

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES: E : NEW DELHI

BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER  
AND  
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No.302/Del/2020  
Assessment Year: 2015-16

Nitin Garg, HUF,  
41-A, Pocket-9,  
Kalka ji Extension,  
New Delhi – 110 019.

Vs ITO,  
Ward-29(4),  
New Delhi.

PAN: AAFGB5385N

(Appellant)

(Respondent)

Assessee by	: Shri Salil Aggarwal, Sr. Advocate; Shri Shailesh Gupta, Advocate; & Shri Madhur Aggarwal, Advocate
Revenue by	: Shri Amit Katoch, Sr. DR
Date of Hearing	: 21.04.2025
Date of Pronouncement	: 09.05.2025

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the Assessee against the order dated 14.11.2019 of the Commissioner of Income-tax (Appeals)-XXV, New Delhi (hereinafter referred to as the Ld. First Appellate Authority or ‘the Ld. FAA’, for short) in Appeal No.10145/19-20 arising out of the appeal before it against the order dated 21.12.2017 passed u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as ‘the Act’) by the ITO, Ward-29(4), New Delhi (hereinafter referred to as the Ld. AO).

2. Heard and perused the records. The appellant declared capital gain of 44,22,027/- on sale of shares of Goldline International Finvest Ltd which has been claimed exempt U/s 10(38) of the Act). The same was disallowed and the addition of Rs.44,22,027/- was made u/s 68 of the Income Tax Act and also of Rs 88,440/- u/s 69C, being commission @2% on 44,22,027/-. The scrip of M/s Goldline International Finvest Ltd. was purchased in month of April, 2013 and was sold in the month of May & My 2014. On perusal of the details filed by the assessee, it is found that assessee has Long term Capital Gains on:-

Purchase Transactions

Share script	Date of Purchase	Total No. of shares	Purchase price	Mode of payment	Purchase value	Shares purchased
Goldline International Finvest Ltd.	15.04.2013	50000	Rs. 10.00	Cheque	Rs. 5,00,000/-	Directly from Company

Sale Transactions

Script	Date of Sale	Total No. of shares Sales	Sold Price	Mode of payment	Sale value	Shares sold through broker
Goldline International Finvest Ltd.	27.05.2014	3500	Rs. 442.00	Cheque	15,47,000/-	M/s Share India Securities Ltd.
Goldline International Finvest Ltd.	08.07.2014	3000	Rs. 495.50	Cheque	14,86,512/-	M/s Share India Securities
Goldline International Finvest Ltd.	15.07.2014	3000	Rs. 494.40	Cheque	1483,515-	M/s Share India Securities Ltd.

3. On analysis of LTCG transaction, the details of profit earned from sale purchase transactions are captioned here under: -

Scrip	Purchase Date (by value of stock used in calculation)	Demat a/c credit date *	Purchase consideration	Sale date (by value of stock used in calculation)	Demat a/c debit date	Price	Net gain or loss
Goldline International Finest	15.04.2013	15.04.2014	50,000	27.05.2014	27.05.2014	Rs. 442.00	15,47,000/-
				08.07.2014	08.07.2014	Rs 449.50	14,86,512/-
				15.07.2014	15.07.2014		14,83,515/-
						Total	45,17,027/-

4. Ld. AR has submitted that both the purchase of share as well as sale is genuine and submitted that said equity shares of Goldline International Finest Ltd have been purchased through banking channel (and the said shares have not been purchased through cash. The Investment have not been made in shares during A Y 2015-16 but during A Y 2014-15. The shares are dematerialized with National Securities Depository Ltd (NSDL). The appellant sold 9500 equity shares of Goldline International Finest Ltd out of 50000 equity shares purchased during A Y 2014- 15 and the shares have been sold through SEBI registered broker M/s Share India Securities Ltd and the said broker is also registered with BSE, NSE and MCX and there is no allegation against said broker. The shares have been sold on 27/05/2014, 08/07/2014 and 15/07/2014 through Bombay stock exchange through screen-based system and there was no

manual interference. The shares so sold have settlement number and contract note number generated through Bombay Stock exchange. The said sales of shares of Goldline International Finvest Ltd were also subjected to securities transaction tax STT on sale. The entire sale proceeds were received through cheque and duly found credited in the bank account of the assessee and the same have been admitted by the learned Assessing officer in of assessment order. Ld. AR submitted that there is no document or allegation that the assessee delivered cash in exchange of the sales price received through cheques. The sale price as on the date of transaction is also the prevailing price in the stock exchange. Hence it is not a case of the Assessing Officer that the assessee has shown an inflated sale price which is not as per the prevailing market price of the shares of M/s Goldline International Finvest Ltd. No adverse inference has been made by the learned AO in respect of balance investment of equity share of 40500 equity shares of Gold line International Finvest Ltd which is being hold as on 31/03/2015 by the appellant

5. Ld. DR has relied the orders and we find that the exemption in respect of long-term capital gain on sale of shares were denied on the basis of the analysis of the financials of M/s Gold Line International Finvest Limited. The Id AO observed that price of share of Gold Line International Finvest Limited increased manifold by 4955% which is not supported by the financials and appellant earned unrealistic return.

