IN THE INCOME-TAX APPELLATE TRIBUNAL "C" BENCH, MUMBAI BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER & SMT. RENU JAUHRI, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2663/MUM/2025 (निर्धारण वर्ष/Assessment Year :2015-16)

Paresh	Manubhai	v/s.	Income Tax Officer Ward					
Desai		बनाम	22(2)(1), Mumbai					
Budling No.	8, Flat No. 90,		Pratishtha Bhava, 3 rd & 4 th					
Ramkrishna	Nagar, Near		Floor, 101 M. K. Road,					
Khar Poli	ce Station,		Mumbai 400020					
Mumbai 400								
स्थायी लेखा सं	ं./जीआइआर सं.	/PAN/	GIR No: AHLPD1616K					
Appellant/अ	पीलार्थी	••	Respondent/प्रतिवादी					

निर्धारिती की ओर से /Assessee by:	Shri. Dnyanesh Patade
राजस्व की ओर से /Revenue by:	Mr. Virabhadra S. Mahajan, Sr. DR

सुनवाई की तारीख / Date of Hearing	26.06.2025
घोषणा की तारीख/Date of Pronouncement	21.07.2025

आदेश / O R D E R

PER RENU JAUHRI [A.M.] :-

This appeal is filed by the assessee against the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as "CIT(A)"] dated 21/03/2025 passed u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] for Assessment Year [A.Y.] 2015-16.

2. The assessee has raised the following grounds of appeal:

[&]quot;1. On the based-on circumstances and facts, the Learned AO erred in treating entire sales consideration of Rs. 2,09,22,187/- under the head STCG instead of LTCG, thereby not allowing the exemption u/s 10(38) to the assessee.

- 2. On the based-on circumstances and facts, the Learned AO erred in appreciating the facts that the shares were received from parents of the assessee, which can be observed clearly from the NSDL demat statement, thereby treating entire sales consideration of Rs. 2,09,22,187/- and no COA, under the head STCG instead of LTCG.
- 3. The appellant craves to leave, to add, to alter or modify the grounds of appeal, as stated above, at any time on or before the hearing of appeal."
- Brief facts of the case are that the assessee filed his return declaring total 3. income of Rs. 11,61,320/- on 29.08.2015 for AY 2015-16. The case was selected for scrutiny on the basis of information available regarding the share trading account of the assessee. Ld. AO noticed that the assessee had received sale proceeds from sale of equity shares amounting to Rs.2,09,36,220/- through HDFC Securities. The same was treated as short term capital gains in the hands of the assessee and the assessment was completed at income of Rs. 2,20,82,510/- vide order u/s. 143(3) dated 31.12.2017. Aggrieved with the order, the assessee preferred an appeal before Ld. CIT(A). It was contended by the assessee that the shares were received by him from his parents which were transferred to his accounts after their death. It was pointed out that from the demat account statement, it was clear that all the shares sold by the assessee during the year were either shown as opening balance or were transferred from the family members demat accounts and were, therefore, held for a period of more than one year. The assessee was therefore entitled to claim the exemption on account of Long-Term Capital Gains (LTCG) received from such sale u/s. 10(38) of the Act. During the course of appellate proceedings, Ld. CIT(A) sought a remand report from the Ld. AO on the submissions filed by the assessee. Vide

remand report dated 27.07.2024. Ld. AO submitted that from the details made available, it was not possible to ascertain that the assessee was holding the impugned shares for more than two years. Further, no documentary evidence with respect to transmission of shares from his father to his mother and finally to him had been furnished by the assessee. Based on this remand report, Ld. CIT(A) provided an opportunity to the assessee to submit necessary evidences. However, in the absence of any such document any evidences in support of his claim regarding LTCG, Ld. CIT(A) confirmed the addition made by the Ld. AO. The assessee has filed an appeal before the ITAT against the order of Ld. CIT(A).

Before us, Ld. AR has submitted a copy of the HDFC Securities 4. transmission certificate as well as copies of the assessee's demat accounts, individual as well as joint with his parents, alongwith a chart explaining the computation on LTCG. It has been submitted that all these documents were submitted before the lower authorities and only the transmission certificate was not furnished as the same was not available at that time. The assessee has furnished before us a fresh reconciliation chart of shares sold and their receipt in the demat account along with a copy of the transmission certificate received from the HDFC Bank. The reconciliation chart is reproduced below:

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Paresh Desai A.Y. 2015-16

ITA 2663/ MUM 2025 "" Bench

Reconciliation of quantity of shares sold and there receipt in demat date

Scrip Name		B	Exch	Sale Qty (total)	Sale Date	Selling Demat Account no. 28024590 28016567		Receipt entries in 28024590 (A) from Demat Date of			Receipt entries in 28016567 (B) from Demat account			
	ASHOK LEYLAND LTD	S	NSE	2,440	14 08 2014	(A) 1,220	(B) 1,220	account no	Qly	receipt	41407337	Qty 1220	receipt 19 09 09	
								28016567 Bonus	610 610	30 10 09 09 08 11	to 28024590 Bonus	-610	30 10 09 09 08 11	Contra
	DCM SHRIRAM LIMITED	S	NSE	1,020	14.08 2014	-	500		1,220			1,220		
	Zamireo	,	HOL	1,020	14.00 2014	510	510	28016567	510	30 10 09	41407337 to 28024590	1 020	19 09 09 30 10 09	Contra
	DCW LIMITED		her	10.000			2500.4		510		TO KOOK TOO	510		Comma
	DOMENHIED	\$	NSE	10,690	14 08 2014	5,345	5,345	28016567	5,345	30.10.00	41407337	and a limited or bridged as	19 09 09	Canto
		L	leg					20010301	5,345	30 10 09	10 28024590	5 345 5,345	30 10 00	Contra
	DLF LTD	S	NSE	1,680	14.08 2014	840	840	41407362	and the second second second		41407337	1,387	PRINCIPLE AND ADDRESS.	
		Ĺ						28016567 10 28016567	587	30 10,09 03 11 09	to 28024590 28024590	-587 40	30 10 09 03 11 09	Contra
	Fut there a							I see an	840			840		
	EIH LIMITED	S	NSE	9,225	14 08 2014	4,612	4,613	28016567		30.10.09	41407337 to 28024590	4,612	19 09 00 30 10 09	Contra
	EIMCO ELECON (INDIA) LTD	C	BSE	300	14.08.2014	150	150		4,612		44407777	4,613		
	Emile Electrification	,	DOL	300	14.00 2014	150	150	28018567		30.10.09	41407337 to 28024590		19 09 09 30 10 00	Contra
	ELECON ENGINEERING CO	S	NSE	7.890	14 08.2014	3,945	3945	41407362	150 480	19 09 09	41407337	7.410	19 09 09	
	LTD			1,000	17 40.2014	0,010	0,010	28016567	3.465	10.7 (10.7 (20.6)		-3 465	30 10 09	Contra
	GRASIM INDUSTRIES LTD	S	NSE	290	14.08.2014	145	145	41407362	3,945 44	19 09 09	41407337	3,945	19 09 09	
	Orden moderne cro	Ĭ	1102	2.00	17,002017	149		28016567	101	30 10 09	7 7 7 7 7 7 7 7 7	-101	30 10 09	Contra
	GUJ STATE FERT & CHEM LTD	S	NSE	700	14 08 2014		700				By trade	700	14 01 13	
10 H	HINDUSTAN UNILEVER LTD	S	NSE	2,470	14.08 2014	1,235	1,235		÷		41407337	2,470		
						-		28016567	1,235	30.10.09	to 28024590	-1 235 1,235	30 10 09	Contra
١	ICICI BANK LTD	S	NSE	206	14 08 2014	103	103				41407337	206	Acres Stanford (Arrivation)	
								28016567	103	30 10 09	to 28024590	103		Contra
		ŀ		-							41407337. Received as J K			Receiv

13 MUKAND 0 01% PREF 120123		Over								Capital reduction on takeover by J K enterprices		02 06 10	
3 MUKAND 001% PREF 120123	5	BSE	12	14 08 2014		12				41407337	a commental organization	19 09 09	1
14 RELIANCE CAPITAL LTD	c	NSE	306	14 08 2014	154	144	41407362		10.05.50	Fatal tri to other		19 09 09	-
The state of the contract of t		14.00	3490	14.00 1014	104	135	78016567	113	19 09 09 30 10 09	41407337 to 28024590	41	30 10 09	1
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		-	6,172		3,000		20019301	3.086	30.10.09	10 28024590	3,086	30 10 09	1
16 RELIANCE INDUSTRIES LTD	S	NSE "	Access to the second	05.09 2014	6,172	6177	41407382		19.09.09	41407337	-	40.00.00	
	-	-	-	00.0070.4	0,172	0,172	28016567	and the second second	The State of			19 09 09	1
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17 RELIANCE INFRASTRUCTURE	S	NSE	452	14 05 2014	231	231		8,1/4		41407337	-	40.00.00	
LTD		- Carrier of		1			28016567	62	30 10 09	10 28024590		19 09 09	1
				1			200.0007	62	30 10 09	10 20024590	231	30.10.09	1
18 RELIANCE POWER LTD	S	NSE	1.630	14.08 2014	815	815				41407337		** **	-
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	1			1			Demerger	771	13.11 10		-44	30 10 09	
				1	- T		Domai ger	815	13,1110	Demerger	771 815	13 11 10	1
19 SHREE DIGVILAY CEMENT	S	BSE	20	14 08 2014	10	10				41407337	_		-
COMPANY				1			28016567	10	30 10 09	to 28024590	20		
				X X				10	30 .0.09	10 20024390	10	30.10 09	4
20 SHREE RAM URBAN	S	BSE	43	16 09 2014	43		28016567	50	30 10 09				ļ
INFRASTRUCTURE LTD				X X			soid	-7		_			-
	_	1. 1						43					4
21 TATA STEEL LTD	S	NSE	2,497	14.08.2014	+:	2,497	41407362	479	19 09 09	41407337			4
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22 ULTRATECH CEMENT LYMITED	c	AICE	104	l	4-1		of Samruddhi			Samrudghi			
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Demat Account Ownership details: 1 Demat account no 41407337 Jo 2 Demat account no 41407362 Jo											- "		J

5. We have heard the rival submissions. From the above reconciliation as well as the transmission certificate submitted by the assessee, it is clear that the he has indeed earned LTCG on the shares sold during the year which have been received earlier from his parents. The assessee is therefore, entitled to claim LTCG exemption u/s. 10(38) of the Act. Accordingly, addition made by the Ld. AO on account of short-term capital gains from these transactions is hereby deleted.

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

Order pronounced in the open court on 21.07.2025.

Sd/-BEENA PILLAI (न्यायिक सदस्य/JUDICIAL MEMBER) Sd/-RENU JAUHRI (लेखाकार सदस्य/ACCOUNTANT MEMBER

Place: मुंबई/Mumbai

दिनांक /Date 21.07.2025

दिव्या रमेश नांदगावकर/ स्टेनो

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

- ^{1.} अपीलार्थी / The Appellant
- 2. प्रत्यर्थी / The Respondent.
- 3. आयकर आयुक्त / CIT
- 4· विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT, Mumbai
- 5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy// आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Asstt. Registrar) आयकर अपीलीय अधिकरण/ ITAT, Bench, Mumbai.