

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE

BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

(Conducted through Virtual Court)

ITA No.74/Ind/2019
Assessment Year: 2014-15

Shri Abhishek Gupta, 303, Sangeeta Apartment 66, Bhagwandeem Nagar, Indore (Appellant / Assessee)	<u>बनाम</u> <u>/Vs.</u>	ITO -Ward-5(5) Indore (Respondent/ Revenue)
PAN: AGAPG4006E		
Assessee by	Shri Shubhash Jain, AR	
Revenue by	Shri R. S. Ambedkar / Shri Aditya Shukla, Sr. DR	
Date of Hearing	17.05.2022 / 21.07.2022	
Date of Pronouncement	17.08.2022	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

1. This appeal filed by the assessee is directed against the order dated 29.11.2018 of learned Commissioner of Income-Tax (Appeals)-II, Indore [**"Ld. CIT(A)"**] in Appeal No. IT-10421/16-17/530, which in turn arises out of the order of assessment dated 22.12.2016 passed by the learned ITO, Ward-5(5), Indore [**"Ld. AO"**] u/s 143(3) of the Income-tax Act, 1961 [**"the Act"**] for the Assessment-Year 2014-15.

2. The assessee has raised following grounds:

- “1. On the basis of fact & records, learned CIT (Appeal) has erred in confirming the action of AO regarding taxed to the exempted long terms capital gain Rs. 6458168/- under section 10(38) of the income Tax Act as other source of Income u/s 68 of the Act.**
- 2, On the facts & circumstances of the case and in Law Learned CIT(A) erred in confirming the addition after ignoring to the various documents & evidence related to exempted long term capital gain treated as other source of Income.**
- 3. On the fact and circumstances of the case the Learned CIT (A) erred in framing the order after observing as the statement of Appellant recorded during the Assessment Proceedings. And he denied of dealt of Shares of M/s Turbo Tech Engineers Ltd. Thus whole Appeal Order has been framed on warm facts. Hence bad in Law.**
- 4. On the facts & in the circumstances of the case the Learned CIT(A) erred in not accepting the fact that the Assessment for the Assessment Year 2014-15 has been finalized after keeping in view of general information of Investigation Wing instead of specific of the assessee.**
- 5. On the facts & in the circumstances of the case Learned CIT(A) erred in not appreciating the facts that the Assessee earned long term Capital Gain on Transfer in Single Scrip of M/s Turbo Tech Engineers Ltd.**
- 6. That on the fact and in the circumstances of the case, the learned CIT (A) has erred in confirming the action of AO regarding addition of the Notional Commission calculated on such Share Transaction without any evidence to whom paid.**
- 7. That the appellant reserves its right to add to amend to alter or to modify any of above grounds and to pursue any other or further grounds as may be required.”**

3. The assessee-individual filed his return of income on 31.07.2014, a copy of which is placed in the Paper-Book, declaring a total income of Rs. 2,33,320/- from tuition, laptop work and interest. In the return, the assessee

also declared a long-term capital gain of Rs. 64,58,168/- earned from sale of equity shares of Turbotech Engineering Ltd., exempted u/s 10(38) of the act. The assessee claimed to have purchased 35,000 shares of Turbotech Engineering Ltd. for Rs. 1,77,192/-, sold the same for Rs. 66,35,360/- and thereby earned a whopping capital gain of Rs. 64,58,168/-. Apprehending the capital gain as suspicious, the case was selected for scrutiny under CASS and the statutory notices u/s 143(2) and 142(1) were issued from time to time. During assessment-proceeding, the Ld. AO asked the assessee to prove the capital gain, in response to which the assessee made a detailed submission. Observing that the assessee has made an unrealistic non-taxable capital gain of Rs. 64,58,168/- on a very small investment of just Rs. 1,77,192/- and that too within a short period of just 17 months by indulging in the transactions of what is called “penny stock”, the Ld. AO completed assessment u/s 143(3) by order dated 22.12.2016 after making a total addition of Rs. 65,87,330/- on two counts, viz. (i) Ld. AO treated the capital gain of Rs. 64,58,168/- as bogus receipt u/s 68 of the Act, and also (ii) Ld. AO added a sum of Rs. 1,29,162/- on account of estimated brokerage-cost incurred by assessee out of undisclosed sources for arranging bogus capital gain. Aggrieved by the order of assessment, the assessee filed appeal to Ld. CIT(A). The Ld. CIT(A), however, dismissed appeal and did not grant any relief. Now, the assessee has assailed the order of Ld. CIT(A) in this appeal filed before us.

4. During hearing, the Ld. AR did not press Ground No. 3. Therefore, with the consent of both sides, Ground No. 3 is treated as withdrawn and does not call for adjudication by us. Ground No. 7 is also general and does not require any adjudication. We, therefore, proceed to decide other Grounds.

5. By means of various effective Grounds, the assessee has challenged the twin-additions made by Ld. AO, viz. (i) addition of Rs. 64,58,168/- in respect of bogus capital gain, and (ii) addition of Rs. 1,29,162/- on account of estimated brokerage cost incurred by assessee out of unexplained sources.

6. Before proceeding further, we may note down the undisputed facts of the impugned transactions of capital gain, as culled out from the assessment-order, the order of Ld. CIT(A) and the material held in the Paper-Books submitted by parties so that the issues can be better understood in subsequent paragraphs:

- (i) **Purchase** - The assessee purchased 35,000 shares of Turbotech Engineering Ltd. for a sum of Rs. 1,77,192/- on 04.04.2012 through M/s Pragati Shares and Stock Services, a SEBI-registered member of The Inter-Connected Exchange, Mumbai. The Contract-Note of purchase is placed in the Paper-Book, which demonstrates that the assessee has paid brokerage, service-tax and STT on purchase. The purchase is made through stock-exchange and the Order No., Trade No., Settlement No. and Trade-timings are duly mentioned in the Contract-Note. The purchase consideration was paid in cash which is a fact noted by Ld. AO on Page No. 4 of the assessment-order and also admitted by Ld. AR during hearing.
- (ii) **Holding** - Although the assessee purchased shares on 04.04.2012, they were credited in his Demat A/c on 08.10.2013 i.e. after a period of about 17 months and just before the sale on 10.10.2013 / 17.10.2013. A copy of the Demat A/c is placed in the Paper-Book.
- (iii) **Sale** - The shares were sold for a sum of Rs. 66,35,360/- on 10.10.2013 / 17.10.2013 through M/s Indo Thai Securities Ltd., a SEBI-registered member of Bombay Stock Exchange, Mumbai. The Contract-Notes of sales are placed in the Paper-Book, which demonstrate that the assessee has paid brokerage, service-tax and STT on sales. The sales is made through stock-exchange and the Order No., Trade No., Settlement No. and Trade-timings are duly mentioned in the Contract-Notes. The sale-consideration is received through banking channel and the same is credited in the Bank A/c of assessee. A copy of Bank Statement is also placed in the Paper-Book.

7. During assessment-proceeding, the Ld. AO made following observations:
- (i) The assessee has earned capital gain from the transactions of shares of Turbotech Engineering Ltd., which falls within the category of a “Penny stock” as per the information available with the Income-tax Department and this scrip has been used by persons to provide / obtain exempted capital gain u/s 10(38) of the act.
 - (ii) The income-tax department has conducted various searches/surveys/enquiries on the members of stock-exchanges which have resulted into the unearthing of syndicates of various players involved in providing bogus accommodation entries of capital gain. Those players work as syndicate and manipulate market prices of “penny-stocks” in order to provide exempted capital gain to the interest persons in lieu of unaccounted cash, with the objective to covert black money into white without payment of income-tax. Ld. AO has narrated the *modus operandi* applied by them for providing such bogus capital gain.
 - (iii) Ld. AO examined the financials of Turbotech Engineering Ltd. and observed that the market capitalization of the company is very small and the P&L A/c shows that the company had no business during last 5 years. He further observed that the company had suffered losses during the period. He observed that the weak financials demonstrate that the company is having neither fundamentals nor potential.
 - (iv) Ld. AO analysed the stock-market data of the share of Turbotech Engineering Ltd. and observed that the market price is unrealistic and not related to the financial results of the company. Ld. AO observed that the price of share was very low till January, 2011 which then continuously increased. Thereafter, the price again fell down and came to initial stage. Ld. AO, thus, observed that the market price of the share was artificially and intentionally rigged by about 3644% when

there was no related-growth in the company with an objective to provide accommodation entry.

- (v) Ld. AO issued a summon u/s 131, followed by reminders, to the assessee to afford an opportunity to the assessee as also to ascertain the truth of the transactions undertaken by assessee. But the assessee did not appear. Ld. AO, therefore, concluded that the assessee did not have knowledge of the financials and credentials of Turbotech Engineering Ltd., whose prices have registered a whopping increase of 3644% in just one year.
- (vi) Ld. AO also gathered data of the persons who purchased shares from the assessee through the stock-exchange and issued notices u/s 133(6) to those persons. In the notices, Ld. AO called upon those persons to submit the relevant details. However, none of them responded.

8. Based on above observations, the Ld. AO inferred that the capital gain declared by the assessee is not genuine and the same has been arranged by the assessee so as to claim benefit of section 10(38). Therefore, the Ld. AO assessee issued show-cause notice dated 02.12.2016 to the assessee, the contents of which are extracted below:

"आपके द्वारा किये गये व्यवहारों के सम्बन्ध में विभाग द्वारा आयकर अधिनियम, 1961 की धारा 132 के तहत ई स्टॉक एक्सचेंज के ब्रोकर्स एवं कई निर्धारितियों के ठिकानों पर सर्च एवं धारा 133 ए के तहत की गई सर्वे कार्यवाही के दौरान अन्वेषण विभाग को इस प्रकार के दस्तावेज/साक्ष्य हाथ लगे या पाए गये जिनके अवलोकन करने पर पाया गया कि, कई सिंडिकेट्स द्वारा तैयार किये गये प्लेटफार्म पर कई खिलाड़ियों द्वारा LTCG से संबंधित बोगस इंट्रीयाँ (Bogus Entries) स्टॉक एक्सचेंज के माध्यम से मैन्युप्लेट (Manipulation of stock Market) करके पेनी स्टॉक बायर्स की ट्रेडिंग के माध्यम से लोगो को बोगस दीर्घ-कालीन पूंजीगत लाभ, बोगस अल्प-कालीन पूंजीगत लाभ, बोगस दीर्घ-कालीन हानि एवं बोगस अल्प-कालीन पूंजीगत हानि से सम्बंधित बोगस इंट्रीयाँ (Bogus Entries) उपलब्ध करवाई गई, जिसमे वित्तीय व्यवहार दो पार्टियों के मध्य किये गये एवं एक पार्टी द्वारा अपनी लेखा पुस्तकों के

माध्यम से इंट्रियाँ अन्य पार्टी को दी गईं, जिनमें से अधिकतर व्यवहार नगद में किये गये हैं जिससे खरीदी लागत एवं एक निश्चित दर पर कमीशन/ब्रोकरेज के साथ भुगतान किया गया ।

इस प्रकार आपके द्वारा जो व्यवहार किये गये हैं वह एक सोची समझी योजना के तहत किये गये हैं जिन्हें विभागीय कार्यवाही के तहत दर्ज बयानों में उक्त कंपनियों के प्राधिकृत अधिकारी/निदेशकों द्वारा स्वीकार किया गया है कि हमारे द्वारा विभिन्न वेनिफिसरिज को एकमोडेशन इंट्रियाँ (These accommodation entries are taken by various beneficiaries) उपलब्ध करवाई जाती रही है । इस प्रकार उपरोक्त तथ्यों के आधार पर सिद्ध होता है कि आपके द्वारा जो दीर्घकालीन पूंजीगत लाभ से सम्बंधित बोगत इंट्रियाँ (Bogus Entries) प्राप्त करके दीर्घ-कालीन पूंजीगत लाभ अपनी आयकर विवरणी में दर्शाया गया तथा उस आय पर धारा 10(38) के तहत छूट का दावा कर कर मुक्त रखा गया जो न्यायोचित नहीं है क्योंकि आपके द्वारा किये गये व्यवहार वास्तविक होते तो विचाराधीन वर्ष के अलावा अन्य वर्षों में भी उक्त स्क्रिप् में एवं इसके अलावा अन्य स्क्रिप् में भी नियमित रूप से निवेश किया गया होता, लेकिन आपके द्वारा ऐसा नहीं किया गया है, इससे स्वतः ही स्पष्ट होता है कि, आपके द्वारा किये गये व्यवहार बोगस है एवं इन व्यवहारों को बोगस मानते हुए आपकी आय में जोड़ा जाना प्रस्तावित है । "

9. Responding to above notice, the assessee filed a detailed reply, the contents of which is noted by Ld. AO in Para No. 8 of the assessment-order. However, the Ld. AO was not satisfied with the submissions of assessee and relying upon following decisions favouring Revenue, the Ld. AO made twin-additions as mentioned in the beginning:

- (a) M/s Sumati Dayal Vs. CIT (1995) 214 ITR 801 (SC)
- (b) Shammin Varmani, ITA No. 4906/Mum/2011
- (c) Ziauddin A. Siddique ITA No. 4699 and 4700/Mum/2011

10. During first appellate proceeding, the assessee submitted a detailed reply to Ld. CIT(A) reiterating almost same submissions as made before Ld. AO but with the support of some more judicial precedents. However, the assessee did not find any favour from the Ld. CIT(A) who confirmed firstly the addition of Rs. 64,58,168/- by concluding as under:

“4.6 Hence, it is clear from the above facts, judicial decisions so discussed above and circumstances that it was a sham transaction which cannot stand the test of human probability and therefore, the addition so made by the AO is hereby confirmed and accordingly, these grounds of appeal are dismissed.”

Secondly, the Ld. CIT(A) also confirmed the addition of Rs. 1,29,162/- by holding as under:

“During the year under consideration, the appellant had made some expenses in the form of brokerage. The said expenses were incurred by the appellant in respect of transactions of shares with a penny stock company. Hence, the AO had rightly added the said amount to the appellant’s income. The addition so made by the AO is hereby confirmed and accordingly, this ground of appeal is hereby dismissed.”

The Ld. CIT(A) has also relied upon following decisions in arriving at above conclusions:

- (a) CIT Vs. Durga Prasad More (1971) 82 ITR 540 (SC)
- (b) M/s Sumati Dayal Vs. CIT (1995) 214 ITR 801 (SC)
- (c) Sanjay Bimal Chand Jain L/H Shantidevi Bimal Chand Jain Vs. PCIT, ITA No. 18/2017 (Bombay High Court)
- (d) Chandan Gupta Vs. CIT (2015) 54 taxmann.com 10 (P&H)
- (e) Balbir Chand Maini Vs. CIT (2011) taxmann.com 276 (P&H)
- (f) Usha Chandresh Shah Vs. ITO (2014-TIOL-1459-ITAT-MUM)
- (g) Ratnakar M Pujari Vs. ITO (2016-TIOL-1746-ITAT-Mum)

11. Before us, the Ld. AR made a very lengthy submission. Ld. AR drew our attention to the various documents placed in the Paper-Book to explain that the transactions undertaken by assessee are very much genuine. The Ld. AR raised several contentions, which we precisely summarize below:

- (i) The purchase and sale transactions are adequately supported by the documents in the form of Contract-Notes, Demat A/c and Bank Statement. The lower authorities have not found even iota of deficiency in any of these documents.

- (ii) The purchase and sale transactions were done in a recognized stock-exchange through the members of stock-exchanges who are registered by SEBI. Nothing adverse is found by lower authorities with regard to those members.
- (iii) The Contract-Notes include Trade Nos., Contract Nos., Settlement Nos. and Trade Timings and there is no dispute over those details.
- (iv) Contract-Notes clearly evident that the assessee has paid statutory levies such as Service-tax and STT, which have certainly gone to the pocket of exchequer.
- (v) The delivery of shares had been taken and given, which is very much evident from the Demat A/c held with State Bank of India. Therefore, the genuineness of purchase and sale cannot be doubted.
- (vi) The searches/surveys/enquiries conducted by department were actions against those persons upon whom they were conducted. The assessee is not related in any way with those searches/surveys/enquiries. Further, the findings made in those actions were general and not of the assessee. The Investigation-Report of Investigation Wing, Kolkata of Income-tax Department dated 27.04.2015 [**“Investigation-Report”**], being relied upon by the authorities, is a general report. It does not include assessee’s name. The Investigation-Report does not make any allegation *qua* the assessee.
- (vii) Regarding whopping increase in the prices of share purchased and sold by assessee, stock market does not have a predictable behavior. The prices of any share can go up or down and it depends on several factors and not simply the financials of the company. In any case, the assessee is a small-level person and did not have any control over the prices of stocks.
- (viii) The revenue does not have any evidence to dislodge the transactions of assessee. Revenue is simply relying upon the conjectures, surmises,

generalized *modus operandi* and preponderance of human probabilities as against the specific evidences placed by the assessee on record. Therefore, the approach of revenue is faulty and not valid.

- (ix) This is not the solitary transaction done by assessee. In fact, the assessee has also purchased and held other shares too, which is evident from the Statement of Affairs placed in the Paper-Book. Even the details of those other shares were also supplied to the Ld. AO during assessment-proceeding and those details are also noted by Ld. AO at Page No. 24 to 26 of the assessment-order.
- (x) Ld. AR has filed copies of several decisions in favour of assessee in the Paper-Book but during the course of hearing, the Ld. AR referred to and relied upon the following decisions:
 - (a) ITAT Indore in Govind Hari Narayan Agarwal HUF, ITA No. 60/Ind/2019, order dated 28.06.2021
 - (b) ITAT Kolkata in Rachna Agarwal Vs. ITO, Ward-28(4), Kolkata, order dated 08.04.2022
 - (c) Hon'ble Delhi High Court in PCIT Vs. Smt. Krishna Devi – ITA No. 125, 130 and 131 of 2020, decision dated 15.01.2021

12. Per contra, Ld. DR placed heavy reliance on the observations and reasoning given by lower authorities and argued that the transactions done by assessee are only paper-transactions and the capital gain declared by the assessee is not a real profit but a bogus income arranged by assessee. According to Ld. DR, the assessee has arranged bogus capital gain to claim the benefit of section 10(38). During his arguments, the Ld. DR emphasized following vital aspects:

- (i) During assessment-proceeding, the Ld. AO summoned the assessee by issuing summon u/s 131. But the assessee did not appear before Ld. AO. The attitude of assessee is thus indicative that the assessee does

not want the department to cull out truth. Non-compliance of statutory summon issued u/s 131, must lead to the conclusion against the assessee.

- (ii) The assessee has purchased shares of a company which had neither financials nor potential. The assessee has not produced any advice-letter of the broker or competent person who had advised to invest hard-earned money in the game of such a weak company.
- (iii) It is true that the assessee has also made investment in other shares but that that investment is very nominal. Further those shares held by assessee are not “penny stocks” and the department is also not raising any doubt on those shares. But the share of Turbotech Engineering Ltd., with which we are concerned, is a “penny stock”.

13. In rejoinder, the Ld. AR attempted to rebut the points emphasized by Ld. DR by drawing our attention to Page No. 117 of the Paper-Book where an affidavit dated 28.09.2016 filed before Ld. AO, is placed. Ld. AR submitted that in response to the summon issued by Ld. AO u/s 131, the assessee appeared but on the fixed date of hearing, the Ld. AO was not in office due to involvement in carrying out survey and the office of AO informed that new notice of hearing would be issued. Ld. AR submitted that the assessee has, however, filed the aforesaid affidavit to Ld. AO but the Ld. AO has ignored the affidavit. Referring to Point No. 4 of the affidavit, Ld. AR also pointed that the assessee has clearly averred in the affidavit that he purchased shares due to several messages being received on the mobile phones of family-members about good returns.

14. In response, the Ld. DR continued his insistence that the assessee has made non-compliance of the summon issued by Ld. AO u/s 131. Ld. DR contested that the affidavit nowhere contains any averment of the assessee to the effect that it was filed in compliance to the summon u/s 131 or that the Ld. AO was not available on the date of hearing fixed by summon and his office conveyed to fix a new date of hearing. Ld. DR submitted that had there

been any such fact, the assessee would have certainly averred. Ld. DR further raised a serious doubt in the claim of assessee that the advice to purchase shares of Turbotech Engineering Ltd. was actually received on the mobiles phones, more interestingly the mobile-phones of family members, and the assessee was impressed to invest hard-earned money based on such messages. According to Ld. DR, this claim of assessee is not appealing.

15. We have considered rival submissions, perused the material held on record and also considered various judicial decisions cited before us. At the outset, we observe that there are different decisions by Hon'ble Courts on both sides, some in favour of assessee and some in favour of revenue. While the Ld. AR places reliance on the decisions in assessee's favour, the revenue relies upon the decisions in its favour. On a careful analysis we observe that in some decisions, the additions were made in the proceeding of section 153A/153C but the same were deleted there being no incriminating evidence. In some cases, the additions were deleted on the ground that the shares transacted by the assessee were not appearing in the Investigation-Report prepared by Investigation Wing, Kolkata of income-tax department. In some cases, the additions have been deleted because the assessee has not claimed any benefit of exemption u/s 10(38) or set-off of losses but the assessee has offered the profit from alleged transactions as normal income and paid legitimate tax. Yet in some cases, the additions have been deleted or confirmed on the basis of off-market transactions or transactions done in cash. In some cases, the additions have been deleted or confirmed accepting / not accepting the absence of cross-examination, non-compliances of notices by the assessee or preponderance of probability, human behavior, etc. Hence every decision has its own set of facts, circumstances, analysis and angles of thought and there cannot be a universal conclusion. However, in all fairness, we would like to discuss the decisions relied upon by the assessee:

- (a) **ITAT Indore in Govind Hari Narayan Agarwal HUF, ITA No. 60/Ind/2019, order dated 28.06.2021:**

This decision is directly related to the shares of Turbotech Engineering Ltd., as involved in present appeal, and therefore the Ld. AR, as it seems, has relied upon. We extract below the relevant paragraphs of decision:

“21. Further we observe that in the case of Govind Harinarayan Agrawal HUF, Manish Govind Agrawal HUF alleged issue of gain from share is from sale of equity shares of Turbotech. Similar type of issue of the alleged bogus of Long Term Capital Gain from sale of shares of Turbotech came up before the Co-ordinate Bench held in the case of Swati Luthra wherein the Co-ordinate Bench has decided in favour of the assessee allowing both the grounds raised on merits as well as legal observing as follows:-

12. We have heard the rival submissions and perused the orders of the lower authorities and materials available on record. We find that the transactions of the assessee of purchase of shares of M/s Esteem Bio and M/s Turbotech., holding of the shares for more than one year and the sale of shares through a registered share broker in a recognized Stock Exchange and payment of Securities Transaction Tax thereon, all were supported by documentary evidences which were placed before the lower authorities. The Revenue could not point out any specific defect with regards to the documents so submitted by assessee. In our considered view, effect of a transaction which is supported by documentary evidences cannot be brushed aside on suspicion or probabilities without pointing out any defect therein.

13. In the instant case, the Assessing Officer himself observed that the movement in price of shares of M/s Esteem Bio and M/s Turbotech were without any backing of financial performance of the said companies. In our considered view, the above factor at best was a pointer or cause for careful scrutiny of the transaction by the Assessing Officer but from it cannot be concluded that transactions were sham. It is a matter of common knowledge that prices of shares in the share market depends upon innumerable factors and perception of the investor and not alone on the financial performance of the company. Further, we also find from record that Ld. AO also didn't confront copies of statements recorded by Investigation Wing, Kolkata of Sh, Nikhil Jain, Sh. Sanjay Vora, Sh. Rakesh Somani, Sh. Anil Kumar Khemka and Sh. Bidyoot Sarkar to the appellant during assessment

proceedings and merely extracted copies of their statement in the assessment order only. The Ld. AO has not confronted any material to the assessee nor provided any adequate opportunity to the assessee to defend her case. Since the statements were not confronted to the assessee, she was deprived of her right to cross examine the witnesses. Also whatever they have stated in their statement is no gospel truth and cannot be applied blindly to all the persons who have brought the scrips in the entire country. Thus, under these circumstances, at least some inquiry should have done from these persons, whether they have provided any entry to the assessee, if the request for cross examination was not possible at that stage. Cross examination of a person in whose basis any adverse inference is drawn, then it cannot be primary evidence or material to nail the assessee and simply based on the statement no addition can be made. This has been held so by various courts, and also by Hon'ble Apex Court in the case of M/s Andaman Tiimber Industries vs. CCE (SC) reported in 127 DTR 241 has held as follows:"

"23. We therefore in the light of above judgments which are squarely applicable in the issues raised in the instant appeals are of the considered view that the claim of Long Term Capital Gain made by the respective assessee(s) deserves to be allowed as they have entered into the transactions of purchase and sales duly supported by the documents which have not found to be incorrect. The conditions provided u/s 10(38) of the Act have been fulfilled by the assessee(s) namely Shivnarayan Sharma, Sapan Shaw, Prayank Jain, Govind Harinarayan Agrawal (HUF) and Manish Govind Agrawal (HUF) as they have sold the equity shares held in Demat account and transactions performed on a recognised stock exchange through registered broker at the price appearing on the exchange portal and at the point of time of sale of equity shares, companies were not marked as shell companies by SEBI and nor the trading of these scrips were suspended. The assessee also deserves to succeed on the legal ground as no opportunity was awarded to cross examination the third person which were allegedly found to be providing accommodation entries and therefore no addition was called for in the hands of the assessee without providing opportunity of cross examination in view of the ratio laid down by Hon'ble Apex Court in the case of Andaman Timber Industries vs. CCE 281 CTR 241 (SC) that "not allowing the assessee to cross examine the witnesses by the adjudicating authority though the statements of those witnesses were made the basis of the impugned order is a serious flaw which makes the order nullity inasmuch as it amounted to

violation of principles of natural justice because of which the assessee was adversely affected".

Analysis:

The underlined portion clearly indicates that the ITAT has decided in favour of assessee mainly on two reasoning, (i) Ld. AO has not confronted the assessee on the copies of statements recorded by Investigation Wing, Kolkata. The Ld. AO has not confronted any material to the assessee nor provided adequate opportunity to the assessee to defend her case, and (ii) The companies were not marked as shell companies by SEBI nor the trading of these scrips were suspended. Regarding the first reasoning of confrontation / cross-examination, we observe that the recent decision of **Hon'ble Kolkata High Court in Swati Bajaj** (which we shall discuss little later) is against assessee. Furthermore, in the present-case, it is the claim of revenue that the Ld. AO provided an opportunity to the assessee by issuing a summon u/s 131 but the assessee did not avail. Regarding the second reasoning of suspension of operations by SEBI, the Investigation-Report prepared by Investigation-Wing, Kolkata of Income-tax Department (which we shall discuss little later), clearly mentions that the SEBI has suspended operations of Turbotech Engineering Ltd. Thus, both of the points considered in this decision for giving relief to the assessee, are not existing in the present appeal before us. Hence this decision is not applicable.

(b) **ITAT Kolkata in Smt. Rachna Agarwal Vs. ITO, Ward-28(4), order dated 08.04.2022:**

Ld. AR has relied upon this decision which is a very recent one in favour of assessee. We extract below the relevant paragraphs:

"20. We therefore note that since the purchase and sale transactions are supported and evidenced by confirmations, Contract Notes, Demat statements and bank statements etc., the same could not be treated as bogus simply on the basis of some

report of the Investigation Wing and/or the orders of SEBI in case of entirely different scrip. Moreover it was submitted before us by Ld AR that the Ld. CIT(A) was not justified in taking an adverse view against the assessee on the ground of abnormal price rise of the shares. The Ld AR referred to the following judgments in support of this contention wherein under similar facts of the case it was held that the AO was not justified in refusing to allow the benefit under section 10(38) of the Act and to assess the sale proceeds of shares as undisclosed income of the assessee under section 68 of the Act. We note that in order to create a tax liability in a case of this nature, the AO has to prove and establish the cash trail and the allegations, particularly in respect of the appellant, which is yet to be proved in the instant case. Similar view has been pronounced by Hon'ble Delhi High Court in the case of Pr. CIT vs Jatin Investment (P) Ltd. (2017 (2) TMI 342 - DELHI HIGH COURT) wherein it was observed "A transaction cannot be treated as fraudulent if the appellant has furnished the documentary proof and proved the identity of the purchaser and no discrepancy is found. The AO has to exercise his powers u/s 131 & 133(6) of the Act to verify the genuineness of the claim and cannot proceed on surmises. In the case of CIT vs. Lavanya Land Pvt Ltd (Income Tax Appeal No. 72 of 2014, Income Tax Appeal No. 114, 122, 124, 225, 226, 423, 425, 426 of 2014) the Hon'ble Bombay High Court ruled that the allegations made by the authorities have to be supported by actual cash passing hands or actually has changed hands. We find that in this case the AO and the Ld CIT(A) has not brought any such findings on record."

Analysis:

The underlined portion clearly indicates that the decision proceeded on the premise that the department has treated the transactions done by assessee as bogus on the basis of Investigation-Report of the Investigation-Wing and/or the orders of SEBI in case of an entirely different scrip and not the scrip transacted by the assessee. This point makes the decision non-applicable because in the present appeal the assessee has transacted in the scrip of Turbotech Engineering Ltd. which is clearly figured in the Investigation-Report of Investigation-Wing (we shall discuss the Report little later). Regarding other legal aspects considered in favour of assessee, we observe that Hon'ble ITAT Kolkata has rendered this decision on 08.04.2022 but subsequently

the Hon'ble High Court of Kolkata has held in favour of revenue in a recent decision dated 14.06.2022 in the case of **Swati Bajaj** (we shall discuss this decision little later). Therefore, we have to follow the decision of Hon'ble High Court of Kolkata which is a higher forum than the Kolkata Bench of ITAT. Hence the assessee does not get benefit of this decision too.

(c) **PCIT Vs. Smt. Krishna Devi – ITA No. 125, 130 and 131 of 2020, decision dated 15.01.2021 (Delhi High Court):**

This decision has already been taken note of in the recent decision of Hon'ble Kolkata High Court in Para No. 21 in **Swati Bajaj** (we shall discuss a little later). The Hon'ble Kolkata High Court has finally ruled in favour of revenue. Hence the assessee does not have any benefit of this decision too.

Thus, all decisions relied upon by Ld. AR do not support the assessee's case.

16. Now comes the turn of the decision of **Hon'ble High Court of Kolkata in PCIT Vs. Swati Bajaj, ITA No. 06/2022, dated 14.06.2022** decided recently in favour of Revenue. The decision is much detailed; has considered various legal precedents of the Hon'ble Supreme Court and other Courts; has taken into account the Investigation-Report dated 28.04.2015 prepared by Investigation-Wing of Income-tax Department; and considered the issues of cross-examination, human probability etc. Some relevant paragraphs of the decision are extracted below:

“69. Thus, the legal principle which can be culled out from the above decision is that to prove the allegations, against the assessee, can be inferred by a logical process of reasoning from the totality of the attending facts and circumstances surrounding the allegations/charges made and levelled and when direct evidence is not available, it is the duty of the Court to take note of the immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded so as to reach a reasonable conclusion and the test would be what inferential process that a reasonable/prudent man would apply to arrive at a conclusion. Further proximity and time and prior meeting of minds is also a very important factor especially when the income tax department has been able to

point out that there has been a unnatural rise in the price of the scrips of very little known companies. Furthermore, in all the cases, there were minimum of two brokers who have been involved in the transaction. It would be very difficult to gather direct proof of the meeting of minds of those brokers or sub-brokers or middlemen or entry operators and therefore, the test to be applied is the test of preponderance of probabilities to ascertain as to whether there has been violation of the provisions of the Income Tax Act. In such a circumstance, the conclusion has to be gathered from various circumstances like the volume from trade, period of persistence in trading in the particular scrips, particulars of buy and sell orders and the volume thereof and proximity of time between the two which are relevant factors. Therefore, in our considered view the methodology adopted by the department cannot be faulted.

70. It was argued by Mr. Bagaria that in the decision in Balram Garg, the decision in K.R. Ajmera has been overruled. To examine the correctness of the said submission, we have carefully gone through the findings rendered by the Hon'ble Supreme Court in paragraph 47 of the judgment in Balram Garg which reads as follows:

“Lastly, we have given our anxious consideration to the judgments relied upon by the learned counsel of the Respondent viz. SEBI vs. Kishore R. Ajmera [(2016) 6 SCC 368] and Dushyant N. Dalal vs. SEBI [(2017) 9 SCC 660]. Suffice it to hold that these cases are distinguishable on the facts of the present case, as the former is not a case of insider trading but that of Fraudulent/Manipulative Trade Practices; and the latter case relates to Interest Penalty rather than the subject matter at hand. Reliance placed on the case of Kishore R. Ajmera (supra) to show that presumption can be drawn on the basis of immediate and relevant facts is contrary to law already settled by this Court in the case of Chintalapati Srinivasa Raju (supra) where it is held that "a reasonable expectation to be in the know of things can only be based on reasonable inference drawn from foundational facts." It has further been held that merely because a person was related to the connected person cannot be itself be a foundational fact to draw an inference.”

71. On a careful reading of the above paragraph will show that the argument by placing reliance on the case of K.R. Ajmera to show that presumption can be drawn on the basis of immediate and relevant facts was contrary to the law already settled by the Hon'ble Supreme Court in Chintalapati S. Raju. Therefore, it would be incorrect to submit that the decision in K.R. Ajmera has been overruled. This position becomes clearer as the decision in K.R. Ajmera was referred to in Chintalapati S. Raju as could be seen in paragraph 30 of the said judgment. Therefore, we hold that the law laid down in K.R. Ajmera continues to be good law.

72. In the light of the above discussion, the only conclusion that can be arrived at is that the opinion can be formed and the decision can be

taken by taking note of the surrounding circumstances which had been elaborated upon in K.R. Ajmera.

73. It is very rare and difficult to get direct information or evidence with regard to the prior meeting of minds of the persons involved in the manipulative activities of price rigging and insider trading. We can draw a parallel in cases of adulteration of food stuff, more than often action is initiated under the relevant Act after the adulteration takes place, the users of adulterated products get affected etc. Therefore, a holistic approach is required to be made and the test of preponderance of probabilities have to be applied and while doing so, we cannot loose sight of the fact that the shares of very little known companies with insignificant business had a steep rise in the share prices within the period of little over a year. The Income Tax department was not privy to such peculiar trading activities as they appear to have been done through the various stock exchanges and it is only when the assessee made claim for a LTCG/STCL, the investigation commenced. As pointed out the investigation did not commence from the assessee but had commenced from the companies and the persons who were involved in the trading of the shares of these companies which are all classified as penny stocks companies. Therefore, the argument of the assessee that the copy of the investigation report has not been furnished, the persons from whom statements have been recorded have not been produced for cross examination are all contention which has to necessarily fail for several reasons which we have set out in the proceedings. To reiterate, the assessee we not named in the report and when the assessee makes the claim for exemption the onus of proof is on the assessee to prove the genuinity. Unfortunately, the assessee have been harping upon the transactions done by them and by relying upon the documents in their hands to contend that the transactions done were genuine. Unfortunately, the test of genuinity needs to be established otherwise, the assessee are lawfully bound to prove the huge LTCG claims to be genuine. In other words if there is information and data available of unreasonable rise in the price of the shares of these penny stock companies over a short period of time of little more than one year, the genuinity of such steep rise in the prices of shares needs to be established and the onus is on the assessee to do so as mandated in [Section 68](#) of the Act. Thus, the assessee cannot be permitted to contend that the assessments were based on surmises and conjectures or presumptions or assumptions. The assessee does not and cannot dispute the fact that the shares of the companies which they have dealt with were insignificant in value prior to their trading. If such is the situation, it is the assessee who has to establish that the price rise was genuine and consequently they are entitled to claim LTCG on their transaction. Until and unless the initial burden cast upon the assessee is discharged, the onus does not shift to the revenue to prove otherwise. It is incorrect to argue that the assessee have been called upon to prove the negative in fact, it is the assessee's duty to establish that the rise of the price of shares within a short period of time was a genuine move that those penny stocks companies had credit worthiness and coupled with genuinity and identity. The assessee cannot be heard to say that their claim has to be examined only based upon the

documents produced by them namely bank details, the purchase/sell documents, the details of the D-Mat Account etc. The assesses have lost sight of an important fact that when a claim is made for LTCG or STCL, the onus is on the assessee to prove that credit worthiness of the companies whose shares the assessee has dealt with, the genuineness of the price rise which is undoubtedly alarming that to within a short span of time. The revenue had placed heavy reliance on the decision in McDowell to show that the claim of the assessee is not case of tax planning to be one of the tax avoidance by indulging in dubious methods. Mr. Bagaria had argued the rule in McDowell was considered in Azadi Bachao Andolan and Vodafone International and it is in the manner explained in these decisions the rule in McDowell needs to be applied. From paragraph 138 onwards the Hon'ble Supreme Court considered in detail as to why McDowell and what it says and what it does not say. The argument of Mr. Bagaria would primarily rests on as to what would mean by a sham transaction as a legal one and it is pointed out that all the parties thereto must have a common intention that the acts or documents are not to create the legal rights and obligations which they give the appearance of creating. Further by referring to the decision in Vodafone International, it is submitted that the revenue cannot start with the question as to whether the transaction was a tax deferment/avoidance but the revenue should apply the "look at" test to ascertain its true legal nature and that genuine strategic planning had not been abandoned. Further the revenue has to establish on the basis of facts and circumstances surrounding the transactions that the impugned transaction is a sham or tax avoidance. In this regard Mr. Bagaria ITAT NO. 06 OF 2022 AND ETC. BATCH also referred to the decision in the case of Hill Country Properties Limited Versus Goman Agro Farms Private Limited 90 and also the decision in IRC Versus Duke of Westminster 91 .

74. In our considered view we need not travel thus far and wide to examine as to how and what is said and what is not said in McDowell Mr. Soumen Bhattacharya referred to the decision for the simple reason, to point out that tax planning may be legitimate provided it is within the frame work of law as colourable devices cannot be part of tax planning which cannot be encouraged. Therefore what we are required to see is whether the claim made by the assesees before us are legitimate and whether there was any colourable devices adopted in the process and these colourable devices may or may not be directly but indirectly attributable to the assessee. Therefore, we need not labour much to examine as to how rule in McDowell needs to be applied as we are required to examine the factual scenario from the cases on hand which appear to be quite unique not probably drawn the attention of the courts and the tribunal earlier.

75. While it may be true that M/s. Swati Bajaj, Mr. Girish Tigwani or other assesees who are before us could have been regular investors, investors could or could not have been privy to the information or modus adopted. In our considered view, what is important is that it is the assessee who has to prove the claim to be genuine in terms of [Section 68](#) of the Act. Therefore, the assessee cannot escape from the

burden cast upon him and unfortunately in these cases the burden is heavy as the facts establish that the shares which were traded by the assesseees had phenomenal and fanciful rise in price in a short span of time and more importantly after a period of 17 to 22 months, thereafter has been a steep fall which has led to huge claims of STCL. Therefore, unless and until the assessee discharges such burden of proof, the addition made by the assessing officer cannot be faulted.

76. It was argued that unless there are foundational facts, circumstantial evidence cannot be relied on. This argument does not merit acceptance as wealth of information and facts were on record which is the outcome of the investigation on the companies, stock brokers, entry operators etc. Based on those foundational facts the department has adopted the concept of "working backward" leading to the assesseees. While at that relevant stage the sounding circumstances, the normal human conduct of a prudent investor, the probabilities that may spill over, were all taken into consideration to negative the claim for exception made by the assessee. Therefore, the department was fully justified in taking note of the prevailing circumstances to decide against the assesseees."

It was thought fit to provide an opportunity to both sides to place their arguments in the light of decision and we did so. In response, the Ld. AR filed a Written-Submission dated 17.05.2022 and also made oral submission during hearing. It is observed that the Ld. AR has re-iterated original submissions. But, however, made one newer submission to distinguish the applicability of the decision. Ld. AR submitted that the 84 scrips dealt in the judgement / Investigation-Report do not include "Turbotech Engineering Ltd." transacted by the assessee and therefore the decision is not applicable. Contrary to this, Ld. DR has filed a letter dated 19.07.2022 accompanied by the Investigation-Report which is dated 27.04.015 and titled as **"Investigation Report in the case of Project Bogus LTCG / STCL Through BSE Listed Penny Stocks" released by Directorate of Income-tax (Investigation), Kolkata.** Ld. DR has pointed out that the name of "Turbotech Engineering Ltd." is appearing in this Investigation-Report and the share is identified as "Penny stock". We gainfully reproduce the relevant paragraphs of the Report:

Page No. 2 of the Forwarding-Letter embodied in the Report:

"We identified the following BSE listed penny stocks which have been used for generating bogus LTCG:

SL No	Script Code	Script Name	Full Name of Penny Stock	Amount of Total Value
62	504358	Turbo Tech	Turbotech Engineering Ltd.	8319513048

Page No. 12 / 14 of the Report

“4. Project Basis Enquiry of the scam.

Various enquiries have been conducted by the Directorate of Investigation, Kolkata, on a project basis, which has resulted into the unearthing of a huge syndicate of Entry Operators, share brokers and money launderers, involved in providing bogus accommodation of Long Term Capital Gain, Short term capital loss. It has come to light that large scale manipulation has been/is being done In market price of shares of certain companies listed on the Bombay Stock Exchange by certain persons working as a syndicate in order to provide entries of tax exempt bogus Long Term Capital Gains to large number of persons in lieu of unaccounted cash. The basic objective of this racket is to convert black money into white without payment of Income Tax. The unaccounted cash of such persons [beneficiaries] is utilized to purchase shares of such companies at a very high artificially inflated market price. This practice is generally called Accommodation Entry Scam, as the activities of such persons are carried out with prime objective of accommodating unaccounted cash of beneficiaries into their regular books of accounts without paying any tax on the same. Some of the listed companies, directly or indirectly owned by operators and whose share prices have been apparently manipulated by the syndicate of operators, which have come to adverse notice of the Income Tax Department, are as under:

SL No	Script Code	Script Name	Full Name of Penny Stock
62	504358	Turbo Tech	Turbotech Engineering Ltd.

Page No. 29 / 33 of the Report:

“Brief Discussion on all listed Penny Stocks (Scripts) used in Bogus LTCG Scam.

As discussed in previous chapter we have searched surveyed some 32 share Broking Entities and more than 20 Entry operators. Out of the investigations of such high magnitude, we have unearthed and identified some 84 odd companies which are

listed on Bombay Stock Exchange and are being used for providing bogus accommodation entry of Long Term Capital Gain/Short Term Capital Loss. List of such identified penny stocks, whose share prices have been apparently manipulated by the syndicate of operators, are as under:

SL No	Script Code	Script Name	Full Name of Penny Stock	Amount of Total Value	SEBI Action
62	504358	Turbo Tech	Turbotech Engineering Ltd.	8319513048	Suspended

Thus, we find merit in the claim of Ld. DR that the Investigation-Report includes the scrip of “Turbotech Engineering Ltd.” transacted by the assessee. Therefore, the applicability of the decision of Hon’ble Kolkata High Court could not be distinguished on this basis.

17. Reverting back, we shall now concentrate upon the crucial facts of the present appeal. On a careful consideration of the material available before us, we observe some of the glaring fallacies in the transactions declared by the assessee:

- (i) The assessee has dealt in the scrip of Turbotech Engineering Ltd. As discussed above, the revenue has analysed the scrip of Turbotech Engineering Ltd. in its Investigation-Report. Further, SEBI has also “suspended” operations in this scrip, which is clearly mentioned in the last Column of the Table on Page No. 33 of the Investigation-Report reproduced above. **This is the first and most important factor to demonstrate that the scrip falls in what is called as “penny stock”.**
- (ii) The assessee has purchased shares for Rs. 1,77,192/- in cash on 04.04.2012 and not through banking channel. This raises a very strong doubt in so far as the assessee has made purchases from a Bombay-based broker. The prevalent trend in the stock-market is to pay / receive through banking channel. How can assessee venture to pay a sum of Rs. 1,77,192/- in cash to a Bombay-based broker?

- (iii) On a careful perusal of Demat A/c, the Bench observed that the shares were credited in the Demat A/c of assessee on 08.10.2013 i.e. after a period of about 17 months from the date of purchase and just before the date of sale on 10.10.2013 / 17.10.2013. Therefore, the Bench raised a query as to where the shares had gone during the intervening period of 17 months from the date of purchase till the date of sale. In response, the Ld. DR replied that the share were held in the Pool A/c of broker. This makes the doubt even more stronger. As observed earlier the shares are claimed to have been purchased in cash on 04.04.2012. Now, in a situation where the assessee claims to have made purchase in cash, how is this believable that the assessee shall keep those shares in the Pool A/c of the broker and get in his own custody after 17 months?
- (iv) On a careful perusal of the affidavit filed on page No. 117 / 118 of the Paper-Book, we observe that the assessee has made averments in two points, viz. Point No. 4 and Point No. 4. While in Point No. 4, the assessee is claiming to have purchased shares on the basis of messages of good-return received on the “mobiles of family members”. But in Point No. 9, the assessee has re-averred that he had purchased and sold shares on the basis of message received on his “own mobile”. Thus, there is a clear contraction in the averments of the assessee in the same affidavit. Even otherwise, the Ld. DR has expressed dissatisfaction over this submission of assessee.
- (v) Lastly, under the scheme of section 10(38) of the Income-tax Act, 1961 capital gain on transfer of shares, after holding for more than 12 months, is exempted u/s 10(38). The assessee has declared to have earned a whopping capital gain of Rs. 64,58,168/- on the basis of a meagre investment of Rs. 1,77,192/- and the relevant shares are claimed to have been purchased in cash and held in the pool account of broker for about 17 months. Thus, the assessee is not only declaring hefty gain but also claiming exemption u/s 10(38) in a period nearing

12 months, which is in consonance with the *modus operandi* observed by the Investigation Wing in the Investigation-Report. Had the assessee not claimed any exemption or other benefit, but declared the income as normal income or business income and paid legitimate tax at normal rate, perhaps there would not have been suspicion or question-mark on the income declared by the assessee but this is not so in the present case.

18. The various factors, noted in the preceding paragraph, lead us to conclude that the transactions claimed to have been done by the assessee are surrounded by a thick cloud of glaring fallacies which demonstrate that the impugned transactions are not genuine.

19. We also observe that the Hon'ble Chennai Bench of ITAT has also decided a case in **Sudha Eashwar Vs. ITO, ITA No. 2342/Chny/2019, order dated 02.01.2020** on similar facts. The crucial facts of the case are such that the scrip involved was Turbotech Engineering Ltd.; the assessee purchased in cash on 22.11.2011; got transferred in her own demat A/c after about 1 and half year; subsequently sold and declared a hefty capital gain. On these facts which are analogous to the facts in present appeal, the Hon'ble Co-ordinate Bench upheld the action of revenue in holding the capital gain as bogus. We respectfully agree with the decision of Hon'ble Co-ordinate Bench which is very much applicable to present appeal before us.

20. In view of foregoing discussions at length, we do not find any infirmity in the action of lower authorities in rejecting the capital gain of Rs. 64,58,168/- declared by the assessee and treating the same as undisclosed income u/s 68. Hence we confirm the addition made by lower authorities. This issue of assessee, therefore, fails.

21. Other issue raised by the assessee is with regard to the addition of Rs. 1,29,162/-. Ld. AO has made this addition on the premise that the assessee must have certainly incurred expenditure @ 2% of Rs. 64,58,168/- in paying commission / charges to the persons engaged for arranging bogus capital

gain. We observe that the amount added by Ld. AO is reasonable and it does not call for any interference by us. Hence no relief is warranted to the assessee in that respect. The addition made by Ld. AO is therefore upheld. This issue of assessee also fails.

22. Thus, both of the additions made by Ld. AO are hereby upheld and the issues raised by the assessee fail. However, at this stage we would like to make a note of caution, which though is a known aspect, that every case has its own facts and evidences. This decision is confined to its own set of facts and nothing general should be carried on the basis of this decision.

23. Before parting, we would like to place on record the commendable representation made by counsels of both sides on behalf of the respective parties. Both of the counsels have devoted full time and attempted well to put forward the facts and their respective contentions.

24. In the result, this appeal of assessee is dismissed.

Order pronounced as per Rule 34 of I.T.A.T., Rules, 1963 on
17.08.2022.

Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 17.08.2022

Patel/Sr. PS

Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore

Fit for publication

Sd/-
(JM)

Sd/-
(AM)

1.	Date of taking dictation	
2.	Date of typing & draft order placed before the Dictating Member	
3.	Date on which the approved draft comes to the Sr. P.S./P.S.	
4.	Date on which the fair order is placed before the Dictating Member for pronouncement	
5.	Date on which the file goes to the Bench Clerk	
6.	Date on which the file goes to the Head Clerk	
7.	Date on which the file goes to the Assistant Registrar for signature on the order	
8.	Date of dispatch of the Order	