

आयकर अपीलीय अधिकरण, 'एसएमसी' न्यायपीठ, कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL 'SMC' BENCH, KOLKATA

BEFORE SHRI DUVVURU RL REDDY, VICE PRESIDENT

आयकर अपील सं/ITA No.1617/KOL/2025

(निर्धारण वर्ष / Assessment Year : 2015-2016)

Sri Hari Prasad Agarwal, Salarpuria Jajodia @ Co.7, Chittaranjan Avenue, Kolkata West Bengal-700072	Vs	ITO Ward-46(1), Kolkata
PAN No. : ADAPA 9125 B		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri S. Jhajharia, FCA
राजस्व की ओर से / Revenue by	:	Shri Sima Das Biswas, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	16/10/2025
घोषणा की तारीख / Date of Pronouncement	:	21/11/2025

आदेश / ORDER

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 20.05.2025 passed for Assessment Year 2015-2016.

2. The only ground argued by the Id.AR of the assessee with regard to confirmation of addition by the Id. CIT(A) which was made by the AO u/s.68 of the Act on account of sale proceeds received by the assessee on sale of shares.

3. Facts in brief are that the assessee filed his Return of Income for the AY 2015-16 declaring Total Income of Rs 4,29,970. The assessee in pursuance to notice u/s.143(2) and 142(1) of the Act along with Questionnaire submitted required details and documents as sought by the Assessing officer (AO). During the FY 2014-15 the assessee sold Quoted

shares through Recognized Stock Exchanges paying STT. Thereby assessee derived LTCG out of the above Sales Proceedings of M/S Pearl Electronics Ltd of Rs 27,99,495/- and accordingly claimed Exemption n of the above under Section 10(38) of the Income Tax Act in respect of LTCG. However the AO did not consider the facts of the case as submitted by the assessee and disallowed the above exemption u/s.10(38) of the Act and made addition to the total income of Rs. 27,99,495/- u/s.68 of the IT Act on the basis of suspicion and wrong allegation.

4. Aggrieved with the addition made in the assessment order, the assessee preferred appeal before the Id.CIT(A) and the Id.CIT(A) has also dismissed the appeal of the assessee thereby upholding the view taken by the AO.

5. Now, the assessee is in further appeal before the Tribunal.

6. Ld. AR submitted that in course of assessment the AO had disbelieved the assessee's claim for the deduction claimed u/s.10(38) of the Act in respect of sale of shares of M/s Pearl Electronics Ltd.. It was the submission that the assessee had purchased shares of M/s Nouveau Multimedia Ltd. in 2007 through Bombay Stock Exchange. It was the submission that in 2009 the said company had issued shares. There was demerger of the said company namely M/s Nouveau Multimedia Ltd. and 6029 shares of M/s Pearl Electronics Ltd. was allotted to assessee in 2012 by M/s Nouveau Multimedia Ltd. in pursuance of demerger scheme. It was the submission that the assessee is an investor in shares since

1987. The total shares purchased by the assessee in Nouveau Multimedia Ltd. was 13,118 shares. On account of demerger the assessee was allotted 5930 equity shares of M/s Pearl Agriculture Limited and 6029 shares of M/s Pearl Electronics Ltd. on 1.1.2013. The shares were allotted in lieu of Nouveau Multimedia Ltd. Shares in the demat account maintained by the assessee in ICICI Bank Ltd. The assessee sold 6029 shares of M/s Pearl Electronic Ltd. on different dates between 26.05.2014 and 17.11.2014. It was the submission that in the return the assessee had claimed exemption u/s.10(38) of the Act in respect of Rs.47,22,268/- in respect of the transactions of M/s Pearl Electronics Ltd. The AO treated the shares of M/s Pearl Electronics Ltd. between 6.6.2014 to 10.06.2014 to an extent of Rs.27,99,495/- as not eligible for exemption u/s.10(38) of the Act. It was submitted that the balance had not been disputed by the AO. It was the submission that when the assessee had sold its entire holding of M/s Pearl Electronics Ltd. and the said shares were allotted to the assessee on demerger of Nouveau Multimedia Ltd., the shares purchased in 2007, it cannot be held that the assessee has done any transaction in penny stock. It was also submitted that when the assessee has sold the shares between 26.05.2014 to 17.11.2014 only such transactions between 06.06.2014 to 10.06.2014 were bogus. It was the submission that the addition as made by the AO by invoking the provisions of Section 68 of the Act and as confirmed by the Id. CIT(A) is liable to be deleted.

7. On the other hand, Id.Sr. DR vehemently supported the orders of the Id. AO and Id. CIT(A) and submitted that the AO has categorically brought out the said shares were actually a manipulation. It was further submitted that the scripts of M/s Pearl Electronics Ltd. have been suspended by the SEBI for illegality for being involved in concocted transactions. Id.Sr. DR drew my attention to page 11 of the assessment order which is a letter received by the AO on 16.06.2017 wherein the suspension of the trading in the securities of M/s Pearl Electronics Ltd. w.e.f.27.08.2015 is also mentioned. It was the submission that the order of the AO and that of the Id. CIT(A) is liable to be upheld.

8. I have considered the rival submissions of both the parties and perused the material available on record. It remains admitted fact that the assessee had purchased 13118 shares of Nouveau Multimedia Ltd. it is also an undisputed fact that these shares were purchased in December 2007 and another lot on 22.09.2009. These purchases are not disputed. The demerger of Nouveau Multimedia Ltd. is also not disputed. The allotment of shares of M/s Pearl Electronics Ltd. on the demerger of Nouveau Multimedia Ltd. is not within the control of the assessee. The allotment of 5934 equity shares of M/s Pearl Agriculture Ltd. and 6029 equity shares of M/s Pearl Electronics Ltd. has been made to the demat account of the assessee on 01.01.2013. Till this point the assessee had no control in respect of purchases of the shares of M/s Pearl Electronics Ltd. In fact, the assessee was allotted the shares on the demerger. It cannot be said that the assessee has done anything to manipulate his

accounts. These shares allotted to the assessee has been sold by him during the impugned assessment year. Out of the full equity of shares sold, the AO has only disputed the transactions in 5150 shares and in respect of balance 6029 shares, the Assessing Officer has accepted the assessee claim on the exemption u/s.10(38) of the Act. In these circumstances, as the Assessing Officer has accepted the transactions in respect of 879 shares and granted the benefit exemption u/s.10(38) of the Act, on connected transactions of the same shares, the exemption u/s.10(38) of the Act cannot be denied. This being so, the addition as made by the Assessing Officer and as confirmed by the Id. CIT(A) stands deleted. The Assessing Officer is directed to grant the assessee the benefit of deduction u/s.10(38) of the Act as claimed by the assessee.

9. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 21/11/2025.

Sd/-
(DUVVURU RL REDDY)
उपाध्यक्ष / VICE PRESIDENT

दिनांक Dated 21/11/2025

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कोलकाता / DR,
ITAT, Kolkata
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)
आयकर अपीलीय अधिकरण, कोलकाता /ITAT, Kolkata

		Date	Initial	
1.	Draft dictated on			Sr.PS
2.	Draft placed before author			Sr.PS
3.	Draft proposed & placed before the second member			JM/AM
4.	Draft discussed/approved by Second Member.			JM/AM
5.	Approved Draft comes to the Sr.PS/PS			Sr.PS/PS
6.	Kept for pronouncement on			Sr.PS
7.	File sent to the Bench Clerk			Sr.PS
8.	Date on which file goes to the OS			
9.	Date on which file goes to the AR			
10.	Date of dispatch of Order.			