6. Further we find that Hon'ble Delhi High court in the case of ***Principal Commissioner of Income Tax - 12 , Delhi Vs Krishna Devi ITA no 125/2020 dated 15/01/2021*** examining issue related to capital gain on sale of shares of alleged penny stock Gold Line International Finvest Limited, had held it to be a genuinely traded scrip. In the para no 11 of Judgement Delhi High court observed as under: -

*“11. On a perusal of the record, it is easily discernible that in the instant case, the AO had proceeded predominantly on the basis of the analysis of the financials of M/s Gold Line International Finvest Limited. His conclusion and findings against the Respondent are chiefly on the strength of the astounding 4849.2% jump in share prices of the aforesaid company within a span of two years, which is not supported by the financials.*

*On an analysis of the data obtained from the websites, the AO observes that the quantum leap in the share price is not justified; the trade pattern of the aforesaid company did not move along with the sensex; and the financials of the company did not show any reason for the extraordinary performance of its stock. We have nothing adverse to comment on the above analysis, but are concerned with the axiomatic conclusion drawn by the AO that the Respondent had entered into an agreement to convert unaccounted money by claiming fictitious LTCG, which is exempt under Section 10(38), in a pre-planned manner to evade taxes.*

*The AO extensively relied upon the search and survey operations conducted by the Investigation Wing of the Income Tax Department in Kolkata, Delhi, Mumbai and Ahmedabad on penny stocks, which sets out the modus operandi adopted in the business of providing entries of bogus LTCG. However, the reliance placed on the report, without further corroboration on the basis of cogent material, does not justify his conclusion that the transaction is bogus, sham and nothing other than a racket of accommodation entries. We do notice that the AO made an attempt to delve into the question of infusion of Respondent's unaccounted money, but he did not dig deeper. Notices issued under Sections 133(6)/131 of the Act were issued to M/s Gold Line International Finvest Limited, but nothing emerged from this effort. The payment for the shares in question was made by Sh. Salasar Trading Company. Notice was issued to this entity as well, but when the notices were returned unserved, the AO did not take the matter any further.*

*He thereafter simply proceeded on the basis of the financials of the company to come to the conclusion that the transactions were accommodation entries, and thus, fictitious. The conclusion drawn by the AO, that there was an agreement to convert unaccounted money by taking fictitious LTCG in a pre-planned manner, is therefore entirely unsupported by any material on record. This finding is thus purely an assumption based on conjecture made by the AO. This flawed approach forms the reason for the learned ITAT to interfere with the findings of the lower tax authorities. The learned ITAT after considering the entire conspectus of case and the evidence brought on record, held that the Respondent had successfully discharged the initial onus cast upon it under the provisions of Section 68 of the Act. It is recorded that "There is no dispute that the shares of the two companies were purchased online, the payments have been made through banking channel, and the shares were dematerialized and the sales have been routed from de-mat account and the consideration has been received through banking channels. " The above noted factors, including the deficient enquiry conducted by the AO and the lack of any independent source or evidence to show that there was an agreement between the Respondent and any other party, prevailed upon the ITAT to take a different view. Before us, Mr. Hossain has not been able to point out any evidence whatsoever to allege that money changed hands between the Respondent and the broker or any other person, or further that some person provided the entry to convert unaccounted money for getting benefit of LTCG, as alleged. In the absence of any such material that could support the case put forth by the Appellant, the additions cannot be sustained."*

7. Further in **PCIT versus Karuna Garg ITA 477/2022**, by relying the order in Krishna Devi (supa) has by order dated 23/11/2022 again reiterated transactions in this scrip to be genuine. That being the state of affairs the impugned addition cannot be sustained. The grounds are allowed. The appeals stands allowed.

Order pronounced in the open court on 09.05.2025.

Sd/-

Sd/-

(S. RIFAUR RAHMAN)  
ACCOUNTANT MEMBER

(ANUBHAV SHARMA)  
JUDICIAL MEMBER

Dated: 09<sup>th</sup> May, 2025.

dk

Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi