

IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH MUMBAI

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No. 2975/MUM/2025
Assessment Year: 2012-13**

Income Tax Officer, Mumbai	Vs.	Pellucid Securities Private Limited 301, Turf View, 63, Dadarkar Compound, Tardeo, MUMBAI, Maharashtra, 400034 PAN: AAFCP1405L
(Appellant)		(Respondent)

Present for:

Assessee : Shri Vimal Punamiya, CA
Revenue : Shri Virabhadra S. Mahajan, Sr. DR

Date of Hearing : 31.07.2025
Date of Pronouncement : 30.09.2025

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by Revenue is against the order of ADDL/JCIT (A)-8 Delhi, vide order no. ITBA/APL/S/250/2024-25/1074940032(1), dated 24.03.2025 passed against the assessment order by Income Tax Officer-7(3)(3), Mumbai, u/s. 143(3) r.w.s. 147 of the Income-tax Act, 1961 (hereinafter referred to as the “Act”), dated 27.12.2019 for Assessment Year 2012-13.

2. Grounds taken by Revenue are reproduced as under:

1 Whether on the facts and in the circumstances of the case, the Ld. CIT(A) erred in restricting the disallowance of bogus purchases to 12.5% instead of sustaining the full addition of 18.5% made by the Assessing Officer, despite the assessee's failure to substantiate the genuineness of the transactions.

2. Whether on the facts and in the circumstances of the case, the Ld. CIT(A) failed to appreciate that the addition made by the Assessing Officer was based on credible information and was justified considering the nature and extent of non-genuine purchases; hence, the full addition ought to have been upheld.

3. Facts of the case are that assessee is engaged in the business of investment in shares and mutual funds, trading in derivatives and loans and advances. Assessee earned income by way of dividend and capital gain on investments and interest during the year under consideration. It filed its original return on 27.09.2012, reporting a total loss at Rs.13,05,783/-. Subsequently, case of the assessee was taken up for reopening u/s.147 by issuing notice u/s.148 based on information received from the Investigation Wing, Mumbai that assessee is allegedly a beneficiary of bogus long-term capital gain by way of accommodation entry through transactions in the shares of Clarus Finance and Securities Ltd. (later, name changed to Scan Steels Ltd.) This share scrip is alleged as a penny stock based on the information received from the Investigation Wing, Mumbai.

3.1. Transaction of assessee in the said scrip, totalling to Rs. 1,29,000/- was flagged as part of the information for the purpose of reopening of the case of the assessee. Details of purchase/sale transaction undertaken by the assessee in respect of the said scrip is tabulated below:

No	Script	No. of Shares	Date of Purchase	Date of Sale	Cost Price	Sale Price	Gain (Rs.)
1	Clarus Finance & Securities Ltd. (earlier Mittal Securities Ltd.)	1,000	11.03.2010	01.04.2011	15,517	1,28,680	1,13,163
	Total						1,13,163

3.2. Ld. Assessing Officer called for details and explanations in respect of the long-term capital gain reported by the assessee at Rs. 1,13,163/- and claimed as exempt u/s.10(38). Assessee furnished its detailed submission by stating that it is regularly investing in shares, securities and mutual funds and deriving income by way of dividend and capital gain on its investment activities which is duly accounted for and reported in the return filed by the assessee. For this, assessee referred to the statement of holding as on 31.03.2010 to demonstrate its investment in various shares. The said detail is extracted below for ready reference:

STATEMENT OF HOLDINGS AS ON: 31-03-2010						
Sec Type	ISIN Company Under Liquidation Settlement ID	ISIN NAME	Current Bal. Free Bal.	Safekeep Bal. Locked In Bal. Pledge Setup Bal.	Pledged Bal. Earmarked Bal. Pledgee Bal.	Value(₹)
EQ	INE611B01022	DIVINE MULTIMEDIA (INDIA) LIMITED # EQUITY SHARES OF RE. 1/- AFTER SPLIT	0.000 0.000	0.000 0.000 0.000	0.000 0.000 0.000	0.00
EQ	INE542A01013	GUJARAT SIDHEE CEMENT LIMITED - EQUITY SHARES	20000.000 20000.000	0.000 0.000 0.000	0.000 0.000 0.000	322000.00
EQ	INE299C01024	KARUTURI GLOBAL LIMITED - EQUITY SHARES OF RE. 1/- AFTER SPLIT	0.000 0.000	0.000 0.000 0.000	0.000 0.000 0.000	0.00
EQ	INE848E01016	NHPC LIMITED - EQUITY SHARES	40000.000 40000.000	0.000 0.000 0.000	0.000 0.000 0.000	1220000.00
EQ	INE211B01039	PHOENIX MILLS LIMITED - EQUITY SHARES OF RS. 2/- AFTER SPLIT	2500.000 2500.000	0.000 0.000 0.000	0.000 0.000 0.000	465625.00
EQ	INE002A01018	RELIANCE INDUSTRIES LIMITED EQUITY SHARES	1000.000 1000.000	0.000 0.000 0.000	0.000 0.000 0.000	1074650.00
EQ	INE099G01011	SCAN STEELS LIMITED # EQUITY SHARES	3000.000 3000.000	0.000 0.000 0.000	0.000 0.000 0.000	48840.00

3.3. Assessee submitted that it had purchased 3,000 equity shares of listed company known as Mittal Securities Ltd. on 11.03.2010 at the purchase rate of Rs.15.50/- per share on the online trading platform of Bombay Stock Exchange (BSE) through its broker. Purchase

consideration was paid through proper banking channel to the broker and the shares were received by the assessee in its DMAT account. Later, name of the company was changed to Clarus Finance and Securities Ltd. and now known as Scan Steels Ltd.

3.4. Out of the 3,000 shares, assessee sold 2,000 shares in the assessment year 2011-12 and reported long term capital gain of Rs. 2,18,347/-, claiming it as exempt u/s.10(38). This assessment year 2011-12 was also taken up for reassessment u/s. 147 r.w.s. 143(3). In the said reassessment, long term capital gain on sale of 2,000 shares was accepted by the Revenue and exemption was allowed u/s.10(38). For the remaining 1,000 shares of the same script, these were sold in the year under consideration, i.e., on 01.04.2011 for which long term capital gain of Rs.1,13,163/- was reported in the return and claimed as exempt u/s.10(38).

3.5. In the course of assessment proceedings as well as before the Id. CIT(A), assessee furnished all the details relating to purchase and sale of the said script along with corroborative documentary evidences which included contract notes, bank statements and DMAT account statement. No doubts whatsoever were raised on the genuineness of these documentary evidences nor any discrepancy found from them. No further enquiries were conducted by the Id. Assessing Officer for verification of the documentary evidences to controvert the submissions of the assessee. Exhaustive documentary evidences placed by the assessee in the course of assessment proceedings as well as at the first appellate stage is tabulated below for ready reference:

S. No.	PARTICULARS
1	Copy of contract note dated 11.03.2010
2	Copy of bank statement showing the payment made to purchase shares

3	Copy of contract note dated 01.04.2011 selling 1000 shares
4	Copy of bank statement showing the receipt of the money
5	Copy of the transaction statement for period from 01.04.2009 to 31.03.2010
6	Copy of statement of holding as on 31.03.2010
7	Copy of the transaction statement for period from 01.04.2010 to 31.03.2011
8	Copy of statement of holding as on 31.03.2011
9	Copy of the transaction statement for period from 01.04.2011 to 31.03.2012
10	Copy of statement of holding as on 31.03.2012
11	Copy of statement showing details of LTCG on sale of shares as on 31.03.2012

3.6. Ld. Assessing Officer has heavily relied on the information of the Investigation Wing which indicated a large syndicate manipulating penny stocks to generate bogus long term capital gain. However, no independent enquiries were conducted by Ld. Assessing Officer nor any cogent material placed on record to dislodge the claim of the assessee and disprove the documentary evidences furnished by the assessee. The most clinching fact placed on record and remains uncontroverted is that in the immediately preceding assessment year AY 2011-12, assessee has done identical transaction of sale of 2,000 shares out of the total purchase of 3,000 shares on which Revenue has accepted the claim of the assessee by giving exemption u/s.10(38) of the long term capital gain earned by the assessee.

3.7. Accordingly, in the given set of facts and circumstances which is duly supported by detailed documentary evidences placed on record which remains uncontroverted, more particularly when Revenue has already accepted part of the transaction in the immediately preceding

assessment year, we do not find any reason to interfere with the findings arrived at by Id. CIT(A) in allowing the claim of the assessee and deleting the addition of Rs 1,29,000/- made by the Id. Assessing Officer. Accordingly, ground No. 1 raised by the Revenue is dismissed.

4. Ground No. 2 is consequential to the outcome of ground No. 1, since it relates to addition made u/s.69C on account of commission expense related to the alleged accommodation entry of share transaction undertaken by the assessee dealt in ground No.1. Since, addition contested vide ground no.1 is deleted, ground no.2 raised by the Revenue in respect of commission on the said transaction is rendered infructuous. Accordingly, ground no. 2 raised by the Revenue is dismissed.

5. In the result, appeal by the Revenue is dismissed.

Order is pronounced in the open court on 30 September, 2025

Sd/-
(Amit Shukla)
Judicial Member

Sd/-
(Girish Agrawal)
Accountant Member

Dated: 30 September, 2025

MP, Sr.P.S.

Copy to :

- 1 The Appellant
- 2 The Respondent
- 3 DR, ITAT, Mumbai
- 4 Guard File
- 5 CIT

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai