

आयकर अपीलीय न्यायाधिकरण में, हैदराबाद बेंच, हैदराबाद
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad "SMC" Bench, Hyderabad

श्री विजय पाल राव, माननीय उपाध्यक्ष एवं श्री मंजूनाथ जी, माननीय लेखा सदस्य
SHRI VIJAY PAL RAO, HON'BLE VICE PRESIDENT
AND
SHRI MANJUNATHA G, HON'BLE ACCOUNTANT MEMBER

आयकरअपीलसं./I.T.A.Nos.585 and 586/Hyd/2025
(निर्धारण वर्ष/ Assessment Years: 2007-08 and 2008-09)

Prasanth Devendra Mehta, C/o.P. Murali & Co., Chartered Accountants, Somajiguda, Hyderabad. PAN : AFJPM1563J (अपीलार्थी/ Appellant)	Vs.	The Income Tax Officer, Ward 10(1), Hyderabad. (प्रत्यर्थी/ Respondent)
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri P. Murali Mohan Rao, C.A.
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Ms. Malathi B. Sr. A.R.
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	25.11.2025
घोषणा की तारीख/ Date of Pronouncement	:	26.11.2025

ORDER

PER MANJUNATHA G., A.M :

These appeals are filed by a single assessee viz., Prashant Devendra Mehta against the separate orders of learned Addl/Joint

Commissioner of Income Tax (Appeals) – 12, Mumbai, dated 10.03.2025, pertaining to A.Ys. 2007-08 and 2008-09, respectively. Since common issues are involved in both the appeals, these appeals were heard together and are being disposed of by this single consolidated order for the sake of convenience and brevity.

2. The assessee has, more or less, raised common grounds of appeal for both the assessment years. Therefore, for the sake of brevity, grounds of appeal filed for the A.Y. 2007-08 in ITA No.585/Hyd/22025 are re-produced as under:

“1. The order of appeal passed by the Ld. CIT(A) u/s 250 of the Act dt. 10.03.2025 is erroneous both on facts and in law to the extent the order is prejudicial to the interest of the appellant.

2. The Ld. CIT(A) erred in dismissing the appeal.

3. The Ld. CIT(A) ought to have appreciated that the facts & circumstances of the case.

4. The Ld. CIT(A) ought to have fairly appreciated the legal position of the assessee that the long-term capital gain is specifically covered under section 10(38) of the Act.

5. The Ld. CIT(A) ought to have appreciated the fact that long-term capital gain (LTCG) which comes under the purview of Sec 10(38) of the Income tax Act are exempt from taxation.

6. The Ld. CIT(A) ought to have appreciated that non- reporting of long term capital gain under the exempt schedule is merely a procedural lapse.

7. The Ld. CIT(A) ought to have appreciated the fact that merely because of a procedural lapse of not disclosing the LTCG in the exemption schedule the exemption cannot be denied.

8. Appellant may, add or alter or amend or modify or substitute or delete and/or rescind all or any of the grounds of appeal at any time before or at the time of hearing of the appeal..”

3. The brief facts of the case are that, the assessee is an individual and has filed his return of income for A.Y. 2007-08 on 10.10.2007, declaring total income of Rs. 10,53,289/-. The return of income filed by the assessee has been processed by the A.O./CPC, and intimation under Section 143(1) of the Income-tax Act, 1961 (for short “the Act”) was issued and raised a demand of Rs. 4,52,860/-.

4. Aggrieved with such intimation, assessee preferred appeal before the Ld. CIT(A).

5. Before the Ld. CIT(A), the assessee raised various grounds, including, denial of exemption under Section 10(38) of the Income-tax Act in respect of Long Term Capital Gain reported at Rs. 7,24,654/-. The Ld. CIT(A), after considering the submissions of the assessee and also taking note of the fact that, the A.O./CPC has not made any adjustment in respect of total income, rejected the arguments of the assessee in respect of exemption claimed

under Section 10(38) of the Act for Long Term Capital Gain of Rs. 7,24,654/- on the ground that, the assessee failed to furnish relevant details, including Securities Transaction Tax (STT) paid on sale of shares, which resulted in Long Term Capital Gain for the year under consideration.

6. Aggrieved by the order of the Ld. CIT(A), the assessee is now in appeal before the Tribunal.

7. The learned counsel for the assessee Shri P. Murali Mohan Rao, C.A. submitted that, the Ld. CIT(A) has erred in sustaining the tax demand raised by the A.O./CPC by denying exemption under Section 10(38) of the Act, in respect of Long Term Capital Gain reported at Rs. 7,24,654/- on the ground that, the assessee has failed to file relevant evidences, including payment of STT even though, the assessee has furnished all the details. Therefore, he submitted that, the matter may be remanded back to the file of the A.O./CPC to give an opportunity to explain his case.

8. The learned counsel for the assessee, further referring to the order passed by the Ld. CIT(A) for A.Y. 2008-09 and the consequent order passed by the A.O./CPC to give effect to the

order of Ld. CIT(A) dt.23.06.2025 submitted that, for the subsequent year, the Ld. CIT(A) set aside the issue to the file of the A.O./CPC for verification and the A.O./CPC, after verification, has allowed relief to the assessee. Therefore, on similar grounds, this issue also may be remanded to the file of the A.O./CPC with a direction to verify the claim of the assessee and allow relief as per law.

9. The learned Senior A.R for the Revenue Ms. B. Malathi, on the other hand, supporting the order of the Ld. CIT(A), submitted that, the assessee has failed to file any evidences to prove exemption claimed under Section 10(38) of the Act in respect of Long Term Capital Gain reported for the year under consideration, and in the absence of relevant details, the A.O./CPC has rightly denied the benefit of exemption under Section 10(38) of the Act. The Ld. CIT(A), after considering the relevant facts, has rightly sustained the additions made by the A.O./CPC. Therefore, she submitted that, the additions made by the A.O./CPC should be upheld.

10. We have heard both parties, perused the material available on record, and had gone through the orders of the authorities below. The assessee has reported Long Term Capital Gain derived from sale of shares and claimed exemption under Section 10(38) of the Act, for the assessment year under consideration and also for A.Y. 2008-09. The A.O./CPC processed the return of income filed by the assessee and determined tax payable at Rs. 4,52,860/- by denying exemption claimed under Section 10(38) of the Act, in respect of Long Term Capital Gain derived from sale of shares. The learned counsel for the assessee argued that, the assessee has reported Long Term Capital Gain derived from sale of shares for both the assessment years and in both the assessment years, the A.O./CPC denied the exemption and determined the tax payable. Further, on appeal, the Ld. CIT(A) has considered the issue for A.Y. 2008-09 and has remanded the issue back to the file of the A.O./CPC for verification. In consequential assessment proceedings, the A.O./CPC accepted the claim of the assessee in respect of exemption claimed under Long Term Capital Gain, and to this extent, the assessee does not have any grievance for A.Y. 2008-09.

11. Insofar as A.Y. 2007-08 is concerned, although facts are identical and the issue is common, but the Ld. CIT(A) rejected the claim of the assessee towards exemption claimed under Section 10(38) of the Act, even though the facts are identical and the argument of the assessee is also on identical set of facts. We find that, for both assessment years, the assessee has reported Long Term Capital Gain from sale of shares and claimed exemption under Section 10(38) of the Act. For the assessment year under consideration, the Ld. CIT(A) upheld the reasons given by the A.O./CPC on the ground that, the assessee has failed to furnish relevant evidences, including details of STT paid on sale of shares to claim the benefit of exemption under Section 10(38) of the Act. Except this observation, the Ld. CIT(A) has not disputed the claim of the assessee with regard to exemption claimed under Section 10(38) of the Act. Since the Ld. CIT(A) has considered the very same issue for A.Y. 2008-09 and has remanded the issue back to the file of the A.O./CPC, and further, in the consequential assessment proceedings, the A.O./CPC has accepted the claim of Long Term Capital Gain declared by the assessee under Section 10(38) of the Act, in our considered view, for this year also, the

issue needs to be set aside to the file of the A.O./CPC for verification. Thus, we set aside the order of Ld. CIT(A) and remand the issue back to the file of the A.O./CPC. The A.O./CPC is directed to verify the claim of the assessee in respect of exemption claimed under Section 10(38) of the Act towards Long Term Capital Gain derived from sale of shares in light of any evidence that may be filed by the assessee, including the details of STT paid on sale of shares, which is an essential condition for claiming the exemption under Section 10(38) of the Act to prove his case. The A.O./CPC is directed to verify the claim and allow the relief as per law.

12. In the result, the appeal filed by the assessee is allowed for statistical purposes.

ITA No.586/Hyd/2025 for A.y. 2008-09

13. In this case, the assessee has challenged the order passed by the Ld. CIT(A) upholding the tax demand raised by the A.O. by rejecting the exemption claimed under Section 10(38) of the Act, in respect of Long Term Capital Gain derived from sale of shares.

14. The learned counsel for the assessee submitted that, the assessee does not have any grievance for the year under consideration because, in the consequential assessment proceedings, as per the directions of the Ld. CIT(A), the A.O. has allowed the relief in respect of exemption claimed under Section 10(38) of the Act in respect of Long Term Capital Gain and thus, the appeal filed by the assessee may be dismissed as 'infructuous'.

15. The learned Sr.A.R. for the Revenue, on the other hand, fairly agreed that, the appeal filed by the assessee may be dismissed as 'infructuous', because the assessee does not have any grievance in respect of issues challenged in the appeal.

16. Having heard both sides and considered the relevant arguments of the learned counsel for the assessee and also the Sr. A.R. for the Revenue, and further, by considering the evidence filed by the assessee in the form of consequential order dated 23.06.2025 passed by the A.O. to give effect to the order of the Ld. CIT(A), we find that, the issue involved in the present appeal has been resolved by the A.O. himself by accepting the claim of the assessee towards exemption claimed under Section 10(38) of the

Act, and the assessee does not have any grievance to pursue the appeal filed before the Tribunal. Since the issue raised in the appeal is resolved at the level of the A.O. himself, in our considered view, the present appeal filed by the assessee becomes 'infructuous'. Thus, the appeal filed by the assessee is dismissed as 'infructuous'.

17. In the result, the appeal filed by the assessee is dismissed as 'infructuous'.

18. To sum up, the appeal filed by the assessee for A.Y. 2007-08 is allowed for statistical purposes and the appeal filed by the assessee for A.Y. 2008-09 is dismissed as 'infructuous'.

Order pronounced in the Open Court on 26th November, 2025.

Sd/- श्री विजय पाल राव (VIJAY PAL RAO) उपाध्यक्ष /VICE PRESIDENT	Sd/- (मंजूनाथ जी) (MANJUNATHA G.) लेखा सदस्य/ACCOUNTANT MEMBER
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Hyderabad, dated 26.11.2025.
TYNM/sps

आदेशकी प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1.	निर्धारिती/The Assessee	:	Prashant Devendra Mehta, C/o. P. Murali and Co., Chartered Accountants, 6-3-655/2/3, Somajiguda, Hyderabad – 500082.
2.	राजस्व/ The Revenue	:	The Income Tax Officer, Ward 10(1), Hyderabad.
3.	The Principal Commissioner of Income Tax (Central), Hyderabad.		
4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, हैदराबाद / DR, ITAT, Hyderabad		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Hyderabad