112/2015-16 dated 22.11.2023 (hereinafter referred to as 'Id CIT(A)' in short) against the order of assessment passed u/s 147 r.w.s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') dated 23.03.2022 by the Assessing Officer (hereinafter referred to as Id. AO).

2. At the outset, the Cross Objection preferred by the assessee was stated to be not pressed by the learned AR since the learned DR fairly aggrieved that the issue involved in Revenue's appeal is already decided in assessee's favour by order of this Tribunal on merits in the case of husband on identical facts and circumstances. Hence, we dismiss the Cross Objection of the assessee and proceed to adjudicate the grounds raised by the Revenue before us.

3. Though, the Revenue has raised several grounds before us, the only effective issue to be decided in the appeal of the Revenue is as to whether the learned CIT(A) was justified in deleting the addition made by the learned AO on account of denial of exemption under section 10(38) of the Act for Long Term Capital Gains (LTCG) on sale of shares of Capital Trade Links Ltd. The

interconnected issue involved therein is with regard to alleged commission expenditure added as unexplained expenditure under section 69C of the Act on account of cost of arranging alleged accommodation entry by the assessee.

4. We have heard the rival submissions and perused the material available on record. It is not in dispute that assessee purchased the shares of M/s. Capital Trade Links Ltd. (CTL) at Re.1/- per share in earlier years. The assessee sold those shares during the year under consideration through a registered stock broker in the secondary market after duly suffering Securities Transaction Tax (STT) thereon. The shares were sold on various dates during the year in the price ranging from Rs.69/- to 95/- per share. The scrip in which the assessee traded was not subjected to any suspension by SEBI. On sale of 2,80,849 shares of M/s. Capital Trade Links Ltd. for Rs.2,20,89,060/-, the assessee earned Long Term Capital Gains of Rs.2,18,08,211/- and by virtue of section 10(38) of the Act, the same has been claimed as exempt income of the assessee. In support of these transactions, the assessee furnished the copy of Bank statement reflecting payment for purchase and receipt on sale of shares through proper banking channel; copy of broker statement; copy of contract note in respect of sale of shares and copy of Demat Account statement. It was observed that assessee is a habitual investor having portfolio of investment in shares and has earned capital gains both in preceding and succeeding years. The learned AO disbelieved the entire transaction on sale of shares and denied

the exemption under section 10(38) of the Act to the assessee on the basis of general observations without performing due diligence specifically in the case of the assessee. The learned AO had not mentioned any shortcoming in the documentary evidences filed by the assessee and had not proved whether any cash was involved in the transaction and passed the entire order under suspicion. The learned CIT(A) appreciated the documentary evidences and contentions of the assessee and relied on the decision of the Hon'ble Allahabad High Court in the case of PCIT v. Renu Aggarwal (Smt) reported in (2023) 153 taxmann.com 578 (All)(HC) wherein the Hon'ble High Court held that where the Assessing Officer disallowed exemption claimed by the assessee under section 10(38) of the Act and made additions alleging investment in penny stock which were being misused for providing bogus accommodation of LTCG, however, there was lack of adverse comments from stock exchange and official of the company involved in these transactions and no material whatsoever relating to assessee was found in Investigation Wing Report, additions made by the Assessing Officer had rightly been deleted. The learned CIT(A) also observed that Special Leave Petition (SLP) preferred by the Revenue against this decision of Hon'ble Allahabad High Court was dismissed by the Hon'ble Supreme Court which is reported in 153 Taxmann.com 579. The learned CIT(A) also observed that even on the date of passing of the CIT(A) order, the concerned scrip i.e. M/s. Capital Trade Links Ltd was active and being traded online in the share market and it also declared dividend during the financial years 2017-18

and 2018-19. With all these observations and by placing reliance on the decision of Hon'ble Allahabad High Court referred (supra), learned CIT(A) held that the learned AO was not justified in making the addition of Rs.2,20,89,060/- on account of bogus LTCG under section 10(38) of the Act and deleted the same. Correspondingly, the addition made under section 69C of the Act towards unexplained expenditure was also deleted by the learned CIT(A).

5. We find that the very same issue was subject matter of adjudication by this Tribunal in the case of assessee's husband, Shri Sanjeev Agrawal vs. ACIT in ITA Nos. 1518 & 1519/Del/2021 for A.Ys. 2016-17 & 2017-18 respectively dated 20.09.2023 wherein the assessee's husband also traded in the very same scrip of Capital Trade Links Ltd. and this Tribunal had deleted the addition made by the Assessing Officer meeting each and every allegation of the Assessing Officer in detail. For the sake of convenience, the operative portion of the said order is reproduced hereunder:

"8. We have heard the rival contentions and perused the material on record. We have also given our thoughtful consideration to several contentions raised by the ld. Counsel along with judicial precedents referred by him. Fact of the case and detailed arguments made by the parties are all captured in the above paragraphs which are not repeated for the sake of brevity. We first look to the chronology of events which transpired in the present case, the same is extracted below:

CHRONOLOGICAL		SEQUENCE OF EVENTS
Sr. No.	Date	Particulars (Page of Paper Book)
1	16.10.2016	Return of income filed declaring an income of Rs. 3,58,34,630/- for financial year 2015-16 relevant to assessment year 2016-17 (pages 1-15 of Paper

		Book)															
2	07.07.2017	Notice issued u/s 143(2) of the Act. (16-19)															
3	14.08.2018	Notice issued u/s 142(1) of the Act along with Questionnaire. (20-23)															
4	14.09.2018	Reply filed in response to notice dated 14.08.2018. (24-25)															
5	05.10.2018	Show Cause Notice issued u/s 142(1) of the Act. (26-29)															
6	18.10.2018	Reply filed in response to notice dated 14.08.2018. (30-59)															
7	06.11.2018	Reminder - Show Cause Notice issued u/s 142(1) of the Act on 05.10.2018 (61)															
8		Reply filed before Assessing Officer. (64-72)															
9		Reply before before Assessing Officer submitting entire details of long term capital gain earned in respect of shares of capital trade links. (73-263)															
10		Reply filed before Assessing Officer clarifying that shares of Capital Trade Link purchased outside the Stock Market from Venus Insec Private Limited on 13.06.2014. (264, 280-284)															
11		Reply filed before Assessing Officer. (285-310)															
12		Reply tiled before Assessing Officer alongwith copy of chart showing price history of share on the Stock Exchange. (311317)															
13	22.12.2018	Order passed u/s 143(3) of the Act assessing income at Rs. 6,61,40,343/- after making addition of Rs. 3,03,05,713/disallowing exemption u/s 10(38) of the Act.															
13	16.01.2019	Aggrieved by an order of learned Assessing officer assessee filed an appeal before First Appellate Authority.															
14	11.01.2021	Additional ground filed by assessee (318-320) along with Written submission (321-374)															
15.		Copy of show cause notice for enhancement (375)															
16.	11.01.2021	Further written submission filed by assessee before First Appellate Authority (376-385)															
17.	27.09.2021	Order passed by first appellate authority disposing the various grounds raised by the appellant as under:-															
		<table border="1"> <thead> <tr> <th>Ground No.</th> <th>Particulars</th> <th>Page no of CI 1(A) order</th> </tr> </thead> <tbody> <tr> <td>5.6-7</td> <td>General</td> <td></td> </tr> <tr> <td>2-5</td> <td>Addition of Rs. 3.03,05,713/disallowing exemption u/s 10(38) of the Act is bad in law</td> <td>Dismissed (43-56)</td> </tr> <tr> <td></td> <td>Enhancement of expenditure incurred u/s 69C of the Act of Rs 9.09,171 /-</td> <td>(56-57)</td> </tr> <tr> <td>Additional Ground</td> <td>1 hat the Ld AO has erred in law and on facts in levying the tax @77.25% invoking the provisions of S. 115BBE of the Act as against the lower tax rate of 20% as prescribed u/s 1 12 of the Act</td> <td>Dismissed (67-69)</td> </tr> </tbody> </table>	Ground No.	Particulars	Page no of CI 1(A) order	5.6-7	General		2-5	Addition of Rs. 3.03,05,713/disallowing exemption u/s 10(38) of the Act is bad in law	Dismissed (43-56)		Enhancement of expenditure incurred u/s 69C of the Act of Rs 9.09,171 /-	(56-57)	Additional Ground	1 hat the Ld AO has erred in law and on facts in levying the tax @77.25% invoking the provisions of S. 115BBE of the Act as against the lower tax rate of 20% as prescribed u/s 1 12 of the Act	Dismissed (67-69)
Ground No.	Particulars	Page no of CI 1(A) order															
5.6-7	General																
2-5	Addition of Rs. 3.03,05,713/disallowing exemption u/s 10(38) of the Act is bad in law	Dismissed (43-56)															
	Enhancement of expenditure incurred u/s 69C of the Act of Rs 9.09,171 /-	(56-57)															
Additional Ground	1 hat the Ld AO has erred in law and on facts in levying the tax @77.25% invoking the provisions of S. 115BBE of the Act as against the lower tax rate of 20% as prescribed u/s 1 12 of the Act	Dismissed (67-69)															

18.	25.10.2021	<i>Aggrieved by the aforesaid order of Hon'ble First Appellate Authority assessee filed instant appeal raising below mentioned grounds:-</i>		
		<i>S. no</i>	<i>Grounds</i>	<i>Particulars</i>
		<i>i)</i>	1, 5	General
		<i>ii)</i>	2-3.7	That the addition made and confirmed of Rs. 3,03,05,713/- disallowing exemption u/s 10(38) of the Act is bad in law.
<i>in)</i>	4-4.1	That the addition made of Rs. 9,09,171/- u/s 69C of the Act is bad in law. That enhancement by Ld Commissioner of Income Tax (Appeals) in the impugned order is beyond the scope of powers vested u/s 251(2) of the Act and thus in excess of jurisdiction.		

8.1. In the above paragraphs, observations and conclusion drawn by the ld. AO have been extracted. Ld. Counsel has countered and made detailed submission for each of the observations and conclusion drawn by the ld. AO. We find it more meaningful and comprehensible to present the same in a tabulated form for better understanding to arrive at our finding. The chart presented by the ld. Counsel effectively summarises multiple contentions raised in support of the claim made by the assessee. The same is reproduced as under for ease of reference:

<i>Sr. No.</i>	<i>Particulars</i>	<i>Para of Assessment Order (Page)</i>	<i>Remarks</i>
<i>i)</i>	<i>Stake holders involved were either Bogus or devoid of financial capabilities</i>	2.4 (2)	<i>General Observation</i>
<i>ii)</i>	<i>Capital Trade link is engaged in the Scam as revealed by the Investigation Wing and SEBI</i>	3 (3)	<i>No report of Investigation wing or SEBI on record, much less no such information provided to appellant. (Para 17-17.2) Name of scrip appearing in the list of penny stock of income tax department cannot be abasis to make addition. (Para 16-16.3)</i>
<i>iii)</i>	<i>Fundamentals of CTL do not support the premium it commanded</i>	3.1. (3)	<i>Incremental Revenue from operation running in several Crores and incremental profit before taxes since 2013 onwards. (Para 10-10.5)</i>
<i>iv)</i>	<i>Modus operandi</i>	3.2. (3-5)	<i>General(Not specific observation regarding assessee)</i>
<i>v)</i>	<i>Report of SEBI dated 19.12.2014, 04.12.2014,</i>	3.3 (5)	<i>None of report is regarding 'Capital Trade Link.'</i>

	08.05.2015, 17.04.2015	09.11.2015,	S. No.	Date of Report	Name of Scrip
			i)	19.12.2004	M/ s. first financial Services Ltd.
			ii)	04.12.2014	M/ s. Moryo Industries Ltd.
			iii)	08.05.2015	M/ s. Pine Animation Ltd.
			iv)	09.11.2015	M/ s. Redford Global Ltd.
			V)	17.04.2015	M/s. sunrise Asian
vi)	SEBI provided information pertaining to the Scrip to the income tax department	3.4 (6)	No such information provided to appellant. (Para 17-17.2) The learned Assessing Officer has mechanically lifted the conclusions/ observations arrived without making any independent inquiries either from SEBI or stock exchange or broker or share company to ascertain genuineness of such transactions. (Para 12-12.2)		
vii)	Recommendations of the SIT of Hon'ble supreme court on Black Money pointed out the Modus Operandi	3.5 (6-8)	General report		
viii)	Scrip in which appellant traded, prima facie appears to be a penny stock s return of 7704.65% seems unreal in short span of time - the price of the shares of Capital Trade Links were rigged & manipulated and	4 (8-9)	That there is range bound movement in the share price of Capital Trade Links Ltd. much less the share has been listed with Bombay Stock Exchange at Rs.98 in June 2014 which reached to highest of Rs.132 within a period of 2 years and 3 months and as such no abnormal		
	were increased through circular transaction by unscrupulous elements.		increase much less assessee sold shares at prices ranging from 69 to 95, which is not the highest prices (Para 11 to 11.2) Further Appellant also filed clarification regarding the significant increase in price to the Bombay Stock Exchange - No adverse inference by Bombay Stock Exchange. (Copy of letter dated 27.10.2017 attached as Annexure 'A' to synopsis.)		

iv)	<i>General Overview of Penny stock related cases - The entry operators admitted in sworn statements about the 'Modus operandi'</i>	5 (9-10)	<i>General (Not specific observation regarding assessee) No specific statement recorded in respect of appellant, which is either referred or provided till dated (Para 17-17.2 & Para 19).</i>
x)	<i>Transaction of sale of CTL were sham - transaction of purchase of shares of CTL was off market transaction; SEBI had vide circular No. SMDRP/ Policy/CIT-21/ 99 dated 14.09.1999 banned all negotiated deals, cross deals and all such deals are required to be executed only on the screens of Exchanges in the price and order matching mechanism of the exchange just like any other normal trade.</i>	6.1 (10-11)	<i>That the allegation that offline purchase of shares of Capital Trade Link Ltd. was to book bogus LTCG is misconceived and without any basis much less off-market transaction are not illegal transaction. (para 4-4.2 here in below) That neither the trading in shares of Capital Trade Link Ltd. is suspended as on date or at any time prior. The share of Capital Trade Link is never delisted by the SEBI (Para 9-9.1)</i>
xi)	<i>Various case laws referred</i>	6.3 (11-18)	<i>That the theory of preponderance, human probabilities, circumstantial</i>
			<i>evidence so called rules of suspicious transactions are not applicable in respect of transactions of listed security where the transactions are supported by due evidence on record. (Para 15-15.1)</i>

8.2 We find force in the multi-fold contentions raised by the ld. Counsel as stated above, supported by corroborative evidence and relevant judicial precedents, all of which is discussed in detail. Assessee has sufficiently explained his case with all the cogent evidence and material which have not been rebutted or controverted or found to be false. Having convinced with the submissions made by the ld. Counsel, we list down the summary of them to give our affirmation to the same and uphold the claims made by the assessee in respect of Long Term Capital Gain on sale of shares of CTL. We draw our force from the judicial precedents referred and discussed above relating to the respective contention. Summary of said multi-fold contentions is as under:

Sr. No.	Particulars
i)	<i>Investment and disinvestment in share of Capital Trade Link Ltd. cannot be treated as accommodation entries in the garb of Long Term Capital Gain when the transaction of sale and purchase of shares has been explained by placing sufficient documentary evidence on record. Revenue has not disproved the documentary evidences furnished by the assessee. No efforts have been made by the ld. Assessing Officer to examine the correctness of various proof, filed by the assessee by carrying out any investigation.</i>
ii)	<i>Off-market purchase transaction made by the assessee is not an illegal transaction.</i>
iii)	<i>Assessee sold shares through Online Trading platform after payment of STT.</i>
iv)	<i>Transactions carried out by the assessee through Stock Exchange are without any physical interaction between buyer and seller.</i>
v)	<i>Assessee is a habitual investor having portfolio of investment in shares and has earned capital gain both in preceding and succeeding years.</i>
vi)	<i>Neither the trading in shares of Capital Trade Link Ltd. is suspended as on date nor the share is delisted by SEBI</i>
vii)	<i>Status as per ROC and Financial viability of Capital Trade Link Ltd. is corroborated by demonstrating its Incremental Revenue from operation running in several crores and incremental profit before taxes since 2013 onwards.</i>
viii)	<i>There is range bound movement in the share price of Capital Trade Links Ltd. much less the share has been listed with Bombay Stock Exchange at Rs.98 in June 2014 which reached to highest of Rs.132 within a period of 2 years and 3 months and as such no abnormal increased. Assessee sold shares at prices ranging from Rs.69 to Rs.95, which are not the highest prices.</i>
ix)	<i>Assessing Officer arrived at adverse conclusion without making any independent inquiries either from SEBI or stock exchange or broker or share company to ascertain genuineness of the impugned transaction.</i>
x)	<i>Name of scrip appearing in the list of penny stock of income tax department cannot be a basis to make addition.</i>
xi)	<i>No addition can be made on the basis of adverse material, when neither such purported material was shown nor referred and confronted or supplied to the assessee in the course of assessment proceedings.</i>
xii)	<i>No opportunity was afforded to assessee to cross examine the purported statements relied upon by Assessing Officer in the order of assessment violating the principles of natural justice.</i>

8.3. On a specific query by the Bench in respect of details of DMAT account in which the purchase of shares of CTL were credited, ld. Counsel furnished the DMAT statement with DP ID 12069800 and Client ID 00001312, issued by Rajgul Securities Pvt. Ltd., DP of Central Depository Services (I) Ltd. From the perusal of the said statement, it is noted that purchase of 5,00,000 shares of CTL were credited on 19.06.2014 in the DMAT account which were purchased off-market on 13.06.2014. Thus, in our observation, it is not a case where purchased

shares are credited in the DMAT account just prior to the date of sale and remain in the pool account of the broker until then. Even though shares were purchased in an off-market transaction, the same were dematerialized and credited in the DMAT account at the earliest possible date, immediately after its actual purchase.

8.4. *Further, from the perusal of the note from the office of Directorate of Income Tax (Invest), New Delhi, referred by the ld. DR in his submission and as extracted above, we find that it does not in way suggest that scrip of CTL is suspended or has failed to comply with listing requirements of the stock exchange so as to conclude on an adverse finding recorded by the authorities below.*

8.5. *Also, under section 142(3), it is incumbent upon the ld. AO to give an opportunity of being heard in respect of any material gathered by him and proposed to be utilised for the purpose of the assessment. We note that compliance of provisions of sec. 142(3) is a mandatory statutory procedural requirement in completing the assessment proceeding, failure of which may vitiate the entire assessment itself since this sub-section uses the word "shall". The only exception to this requirement is where an assessment is made u/s 144 which is not so in the present appeal before us. In the present case before us, requirement mandated by section 142(3) has not been complied with by the ld. AO in completing the impugned assessment.*

8.6. *On careful reading of the show cause notice issued by the ld. AO as reproduced in the impugned assessment order, we observe that nowhere, ld. AO has mentioned any specific section under which the income is proposed to be added/disallowed. In the words of ld. AO, it is stated in para 4 as –*

"It is beyond no doubt that the price of the shares of Capital Trade Links were rigged & manipulated and were increased through circular transaction by unscrupulous elements. Keeping in view you are requested to explain why not gain (LTCG) amounting to Rs. 30305713/- to be assessed as undisclosed income while considering as escape assessment." In para 5, ld. AO has again stated as - "Therefore, you are asked to show cause as to why the accommodation entries obtained amounting to Rs.3,03,05,713/- in shape of sale of shares of Capital Trade Links should not be added in your total income for the year under consideration." Further, while drawing conclusion in para 7 for making the assessment, ld. AO again writes in similar manner as - "In view of the elaborate discussion made above, I hereby hold the amount of Rs. 3,03,05,713/- introduced/credited by the assessee in the shape of Long Term Capital Gain out of these purported share sale receipts during the financial year 2015-16

(A.Y. 2016-17) in his computation of total income (taxable at the rate of 60% as provided u/s 115BBE). This would resultant of addition of Rs. 3,03,05,713/- in the total income of the assessee.” Lastly, in para 8 while arriving at the total assessed income, ld. AO made the addition of Rs.3,03,05,713/- for which he noted as - “Bogus LTCG claimed u/s 10(38) held to be Income from Other Sources, as discussed above. ”

8.6.1. From the above extraction of the impugned assessment order, it is not at all discernible whether the addition is made by applying provisions of section 68 or a disallowance is made of the claim of exemption of LTCG u/s 10(38) of the Act by the ld. AO.

8.6.2. Taxable rate of 60% u/s 115BBE is stated to be applied by the ld. AO on the addition made. From the perusal of section 115BBE, it is noted that the said section applies only when total income of an assessee includes any income referred to in section 68, 69, 69A to 69D. Considering this, if an inference is drawn that ld. AO has applied one of these specified sections for making the addition of LTCG on sale of shares of CTL, we find that in the entire assessment order, there is no whisper by him on the three vital limbs of establishing identity and creditworthiness of the buyers of the shares sold by the assessee and genuineness of the said transaction. We do not find any action taken by the ld. AO to enquire on these three vital aspects from the assessee either by issuing notices/summons under section 133(6) or 131 of the Act.

8.6.3. In this context, it is worth noting that impugned share sale transaction undertaken by the assessee is on the online digital trading platform of stock exchange of BSE which is a regulated market under the aggies of a regulator viz. SEBI. There is nothing on record from the market regulator SEBI which establishes the ‘tainted’ status of the scrip of CTL so as to hold the share sale transaction as bogus/accommodation entry by the ld. AO. Also, the operations and modus operandi of this regulated market does not in any way provide for any mechanism by which assessee can bring forth the identity of the buyers of its shares and their creditworthiness. Further, sale proceeds are received through the stock market processing into the pre-identified bank account of the seller i.e. the assessee which cannot be tainted as ‘unexplained or unaccounted or undisclosed’. Thus, it cannot be inferred that ld. AO has made the addition under the specified sections of 68, 69 and 69A to 69D though he has stated to apply tax rate as per section 115BBE.

8.6.4. If the inference is drawn that ld. AO has made a disallowance of claim of exemption by the assessee u/s 10(38), then, first and foremost, his statement of applying the rate of 60% under section 115BBE does

not hold good. Further, for claiming exemption under section 10(38) on the LTCG of equity share in a company, only two conditions are prescribed in the said section, viz. first, transaction of sale of such equity share should be entered into on or after 01.10.2004 and second, such transaction is chargeable to securities transaction tax (STT). In the present case, assessee has established compliance of both the conditions which is not in dispute even by the ld. AO. Also, in the show cause notice, while proposing for the addition as well as in the impugned assessment order, while making the addition, ld. AO has made no such reference to section 10(38) about its non-fulfilment. Thus, even this inference fails.

8.6.5. We note that while computing the total assessed income, ld. AO held the LTCG as 'income from other sources'. It is important to take note of computation of LTCG mentioned in his show cause notice wherein full consideration stated is Rs.3,06,99,056/- from which cost of acquisition of Rs.3,93,343/- is deducted to arrive at LTCG of Rs.3,03,05,713/- which is in terms of section 45 and 48 of the Act. Assessee received Rs.3,06,99,056/- during the year under consideration which is the subject matter for seeking explanation by ld. AO from the assessee. However, ld. AO made the assessment by making an addition of Rs.3,03,05,713/-, giving deduction for cost of purchase of shares. Such an addition of amount computed under the head 'income from capital gains' by accepting the purchase giving its deduction and holding the balance as 'income from other sources' is not tenable.

8.7. Considering the totality of the facts and circumstances of the case, factual matrix and submissions of parties narrated above and judicial precedents relied upon as discussed as well as discussion and observations made herein above, we set aside the orders of the authorities below and delete the addition made towards Long Term Capital Gain on sale of shares of CTL. Accordingly, grounds taken by the assessee in this respect are allowed.

8.8. Also, addition made by resorting to enhancement of income by ld. CIT(A) towards brokerage/commission as unexplained expenditure u/s 69C by treating the LTCG as bogus and accommodation entry is deleted since it is consequent to the addition made towards LTCG. Accordingly, grounds taken by the assessee in this respect are allowed.

9. Grounds taken in the appeal for AY 2017-18 are also allowed which are similar to the ones taken in appeal for AY 2016-17 except for variation in their amounts in terms of our observations and findings stated above while disposing the appeal for AY 2016-17.

10. In the result, both the appeals of the assessee are allowed.”

6. Respectively, following the same, we do not find any infirmity in the order passed by the learned CIT(A) granting relief to the assessee. Accordingly, grounds raised by the revenue are dismissed.

7. In the result, appeal of the Revenue is dismissed and Cross Objection filed by the assessee is also dismissed.

Order pronounced in the open court on 29.08.2024

**Sd/-
(SAKTIJIT DEY)
VICE PRESIDENT**

**Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER**

Date:29.08.2024

Priti Yadav, Sr. PS/Ajay Keot. Sr. PS*

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI