

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "A", MUMBAI

**BEFORE SHRI PRASHANT MAHARSHI, ACCOUNTANT MEMBER AND
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A No.1353/Mum/2024
(Assessment Year: 2014-15)**

Amrita Abhishek Doshi Flat No.3701, 37h Floor, Shreepati Arcade, August Kranti Marg, Nana Chowk, Mumabai-400 036 PAN:AOJPD7271F	vs	DCIT, Circle 19(1), Mumbai
APPELLANT		RESPONDENT

Assessee by : Shri Anil Sathe
Respondent by : Shri Manoj Kumar Sinha(Sr. DR)

Date of hearing : 07/08/2024
Date of pronouncement : 27/ 08/2024

ORDER

PER ANIKESH BANERJEE, J.M:

Instant appeal of the assessee is preferred against the order of the Learned National Faceless Appeal Centre (NFAC), Delhi [for brevity, 'Ld.CIT(A)'] passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act'), for Assessment Year 2014-15, date of order 30.01.2024. The impugned order was emanated from the order of the Learned Assistant Commissioner of Income-tax -19(1), Mumbai

(in short, "Ld. AO") passed under section 143(3) of the Act, 1961 (in short, "the Act"), date of order 08/12/2016.

2. The assessee has taken the following grounds of appeal: -

- "1. The learned CIT(A) erred in upholding the action of the assessing officer in treating the long-term capital gains and short term capital gains accruing to the appellant as non-genuine only on the basis of general finding of Directorate of Investigation and various statements recorded by it without any cogent material on record and no nexus/ connection with the appellant being established to prove the impugned transaction as bogus*
- 2. The learned CIT(A) failed to take cognizance of documentary evidence provided by the appellant such as bank statements, brokers contract notes and ledger accounts, demat accounts, etc. to substantiate the transactions of purchase and sale of shares. The addition made u/s 68 is merely on presumptions, suspicion, surmises, and conjectures disregarding the direct evidence placed on record.*
- 3. The learned CIT(A) had erred in misinterpreting the SEBI order passed against the broker Daulat Laxmi Chandraliya and Ghanshyam Kamlesh Kacchawa for contributing to price rise in the scrip of Confidence Finance Trading Limited in fraudulent manner against the appellant. The learned CIT(A) failed to appreciate that the appellant was in no way related to the said brokers and she could not be punished for the wrong doings of others.*
- 4. The learned CIT(A) erred in confirming the action of the AD denying the exemption under sec. 10(38) of the Act to the appellant to the extent of Rs 1,55,89,138/- when all the conditions for claiming exemption are satisfied by the appellant.*
- 5. The learned CIT(A) erred in treating the transaction of the appellant as non-genuine relying only on circumstantial evidence such as price movements of the equity share which is beyond the control of the appellant.*
- 6. The learned CIT(A) erred in relying on certain judicial pronouncements facts of which were distinct and distinguishable, and ignoring other decisions including that of the jurisdictional High Court.*

7. *Without prejudice to the above ad strictly in the alternative the learned CIT(A), erred in not appreciating that if the transaction of sale is to be treated as non-genuine, the addition should be restricted to Rs.2,20,24,385/- the gain made by the appellant.*
8. *Without prejudice and strictly in alternative, the learned CIT(A) erred in confirming the action of Assessing Officer in not allowing the set off of carried forward short term capital loss to the extent of Rs.9,83,078/-.*
9. *The appellant craves leave to add, alter or amend any of the grounds of the appeal, at any time before or at the time of hearing.”*

3. The brief facts of the case are that the assessee during the impugned assessment year filed the return and claimed long term capital gains (in short, LTCG) amount of Rs.1,55,89,138/- as exempted income under section 10(38) of the Act and offered tax in short term capital gains (STCG) amount of Rs.64,35,247/-. The total sale proceeds credited in the books of account of the assessee in the form of LTCG and STCG which is total amount of Rs.2,67,83,731/-. The Ld.AO has treated both the transaction as bogus and added back under section 68 of the Act. So, the total amount of Rs.2,67,83,731/- was added back with the total income. The aggrieved assessee filed an appeal before the Id. CIT(A). The Ld.CIT(A) upheld the assessment order. Being aggrieved, the assessee filed an appeal before us.

4. The Ld.AR argued and submitted the written submission which is kept in record (in short, APB). The Ld.AR argued that the assessee, Mrs.Amrita Doshi, had earned a long-term capital gain of Rs. 1,55,89,138 on sale of 51603 shares of “Confidence Trading Ltd” and claimed exemption under section 10(38) in respect thereof, and a short-term capital gain on sale of 48651 shares of Ashika Credit and Capital Ltd and earned a short-term capital gain of Rs.64,35,247. The claims of the

assessee were rejected and the entire consideration of Rs.2,67,83,731 has been added to the income of the assessee under section 68 of the Act. The purchase and sale and the income earned are uncontroverted. This action has been taken by the Id. AO for the following reasons/suspicious: -

(a) such a huge long-term and short-term capital gain on virtually unknown scrips is suspicious.

(b) the increase in the price of both these scrips is irrational/unnatural and not supported by the financial data of the companies, and the rise is rising on account of actions of operators and exit providers.

(c) the assessee has earned this income by a prearranged method in collusion with entry providers and in connivance with them.

(d) While the learned AO, has described at length, a modus operandi unearthed by the investigation wing, he has been unable to provide even a shred of evidence that connects the alleged modus operandi with the assessee; and

(e) when the assessee provides documentary evidence of the sale in regulatory environment, if that is to be disbelieved or ignored the AO needs to provide some concrete evidence.

The mere fact that the assessee is the beneficiary of an unnatural/irrational rise in prices of listed securities cannot lead to an inference that the transaction is not genuine unless some direct or indirect involvement of the assessee is shown. In the case of an assessee no such evidence has been brought for assessee.

Therefore, the claim of the appellant as far as long-term and short-term capital gain is concerned deserves to be allowed.

5. The assessee argued and submitted the statement of holding, which is asunder: -

ASHIKA STOCK BROKING LTD F.Y. 2010-2011

Client Wise Global Delivery Shares Comparison (Final Summary)

Account Code A500A8093

Account Name AMRITA ABHISHEK DOSHI

Address – 3701 SHRIPATI ARCADE, GWALIA TANK, MUMBAI, 400036,INDIA

Holding as on – 31/03/2011

Code	Security Name	Net Stock
7SEAS	7SEAS TECHNOLOGIES L	1000
12149	ADVANCE TECHN	160000
32871	CELESTIAL BIOLABS LT	3000
179	H C L INFOSYSTEMS	4000
32808	HOUSE OF PEARL FASHI	1000
32960	IB SECURITIES	5000
24400	ISHITA DRUGS	30000
31269	KLG SYSTEL	1000
20021	OMAX AUTOS	1000
31467	POLYPRO FIBRILS(I)	65000
31611	PRRANETA INDS.	20000
339	RAIN COMMODITIES LTD	1000
23756	SREI INFRASTRUCTURE	3600

ASHIKA STOCK BROKING LTD F.Y. 2011-2012

Holding as on – 31/03/2012

Code	Security Name	Net Stock
4340	CONFIDENCE	200000

ASHIKA STOCK BROKING LTD F.Y. 2012-2013

Holding as on – 31/03/2013

Code	Security Name	Net Stock
85	CHAMBAL FERTILISERS	2000
4340	CONFIDENCE TRADING	51603
440	HINDALCO INDUSTRIES	2000
32343	TVS MOTOR COMPANY LT	5000

AMRITA A DOSHI	
Name & Date of scrip	Closing Quantity
BALAJI TELE	2000 Nos
CHAMBER FERTILISERS	2000 Nos
CORPORATION BANK	150 Nos
HINDALCO INDUSTRIES	2000 Nos
PETRONET LNG	400 Nos
SAMYAK EDUCATION LTD	3600Nos
	10150.00

(2) Transaction statement from 21/04/2011 to 31-03-2014, APB pages 5-11

(3) Annual report of Ashika Group Capital Ltd for the year ended 31/03/2014, APB pages 12-67.

6. The Ld.AR mentioned that the same issue was adjudicated by the coordinate bench of ITAT-Mumbai in the case of assessee's husband, Mr Abhishek Doshi and respectfully relied on the orders of the co-ordinate bench ITAT-Mumbai Bench-Ain case of **Shri Abhishek Doshi ITA No.3122/Mum/2022**, date of pronouncement **31/05/2013**. The relevant part of the order is reproduced as below: -

"5. In the assessment order in para-7.2, the AO also referred to the order passed by the SEBI penalising and restraining the stockbroker, through whom the assessee purchased shares of M/s Parag Shilpa Investments Ltd, as it was involved in rigging the share price of certain shares. However, we find that there is no allegation that such a broker was involved in rigging the price of the shares in which the assessee has invested. Further, no finding of the SEBI has been brought on record to show that such rigging of price was for the benefit of the assessee or has any nexus with the assessee. This is also not a case wherein either the directors/promoters of the aforesaid Companies, in which the assessee had invested, has accepted that the company is merely a paper company and provides the benefit of bogus long-term capital gains to its shareholders. Further, despite the Revenue having the information regarding the stockbrokers through whom the shares were sold, there is no evidence on record that even these shareholders were named in the investigation conducted by the Investigation Wing of the Department. It is also pertinent to note that the AO has not given any adverse comments or drawn adverse inferences on the documentary evidence submitted by the assessee. Thus, in the present case, the Revenue has failed to prove with any cogent evidence on record that the assessee was involved in converting his unaccounted money into long-term capital gains and short-term capital gains by conniving with any entry operator/exit provider, who was involved in artificial price rigging of shares. Thus, this is the case wherein the AO

merely on the basis of suspicion assessee with the entry operators/exit providers, who were allegedly involved in price rigging of shares artificially of the aforesaid companies. Therefore, in view of the above, we are unable to persuade ourselves to accept the conclusion reached by the Revenue on the basis of findings recorded in the orders passed by the lower authorities. Accordingly, we direct the AO to delete the impugned addition made under section 68 of the Act and accept the plea of the assessee in respect of the long-term capital gains and short-term capital gains earned during the year. As a result, the grounds raised by the assessee are allowed.”

The Ld.AR further relied on the order of **Abhishek Tejraj Doshi vs ITO-19(1) in ITA 2944/Mum/2023**, date of pronouncement **20/03/2024**. The relevant part of the order is reproduced as below: -

“14. Further, there is no discrepancies in the documents filed by the assessee claiming the deductions u/s 10(38) of the Act. At the same time, the revenue has not brought on record any materials linking the assessee in any of the dubious transactions relating to entry, price rigging or exit providers. Even in the SEBI report, there is no mention or reference to the involvement of the assessee. We can only presume that the assessee is one of the beneficiary in this transactions merely as an investor who has entered into an investment fray to make quick profile. Even the assessing officer has applied the presumptions and concept of human probabilities to make the additions without their being atry material against the assessee. We observe that the Hon'ble Bombay High Court in the case of Pr. CIT v. Ziauddin A Siddique in Income Tax Appeal No. 2012 of 2017 dated 04.03.2022 held as under: -

1. *The following question of law is proposed:*

"Whether on the facts and in the circumstances of the case and in law, the Hon'ble Tribunal was justified in deleting the addition of Rs. 1,03,33,925/-made by AO u/s 68 of the L.T. Act, 1961, ignoring the fact that the shares were bought/acquired from off market sources and thereafter the same was demated and registered in stock exchange and increase in share price of Ramkrishna Fincap Ltd. is not supported by the financials and, therefore, the amount of LTCG

of Rs.1,03,33,925/- claimed by the assessee is nothing but unaccounted income which was rightly added u/s 68 of the I. T. Act, 1961?"

2. We have considered the impugned order with the assistance of the learned Counsels and we have no reason to interfere. There is a finding of fact by the Tribunal that the transaction of purchase and sale of the shares of the alleged penny stock of shares of Ramkrishna Fincap Ltd. ("RFL") is done through stock exchange and through the registered Stock Brokers. The payments have been made through banking channels and even Security Transaction Tax ("STT") has also been paid. The Assessing Officer also has not criticized the documentation involving the sale and purchase of shares. The Tribunal has also come to a finding that there is no allegation against assessee that it has participated in any price rigging in the market on the shares of RFL.

3. Therefore we find nothing perverse in the order of the Tribunal.

4. Mr. Walve placed reliance on a judgment of the Apex Court in Principal Commissioner of Income-tax (Central)-1 vs. NRA Iron & Steel (P.) Ltd. but that does not help the revenue in as much as the facts in that case were entirely different.

5. In our view, the Tribunal has not committed any perversity or applied incorrect principles to the given facts and when the facts and circumstances are properly analysed and correct test is applied to decide the issue at hand, then, we do not think that question as pressed raises any substantial question of law.

6. The appeal is devoid of merits, and it is dismissed with no order as to costs."

15. Therefore, we respectfully follow the ratio of the above decisions. In this case also, the Assessing Officer and Ld.CIT(A) has applied the concept of Human probabilities and held the above said scrip to be a penny stock without bring on record how the assessee is involved in any of the scrupulous activities or directly linked to one of the person who has involved in manipulation/rigging of share prices, entry operator or exit provider. Therefore, there is no material with the tax authorities to substantiate their findings that the impugned transaction is non-genuine. Therefore, we are inclined to allow the ground raised by the assessee. Accordingly, the Ground Nos. 1 to 7 raised by the assessee are allowed."

7. The Ld.DR argued and placed that the said scrip of Ashika Stock Broking was duly suspended by the SEBI on dated 12/02/2010, but finally it is revoked on dated 19/07/2011. The Id. DR argued that the Id. AO also relied on the doctrine of preponderance of human probability to hold that the assessee is indulged in bogus and dubious share transactions. Since he had not been able to adduce cogent evidence in this regard. The Ld.DR argued that the entire transaction is a sham, so the addition should be upheld. The Ld.DR relied on the order of **PCIT vs Swati Bajaj (2022) 139 taxmann.com 352 (Cal)** and **Aakruti Ketan Mehta vs ITO, Ward 35(1)(1) ITA No.53/Mum/2023**, date of pronouncement **31/01/2024** held –

“31. We are not going into details of various judgments wherein additions have been deleted on this scrip of M/s. Sunrise Asian Ltd and statement of Shri Vipul Vidur Bhatt has been discarded on the ground assessee was not given cross examination. We have given our finding based on various other factors and the most crucial one, the order of the SEBI brought on record before us wherein there is detailed investigation and enquiry and finding in the case of M/s. Sunrise Asian Ltd. and how various other entities and persons connected with the manipulation and rigging of the prices in the stock exchange recommend providing accommodation entry. Thus, the addition of Rs.2,70,01,771/- made u/s.68 is confirmed.”

8. We heard the rival submission and considered the documents available in the record. On perusal of the records, we find that the assessee, herself never involved in price rigging of the scrips. The Ld. AO has not conducted independent investigation and fully relied on the observation of the investigating authority of Kolkata. But no separate verification was conducted. The assessee has discharged her onus by submitting documents before the revenue authorities.

There is no information of entry/exit provider in appeal and assessment stage. The share was duly opened by the SEBI but later on the same was revoked. The co-ordinate bench in the case of assessee's husband Shri Abhishek Tejraj Doshi (supra)&Shri Abhishek Doshi (supra) has taken a view in favour of the assessee and against the revenue. For our observations and to arrive at the findings, we respectfully relied on the decisions of Hon'ble **High Court of Bombay** being a jurisdictional High Court: **Pr. CIT v. Ziauddin A Siddique [Income-tax Appeal No. 2012 of 2017, dated 4-3-2022]** held as under: -

"1. The following question of law is proposed: "Whether on the facts and in the circumstances of the case and in law, the Hon'ble Tribunal was justified in deleting the addition of Rs. 1,03,33,925/- made by AO u/s 68 of the I.T. Act, 1961, ignoring the fact that the shares were bought/acquired from off market sources and thereafter the same was DMATed and registered in stock exchange and increase in share price of Ramkrishna Fincap Ltd. is not supported by the financials and, therefore, the amount of LTCG of Rs. 1,03,33,925/- claimed by the assessee is nothing but unaccounted income which was rightly added u/s 68 of the I. T. Act, 1961?"

2. We have considered the impugned order with the assistance of the learned Counsels and we have no reason to interfere. There is a finding of fact by the Tribunal that the transaction of purchase and sale of the shares of the alleged penny stock of shares of Ramkrishna Fincap Ltd. ("RFL") is done through stock exchange and through the registered Stockbrokers. The payments have been made through banking channels and even Security Transaction Tax ("STT") has also been paid. The Assessing Officer also has not criticized the documentation involving the sale and purchase of shares. The Tribunal has also come to a finding that there is no allegation against assessee that it has participated in any price rigging in the market on the shares of RFL.

3. Therefore we find nothing perverse in the order of the Tribunal."

4. Mr. Walve placed reliance on a judgment of the Apex Court in Principal Commissioner of Income-tax (Central)-1 v. NRA Iron & Steel (P.) Ltd. but that does not help the revenue in as much as the facts in that case were entirely different. 5. In our view, the Tribunal has not committed any perversity or applied incorrect principles to the given facts and when the facts and circumstances are properly analysed and correct test is applied to decide the issue at hand, then, we do not think that question as pressed raises any substantial question of law. 6. The appeal is devoid of merits and it is dismissed with no order as to costs."

the order of the Hon'ble **Bombay High Court** in the case of **CIT vs Shyam R Pawar 229 Taxman 256 (Bom)**. The relevant paragraph is reproduced as below: -

"6. It is in that regard that we find that Mr.Gopal's contentions are well founded. The Tribunal concluded that there was something more which was required, which would connect the present Assessee to the transactions and which are attributed to the Promoters/Directors of the two companies. The Tribunal referred to the entire material and found that the investigation stopped at a particular point and was not carried forward by the Revenue. There are 1,30,000 shares of Bolton Properties Ltd. purchased by the Assessee during the month of January 2003 and he continued to hold them till 31 March 2003. the present case related to 20,000 shares of Mantra Online Ltd for the total consideration of Rs.25,93,150/-. These shares were sold and how they were sold, on what dates and for what consideration and the sums received by cheques have been referred extensively by the Tribunal in para 10. A copy of the DMAT account, placed at pages 36 & 37 of the Appeal Paper Book before the Tribunal showed the credit of share transaction. The contract notes in Form-A two brokers were available and which gave details of the transactions. The contract note is a system gene and prescribed by the Stock Exchange. From this material, in para 11 the Tribunal concluded that this was mere accommodation of cash and enabling it to be converted into accounted or regular payment-discrepancy pointed out by the Calcutta Stock Exchange regarding client Code has been referred to. Bi Tribunal concluded that itself, is not enough to prove that the transactions in the impugned shares bogus/sham. The details received from Stock Exchange have been relied upon and for the purpose faulting the Revenue in failing to discharge the basic onus. If the Tribunal proceeds on this line concluded that inquiry was not carried forward and with a view to discharge the initial or basic onus; then such conclusion of the Tribunal cannot be termed as perverse. The conclusions as recorded in para 12 of the Tribunal's order are not vitiated by any error of law apparent on the face of the record either."

7. As/a result of the above discussion, we do not find any substance in the contention of Mr.Sureshkumar that the Tribunal misdirected itself and in law. We hold that the Appeals do not raise any substantial question of law. They are accordingly dismissed. There would no order as to costs."

Hon'ble **Delhi High Court** in the case of **Pr.CIT vs Smt. Krishna Devi 431 ITR 361 (Del)**. The relevant paragraph is enclosed herewith: -

“12. Mr. Hossain’s submissions relating to the spike in the share price and other factors may be enough to show circumstances that might create suspicion; however the Court has to decide an issue on the basis of evidence and proof, and not on suspicion alone. The theory of human behavior and preponderance of probabilities cannot be cited as a basis to turn a blind eye to the evidence produced by the Respondent. With regard to the claim that observations made by the CIT(A) were in conflict with the Impugned Order, we may only note that the said observations are general in nature and later in the order, the CIT(A) itself notes that the broker did not respond to the notices. Be that as it may, the CIT(A) has only approved the order of the AO, following the same reasoning, and relying upon the report of the Investigation Wing. Lastly, reliance placed by the Revenue on Suman Poddar case (supra) and Sumati Dayal case (supra) is of no assistance. Upon examining the judgment of Suman Poddar case (supra) at length, we find that the decision therein was arrived at in light of the peculiar facts and circumstances demonstrated before the ITAT and the Court, such as, inter alia, lack of evidence produced by the Assessee (herein to show actual sale of shares in that case. On such basis, the ITAT had returned the finding of fact against the Assessee, holding that the genuineness of share transaction was not established by him. However, this is quite different from the factual matrix at hand. Similarly, the case of Sumati Dayal (supra) too turns on its own specific facts. The above-stated cases, thus, are of no assistance to the case sought to be canvassed by the Revenue.

13. The learned ITAT, being the last fact-finding authority, on the basis of the evidence brought on record, has rightly come to the conclusion that the lower tax authorities are not able to sustain the addition without any cogent material on record. We thus find no perversity in the Impugned Order.”

Further, we respectfully relied on the orders of Hon'ble High Courts on similar facts in favour of the assessee.

.....X.....

The Id. DR respectfully relied on the order of **Swati Bajaj** (Supra) where the action of the Id. AO is confirmed. Accordingly, the same would prevail on the issue before this Bench. In the present case, the decision of the Hon'ble Non-Jurisdictional High Court carries only a influence. The law is very well settled by the Hon'ble Supreme Court in the case of **Union of India vs Kamalakshi Finance Corporation Ltd** reported in **55 ELT 43 (1991)** that the decision of Hon'ble Jurisdictional High Court would have higher precedence value on the Tribunal than the decision of Hon'ble Non-Jurisdictional High Court.

The Id. DR also relied on the order of the coordinate bench ITAT-Mumbai-A-Bench, in the case of **Aakruti Ketan Mehta** (supra) which is favour of the revenue. Considering the submission of assessee, the order of the Dr. K.M.Abraham, Whole Time Member, Securities and Exchange Board of India bearing Order No. WTM/KMA/IVD-ERO/21/12/2008, dated-19/07/2011, APB Pages 98-134 the suspension on Ashika Stock Broking is revoked.

In the orders impugned before us, the theory propounded by the Id. AO suggests largescale generation & investment of unaccounted monies took place, but even after conducting an invasive search action, no evidence to support such addition was unearthed. As per the Id. AO, the assessee had earned & routed unrecorded income. If that were so, it would have certainly reflected in the investigated documents. The documents in the form of undisclosed sales or bogus expenses etc. The AO has however not been able to bring on record any material or evidence unearthed during search/ investigation which would reveal as to from which incomeearning activity did the assessee derive such unaccounted monies to support his theory that he had routed such unaccounted monies in the guise of

bogus capital gains. The order Aakruti Ketan Mehta (supra) is distinguishable in this point. The order of SEBI never contended that the assessee was involved in price rigging.

9. We find that the shares of Ashika Credit and Capital Limited were purchased from the open market i.e. recognised stock exchange through registered brokers. The purchase and sale were routed through demat accounts. The purchase and sale considerations were routed through proper banking channels. The transactions were recorded in books of accounts and reflected in the return. Since the shares were held for less than one year, the appellant was offered the Short-Term Capital Gain to tax @ 15%. The shares of Confidence Finance and Trading Limited, although purchased through preferential allotment, were dematerialized in the year of purchase itself. These shares were sold on recognised Stock exchange through a registered broker. The purchase and sale considerations were routed through proper banking channels. Since the shares were held for more than one year, the appellant was claimed exemption of LTCG under section 10(38) of the Act.

10. The learned AO had asserted in the assessment order that the assessee along with her family members had sold the shares of Ashika Credit and Capital Limited to M/s Withal Commercial Private Limited. Firstly, the shares of Ashika Credit and Capital Limited are sold through the stock exchange, wherein the identity of buyers and sellers is unknown to each other. Secondly, the said assertion is made without any corroboration.

The Id. AO did not appreciate that Ashika Stock Broking Limited was banned from buying/selling or dealing in securities in their own/proprietary account. Later, the ban on taking/dealing with fresh/new clients was also lifted. The Id. AO did not appreciate that the appellant was the broker's existing client. The **SEBI order EAD-7/BJD/NJMR/2018-19/2289-2295**, order dated-28/02/2019, APB pages-74 to 97 referred to the impugned appeal order by the Id. CIT(A) does not hold Confidence Finance and Trading Limited and its directors guilty of manipulative scheme to manipulate the price of the scrip of the said company. Only the brokers, Mr. Daulat Laxmi Chandraliya and Mr. Ghanshyam Kamlesh Kacchawa, contributing to price rise in the scrip of Confidence Finance Trading Limited in fraudulent manner. None of the directors or the assessee herself are involved in price manipulation.

There was no specific mention of the assessee in any of the recorded statements which would establish her nexus with the whole arrangement of providing and accepting accommodation entries. The assessee had carried out the transaction through recognised stock exchange and thus operated in a regulatory environment and hence the allegation that he was hand in glove with some people who operated the scheme has no evidence. The documents submitted are contract notes, demat accounts and bank accounts before the revenue authorities which are issued by unrelated third parties, cannot be treated as sham self-serving.

We respectfully rely on the orders of the Hon'ble Jurisdictional High Court, which has similar in the factual matrix with the impugned issue. The grounds of appeal of the assessee are upheld. We set aside the impugned appeal order. The additions amount to Rs. 2,67,83,731/- is quashed.

11. In the result appeal of the assessee **ITA No.1353/Mum/2024** is allowed.

Order pronounced in the open court on 27th day of August 2024.

Sd/-

(PRASHANT MAHARSHI)
ACCOUNTANT MEMBER
Mumbai, दिनांक/Dated: 27/08/2024
Pavanan

sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
5. गार्डफाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar), ITAT, Mumbai