

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH: BANGALORE**

BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER

ITA No.793/Bang/2025
Assessment year: 2017-18

Poonam Gupta, 852/4, Nagrathpet Main Road, Ramesh Golden Market, Bengaluru – 560 002. PAN: ABRPG 2342K	Vs.	The Deputy Commissioner of Income Tax, Circle 5(1)(1), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri Manish Tiwari, CA
Respondent by	:	Shri Subramanian, Jt.CIT (DR)(ITAT), Bengaluru.

Date of hearing	:	08.01.2026
Date of Pronouncement	:	17.02.2026

ORDER

Per Prashant Maharishi, Vice President

1. This appeal is filed by Mrs. Poonam Gupta (the assessee/appellant) for assessment year 2017 – 18 against the appellate order passed by the National Faceless Appeal Centre, Delhi (NFAC) [Id. CIT(A)] dated 21st February 2025 wherein the appeal filed by the assessee against the reassessment order passed u/s. 147 r.w.s. 144 r.w.s. 144B of the

Income Tax Act, 1961 [the Act] passed by the Assessment Centre, Delhi (the learned AO) on 30th May 2023 was dismissed.

2. The brief contention of the assessee as per grounds of appeal is that assessee is challenging the reopening of the assessment as well as the addition made by the learned AO.
3. The brief facts of the case shows that assessee is an individual deriving income from salary, house property, capital gain and other sources. She filed return of income on 10 January 2018 declaring total taxable income of Rs.1,17,85,570/-. In the return of income the assessee has disclosed short-term capital gain on sale of listed shares amounting to ₹ 8,792,715. Subsequently the assessee filed revised return on 6 June 2018 declaring a taxable income of Rs.1,18,34,800. As per the return, the Central Processing Centre accepted the income of the assessee. Subsequently a notice u/s. 147 r.w.s. 144 was issued by the assessing officer on 30th May 2023.
4. Case of the assessee was reopened on the basis of information that assessee has earned long term capital gain in the sale of shares of sun star Realty Limited as per Report of Investigation wing.
5. Assessee categorically submitted that she has not claimed any benefit from section 10 (38) of the act on sale of shares of Sunstar reality limited. Assessee submitted that assessee has offered short term capital gain on sale of those shares and offered tax in the computation of total income. The assessee has purchased the shares for a value of

Rs.1,33,94,500 and sold the shares for a value of Rs.2,21,87,216 and earned a short-term capital gain of ₹ 8,792,715/-. To prove the genuineness of the above transaction the assessee submitted her bank statement, holding statement of shares, Ledger account of the DBFS securities Ltd, capital gain summary report, contract notes for purchase and contract notes for the sale by the broker. The assessee submits that the above transaction has taken place on the stock exchange. Assessee also submitted the Demat account statement and stated that assessee is holding and sold these shares on a short-term basis and therefore no benefit is claimed by the assessee.

6. The ld. AO disbelieved the statement of assessee and made an addition of Rs ₹ 8,792,715. The main reason for making the addition was with respect to the fact that assessee has purchased and sold shares of Sunstar Realty Development Ltd. The assessee has purchased the shares with a value of Rs.1,33,94,500 and sold the shares for a value of Rs.2,21,87,216 and earned a short-term capital gain of ₹ 8,792,715. According to the AO such a gain is unreasonable. It fails to withstand the test of human probabilities and therefore it is a non-genuine transaction. Accordingly, the LD.AO made an addition u/s. 68 of the Act. This is the stand taken by the ld.AO because the above company is named in a report wherein the transaction made with this company were not stated to be genuine. The assessment unit passed an assessment order determining the total income of the assessee at ₹ 20,627,520/-. The ld. AO has made the addition u/s. 68 of the Act of ₹ 8,792,715

being the short-term capital gain offered by the assessee.. He holds that assessee has claimed exemption under section 10 (38) of the Act.

7. The assessment order was challenged by the assessee before the learned CIT – A wherein the assessee submitted that assessee has already submitted the requisite details before the assessing officer with respect to the above transaction and same has been offered as a short-term capital gain by the assessee and there is no claim made by the assessee either under section 10 (38) of the Act or for any other exemption. It was stated that assessee is not at all concerned with the above company, transaction is made on the stock exchange. The learned CIT – A held that the DDIT(Investigation) has made a detailed finding on the modus operandi of providing accommodation entries of long-term and short-term capital gain and business loss in the scrip of Sunstar Realty Development Ltd. to various beneficiaries. Thus the above investigation cannot be brushed aside and therefore he upheld the order of the learned AO. Accordingly appeal filed by the assessee was dismissed.
8. The assessee aggrieved with the above appellate order is in appeal before us. Ld. AR submits that assessee has not at all claimed any exemption u/s 10 (38) of the act. It was submitted by the assessee that during the reassessment proceedings the assessee has furnished evidences with respect to the contract notes for purchase and sale of shares through registered broker, Demat account statement reflecting delivery-based transaction, bank statement showing payment for

purchase and receipt of sale proceeds through banking channel, capital account and computation of capital gain. It was further stated that assessee has neither claimed any benefit of long-term capital gain but has offered the above sum of ₹ 8,792,715 as short-term capital gain.

9. Challenging the reopening of assessment he submitted that the reason stated by the Id.AO for reopening of the assessment is also incorrect. He further referred to the notice issued by the Id.AO u/s. 148 Act on 29 July 2022 wherein the reopening has been made specifically for the reason that assessee is found to be the beneficiary of accommodation entry. He submits that when the assessee has offered the above sum as a short-term capital gain, there is no reason to believe for the assessing officer that assessee has obtained any benefit. He further referred to the reasons recorded to show that the above scrip was alleged to be used for booking of the bogus long-term capital gain. However the assessee has offered the above sum as a short-term capital gain and paid tax thereon. Therefore the reasons recorded by the Id.AO does not withstand the test of reason to believe. He specifically referred to paragraph No. 7 of the notice of reopening wherein it is stated that the assessee has traded in a penny scrip to book long bogus long-term capital gain claims with respect to the shares of the above company. He submits that there is no claim of the long-term capital gain by the assessee with this company at all. Therefore the reasons recorded does not have a live link with the assessment records. Therefore the reopening is bad in law.

10. On the merits of the case he submitted that the assessee's short-term capital gain is supported by the Demat account, contract notes, bank statement and capital accounts of the assessee. And therefore the assessee has already offered the same income in the return of income but once again the addition has been made. Therefore this is a case of clear-cut double addition made by the Id.AO. He submitted that in his return of income the assessee has already offered a sum of Rs.1,18,34,801. That sum once again there is an addition of ₹ 8,792,715. Therefore the total income was determined at ₹ 20,627,516 includes double addition of ₹ 8,792,715 because in the total income offered by the assessee of Rs.1,18,34,801 assessee has already included the above sum and the Id.AO has once again made this addition to the total income. Therefore on this basis also the addition deserves to be deleted.
11. The learned departmental representative vehemently supported the orders of the learned lower authorities.
12. We have carefully considered the rival contention and perused the orders of the learned lower authorities. The brief facts of the case shows that the assessee has filed her return of income wherein in the revised statement of income the assessee has offered a short-term capital gain of Rs.1,01,08,315 as per the computation of total income. Along with statement of income the assessee has shown the short-term capital gain statement of ₹ 9,910,055. In the short term capital it is a fact that assessee has earned a short term capital gain of Rs 87 Lakhs in

the company named Sunstar Reality Limited. The assessee has also claimed long-term capital gain exempt under section 10 (38) of the Act of ₹ 558,469/- which is not in dispute that all. In the profit and loss account submitted by the assessee the total short-term capital gain as per note No. 11 of Rs.1,01,08,355 is shown. Therefore in the above statement of short-term capital gain the assessee has given a bifurcation wherein on SunStar Reality Ltd shares the assessee has offered short-term capital gain of ₹ 8,792,715/-. Thus in the return of income assessee has already offered the above sum in the total income shown of Rs.1,18,34,800. It is an undisputed fact that assessee has already offered the above sum as income, did not claim any long term capital gain benefit on trading of this shares which is exempt u/s 10(38) of the Act.

13. The assessee's case was reopened under section 148 of the Act based on the AO's belief that the assessee benefited from accommodation entries related to penny stock trading in FY 2016–17. The AO suspected the assessee claimed bogus long-term capital gains but found no such claim in the income tax return; instead, the assessee reported ₹87 lakhs as short-term capital gain and provided supporting details during proceedings. Despite this evidence, the AO proceeded with reopening, alleging unreported long-term capital gains from Sunstar Realty Development Ltd., even though no such gains were actually declared. As a result, the grounds for reopening are unfounded, and the assessment should be quashed.

14. The assessee included ₹8,792,715 in their total income as a short-term capital gain from the company. The Assessing Officer began by taking the returned income of ₹1,18,34,801, which already included this gain. However, the Assessing Officer added the same amount again, resulting in a double addition and an assessed income of ₹20,627,560. We instruct the Assessing Officer to remove the duplicate addition.
15. Based on these facts, we cancel the reopening proceedings and instruct the learned Assessing Officer to remove the addition of ₹ 8,792,715, which is in any case a duplicate addition.
16. In the result appeal filed by the assessee is allowed.

Pronounced in the open court on this 17th day of February, 2026.

Sd/-

(SOUNDARARAJAN K.)
JUDICIAL MEMBER

Sd/-

(PRASHANT MAHARISHI)
VICE PRESIDENT

Bangalore,
Dated, the 17th February 2026.
/Desai S Murthy /

Copy to:

1. Appellant 2. Respondent 3. Pr. CIT 4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.