



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK 'SMC' BENCH, CUTTACK**

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

ITA No.223/CTK/2023
Assessment Year : 2014-15

Satish Kumar Garg, Gurudwara Road, near Gurudwara, Rourkela	Vs.	Income Tax Officer, Ward-5, Aayakar Bhavan, Uditnagar, Rourkela
PAN/GIR No.		
(Appellant)	..	(Respondent)

Assessee by : Shri P.R.Mohanty, Adv
Revenue by : Shri S.C.Mohanty, Id Sr DR

Date of Hearing : 25/09/2024
Date of Pronouncement : 25/09/2024

ORDER

This is an appeal filed by the revenue against the order of the Id CIT(A), NFAC, Delhi dated 26.12.2022 in Appeal No.CIT(A),Sambalpur/10380/2016-17 for the assessment year 2014-15.

2. Shri P.R.Mohanty, Id AR appeared for the assessee and Shri S.C.Mohanty, Id Sr DR appeared for the revenue.

3. It was submitted by Id AR that the assessee is a trader in Milk powder and Ghee. The assessee had disclosed long term capital gain from the trading in scripts NCL Research & Financial Services Ltd. It was the submission that the assessee had purchased 1000 shares of NCL Research

& Financial Services Ltd., on 1.8.2011 and the same had been sold between 22.11.2013 to 24.2.2014 as follows:

NCL RESEARCH

BOUGHT

SOLD

Date qty. amount

1.8,.11 1000 227621.4

DATE	QTY	AMOUNT
22.11.13	50	61336.9
26.11.13	97	123128.61
26.11.13	25	31858.77
10.12.13	50	60836.23
18.12.13	3	3634.94
20.12.13	3	3575.29
23.12.13	50	55967.74
24.12.13	120	138706.31
27.12.13	160	23529.68
30.12.13	20	41110.81
31.12.13	5	5959.47
2.1.14	100	116635.59
3.1.14	20	22844.54
6.1.14	30	34674.05
7.1.14	11	12396.18
9.1.14	22	24940.5
31.1.14	20	18117.84
3.2.14	43	37063.63
4.2.14	11	9135.07
5.2.14	50	39523.07
6.2.14	20	15715.33
7.2.14	26	20158.09
11.2.14	9	6795.95
24.2.14	20	10759.04
	1000	1107865.24

Long term profit -880244.21

Total: 1107866

4. It was the submission that the assessee had purchased shares for Rs.2,27,627.12 and same was sold at Rs.11,07,865.24 thereby generating long term profit of Rs.8,80,244.01, which the assessee has claimed exempt. It was the submission that the Assessing Officer treated the purchase and sale of the shares of NCL Research & Financial Services Ltd., as bogus

transaction and had denied the claim of exemption by the assessee. Consequently, the Assessing Officer treated the entire amount of Rs.11,15,401/- as the unexplained credit in the hands of the assessee. It was the submission that the Id CIT(A) had upheld the order of the Assessing Officer denying the assessee the benefit of exemption claimed u/s.10(38) of the Act. It was the submission by Id AR that STT had been paid on the purchase of the shares for which, Id AR produced before me the copy of the contract-cum-bill which is as follows:

LENO V. J. PHADNIS
 HARI V. K. AGARWAL V. D. TOSHIMAL
 CLIENT CODE NO. :
 ATISH KUMAR GARG (6442)
 URUDHARA ROAD
 ROURKELA-769012
 CONTRACT CUM BILL
 BILL NO. : 642/1112086H
 BILL DATE : 03/08/11
 Compliance Officer: MR. DEVEN SINDHIA, Tel: 022-66545277
 Email: deven@dimensional.co.in
 BURKELA-769001
 CONSTITUENT : ADRPG2129E This is a copy of the digital contract sent to:satis@munargarg@rocketmail.com,,
 Investors Grievances ID: complaints@dimensional.co.in

Order No.	Order Time	Trade No.	Trade Time	Security	Quantity Bought for you	Quantity Sold for you	Gross Rate per Security (Rs.)	Total (Rs.)	Brokerage Rate per Security	Net Rate per Security (Rs.)	Brokerage (Total) (Rs.)	Service Tax (Rs.)	Security Trans. Tax (Rs.)	Total (Net) (Rs.)
109	14:50:15	1076	14:50:15	[530557] NCLRESE	500		226.05	1,13,025.00	1.14	227.19	570.00	58.71		-1,13,595.00
110	14:50:47	1077	14:50:47	[530557] NCLRESE	500		226.05	1,13,025.00	1.14	227.19	570.00	58.71		-1,13,595.00
				SECUR TAX	1000								282.56	-2,27,190.00
				STT										118.18
				TRANCH										283.00
				ORDER NT										7.35
														22.61

OTHER CHARGES/COMMISSION DUE TO US : Rs. 2,27,621.14 ✓
 NCL Research
 1009-227.621.14
 BSE

This is made subject to the Rules, Bye-laws and Regulations and usages of Bombay Stock Exchange Limited.
 It has been charged as stated above at rates not exceeding the official scale of brokerage.
 In Mumbai shall have exclusive jurisdiction in respect of all proceedings to which the Exchange is a party, and in respect of all other proceedings, the Courts having jurisdiction over the area.

5. It was the further submission that NCL Research & Financial Services Ltd., has not been debarred by SEBI. It was the submission that under

identical circumstances, the Co-ordinate Bench of this Tribunal in the case of Smt. Bimla Devi Singhania in ITA No.212/CTK/2019 order dated 6.7.2022 as also the decision in the case of Sandeep Kumar Agarwal in ITA No.80/CTK/2024 order dated 28.5.2024, had deleted the addition, which orders have been upheld by the Hon'ble Jurisdictional High Court. The Co-ordinate bench in the case of Sandeep Kumar Agarwal (supra) in para 6 of the order has held as follows:

"6. We have considered the rival submissions. The facts in the present case clearly show the following:-

The assessee is doing purchase and sale of shares. STT has been paid in respect of transaction of sale of shares. There is no evidence found in the investigation report against the assessee to say that the assessee has indulged in the manipulation of price of shares. The SEBI has investigated many companies and has drawn their conclusions but there is no adverse inference drawn against CCL International Ltd. The assessee has purchased shares as early as in 2011. The Hon'ble Delhi High Court has permitted merger of the shares of AAR Infrastructure Ltd with that of CCL International Ltd. The assessee has sold shares of the said company during the assessment year 2013-14 and has disclosed in his return of income and has claimed exemption u/s.10(38) of the Act. This return of the assessee has been accepted admittedly through intimation u/s.143(1) of the Act. No reopening has been proposed for the assessment year 2013-14. For the assessment year 2014-15, assessee's return admittedly had been accepted u/s.143(1) of the Act and subsequently, reopening has been made. During the assessment year 2014-15, the assessee has again purchased shares of CCL International Ltd. Demat account of the assessee clearly show that the assessee is doing purchase and sale of various shares, and this is not an isolated act. The transaction of the assessee is through recognised stock exchange. The shares of CCL International Ltd., has also been sold through Edelweiss Broking Limited(EBL). EBL has not been identified as a broker who is indulging in any of the so called bogus transaction. The facts in the assessee's case are substantially identical to the facts of the assessee's brother Hemanta Kumar Agarwal (supra) as also in the case of Bimla Devi Singhania

and Radheshyam Singhania (supra). The shares dealt with by the assessee are also in respect of same company. The Hon'ble Jurisdictional High Court of Orissa in the case of Bimla Devi Singhania and Radheshyam Singhania (supra) has upheld the orders of the Co-ordinate Bench of this Tribunal deleting the addition in those cases and directing to grant the benefit of exemption u/s.10(38) of the Act. The Hon'ble Jurisdictional High Court in the case of Bimla Devi Singhania and Radheshyam Singhania has held as follows:

"6. On the basis of the pleadings available on record and also the arguments advanced by learned counsel appearing for the respective parties, this Court, vide order dated 13.09.2023, framed the substantial questions of law to the following effect:-

"I) Whether the learned Tribunal has rightly accepted the claim of the assessee as per law regarding exemption under Section 10 (38) with respect to alleged income under the head "Long Term Capital Gain" on sale of shares of penny stock by ignoring the admission by their group before the Income Tax Authority that complete tax would be paid on the bogus LTCG claimed by the group subsequent to survey operation under Section 133A?

II) Whether the learned Tribunal has rightly dismissed the appeal of the revenue with the observation that as the sale of shares were effected through recognized stock exchange and STT had been paid at the time of transfer, therefore it cannot be held as bogus?"

7. Before delving into the issues in question, the provisions contained under Section 10 (38) of the Income Tax Act, 1961 are extracted hereunder:-

"Any income arising from the transfer of a long term capital asset, being an equity share in a company or a unit of an equity oriented fund [or a unit of a business trust] where-

(a) the transaction of sale of such equity share or unit is entered into on or after the date on which Chapter VII of the Finance (No.2) Act, 2004 comes into force; and

(b) such transaction is chargeable to securities transaction tax under that Chapter;

[Provided that the income by way of long term capital gain of a company shall be taken into account in computing the book profit and income tax payable under section 115 JB;]

[Provided also that nothing contained in sub-clause(b) shall apply to a transaction undertaken on a recognized stock exchange located in any International Financial Services

Centre and where the consideration for such transaction is paid or payable in foreign currency;]

[Provided also that nothing contained in this clause shall apply to any income arising from the transfer of a long term capital asset, being an equity share in a company, if the transaction of acquisition, other than the acquisition notified by the Central Government in this behalf, of such equity share is entered into on or after the 1st day of October, 2004 and such transaction is not chargeable to securities transaction tax under Chapter VII of the Finance (No.2) Act, 2004 (23 of 2004)]”

8. On bare perusal of the aforementioned provisions, it is made clear that for claiming the benefit of exemption under Section 10(38) of the Income Tax Act, 1961 three requirements need to be fulfilled. Firstly, the share should be held for more than one year, secondly, it should be listed and sold on recognized stock exchange and, thirdly, on the said sale necessary Security Transaction Tax (STT) has to be chargeable. If all these requirements are satisfied, then the benefit of exemption under Section 10 (38) of the Income Tax Act, 1961 is admissible.

9. In *Bhoruka Engineering Industries Ltd.* (supra), the Karnataka High Court has also laid down the above mentioned principles. Therefore, applying the provisions contained under Section 10 (38) of the Income Tax Act, 1961 and also the law laid down by the High Court of Karnataka mentioned supra, all the above noted three elements are existing in the present case and, thereby, the respondent-assessee is entitled to get the benefit under Section 10 (38) of the Income Tax Act, 1961. As such, a survey under Section 133A of the Income Tax Act, 1961 was conducted on 20.08.2015 and, without detecting any incriminating documents or evidence against the respondent-assessee, recorded the statement that tax will be paid on the claim made under Section 10 (38) of the Income Tax Act, 1961 in filing the IT return for the Assessment Year 2013-14 and to be disclosed as income from other source. But the said statement, being without any incriminating evidence against the respondent-assessee, cannot be ipso facto decided against the respondent-assessee. The present income tax appeal filed at the instance of the revenue involved no substantial question of law, as both the appellate authorities have decided on the basis of evidence and documents produced by the respondent-assessee and the revenue and, as such, on the basis of the facts, both the authorities have come to a conclusion that the respondent-assessee is entitled to the benefit under Section 10 (38) of the Income Tax Act, 1961 and held that the appellant-revenue had failed to bring any evidence in rebuttal nor was it proved that the documents produced were false, fabricated or fictitious, hence, the findings, as recorded by the appellate authorities, that the transaction of purchase and sale of shares could not be treated as non-genuine, were essentially in the realm of appreciation of evidence and, as such, no substantial question of law is involved.

10. In Vijaya Kumar Talwar (supra), it has been held that in absence of demonstrated perversity in the finding of the Tribunal, interference cannot be warranted, when on thorough consideration of the material on record it was found that the transaction of purchase and sale of shares could not be treated as non-genuine.

11. In Khader Khan Son (supra), the apex Court held that statement recorded during survey under Section 133A of the Income Tax Act, 1961 has no evidentiary value, as it does not empower any Income Tax Officer to examine on oath, as the assessment has to be made on the basis of materials and documentary evidence and not on a bare statement. Therefore, the substantial questions of law, as formulated, have no legs to stand.

12. It is worthwhile to mention here that, the Security Transaction Tax (STT) under Chapter-VII of Finance (No.2) Act, 2004 is a direct tax levied by Government of India on every purchase and sale of securities that are listed on the recognized stock exchanges in India. The STT was implemented to curb the tax avoidance on capital gains, which is similar to Tax Collected at Source (TCS) to be collected by a recognized stock exchange and both the buyer and seller will pay the said tax, as prescribed rate for carrying out the transaction of securities for financial gains, are liable to pay STT. All gains from such transactions are called capital gains and are classified as LTCG or STCG, depending on the holding period. Therefore, the alleged substantial questions of law as proposed by the Revenue cannot be sustained in the eye of law, as the same is contrary to clauses (a) and (b) of Section 10 (38) of the Income Tax Act, 1961 (Circular No.5/2005 dated 15.07.2005).

13. Mr. T.K. Satapathy, learned Senior Standing Counsel appearing for the Income Tax Department laid emphasis on the CBDT Circular No.23 of 2019 dated 06.09.2019, as the matter related to bogus Long Term Capital Gain on Penny stock. But the said circular can only be applied prospectively not retrospectively, because the present appeal is for the Assessment Year 2013-14. Thereby, the circular relied upon by the Senior Counsel appearing for the revenue has no application to the present case.

14. In view of the facts and circumstances, as well as the law, as discussed above, even though substantial questions of law have been framed vide order dated 13.09.2023, the same are not required to be answered. As such, CIT (A) and Income Tax Appellate Tribunal, being the fact finding courts, relying upon the evidences available on record, having passed the orders impugned, there is no necessity of answering the substantial questions of law framed for adjudication.

15. Thus, both the appeals, being devoid of merits, are hereby dismissed. However, there shall be no order as to costs."

7. As it is noticed that the issues in this appeal are squarely covered by the principles laid down by the Hon'ble High Court of Orissa in the case of Bimla Devi Singhania and Radheshyam Singhania (supra) and as it is also noticed in assessee's case for the assessment year 2013-14, the assessee has been granted the benefit of exemption u/s.10(38) of the Act in respect of same shares, the order of the AO and that of the Id CIT(A) denying the assessee the benefit of deduction u/s.10(38) of the Act is set aside and the Assessing officer is directed to allow the benefit of exemption u/s.10(38) of the Act as claimed. As we have granted the benefit of deduction u/s.10(38) of the act, the addition representing 5% alleged commission as made by the AO would also stands deleted."

6. It was the submission that the addition as made by the Assessing Officer denying the claim of exemption u/s.10(38) of the Act, which has been upheld by the Id CIT(A) is liable to be reversed and the addition deleted.

7. In reply, Id Sr DR vehemently supported the order of the Id AR and Id CIT(A). Id Sr DR drew my attention to the statement of facts filed before the Tribunal to submit that the assessee has submitted that he has incurred loss on purchase and sale of shares of NCL Research & Financial Services Ltd., which was false. Id Sr DR also submitted that this was a classic case of fraud. It was the submission that the addition is liable to be upheld.

8. I have considered the rival submissions. A perusal of the facts in the present case clearly shows that this is not a single transaction, which has been done by the assessee. The assessee has been dealing in shares year after year. In fact, the Demat account of the assessee is noticed at page 17 of PB, which reads as follows:

Dimensional Securities Pvt. Ltd.
CITY ICE BUILDING, 4TH FLOOR
298, PERIN NARIMAN STREET
FORT, MUMBAI- 400001, TEL. 022-66545200, FAX 022-66545218
Holding valuation Report as on: 31/03/2015 Based on [31/03/2015]Rate

ISIN	ISIN Name	Listing	Quantity	Rate	Value
SATISH KUMAR GARG[1202650000026878]					
Trading Backoffice Code : [G642]					
Beneficiary					
INE365D01021	ASHIANA HOUSING 2/-	Listed	50	245.10	12,255.00
INE425B01027	BRIGHTCOM GRO-EQ2/-	Listed	400	28.65	11,460.00
INE220J01025	FUTURE CONS- EQ 6/-	Listed	1,000	12.11	12,110.00
INE062C01034	GLOBAL CAPI EQ 10/-	Listed	1,000	8.12	8,120.00
INE090A01021	ICICI BANK-EQ	Listed	80	315.30	25,224.00
INE750C01026	MARKSANS PHA-EQ RE 1	Listed	3,000	61.65	1,84,950.00
INE165E01015	ORIND EXPORTS - EQ	Unlisted	500	3.17	1,585.00
INE010A01011	PRISM JOHNSON-EQ	Listed	100	100.80	10,080.00
INE614G01033	RELIANCE POWER - EQ	Listed	32	56.55	1,809.60
INE114A01011	SAIL EQUITY SHARES	Listed	300	68.35	20,505.00
INE705A01016	VIJAYA BANK EQTY	Listed	300	46.50	13,950.00
Total					3,02,048.60

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9. The assessee is having investment in listed and unlisted shares. The said Demat account is as on 31.3.2015. The demat account as on 31.3.2014 is found at page 14 of PB, which reads as follows:

Dimensional Securities Pvt. Ltd.
CITY ICE BUILDING, 4TH FLOOR
298, PERIN NARIMAN STREET
FORT, MUMBAI- 400001, TEL. 022-66545200, FAX 022-66545218
Holding valuation Report as on: 31/03/2014 Based on [31/03/2014]Rate

ISIN	ISIN Name	Listing	Quantity	Rate	Value
SATISH KUMAR GARG[1202650000026878]					
Trading Backoffice Code : [G642]					
Beneficiary					
INE130C01021	AMTEK AUTO LTD-RS 2/	Unlisted	1,000	159.20	1,59,200.00
INE365D01021	ASHIANA HOUSING 2/-	Listed	250	88.60	22,150.00
INE062C01034	GLOBAL CAPI EQ 10/-	Listed	1,000	44.85	44,850.00
INE090A01013	ICICI BANK EQUITY	Listed	16	1,245.45	19,927.20
INE201A01024	MANALI PETRO-EQ RS 5	Listed	1,500	8.25	12,375.00
INE165E01015	ORIND EXPORTS - EQ	Unlisted	500	3.17	1,585.00
INE603A01013	PRAKASH IND LTD	Listed	300	45.25	13,575.00
INE010A01011	PRISM JOHNSON-EQ	Listed	100	38.15	3,815.00
INE614G01033	RELIANCE POWER - EQ	Listed	32	70.35	2,251.20
INE114A01011	SAIL EQUITY SHARES	Listed	300	71.40	21,420.00
INE705A01016	VIJAYA BANK EQTY	Listed	300	39.75	11,925.00
Total					3,13,073.40

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10. The list of shares shows variation. Thus, it is noticed that this is not a single transaction, which has been done by the assessee but the assessee is transacting in shares regularly. The holding statement as on 31.3.2013 shows the existence of NCL Research & Financial Services Ltd., which read as follows:

Dimensional Securities Pvt. Ltd.
CITY ICE BUILDING, 4TH FLOOR
298, PERIN NARIMAN STREET
FORT, MUMBAI- 400001, TEL. 022-66545200, FAX 022-66545218
CIN : U65999WB1994PTC234660


Date	Ref No	Description	Debit	Credit
SATISH KUMAR GARG (1202650000026878) [Contd...]				
11/04/12	6053902	Demat Confirm		
		Closing Balance	0	300
ISIN : INE114A01011/SAIL EQUITY SHARES				
		Opening Balance		Pending Demat
04/04/12	6053902	Demat Request		0
11/04/12	6053902	Demat Confirm	300	0
		Closing Balance		0

Statement of Holding as on 31/03/2013

ISIN	Company Name	Qty
Balance type : Beneficiary		
INE130C01021	AMTEK AUTO LTD-RS.2/	1,000
INE365D01013	ASHIANA HOUSING - EQ	50
INE062C01034	GLOBAL CAPI EQ 10/-	1,000
INE090A01013	ICICI BANK EQUITY	16
INE201A01024	MANALI PETRO-EQ RS 5	1,500
INE132F01012	NCL RESEARCH & FIN	1,000
INE165E01015	ORIND EXPORTS - EQ	500
INE603A01013	PRAKASH IND LTD	300
INE010A01011	PRISM JOHNSON-EQ	100
INE614G01033	RELIANCE POWER - EQ	32
INE114A01011	SAIL EQUITY SHARES	300
INE705A01016	VIJAYA BANK EQTY	300

End of Transaction Report

11. The transaction in the demat account which is found at page 13 also shows that the transactions have been done through demat account only, which reads as follows:


Dimensional Securities Pvt. Ltd.
 CITY ICE BUILDING, 4TH FLOOR
 298, PERIN NARIMAN STREET
 FORT, MUMBAI- 400001, TEL 022-66545200, FAX 022-66545218
 CIN : U65999WB1994PTC234660
 Transaction/Holding

BOID	1202650000026878	Print Dt	21-11-2023
BO Name	SATISH KUMAR GARG	From	01/04/2013
Address	SATISH KUMAR GARG GURUDWARA ROAD	To	31/03/2014
		Status	Closed
	ROURKELA	Branch	RK-ANUMANG FINANCIAL SE
Pin	769001	PAN No.	ABRPG2129E
State	ORISSA	Trading Code	G642
Phone(s)	9437140351		
Nominee	SULOCHANA GARG		
Subtype	Individual - Resident		

Transaction details for the period 01/04/2013 to 31/03/2014

Date	Ref No	Description	Debit	Credit
ISIN : INE365D01021/ASHIANA HOUSING 2I-				
		Opening Balance		0
26/10/13	569167	CA-Split	0	250
		Closing Balance		250
ISIN : INE365D01013/ASHIANA HOUSING - EQ				
		Opening Balance		50
25/10/13	569167	CA-Split	50	0
		Closing Balance		0
ISIN : INE132F01012/NCL RESEARCH & FIN				
		Opening Balance		1,000
22/11/13	391642	SETTLEMENT-DR/1110001314162/DIMENSIONAL SECURITIES PVT. LTD. DSPLPRIN	50	0
26/11/13	578750	SETTLEMENT-DR/1110001314164/DIMENSIONAL SECURITIES PVT. LTD. DSPLPRIN	97	0
27/11/13	689917	SETTLEMENT-DR/1110001314165/DIMENSIONAL SECURITIES PVT. LTD. DSPLPRIN	25	0
10/12/13	730034	SETTLEMENT-DR/1110001314174/DIMENSIONAL SECURITIES PVT. LTD. DSPLPRIN	50	0
18/12/13	305907	SETTLEMENT-DR/1110001314180/DIMENSIONAL SECURITIES PVT. LTD. DSPLPRIN	3	0
20/12/13	555098	SETTLEMENT-DR/1110001314182/DIMENSIONAL SECURITIES PVT. LTD. DSPLPRIN	3	0
23/12/13	702569	SETTLEMENT-DR/1110001314183/DIMENSIONAL SECURITIES PVT. LTD. DSPLPRIN	50	0
24/12/13	809266	SETTLEMENT-DR/1110001314184/DIMENSIONAL SECURITIES PVT. LTD. DSPLPRIN	120	0
26/12/13	989477	SETTLEMENT-DR/1110001314185/DIMENSIONAL SECURITIES PVT. LTD. DSPLPRIN	160	0
27/12/13	128917	SETTLEMENT-DR/1110001314186/DIMENSIONAL SECURITIES PVT. LTD. DSPLPRIN	20	0
30/12/13	230156	SETTLEMENT-DR/1110001314187/DIMENSIONAL SECURITIES PVT. LTD. DSPLPRIN	35	0
31/12/13	388327	SETTLEMENT-DR/1110001314188/DIMENSIONAL SECURITIES PVT. LTD. DSPLPRIN	5	0
02/01/14	629136	SETTLEMENT-DR/1110001314190/DIMENSIONAL SECURITIES PVT. LTD. DSPLPRIN	100	0
03/01/14	780093	SETTLEMENT-DR/1110001314191/DIMENSIONAL SECURITIES PVT. LTD. DSPLPRIN	20	0
06/01/14	874195	SETTLEMENT-DR/1110001314192/DIMENSIONAL SECURITIES PVT. LTD. DSPLPRIN	30	0
07/01/14	9905	SETTLEMENT-DR/1110001314193/DIMENSIONAL SECURITIES PVT. LTD. DSPLPRIN	11	0
09/01/14	237598	SETTLEMENT-DR/1110001314195/DIMENSIONAL SECURITIES PVT. LTD. DSPLPRIN	22	0
31/01/14	813720	SETTLEMENT-DR/1110001314211/DIMENSIONAL SECURITIES PVT. LTD. DSPLPRIN	20	0
03/02/14	905302	SETTLEMENT-DR/1110001314212/DIMENSIONAL SECURITIES PVT. LTD. DSPLPRIN	43	0
04/02/14	980729	SETTLEMENT-DR/1110001314213/DIMENSIONAL SECURITIES PVT. LTD. DSPLPRIN	11	0
05/02/14	86076	SETTLEMENT-DR/1110001314214/DIMENSIONAL SECURITIES PVT. LTD. DSPLPRIN	50	0

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12. This being so, as also on account of the fact that it is noticed that the transactions have been done through the National Stock Exchange and STT has also been paid, respectfully following the principles laid down by the Hon'ble Jurisdictional High Court in the case of Smt. Bimala Devi Singhania in IT Nos.84 & 85 of 2022 vide order dated 10.10.2023, I am of the view that no addition in the hands of the assessee is called for. Consequently, the addition as made by the Assessing Officer and confirmed by Id CIT(A) in respect of alleged penny stock stands deleted. The Assessing Officer is directed to allow the benefit of exemption claimed u/s.10(38) of the Act.

13. In the result, appeal of assessee stands allowed.

Order dictated and pronounced in the open court on 25/09/2024.

Sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 25/09/2024
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Satish Kumar
Garg, Gurudwara Road, near Gurudwara,
Rourkela
2. The Respondent: Income Tax Officer, Ward-
5, Aayakar Bhavan, Uditnagar, Rourkela
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT, Sambalpur
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr.Pvt. Secretary
ITAT, Cuttack

