

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "C", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
SMT RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No.1018/MUM/2025
Assessment Year: 2014-15**

Shri Madhukar V. Sarvankar Income Tax Officer 16(3)(1), Mumbai Income tax officer 16(3)(1), Mumbai Room No. 447, 4 th floor, Aayakar Bhavan, M.K. Road, Mumbai 400020	Vs.	Shri Pradip Chandrakant Mehta 1703/04 Gaurav Heights, Mahavir Nagar, Kandivali (W), Mumbai 400067 PAN: AAGPM0610E
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Vimal Punmiya
a/w Shri. Bharat Kumar
Revenue by : Shri Yogesh Kumar. Sr. D.R.
Date of Hearing : 07.05.2025
Date of Pronouncement : 30.05.2025

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Revenue against the order dated 16.01.2025, impugned herein, passed by the National Faceless Appeal Centre (NFAC), Delhi u/s 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2014-15.

2. The Assessee on dated 15.06.2012 had purchased 3,000 shares (face value of Rs. 10 each) of script viz. Crescent Digital Technologies Pvt. Ltd. from Octopus Infotel Pvt. Limited on a total consideration of Rs.3 lacs, having been paid through banking channel. Subsequently, as per amalgamation scheme approved by the Hon'ble Bombay High Court on dated 03.05.2013, M/s. Crescent Digital Technologies Pvt. Ltd and M/s. Swift IT Infrastructure & Services Limited were merged into M/s. Parag Shilp Investments Ltd. u/s. 391 to 394 of Companies Act, 1956 and therefore, in consequence to the merger approved by the Hon'ble High Court, 30,000 shares of M/s. Parag Shilp Investments Ltd were allotted to the Assessee, which were subsequently got dematerialized in Assessee's account on dated 11.11.2013.

3. Thereafter, the Assessee sold 17,500 shares of M/s. Parag Shilp Investments Ltd on various dates starting from 06.03.2013 to 27.03.2013 on a total consideration of Rs.93,92,855/- as per prevailing market rate through online platform and also paid the brokerage, service tax, security transaction tax etc.. The Assessee consequently, earned the capital gain of Rs. 92,17,855/- and thus claimed the same as exempt u/s. 10(38) of the Act.

4. The Ld. AO in order to examine and verify the said claim of the Assessee, show caused the Assessee and asked certain details. The Assessee in response to the show cause, admittedly, filed various documents such as:

- (i) Bank statements showing payment of Rs.3 lacs for purchase of shares*
- (ii) Receipt issued by Octopus Infotel Private Limited*
- (iii) D-mat account statement for inward and outward of share from 11.11.2013 to 27.03.2014*
- (iv) Bank statement of Orient bank of commerce for February March, 2014 showing receipt of sale consideration.*
- (v) Contract note issued by Atco Capital Market Limited for sale of shares.*

5. Therefore, the Assessee by producing the aforesaid primary documents, has discharged its prima facie onus cast u/s. 68 of the Act, however, still the AO by considering "*the mode of acquisition of shares, unusual rise in the price of the share, findings of the investigation wing of Mumbai and Kolkata, financial analysis of Penny Stock Company, cash trail in the accounts of the entry provider*", disallowed the claim of exemption sought u/s. 10(38) of the Act by the Assessee and consequently, made the addition of Rs. 93,92,855/- being sale proceed of shares and added the same in the income of the Assessee u/s. 68 of the Act.

6. The Ld. Commissioner on appeal filed by the Assessee against the aforesaid addition, ultimately, deleted the addition on various reasons including by following the judgment of the Hon'ble High Court, Delhi in the Principle Commissioner of Income Tax vs Smt. Krishnadevi (2021) 431 ITR 36 as well as of the Jurisdictional High Court in the case of Principle Commissioner of Income Tax Vs Ziauddin Siddique (ITA No. 2012 of 2017 wherein, the transactions of purchase and sale of shares were carried out through stock exchange and registered stock brokers and the payments have also been made through banking channels and even security transaction tax has also been paid and therefore, the Hon'ble High Court by considering said peculiar facts, ultimately, affirmed the order of the Tribunal, in deleting the addition.

7. Admittedly, in the instant case, the Assessee in order to discharge its onus cast u/s. 68 of the Act, has filed the relevant documents as mentioned above. Further, the transactions have been carried out through proper banking channels and the Assessee dematerialize the shares on dated 11.11.2013 and held the same for more than one and half year and ultimately, sold the same through online platform. Even otherwise no allegations have been leveled against the Assessee by the SEBI or any other Investigating Agency and no penalty of any kind what so ever, has been levied against the Assessee.

Thus on the aforesaid analyzations, we are of the considered view that the Ld. Commissioner has correctly deleted the addition under consideration and hence the decision of the Ld. Commissioner does not require any interference, as the same is neither suffers from any perversity or impropriety nor illegality and therefore on the aforesaid analyzations the order passed by the Ld. Commissioner is affirmed.

8. In the result, appeal filed by the Revenue stands dismissed.

Order pronounced in the open court on 30.05.2025.

**Sd/-
(RENU JAUHRI)
ACCOUNTANTMEMBER**

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Divya R. Nandgaonkar,
Stenographer

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar,
ITAT, Mumbai.