

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, AHMEDABAD**

**BEFORE DR. BRR KUMAR, ACCOUNTANT MEMBER &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.1220/Ahd/2024
(Assessment Year: 2012-13)

Kailas Chimanbhai Pokal, 8, Satatya Green Bunglow, B/h. Rajpath Club, Bodakdev, Ahmedabad-380059	Vs.	Income Tax Officer, Ward-3(3)(5), (Previously Ward-3(3)(10)) Ahmedabad
[PAN No.ACYP7107P]		
(Appellant)	..	(Respondent)

Appellant by :	Ms. Rachhna Khandhar, A.R.
Respondent by:	Shri Waghe Prasad Rao, S.R.-DR

Date of Hearing	15.10.2024
Date of Pronouncement	15.10.2024

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeal), (in short “Ld. CIT(A)”), National Faceless Appeal Centre (in short “NFAC”), Delhi vide order dated 10.04.2024 passed for A.Y. 2012-13.

2. The Assessee has taken the following grounds of appeal:-

“1. The CIT(A) erred both in law and on facts in confirming the addition of Rs. 5702390/- being LTCG exemption u/s 10(38) of IT Act, 1961.

2. The CIT(A) further erred both in law and on facts in observing that the transactions are not genuine transactions but are arranged with a view to buying entries of Long Term Capital Gain on sale of shares, date of purchase and rate of purchase were arranged afterwards.

3. *The CIT(A) erred in law and on facts in confirming various observations in the assessment order which are irrelevant and untenable when appellant had cooperated with AO by furnishing all the evidences and answers on facts which ought to be considered which AO has filed to considered.*

4. *The CIT(A) which erred in passing the order by way of withdrawing the appeal eventhough the appellant had made an application for restoration of appeal.”*

3. On going through the records we find that the assessee has withdrawn the appeal before Ld. CIT(A) vide letter dated 23.12.2019 and also sought restoration of appeal vide letter dated 25.02.2021.

4. The Ld. CIT(A) passed order on 10.04.2024 after sending letter to the assessee on 09.01.2024 for submitting the reply on the same date i.e. 19.01.2024. The assessee sought adjournment on 19.01.2024 which has been ignored by the Ld. CIT(A) which led to passing of an ex-parte order.

5. The assessee is in appeal before us against the aforesaid order passed by Ld. CIT(A).

6. The Ld. Counsel for the assessee submitted that given an opportunity, due compliance would be made before the Ld. CIT(A).

7. In response, the Ld. D.R. placed reliance on the observations made by Ld. CIT(A) in the order passed by him.

8. We have heard the rival contentions and perused the material on record.

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9. Both the parties fairly prayed that the matter may restored to the Ld. CIT(A) for de-novo adjudication.

10. In the result, the appeal of the assessee is allowed for statistical purposes.

This Order is pronounced in the Open Court on 15/10/2024

Sd/-
(DR. BRR KUMAR)
ACCOUNTANT MEMBER

Ahmedabad; Dated 15/10/2024

TANMAY, Sr. PS

TRUE COPY

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad