

IN THE INCOME TAX APPELLATE TRIBUNAL JODHPUR BENCH, JODHPUR.

BEFORE: DR. MITHA LAL MEENA, ACCOUNTANT MEMBER &

DR. S. SEETHALAKSHMI, JUDICIAL MEMBER

I.T.A. No. 529/Jodh/2023
Assessment Year: 2013-14

Rachna Goyal J-2-C, Subhash Colony, Palace Road, Ratnada, Jodhpur.	Vs.	Income Tax Officer, Ward 1(2), Jodhpur.
PAN. No. AJNPG2188H		
Appellant		Respondent

Appellant by	Sh. T.C. Gupta, Advocate
Respondent by	Sh. Karni Dan, Addl.CIT (Sr.DR)

Date of Hearing	07/05/2025
Date of Pronouncement	25/06/2025

PER: DR. S. SEETHALAKSHMI, J.M.

This is an appeal filed by the assessee against the order of Id. CIT (A), National Faceless Appeal Centre (NFAC), Delhi dated 12.12.2023 passed under section 250 of the I.T. Act, 1961, for the assessment year 2013-14. The assessee has raised the following grounds of appeal :-

"1.The CIT (A) erred in dismissing the appeal of the assessee without considering the grounds of the assessee regarding reopening of assessment.

2. The CIT (A) erred in dismissing the appeal of the assessee without discussing and considering the grounds and relied upon decisions on the addition u/s 68 and 69C.

3. It is therefore, requested to quash the assessment order and /or delete the additions.”

2. The brief facts of the case are that the assessee is an Individual, derives income from business and profession and other sources. During the year under consideration the assessee filed her return of income in ITR-4 declaring income from business and profession of Rs. 3,09,500/- and income from other sources of Rs. 2,08,461/-.

Later on information has been received from DDIT (Inv.), Unit 1(3), Ahmedabad that a search under section 132 of the Income Tax Act, 1961 was launched on 11.09.2018 in the case of Jignesh Shah and Sanjay Shah of Ahmedabad. The search resulted into seizure of unaccounted cash of Rs. 19.37 crores (related accommodation entries and commission earned thereon) along with incriminating digital as well as documentary evidences. Clandestine record of unaccounted cash, synchronized trading, proving bogus LTCG in various BSE listed scrips and transport of such cash through angadiyas was found to be maintained in secret Tally Data file with company name “L23”, which was impounded during Survey proceedings under section 133A from business premises of Sanjaysha.

On going through the CD as well as documents, it is seen that the assessee has done transaction in FY 2012-13 relevant to AY 2013-14 and she has bought 230076 equity shares of Safal Herbs Ltd. at a price of Rs. 42,68,762/- and sold the same quantity i.e. 230076 at Rs. 44,10,190/- meaning thereby she has gained capital gain on difference of shares transaction i.e. Rs. 44,10,190 – Rs. 42,68,762/- = Rs. 1,41,428/-. The transaction was done through Seema Securities Pvt. Ltd. Further, on deep investigation of CD/documents, it is seen that the assessee has bought 30,000 equity shares of Safal Herball Ltd. @ Rs. 15.93 i.e. Rs. 4,77,900/-. The AO considering the above transaction and the price of one share at Rs. 15.93 took the cost of 230076 shares at Rs. 36,65,110/- and thereby calculated the actual capital gain at Rs. 7,45,080/- (Rs. 44,10,190 – Rs. 36,65,110). The assessee has not shown LTCG in her ITR for the AY 2013-14, accordingly, the AO held that amount of Rs. 7,45,080/- is liable to be brought for taxation.

In view of the above, the AO observing that provisions of clause (b) of explanation 2 to section 147 are applicable in this case, obtained necessary sanction separately to issue notice under section 148 from Principal Commissioner of Income Tax as per the provisions of section 151 of the IT Act, 1961. Notice under section 148 of the IT Act was issued on 26.03.2021 and duly served upon the assessee through ITBA on registered mail, requiring the assessee to file her return of income within 30 days from the issue of the notice. In response, the assessee

filed her return in the month of January, 2022, which was required to be filed by 30.04.2021. Notice under section 142(1) of the Act was issued on 17.11.2021 and later on 22.12.2021 fixing the hearing on 05.01.2022 for submission of certain details, which was duly served through ITBA under faceless proceedings. No response was received. A letter for ex-parte assessment was also sent but no response was received. Therefore, case was referred to DVU for service of notice. Finally, the assessee replied.

In response to notice, the assessee has filed her belated return of income for AY 2013-14 and submitted part details copy of acknowledgement and copy of return. A copy of reason recorded for reopening of the case of the assessee has also been supplied vide AO's letter dated 02.02.2022. Subsequently, the assessee vide her letter dated 06.02.2022 submitted the part details called for and the assessee also filed her objection against reason for re-opening of the assessment of the assessee.

The AO disposed off the objection of the assessee holding that the objection is not acceptable as the assessee failed to file her return in due time mentioned in the notice issued under section 148 of the Act dated 26.03.2021. However, keeping in view natural justice, the AO disposed off the objection of the assessee vide his speaking order dated 21.02.2022.

Thereafter, the AO issued a show cause notice dated 15.03.2022 to the assessee for not furnishing the details as required vide notice under section 142(1) of the Act. In response, the assessee filed reply dated 17.03.2022 through faceless proceedings. The reply of the assessee was considered but the AO could not find it acceptable. Thus, the AO proceeded to complete the assessment proceedings.

The AO observed that since, the assessee has not shown LTCG or STCG in her ITR for the AY 2013-14, accordingly, the amount of Rs. 7,45,080/- remains unexplained in view of section 68 of the Act as it is established by the investigation agency that the assessee is a beneficiary of bogus transactions in the form of accommodation entry. Since, the transaction made has been established in the hand of the assessee, which is duly mentioned in the CD as well as documents available with the department, therefore, the onus is on the assessee to establish that the transaction with Safal Herbs Ltd. is not related to her. Hence, the transaction in the form of accommodation entry remains unexplained cash credit in the hand of the assessee which is duly mentioned in the document with the department.

The AO further observed that during the entire assessment proceedings the assessee failed to establish genuineness of the transaction in the form of capital gain. Further, the evidences manifest that this transaction is the record of accommodation entries of LTCG against receipt of cash and the evidences demonstrate that accommodation entry provider due has resorted to synchronized

trading in Shares of various listed companies, because it is only through synchronized trading that the sellers are ensured entry of bogus LTCG against cash and the buyers are ensured delivery of cash against such pre-determined purchase of shares. The buyer and seller parties are well planned in the transaction as only in such scenario, the case is assured to the buyer and sale proceeds of shares are assured in the bank account linked with the demat account of seller. The modus operandi adopted by the operators was to make the beneficiary buy some shares of a pre-determined Penny stock company controlled by them. These shares are transferred to the beneficiary at a very nominal price mostly off-line through preferential allotment or off-line sale. The beneficiary (an individual) holds the shares for one year, the statutory period after which LTCG is exempt u/s 10(23) of the Income Tax Act, 1961. In the meantime, the operators rig the price of the stock and gradually rise its price many times. This is done through low volume transaction indulged in by the dummies of the operator at a pre-determined price. When the price reaches the desired level, the beneficiary, who bought the shares at a nominal price, is made to sell it to a dummy paper company of the operator. For this, unaccounted cash is provided by the beneficiary, which is routed through a few layers of paper companies by the operator and finally is parked with the dummy paper company that will buy the shares. The assessee Rachna Goyal is also one of such beneficiary of the above transaction to the tune of Rs. 7,45,080/-,

which remains unexplained in view of section 68 of the Act. Since the same remains unexplained credit for the year under consideration, and required to be added to the total income of the assessee, therefore, the sum so credited may be charged to income-tax as income of the assessee for the year under consideration. Therefore, for want of valid explanation, the AO treated the said amount of Rs. 7,45,080/- as unexplained credit of the assessee under section 68 of the IT Act and accordingly added to the total income of the assessee for the year under consideration. The AO also held that the income is chargeable to tax as per provisions of section 115BBE of the Act. The AO further added commission paid to operators for taking such accommodation entries a sum of Rs. 22,352/- @ 3% of Rs. 7,45,080/- as unexplained expenditure as per provisions of section 69C on account. The AO assessed the total income of the assessee at Rs. 9,97,780/- vide assessment order dated 23.03.2022.

3. On appeal before the ld. CIT (A), the ld. CIT (A) dismissed the appeal of the assessee after considering the submissions of the assessee.

Now, aggrieved by the order of the ld. CIT (A), the assessee has come in appeal before the Tribunal on the grounds reproduced herein above.

4. Before us, the ld. A/R of the assessee submitted his written submission as under :-

“ Submission :

(1) Addition made is baseless and bad in law.

The assessee neither dealt in penny stock transactions nor claimed any LTCG u/s 10(38) or so, as stated by the AO in the assessment order.

As per facts of the case, the AO has held in its assessment order that the assessee purchased 230076 shares of Safal Herbal Ltd. for Rs. 42,68,762/- and sold the same shares for Rs. 44,10,190/- and earned a profit of Rs. 1,41,428/-, through M/s. Seema Securities P. Ltd. This is the whole case of the AO.

The AO has further stated in the order that the assessee out of total 230076 shares, purchased 30,000 shares @ 15.93. And if the whole purchase price of 230076 shares is taken @ 15.93 shares, the purchase price would be Rs. 36,65,110/- and profit would be $44,10,190 - 36,65,110 = \text{Rs. } 7,45,080/-$. And the AO has taken profit of Rs. 7,45,080/-, and added the same in the total income.

It may be true that some of the shares were purchased @ 15.93 per share but the whole purchase price of total 230076 shares is Rs. 42,68,762/-. How the AO can substitute the purchase price of Rs. 42,68,762/- with hypothetical purchase price of Rs. 36,65,110/-.

If some shares were purchased @ 15.93 per share, some other shares may have been purchased on higher rate as well as some on lower rate. Some shares were sold at lower rate and some on higher rate. Shares were purchased and sold on different dates on different rates. When the AO has total purchase and sale price of total shares, there is no reason to substitute purchase price of the shares at the whims of the AO.

On the gross profit, following expenses were also incurred : Rs. 8600/- commission to broker @ 0.1%, Rs. 8600/- STT @ 0.1%, Rs. 300/- BSE turnover charges and Rs. 1800/- taxes on brokerage and other charges. Total charges payable was Rs. 19,300/- and thereafter net profit was Rs. 1,22,128/- for the trading in shares. The net income from trading of shares has already been included in gross income of Rs. 3,09,500/- from trade and business, declared in the ITR.

In any of the accountancy system, there is no such method of calculating profit. As per AO's own records and finding the shares were purchased for Rs. 42,68,762/- and sold the same shares for Rs. 44,10,190/-, with a difference/profit of Rs. 1,41,428/-. This is just arbitrary, malafide and illegal calculation of profit made by the AO by taking purchase price of whole purchase @ 15.93. There might be so many other purchase prices as well as sale prices of shares sold on different dates. Why the AO chose this particular price, is only known to the AO. When there is figure of whole sale and purchase, to calculate the purchase price at a particular rate is not permissible under any system of accounting.

During the course of assessment proceedings, the assessee also filed copy of account of the alleged sale and purchase of the shares and profit earned. Copy of shares trading account is enclosed-1 for ready reference.

2. Addition made u/s 68 and 69C is illegal and void.**Submission:**

(i) That the AO in the reasons recorded, in para 6 has mentioned that :

6. Basis of forming reason to believe and details of escapement of Income : In view of the above facts, I have reason to believe that income of the assessee amount of Rs. 745080/- in the form of capital gain arisen due to transaction of penny stock, has escaped assessment within the meaning of section 147 of the I.T. Act, 1961 on account of failure of the assessee to file the return of income and disclose fully and truly the material facts relating to the above transaction.

(ii) In the assessment order the AO has made additions u/s 68 amounting to Rs. 7,45,080/- on account of unexplained cash credits.

(iii) In the assessment order there is no finding that any books of accounts were maintained by the assessee and that the alleged amount was found credited in the books of accounts or even in the bank account.

As per section 68 :

“ where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the [Assessing] Officer, satisfactory, the sum so credited may be charged to Income-tax as the income of the assessee of that previous.”

(iv) Supreme Court in *Baladin Ram v. CIT* [1969] 71 ITR 427 has held that “Even under the provisions embodied in s. 68 of the said Act it is only when any amount is found credited in the books of the assessee for any previous year that the section will apply and the amount so credited may be charged to tax as the income of that previous year, if the assessee offers no explanation or the explanation offered by him is not satisfactory. The assessee does not maintain any books of accounts. The Bank account or bank passbook is not considered books of accounts. In *CIT, Poona v. Bhaichand H. Gandhi*, 141 ITR 67 (Bom.) it was held that the pass book supplied by the bank to the assessee cannot be regarded as the book of the assessee, that is, a book maintained by the assessee or under his instructions. Therefore, a cash credit for the previous year shown in the assessee’s bank pass book does not fall within the ambit of Section 68 of Income Tax Act, 1961.

- (v) In this case the assessee has not maintained any books of accounts for the relevant period. The AO never examined the alleged books of accounts and never found any sum credited in the books of accounts. Therefore, by any stretch of imagination, provisions of section 68 are not attracted in this case. Further, in this case for the shares trading not a single paisa was received by the assessee from the broker Seema Securities. All the transactions were made on credit and the amount of profit was also not received by the assessee from the broker during the year. Therefore, any addition u/s 68 is not attracted.

- (vi) The jurisdictional High Court of Rajasthan in a binding decision dated 20.05.2009 in the case of CIT vs. Ram Singh, ITA/65/2006, has held that when the very basis of re-opening the assessment is not existing, the assessment framed also does not survive.

In this case the notice u/s 148 was issued to assess the escaped income from long term capital gains, but in the assessment order the AO has made addition u/s 68. This will be violation of the binding order of the jurisdictional High Court and will be a case of contempt of court.

- (vii) The assessee has not received any amount or paid any amount in respect of the regular and recorded shares trading with Seema Securities, then the AO cannot estimate commission paid u/s 69C amounting to Rs. 22,352/-, on assumptions and surmises.

3. Action u/s 147/148 is illegal and without jurisdiction.

Submission :

- (1) The AO issued notice u/s 148, stating that : “ I, therefore, propose to assess/reassess the income/loss of the said assessment year.”
In issuing the notice, the AO is not sure about the purpose for which notice has been issued, whether to assess the income or to reassess the income and whether to assess/reassess income or the loss. Therefore, the notice is uncertain and vague and without application of mind. The Hon’ble Supreme Court in judgment dated 9.2.2016 in appeal arising out of SLP © No. 13512/2012 in the case of Standard Chartered Finance Limited vs. CIT has held that **“If no assessment order is passed, there cannot be a notice for re-assessment or reopening inasmuch as the question of re-assessment or reopening arises only when there is an assessment in the first instance.**
The Court in this decision relied on its earlier decision dated 16.2.2000 in Trustees of H.E.H. The Nizam’s Vs. CIT.
The Supreme Court in decision dated 17.4.2015 in Civil Appeal No. 6758 of 2004 in DCIT Vs. Zuari Estate Development & Investment Company Limited held that processing u/s 143(1)(a) is not assessment but only scrutiny assessment made u/s

143(3)/144 and 147 is assessment for purpose of reopening of the assessments. In the case of the assessee no assessment was made before issue of notice u/s 148, therefore there cannot be any reassessment or reopening of the assessment. The case is squarely covered by the above judgment. Therefore, to complete assessment on the basis of illegal notice is illegal and void.

On the similar principals, the order of the Karnataka High Court in the case of Manjunath Cotton Corp and M/s. SSSA Emerald Meadows, on the issue of penalty u/s 271(1)(c) holding that not to tick correct limb of the notice regarding concealment of income or inaccurate particulars of income, renders the notice and consequential proceedings as invalid and void, was confirmed by the Hon'ble Supreme Court in the case of M/s. SSSA Emerald Meadows. Copy of notice u/s 148 is **enclosed-2**.

- (2) That the AO in the reasons recorded, in para 6 has mentioned that :

6. Basis of forming reason to believe and details of escapement of Income : In view of the above facts, I have reason to believe that income of the assessee amount of Rs. 745080/- in the form of capital gain arisen due to transaction of penny stock, has escaped assessment within the meaning of section 147 of the I.T. Act, 1961, on account of failure of the assessee to file the return of income and disclose fully and truly the material facts relating to the above transaction.

The assessee had already filed its return of income on 14.10.2014. Copy of ITR so filed is **enclosed-3**.

Accordingly, the AO has issued notice on wrong presumption that no ITR was filed. Thus there is no application of mind by the AO in recording reasons and issuing notice, making the proceedings null and void.

- (3) On the basis of these null and void reasons dated 24.2.2021, recorded by the AO without application of mind, the Pr. CIT has given approval/sanction stating that "Yes. After perusal of records, I am satisfied that this is a fit case for reopening." Copy of PCIT approval is **enclosed-4**.

The AO has not sent assessment or any other records, along with the reasons recorded by him, therefore, the statement of the Pr. CIT that 'after perusal of records', is baseless and hypothetical. He perused no records, except the reasons recorded by the AO.

The alleged sanction of the PCIT is also without application of mind. As per provisions of section 151, the Pr. CIT is required to communicate his satisfaction that the case is fit for issue of such notice (notice u/s 148), but in this case there is no such satisfaction, rather the satisfaction is that the case is fit for reopening, which is not the fulfillment of the requirement of the section. The satisfaction of the PCIT is without any date and is therefore vague and void.

- (4) The assessee has not transacted in penny stock not had any income from capital gains. The assessee had no connection or any dealings with the alleged party Jignesh Shah or Sanjay Shah of Ahmedabad, where search/survey was conducted. Therefore, the reasons recorded are without application of mind and are null and void.

4. No opportunity of physical or online personal hearing.

Submission :

The AO or the CIT (A) did not provide any opportunity of personal hearing and passed the order in violation of the principles of natural justice, making the orders null and void.

5. The notices issued and order passed is without authentication and is void.

As per section 282A:

- (1) Where this Act requires a notice or other document to be issued by any income-tax authority, such notice or other document shall be signed and issued in paper form or communicated in electronic form by that authority in accordance with such procedure as may be prescribed..
- (2) Every notice or other document to be issued, served or given for the purposes of this Act by any income-tax authority, **shall be deemed to be authenticated if the name and office of a designated income-tax authority is printed, stamped or otherwise written thereon.**
- (3) For the purposes of this section, a designated income-tax authority shall mean any income-tax authority authorized by the Board to issue, serve or give such notice or other document after authentication in the manner as provided in sub-section (2).

In violation of the provisions of section 282A, the AO has not authenticated the assessment order and notices issued u/s 143(2)/142(1) by printing or stamping his name and office. Therefore, the order passed, without authentication is null and void.

6. Most of the order of CIT (A) is not legible and void.

It is, therefore, requested please to delete the addition and quash the assessment order.

Enclosed:

1. Copy of shares account.
2. Copy of notice u/s 148
3. Copy of ITR filed on 14.10.2014.

4. Copy of PCIT approval.”
5. On the other hand, the ld. DR supported the order of the ld. CIT (A) and submitted that the same be sustained.
6. We have considered the rival submissions and perused the material on record. We have also gone through orders of the revenue authorities and the various case laws referred therein. At the appellate stage, the ld. CIT (Appeals) while dealing with the matter under consideration, has discussed the issue at great length and decided the appeal by observing in para 33 to 38 as under:-

“ 33. I find that on similar facts and circumstances, Hon’ble High Court, Bombay (Nagpur Bench) while dismissing the appeal of the assessee in the case of Sanjay Bimalchand Jain vs. CIT-1, Nagpur in ITA No. 18/2017 has expressed their view that the undisclosed income in the garb of LTCG has to be assessed as undisclosed credit u/s 68 by holding as under :-

“The authorities have recorded a clear finding of fact that the assessee had indulged in a dubious share transaction meant to account for the undisclosed income in the garb of long term capital gain. While so observing, the authorities held that the assessee has not tendered cogent evidence to explain as to how the shares in a unknown company worth Rs. 5/- had jumped to Rs. 485/- in no time. The Income Tax Appellate Tribunal held that the fantastic sale price was not at all possible as there was no financial basis as how a share worth Rs. 5/- of a little known company would jump from Rs. 5/- to Rs. 485/-. The findings recorded by the authorities are pure findings of the fact based on proper appreciation of the material on record. While recording the said findings, the authorities have followed the test laid down by the Hon’ble Supreme Court and this court in several decisions “.

34. All these above mentioned cases are applicable to the facts and circumstances of the present case in which the various judicial authorities have decided the cases in favour of revenue after going through role of human conduct, surrounding circumstances and preponderance of probabilities, the entirety of the facts and circumstances. The Hon'ble ITAT decisions relied upon by the appellant are apparently in favour of the appellant but probably the role of human conduct, surrounding circumstances and preponderance of probabilities were either not brought to the notice of the Hon'ble Judicial Authorities or were not as dominant or deciding factors as these are found to be in the present case. In addition, the AO, in this case, has very clearly segregated the apparent from the real by using various evidences gathered from reliable sources of information and report. In the case of the appellant, the appellant failed to mention details of persons through whom the purchase of shares were made. The appellant allegedly made preferential allotment/off market transactions which could not be proved authentic. Further, reliance is placed upon following decisions :-

(1) The Hon'ble ITAT Mumbai in the case of Zeeshan Azizmohimed Shaikh vs. ITO in ITA No. 1108/Mum/2018 dated 24.05.2022 wherein addition u/s 68 sustained for LTCG exemption/s 10(38) from bogus company share.

(2) The Hon'ble ITAT Ahmedabad in the case of Atmiben Alipitkumar Doshi vs. ITO 149 taxmann.com 104 (Ahm-ITAT)(2023) has held similar matter in favour of revenue.

(3) PCIT vs. Smt. Usha Devi Modi, 151 taxmann.com 119 (Calcutta)(2023) – Assessee had not proved genuineness of claim, creditworthiness of companies in which it had invested and identity of persons with whom sale transaction was done, said LTCG was not exempt u/s 10(38).

(4) Rahul Gupta (HUF) vs. ACIT 151 taxmann.com 367 (Raipur-ITAT)(2023) – Assessee had not carried out any genuine transaction and had only obtained accommodation entry of bogus LTCG of penny stock, thus the addition made by the AO as undisclosed fund of the assessee routed back in the garb of aforesaid transaction of purchase/sale of shares, was to be upheld.

(5) Shyam Sunder Bajaj vs. ITO, 145 taxmann.com 315 (Kol-ITAT) (2022) – Assessee failed to establish genuineness of rise in price of penny

stock within short span of time and that too when general market trend was recessive – addition upheld.

(6) PCIT vs. Nand Kishore Agarwala, 143 taxmann.com 402 (Calcutta) (2022) – Disallowance of Bogus LTCG in penny stock under purview of unexplained cash, was held justified.

35. Keeping in view the above facts and discussion and decisions of High Court and Supreme Court, it is noted that the appellant has failed to prove that the share transactions were genuine. It is beyond human probability that the appellant could earn such huge profit over a period of just few months from transacting in a share of a unknown company with no visible business worth. The transaction cannot be accepted as genuine merely because it has been routed through bank account.

36. In view of the facts and circumstances borne out of the assessment order and legal precedents as discussed above, I am of the view that documents submitted as evidences to prove the genuineness of transaction are themselves found to serve as smoke screen to cover up the true nature of the transactions in the facts and circumstances of the case as it is revealed that purchase and sale of shares are arranged transactions merely giving a colour of authenticity by creating a façade of transactions to create bogus profit in the garb of LTCG by well-organized network of entry providers with the sale motive to sell such entries to enable the beneficiary to account for the undisclosed income for a consideration or commission. It is relevant to mention here that the prices have increased many fold times as soon as the period of one year has expired so as to avail the benefit of exempt long term gain. There is no justifiable indicator such as some significant business transaction in the case of M/s. Safal Herbs Ltd. to substantiate such abnormal rise in its scrips. The onus was on the appellant to explain the source and nature of the amount credited in his bank account on this account. The appellant, however, could not discharge the onus as the explanation furnished by her has been found to be unsatisfactory. The SEBI has, time and again, after thorough investigation, certified that such transactions are rigged and are carried out to convert black money into white. The appellant miserably failed to discharge the onus to prove that there was no such scheme of manipulation of scrips for routing unaccounted money as tax exempt bogus capital gains.

37. The SEBI had recently imposed penalty on M/s. Safal Herbs Ltd. (formerly Parikh Herbal Ltd.) for certain violations. In view of the above discussion, I am of the considered view that share transactions leading to LTCG by the appellant are sham transaction entered into for the purpose of evading tax. Accordingly, it is held that the AO has rightly disallowed the claim of the appellant and added the said amount of Rs.

7,45,080/- as income of the appellant u/s 68 and consequently commission expenses at Rs. 22,352/- u/s 69C for providing the bogus capital gains of the Act and the same is hereby confirmed. Thus, ground of appeal Nos. 1 to 5 are dismissed.

38. In the result, the appeal is dismissed.”

In view of above findings of the Id. CIT (A) we are of the view that the gain earned by the appellant on sale of shares of Safal Herbal Ltd. is an accommodation entry only and no real gain was earned by the appellant. Although the appellant has challenged the working of amount of LTCG as she has claimed cost of acquisition at Rs. 42,68,762/- whereas the same has been determined by Id. AO at Rs. 36,65,110/- by adopting an average rate of purchase at Rs. 15.93 per share. In the appeal proceedings the appellant has submitted her ledger account in the books of the broker through whom she had dealt in the shares of above named company but from the ledger account it is impossible to work out exact purchase amount of such shares and therefore we are inclined to accept the purchase price of shares as determined by Id. AO and do not find any infirmity in the order of the Id. CIT (A).

7. In the result, appeal of the assessee is dismissed.

Order pronounced under Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 by placing the details on the notice board.

Sd/-

(Dr. Mitha Lal Meena)
Accountant Member

Sd/-

(DR. S. Seethalakshmi)
Judicial Member

Dated 25/06/2025

Santosh- Sr. P.S

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy
By order