

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD “A” BENCH**

**(BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER  
& SHRI WASEEM AHMED, ACCOUNTANT MEMBER)**

[Through Virtual Court]

**ITA. No: 1604/Ahd/2017  
(Assessment Years: 2013-14)**

<b>Shri Kiritkumar kantilal Shah 1, Shantvan Apartment, Tulsinagar Society, Rambaug Road, Ramnagar, Sabarmati, Ahmedabad-380005</b>		<b>I.T.O, Ward-2(2)(2), Ahmedabad</b>
<b>PAN No. BOIPS 7724G</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

**Appellant by : Shri Vivek Chavda, A.R.  
Respondent by : Shri S. S. Shukla, Sr. D.R.**

**(आदेश)/ORDER**

Date of hearing : 23-06-2021  
Date of Pronouncement : 28-06-2021

**PER MAHAVIR PRASAD, J.M.**

1. This appeal has been filed by the Assessee is directed against the order of the Commissioner of Income Tax (‘hereinafter called CIT(A)’) order no. CIT(A)-

10/ITO-WD/1(2)(3)/431/15-16 order dated 14/03/2017 arising out of assessment order dated 12.02.2016. Assessee has taken following grounds of appeal:

*1.1 The order passed u/s.250 on 14-03-2017 for A.Y.2013-14 by CIT(A)-10, Abad upholding the addition of Rs.1,67,57,960/- made by AO is wholly illegal, unlawful and against the principles of natural justice.*

*1.2 The Ld. CIT(A) has grievously erred in law and or on facts in not considering fully and properly the submissions made and evidence produced by the appellant with regard to the impugned additions.*

*2.1 The Ld.CIT(A) has grievously erred in law and on facts in confirming that the addition of Rs.1,67,57,960 being estimation @15% of total turnover of share transaction of Rs. 11,17,19,716/- carried out by the appellant in the entire year under consideration.*

*2.2. That in the facts and circumstances of the case as well as in law, the Ld. CIT(A) ought not to have upheld the addition of Rs. 1,67,57,960/- applying flat rate of 15% without considering the actual result being loss in share transactions.*

2. The solitary ground, the assessee has taken that Ld. CIT(A) has erred in making addition of Rs. 1,67,57,960/- applying flat rate of 15% without considering the actual result being loss in share transactions.
3. The assessee is a salaried class person and he filed Income Tax return declaring total income of Rs. 1,92,400/-. Thereafter case was selected for scrutiny through CASS. Thereafter Ld. A.O. issued notice u/s 143(2) and 142(1) and sought the details of the share transactions but on account of illness, assessee could not appear before the AO. So in the absence of any submission on behalf of the assessee, ld. A.O. made addition of Rs. 1,67,57,960/-.

4. Thereafter assessee preferred first statutory appeal before the Ld. CIT(A) who confirmed the action of the A.O. by applying 15% profit on transactions of Rs. 11,17,19,716/- as reflected in ITS information. Though, assessee filed all the relevant details before the Ld. CIT(A) and he sought remand report from the Assessing Officer wherein assessee filed copies of bills of share transaction and payment made by the assessee to the share broker through his bank wherein assessee mentioned that he incurred loss in the share transaction. And most of the transactions were done on intraday basis and in support of its contention, assessee also filed copies of ledger account from broker Prudent Broking Services Pvt. Ltd.
5. We have heard both the parties and gone through the impugned order and have seen the paper book filed by the assessee. In this case, assessee failed to furnish details of share transaction to the tune of Rs. 11,17,19,716/- for which he had not offered any income but he incurred losses of Rs. 1,03,132/- in speculative transactions and profit of Rs. 27,140/- in delivery based transaction. Lower authorities have made addition to the tune of 15% of total transactions without verifying the details from the concerned share broker. The said share broker could have furnished all the details such as contract notice and profit & loss details from the share trading & speculative transaction etc. but Ld. A.O. did not carry out such exercise and same is amount to miscarriage of justice. Though assessee is a salaried class person and he did not have taxable income that is emerging from the documents submitted by the appellant.
6. In our considered opinion without cross checking and proper verification from the NSE/BSE or from the concerned share broker such addition on the basis

of whims and fancies cannot be made. Therefore, we accept plea of the assessee and allow appeal of the assessee.

7. In the result, appeal filed by the Assessee is allowed.

Order pronounced in Open Court on 28 - 06- 2021

**Sd/-**  
**(WASEEM AHMED)**  
**ACCOUNTANT MEMBER**

Ahmedabad: Dated 28/06/2021

Rajesh

Copy of the Order forwarded to:-

1. The Appellant.
2. The Respondent.
3. The CIT (Appeals) –
4. The CIT concerned.
5. The DR., ITAT, Ahmedabad.
6. Guard File.

**True Copy**

**Sd/-**  
**(MAHAVIR PRASAD)**  
**JUDICIAL MEMBER**

By ORDER

Deputy/Asstt.Registrar  
ITAT,Ahmedabad