

**आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE**

**BEFORE SHRI R.K. PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

**आयकर अपील सं. / ITA No.2933/PUN/2025
निर्धारण वर्ष / Assessment Year : 2022-23**

Sameer Satish Satpute, 39, Rakshak Society, Aundh, Pune-411027	Vs.	ITO, (IT) Ward 4, Pune
PAN : ASOPS4608L		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by :	Shri Kishor B Phadke
Department by :	Shri Harshit Bari
Date of hearing :	25-02-2026
Date of Pronouncement :	10-04-2026

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The appeal filed by the assessee is directed against the order dated 04.09.2025 of the Ld. Commissioner of Income Tax (Appeals), Pune-13 ["CIT(A)"] pertaining to Assessment Year ("AY") 2022-23.

2. Briefly stated, the facts of the case are that the assessee is a Non-Resident Individual. During FY 2021-22 relevant to AY 2022-23 under consideration, the taxable income of the assessee in India comprised of : (i) rental income from house property in Pune; (ii) capital gains from stocks and mutual funds; (iii) dividend income; (iv) fixed deposits and (v) NRO account interest and Pass Through Income from two funds. For AY 2022-23, the assessee filed his return of income u/s 139(1) of the Income Tax Act, 1961 (the "Act") on 30.07.2022 claiming refund of Rs.3,62,090/-. The return of the assessee was processed by the CPC, Bengaluru u/s 143(1) of the Act vide intimation order dated 06.10.2023 wherein the Ld. CPC assessed the total income of the assessee at Rs.5,37,30,540/- and raised a tax demand of Rs.35,68,200/-. On going through the intimation, the assessee noticed that though gross total income was accepted, income adopted as chargeable at special rate was incorrect. As per the order of

intimation, tax credit of entire TDS claimed in the return was granted while processing, however, income taxable at special rate was adopted more by Rs.2,64,91,600/- resulting in a tax demand of Rs.35,68,200/-. The assessee therefore, filed rectification application u/s 154 of the Act before the Ld. CPC. However, the rectification application was processed by the Ld. CPC assessing same total income as computed in intimation order.

3. Aggrieved, the assessee filed an appeal before the Ld. CIT(A)/NFAC, *inter alia*, raising a ground that the Ld. CPC erred in adding amount of Rs.2,64,91,594 as Long Term Capital Gain and further erred in raising tax demand @ 10% (plus surcharge, etc.) despite the fact that the very same amount of Rs.2,64,91,594 was already included in the total income of the assessee while filing return u/s 139(1) of the Act. The assessee contented that the amount of Rs. 264,91,594 has been doubly taxed, which ought to be corrected. The Ld. CIT(A)/NFAC after considering the submissions of the assessee which are reproduced in para 8 of his impugned order dismissed the above ground raised by the assessee by observing as under:

“9. FINDINGS:-

During these appellate proceedings, the statement of facts, the grounds of appeal as well as any document/evidence filed with Form 35, the contention(s) of the appellant as well as his submissions, including evidences and case-laws, filed during the course of hearing of the case (online and/or offline), the argument(s) of the AO as emanating from his rectification order under challenge as well as the content(s) and remark(s)/comment(s)/conclusion(s) of the AO in his/her remand report, if any, have been carefully perused and considered. The appellant has contended that the AO-CPC has already accepted the gross total income offered by the appellant. However, the CPC has charged the long-term capital gain of Rs. 2,64,91,594/- on sale of listed equity share and equity oriented mutual funds at special rates, other than section 115BBE. During the course of Appellant proceeding, the appellant has submitted details of the Long-Term Capital Gain earned during the year under consideration. A copy of the same is reproduced below:-

LONG TERM CAPITAL GAIN ON EQUITY SHARES U/S 112A
Annexure - 8

Scrip Name	Date of Pur	Period of Holding	Qty	Pur_Rt	FMV	Cost as per 55	Date of sale	Sale_Rt (Net off Brokerage)	Sale Proceeds (Rs)	Capital Gain/(Loss) Rs
Larsen & Tourbro Infotech Ltd.	11-Jan-18	Long Term	430	0	1,372	5,89,767	28-Dec-21	7,283	31,31,527	25,41,760
Larsen & Tourbro Infotech Ltd.	11-Jan-18	Long Term	1010	1	1,372	13,85,266	30-Dec-21	7,283	73,55,446	59,70,181
Larsen & Tourbro Infotech Ltd.	11-Jan-18	Long Term	1440	1	1,372	19,75,032	03-Jan-22	7,382	1,06,30,498	86,55,466
Larsen & Tourbro Infotech Ltd.	11-Jan-18	Long Term	1440	1	1,372	19,75,032	03-Jan-22	7,482	1,07,74,152	87,99,120
Wipro Ltd	23-Apr-13	Long Term	1000	342	309	3,42,000	28-Sep-21	638	6,38,180	2,96,180
Strides Pharma Ltd.	07-Jan-13	Long Term	400	1052	786	4,20,784	28-Sep-21	582	2,32,908	(1,87,876)
Solara Active Pharma Sciences Ltd.	01-Apr-15	Long Term	66	0	-	-	28-Sep-21	1,638	1,08,113	1,08,113
										2,61,82,944

LONG TERM CAPITAL GAIN U/S 112A
Annexure-5

Category	Sub-category	AMC	Scheme Name	Quantity	Purchase				Redemption			Long Term Gain
					NAV Date	NAV	Value	Indexed Value	NAV Date	NAV	Value	
Equity	Focused Fund	KOTAK MAHINDRA MUTUAL FUND	KOTAK FOCUSED EQUITY FUND - REGULAR PLAN - GROWTH	50,000	18-Jul-2019	10	5,00,000	5,48,443	13-Sep-2021	16	8,08,650	3,08,650
												3,08,650.00

As seen from the intimation order dated 06.10.2023, the AO-CPC in spite of accepting the gross total income at Rs. 2,64,91,594/- has calculated total income at Rs. 5,37,30,540/-. Relevant part of Page 8 of the Intimation order is reproduced below:-

10		Gross Total Income [10=(8-9)]	2,73,98,944	2,73,98,944
11	SPECIAL INCOME	(i) Income chargeable to tax at special rate u/s 115BBE	0	0
		(ii) Income chargeable to tax at special rate other than section 115BBE	2,66,60,752	5,31,52,346
12	CHAPTER VI-A	Deductions Under Chapter VI-A	1,60,000	1,60,000
13		Total Income [13=(10-12)]	2,72,38,940	5,37,30,540
14		Income which is included in 13 and chargeable to tax at special rates (total of column (i) of schedule SI)	2,66,60,752	5,31,52,346

The addition made to the extent of Rs. 2,64,91,594/- is the amount of long term capital gain u/s. 112A, being gain on sale of listed equity share and equity oriented mutual funds during the year. As seen from the page from 8 of the ITR filed for the year under consideration, the appellant has already offered this amount in his ITR under the head "Capital Gain". A copy of

the same is extracted below:-

7	For NON-RESIDENTS - From sale of equity share in a company or unit of equity oriented fund or unit of a business trust on which STT is paid under section 112A		
a	LTCG u/s 112A (column 14 of Schedule 115AD(1)(b)(iii))	7a	2,64,91,594
b	Deduction under sections 54F (Specify details in item D below)	7b	0
c	Long-term Capital Gains sale of capital assets at B7 above (7a-7b)		B7c 2,64,91,

Decision

The issue arises from the fact that, despite the appellant's claims and submission of relevant details regarding the capital gains, the supporting documentation related to the purchase and sale dates of the equity shares and mutual funds has not been submitted. The appellant has failed to provide sufficient evidence to verify the actual purchase and sale transactions of the assets, which are necessary to confirm whether the gains are long-term or short-term in nature.

While the appellant has presented the gross total income, it is crucial to substantiate the claim of long-term capital gain with adequate documentation. This includes transaction dates, purchase prices, sale prices, and proof of holding period for the equity shares and mutual funds. The failure to submit these evidentiary documents leaves the claim open to dispute.

In light of the above, the appellant's claim regarding the long-term capital gain amount of Rs. 2,64,91,594/- cannot be fully accepted in the absence of supporting documentation. As per the applicable tax provisions, if the necessary documents confirming the long-term nature of the capital gain are not provided, the AO is justified in re-assessing the charge on these gains. Furthermore, the assertion that the amount has already been offered in the ITR does not mitigate the need for documentation to validate the accuracy of the claim.

Therefore, it is concluded that the assessment as made by the AO-CPC stands, and the ground of appeal is dismissed.

4. Dissatisfied, the assessee is in appeal before the Tribunal raising the following grounds of appeal :

- “1. The learned CIT(A) has erred in law and on facts in upholding the addition of Rs. 2,64,91,594 made by the learned AO (CPC-Bangalore) to the total income of the appellant on account of alleged LTCG.
2. The Ld. CIT(A) erred in upholding the adjustment made by the CPC u/s 143(1) resulting in double taxation of LTCG amounting to Rs. 2,64,91,594/-. Appellant contends that LTCG of Rs. 2,64,91,594/- was already declared in the return of income and formed part of the Gross Total Income. The Ld. CIT(A) failed to appreciate that the said addition leads to double taxation of same income.
3. The Ld. CIT(A) erred in upholding the addition made by the CPC solely on ground of non-furnishing details of dates of purchase and sale of shares of multiple companies. Appellant contends that separate opportunity ought to have been granted for submitting contract note for purchase and sale of shares.
4. The Ld. CIT(A) erred in not adjudicating the ground no. 4 raised before him relating to non-issuance / non-service of the mandatory intimation under 1st proviso of section 143(1)(a). Failure to provide intimation as mandated by the 1st proviso to section 143(1)(a) vitiates the proceedings u/s 143(1)(a).
5. The appellant craves leave to add/modify/amend/delete all / any of the grounds of appeal.”

5. The Ld. AR submitted that the addition of Rs. 2,64,91,594/- made to the income of the assessee is the amount of Long Term Capital Gain (LTCG) u/s 112A of the Act being gain on sale of listed equity shares and equity oriented mutual funds made by the assessee during the relevant AY under consideration. Reiterating the submissions made before the Ld. CIT(A)/NFAC and referring to page 81 of the paper book i.e. the rectification order passed by the Ld. CPC, the Ld. AR demonstrated and contended that LTCG of Rs.2,64,91,594/- was already declared in the return of income and formed part of the gross total income and hence the addition of Rs.2,64,91,594/- made by the Ld. CPC and confirmed by the Ld. CIT(A)/NFAC is incorrect as it represents income that has already been offered for tax leading to double taxation of the same income. The Ld. AR further submitted that the Ld. CIT(A)/NFAC has upheld the addition made by the Ld. CPC on the ground of non-furnishing of details of dates of purchase and sale of shares of multiple companies, however, the assessee was not granted any opportunity by the Ld. CIT(A)/NFAC to submit the required details/documents. He, therefore, requested that the impugned issue may be set aside to the file of the Ld. CIT(A)/NFAC for de-novo adjudication after granting due opportunity of hearing to the assessee.

6. The Ld. DR had no objection to the above request of the Ld. AR.

7. We have heard the Ld. Representatives of the parties and perused the material available on record. The facts of the case are not in dispute. The sole grievance of the assessee is that the LTCG of Rs.2,64,91,594/- was already declared by the assessee in his return of income and formed part of the gross total income and hence the impugned addition made by the Ld. CPC and confirmed by the Ld. CIT(A)/NFAC leads to double taxation of the same income. The Ld. CIT(A)/NFAC has upheld the rectification order of the Ld. CPC for the reasons reproduced in the preceding paragraphs. We find that the Ld. CIT(A)/NFAC has not accepted the assessee's claim regarding LTCG of Rs.2,64,91,594/- due to the absence of adequate documentation in support thereof. Before us, the Ld. Counsel for the assessee has submitted that given an opportunity the assessee is in a position to substantiate his claim by filing the requisite details/documentary evidence to the satisfaction of the Ld. CIT(A)/NFAC. Considering the totality of the facts and in the circumstances of the case,

we deem it proper to restore the impugned issue to the file of the Ld. CIT(A)/NFAC to verify the claim of the assessee in light of the submissions and details/documentary evidence that may be filed by the assessee during the fresh proceedings before him, after affording due opportunity of hearing to the assessee and allow the assessee's claim as per fact and law as a result thereof. Needless to say, the assessee shall provide the requisite support in terms of submitting the relevant documents/evidence as may be required/called upon on the appointed date without seeking any adjournment under any pretext, failing which the Ld. CIT(A)/NFAC shall be at liberty to pass appropriate order in accordance with law. We direct and order accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

8. In the result, the appeal of assessee is treated as allowed for statistical purpose.

Order pronounced in the open court on 10th April, 2026.

Sd/-
(R.K. Panda)
VICE PRESIDENT

Sd/-
(Astha Chandra)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 10th April, 2026.
रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

सहायक पंजीकार/ Assistant Registrar
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune