

OD - 5

IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction [Income Tax]

ORIGINAL SIDE

ITAT/149/2025
IA NO: GA/1/2025, GA/2/2025
PRINCIPAL COMMISSIONER OF INCOME TAX 13 KOLKATA
VS
PRADIP KUMAR JAJODIA HUF

BEFORE :
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)
Date : 21th August, 2025

Appearance :
Mr. Tilak Mitra, Adv.
Mr. Prithu Dudhoria, Adv.
...for the appellant.

The Court : This appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order dated December 30, 2024 passed by the Income Tax Appellate Tribunal, A - Bench, Kolkata (the Tribunal) in ITA/191/Kol/2024 for the assessment year 2016-17.

There is a delay of 40 days in filing the appeal. The respondent has been served but none has appeared for the respondent. As the delay has been properly explained, the same stands condoned. Accordingly, the application, IA NO: GA/1/2025, is allowed.

We have heard Mr. Tilak Mitra, learned senior standing counsel for the appellant/revenue.

The substantial questions of law suggested by the revenue are as hereunder :

“a) Whether in facts and circumstances of the case the Ld. Income Tax Appellate Tribunal was not justified in law in deleting the addition of Rs.9,87,300/- without considering the larger scam of tax evasion by way of bogus Capital Gain Generated in penny stock?

b) Whether in facts and circumstances of the case the Ld. Income Tax Appellate Tribunal's order was erroneous in law and in fact when it failed to give credence to investigations made by the Assessing Officer, Investigation Wing of the Income Tax Department as well as SEBI on astronomical rise in prices of shares of companies which have no net worth and no financial foundation and thereby failed to apply the test of human probability to ascertain the true nature of transactions resulting in bogus LTCG in view of the fact that the departmental appeal is allowed by the Hon'ble High Court at Calcutta of Bogus LTCG (Penny Stock) case in ITAT No.31 of 2020 of Pr. CIT-5 Vs. Swati Bajaj on June 14, 2022?”

The assessee preferred an appeal before the Tribunal challenging the order passed by the National Faceless Appeal Centre (NFAC) under Section 250 of the Act. The question which fell for consideration before the learned Tribunal was whether the reopening of the assessment under Section 147/148 of the Act was valid in law. The learned Tribunal has examined the factual aspects in a very detailed manner and found that the action of the assessing officer was not valid for the purpose of reopening of the assessment since the reason stated for reopening was that the assessee had traded in shares of Appu Marketing & Manufacturing Ltd./Ejecta Marketing Ltd., which information the Tribunal found was very much available on record when the assessment was completed under Section 143(3) of the Act. Therefore, we are of the view that the learned Tribunal was fully justified that there was no reason to believe that the income chargeable to tax has escaped assessment and that the assessee failed to

fully and truly disclose all information for completing the assessment. Thus, the conclusion of the Tribunal that the reasons assigned by the assessing officer in reopening the assessment are not reason to believe but reason to suspect is well founded. Thus, we find that there is no question of law much less substantial question of law arising for consideration in this appeal.

Accordingly, the appeal fails and is dismissed. Consequently, the application, GA/2/2025, stands dismissed.

(T.S. SIVAGNANAM, CJ.)

(CHAITALI CHATTERJEE (DAS), J.)