

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

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

ITA No.7444/Del/1992  
Assessment Year: 1989-90

ACIT, Circle-1(2), New Delhi	<b>Vs.</b>	M/s. Associated Techno Plastics (P.) Ltd., S-15, Greater Kailash-I, New Delhi
<b>PAN: AAACA2525K</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

With

ITA No.6874/Del/1995  
Assessment Year: 1989-90

HCL Employees & Investment Co. Ltd., 808, Sidharth 96, Nehru Place, New Delhi	<b>Vs.</b>	Commissioner of Income Tax (Appeals)-X, New Delhi
<b>PAN: AAACH1240G</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	None
Department by	Sh. D.S. Sidhu, CIT(DR)

Date of hearing	12.03.2025
Date of pronouncement	19.03.2025

**ORDER**

**PER SATBEER SINGH GODARA, JM**

The instant batch of two appeals pertain to as many assessees herein M/s. Associated Techno Plastics (P.) Ltd. and M/s. HCL Employees & Investment Co. Ltd. The Revenue has filed

it's appeal ITA No.7444/Del/1992 [ACIT Vs. M/s. Associated Techno Plastics (P.) Ltd.] and the latter assessee i.e. M/s. HCL Employees & Investment Co. Ltd. has filed its appeal ITA No. 6874/Del/1995 against the Commissioner of Income Tax (Appeal), New Delhi's orders dated 19.08.1992 and 31.06.1995 for assessment year 1989-90 passed in case nos.107/92-93 and 125/95-96 involving proceedings under section 143(3) of the Income-tax Act, 1961 (in short 'the Act'), respectively.

2. Cases called twice. None appears at the assessee's behest. They are accordingly proceeded ex-parte.

3. We have heard Sh. D.S. Sidhu, learned CIT(DR) representing the department and case files perused. It emerges at the outset during the course of hearing that so far as Revenue's appeal herein ITA No. 7444/Del/1992 is concerned, its sole substantive ground seeks to reverse CIT(A)'s action deleting section 69 unexplained investment addition of Rs. 26,48,017/- made by the Assessing Officer in his assessment framed on 30.03.1992. It thus emerges in this factual backdrop that the tax effect involved in this appeal file is less than the minimum tax effect prescribed of Rs.60 lakhs

in the CBDT latest Circular No. 9/2024, dated 17.09.2024 with retrospective effect.

4. Learned CIT-DR is indeed very fair in not disputing the fact that the CBDT's foregoing tax effect circular has been made applicable on all pending appeals as well. We thus reject the Revenue's instant appeal for this precise reason subject to all just exceptions.

5. This Revenue's appeal ITA No. 7444/Del/1992 is dismissed in above terms.

6. We now advert to the latter assessee M/s. HCL Employee & Investment Co. Ltd.'s appeal ITA No. 6874/Del/1995 wherein both the learned lower authorities have added an amount of Rs.2,39,86,572/- in course of assessment framed on 31.03.1989 as upheld in the lower appellate discussion. Learned CIT(DR) could hardly dispute that the impugned addition admittedly represents the difference between the assessee alleged sale price and market price of the shares, in the relevant previous year, going by the price quoted at the recognized stock exchange.

7. Faced with this situation, learned CIT(DR) seeks to buttress the point that this is a remand case as per the hon'ble jurisdictional

high court's directions dated 21<sup>st</sup> November, 2013 in the Revenue's ITA No.95/2002 preferred against the tribunal's first round order dated 15.10.2001 deleting the impugned addition. Our attention has not only been invited to their lordships' detailed discussion in the Revenue's tax appeal but also to the tribunal's first round order deleting the impugned addition. It emerges from a perusal of the case records that the tribunal had recorded the Revenue's categorical stand/arguments that although the assessee never happened to be the owner of the shares sold in the relevant previous year, it had to be taxed since it "is the best person in whose hands the addition could be made" in para 31 thereof.

8. We are of the considered view in this clinching backdrop that there is no indication either in the assessment order or in the CIT(A)'s order herein as to how and in what manner the assessee has been held to have acquired title of the shares sold in the relevant previous year. There could be hardly any dispute going by the ITO v. Ch. Atchiaiah [1996] 218 ITR 239 (SC) that any taxable income has to be assessed in the correct assessee's hands only. We thus, deem it appropriate in the larger interest of justice to restore the assessee's instant appeal back to the learned CIT(A) for his

afresh appropriate adjudication after examining the assessee's title over the shares hold as per law, preferably within three effective opportunities, in consequential proceedings.

9. It is made clear that the assessee shall be indeed at liberty to plead and prove all the relevant facts by leading its additional evidence as well in consequential proceedings which shall be considered, as per law. This latter assessee's appeal ITA No.6874/Del/1995 is accepted for statistical purposes.

10. To sum up, the Revenue's appeal ITA Nos.7444/Del/1992 in case of former assessee's case is dismissed and the latter appeal ITA No. 6874/Del/1995 is allowed for statistical purposes, in above terms. A copy of this common order be placed in the respective case files.

***Order pronounced in the open court on 19<sup>th</sup> March, 2025***

***Sd/-***  
**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

***Sd/-***  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

Dated: 19<sup>th</sup> March, 2025.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi