

**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH 'SMC', LUCKNOW**

BEFORE SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER

I.T.A. No.115/Lkw/2020
Assessment Year:2015-16

Shri Kapil Khandelwal 56, More Kothi, Gangapur, Bareilly-243001 PAN:AIYPK4908M	Vs.	A.C.I.T., Circle-1, Bareilly.
(Appellant)		(Respondent)

Appellant by	Shri P. K. Kapoor, C. A.
Respondent by	Shri Amit Kumar, Addl. CIT, D.R.

ORDER

(A) This appeal vide I.T.A. No.115/Lkw/2020 has been filed by the assessee for assessment year 2015-16 against impugned appellate order dated 11/12/2019 passed by learned Commissioner of Income Tax (Appeals) ["CIT(A)" for short].

(B) The facts of the case, in brief, are that the assessee is an individual and filed his return of income for the year under consideration on 17/03/2016 declaring total income at Rs.14,52,000/-. The case was selected under CASS. The Assessing Officer passed assessment order under section 143(3) of the I.T. Act on 22/12/2017 and determined the total income of the assessee at Rs.35,16,939/- (rounded off to Rs.35,16,940/- and made the addition of Rs.20,64,939/- treating the same as earned

against purchase and sale of share and treated as business income of the assessee. Being aggrieved, the assessee went in appeal before the learned CIT(A). The learned CIT(A), vide impugned appellate order dated 11/12/2019 has dismissed the appeal of the assessee. Now the assessee is in appeal before the Income Tax Appellate Tribunal.

(C) At the time of hearing in Tribunal, learned A.R. for the assessee drew attention to written submissions, relevant portion of which is reproduced below:

2. Although, several grounds have been taken in appeal, on a perusal of the impugned order, it transpires that various facts and figures mentioned in the appellate order, particularly in para 2, para 6.1 and para 6.2 are contrary to the facts/figures on record. Further, in the appeal filed before the Id. CIT(A) the assessee had challenged the additions aggregating Rs. 20,64,939/- made by the Assessing Officer by treating the long term capital gain, claimed exempt under section 10(38), as business income. The said amount comprised of long term capital gain from sale of shares of M/s. Kappac Pharma Ltd. (Rs. 8,55,678/-) and from sale of shares of M/s. Gold Line International Ltd. (Rs. 12,09,261/-). The details of long term capital gain of Rs. 20,64,939/- claimed by the assessee as exempt u/s 10(38) are shown in the computation of income placed at (page 2 to 4 of the paper book).

2. However, while deciding the appeal the Id. CIT(A) has only dealt with the issue of capital gain from transfer of shares of M/s. Kappac Pharma Ltd., and has upheld the addition of Rs. 9,37,944/- on that account. The amount of addition upheld by the Id. CIT(A) at Rs. 9,37,944/- is also not correct. The correct figure of long term capital gain from sale of shares of M/s. Kappac Pharma Ltd. as claimed in the return

of income is Rs. 8,55,678/-. Further, in the impugned order, the Id. CIT(A) has omitted to deal with and decide the issue of long term capital gain claimed at Rs. 12,09,261/- from sale of shares of M/s. Gold Line International Ltd.

3. Thus, the order passed by Id. CIT(A) is wholly erroneous and, therefore, the same deserves to be set aside and the matter restored to the file of Id. CIT(A) to pass the order a-fresh by dealing with and deciding all the issues raised in the appeal before him.

(C.1) Placing reliance on the aforesaid written submissions, the learned A.R. for the assessee submitted that the issue in dispute be restored back to the file of the learned CIT(A) with the direction to pass fresh order deciding all the issues raised in appeal filed before him. The learned Departmental Representative expressed no objection. In view of the foregoing, as both sides are in agreement, the issues in dispute are restored back to the file of the learned CIT(A) with the direction to pass fresh order deciding all the issues raised in appeal filed before him in accordance with law after giving reasonable opportunity to the assessee.

(D) In the result, the appeal of the assessee stands allowed for statistical purposes.

(Order pronounced in the open court on 25/11/2025)

Sd/.
(ANADEE NATH MISSHRA)
Accountant Member

Dated:25/11/2025

*Singh

Copy of the order forwarded to :

1. The Appellant
2. The Respondent.
3. Concerned CIT
4. D.R., I.T.A.T. Lucknow