

**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA
BEFORE
SHRI PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER
AND
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER
ITA No. 1083/KOL/2024
Assessment Year: 2014-15**

M/s. Annapurna Properties, C/o M/s. Salarpuria Jajodia & Co., 7, C.R. Avenue, 3 rd Floor Kolkata – 700072, West Bengal	Vs	DCIT, Circle-31, Kolkata, Form No. 10B, Middleton Road, Kolkata – 700016, West Bengal
(Appellant)		(Respondent)
PAN: AAEFA5641D		

Present for:

Appellant by : Shri Siddarth , FCA
Respondent by : Shri Sailen Samadder, Addl. CIT,
Sr. D.R.

Date of Hearing : 15.01.2025
Date of Pronouncement : 21.01.2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Ld. Commissioner of Income Tax (Appeals), NFAC, New Delhi (hereinafter referred to as "the Ld. CIT (A)") passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for AY 2014-15 dated 26.03.2024, which has been passed against the order u/s 143(3) of the Act, dated 26.12.2016.

2. The assessee has raised the following Grounds of appeal:

1. For that in view of the facts and in the circumstances, the Ld. CIT(A) was wholly unjustified in upholding the validity of the order passed u/s 143(3) and in view of the facts and in the circumstances such action of the Ld. CIT(A) is bad in law and in view of the facts and in the circumstances it may be held accordingly.

2. For that in view of the facts and in the circumstances, the Ld. CIT(A) was wholly unjustified in disallowing short term capital loss of Rs.85,23,271/- u/s 68 with a completely biased prejudiced and predetermined view and in view of the facts and in the circumstances the action of the Ld. CIT(A) in such respect is bad in law and the treatment so made by AO and affirmed by Ld. CIT(A) is liable to be deleted and it may be held accordingly.

3. Without prejudice to Ground No. 2 above, the Ld. CIT(A) erred in not appreciating the fact that the AO while making such addition u/s 68 for Rs.85,23,271- on premises of the alleged accommodation entry and such amount being the consideration towards loss on account of sale of shares and the AO never having made any independent verification or examination of the buyers of the shares and/or other persons involved in such transaction and hence the impugned addition suffers "lack of principle of natural justice" and as such the addition so made in such respect is bad in law and it may be held accordingly.

4. For that your petitioner craves the right to put additional grounds and/or to alter/ amend/ modify the present grounds at the time of hearing.

3. At the outset, it was informed by the Ld. AR that the assessee has availed the Vivad se Vishwas, 2024 scheme. Since the assessee has opted for the Vivad Se Vishwas Scheme, hence the present appeal was requested to be withdrawn. The Ld. DR did not object to the withdrawal of the appeal.

4. As per S. No. 10 of the Guidance Note 1/2024 on provisions of the Direct Tax Vivad se Vishwas Scheme, 2024 dated 15th October, 2024, it is mentioned that as per section 91 (2) of the Scheme, after filing of declaration, appeals before ITAT/CIT(A)/ JCIT(A) are deemed to be withdrawn from the date of issue of certificate by the Designated Authority. Further as per section 91(3) of the Scheme, the taxpayer is required to withdraw appeals and furnish proof thereof along with intimation of payment u/s 92(2) of the Scheme. Since the assessee has requested for withdrawal of the appeal, he is permitted to withdraw the same and the appeal is dismissed as withdrawn. However, if the subsequent facts warrant that the appeal



should be heard on merits, the assessee shall be at liberty to file a Miscellaneous Application for restoration of the appeal.

5. In the result, the appeal of the assessee is dismissed as withdrawn.

Order pronounced in the Court on 21st January, 2025 at Kolkata.

Sd/-

(PRADIP KUMAR CHOUBEY)
JUDICIAL MEMBER

Kolkata, Dated 21.01.2025

**Bidhan, Sr.Ps*

Sd/-

(RAKESH MISHRA)
ACCOUNTANT MEMBER



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

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

आदेशानुसार/ BY ORDER,

Sr. PS/ Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata

Sr. No.	Particulars	Date	Initials	Person concerned
1	Drafted on	17.01.2025		Sr.PS
2	Draft placed before author	17.01.2025		Sr.PS
3	Draft proposed & placed before the second Member	17.01.2025		JM
4	Draft discussed/ approved by Second Member			JM
5	Approved Draft comes to the Sr.PS/PS			Sr.PS
6	Kept for pronouncement on			Sr.PS
7	File sent to the Bench Clerk			Sr.PS
8	Date on which file goes to the Head Clerk			
9	Date of dispatch of Order			
10	Dictation Sheet is attached herewith	No		