

**IN THE INCOME-TAX APPELLATE TRIBUNAL “A” BENCH,  
MUMBAI**

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER  
&  
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No.2453/MUM/2024  
(A.Y. 2014-15)**

<b>Leela Tarachand Kothari,</b> 1 <sup>st</sup> Floor, Naimal Niketan, 221, Khetwadi Main Road, Mumbai - 400 004, Maharashtra	v/s. बनाम	Income Tax Officer – 19(2)(1), Room No. 221, Matru Mandir, Tardeo Road, Mumbai – 400007, Maharashtra
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAQPK2820K</b>		
<b>Appellant/अपीलार्थी</b>	<b>..</b>	<b>Respondent/प्रतिवादी</b>

Appellant by :	Ms.Rutuja Pawar & Ms Saiyami Shah, ARs
Respondent by :	Shri Aditya Rai (Sr. DR)

Date of Hearing	04.06.2025
Date of Pronouncement	10.06.2025

**आदेश / ORDER**

**PER PRABHASH SHANKAR [A.M.] :-**

The present appeal is filed by the assessee against the order passed by the Learned Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre, Delhi [hereinafter referred to as “CIT(A)”] pertaining to assessment order passed u/s. 143(3) of the Income-tax Act, 1961 [hereinafter referred to as “Act”] dated 30.12.2016 as passed for the Assessment Year [A.Y.] 2014-15.



## 2. Main grounds of appeal are as under:-

- 1) *That on the facts and in the circumstances of the case of the appellant and in law Ld. NFAC has erred in upholding the addition made by Assessing Officer of Rs. 3,35,70,685/-u/s. 68 of the Act.*
- 2) *The learned CIT(A) erred in upholding the action of the assessing officer in treating the long-term capital gains accruing to the appellant as non-genuine only based on 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.*
- 3) *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.*
- 4) *That on the facts and in the circumstances of the case of the appellant and in law Ld. NFAC has erred in upholding the disallowance of Business Loss of Rs. 1,31,62,634/ made by Assessing Officer and considering the same as NIL without providing any substantive evidence or explanation.*
- 5) *That on the facts and in the circumstances of the case of the appellant and in law Ld. NFAC has erred in ignoring all the documents/explanation/submissions provided by the appellant at the time of passing the impugned order.*
- 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) *That the impugned order being contrary to law, evidence and facts of the case may kindly be set aside, amended and modified in the light of the grounds of appeal enumerated above and the appellant be granted such relief as is called for on the facts and in the circumstances of the case of the appellant and in law.*

3. Brief facts of the case are that the assessee is an individual who derives income from Business and Profession and traded in shares during the year. Return of income for the relevant year was filed declaring total income at Rs.13,39,050/-which was selected for scrutiny.



During the course of assessment proceedings, it was noticed by the AO that the assessee had purchased 1,37,084 shares of **Ashika Credit Capital ( in short 'ASHIKACR')**, alleged to be a penny stock through broker Adroit Financial Services Pvt. Ltd. on stock exchange for Rs.141/- per share total amounting to Rs.1,93,57,394/- during the period between 24.09.2013 and 24.10.2013 and subsequently sold them for an average rate of Rs.243/- per share for a total sale consideration of Rs.3,34,02,705/- and earned profit of Rs.1,40,45,311/- on such transaction. It was further observed by the AO that the assessee had also purchased other shares and shown loss of Rs. 1,27,66,336/- which had been adjusted against the profit on sale of shares.

3.1 The AO has further stated that the investigation in this regard has been conducted by the Directorate of Income-tax (Investigation), Kolkata pertaining to transactions involving accommodation entries racket bogus LTCG through manipulation of stock market. Various syndicates had arranged accommodation entry of bogus LTCG, bogus Short Term Capital Gain/Loss, bogus business loss through trading of shares of penny stocks. The investigation conducted revealed that the trading in the said penny stock was manipulated to generate entries of bogus LTCG facilitating tax evasion by a large number of persons. The assessee is one of such persons who has traded



in penny stock company to evade taxes by claiming the bogus LTCG as exempt income. The entire modus operandi of such bogus transactions was accepted by the persons in statements recorded u/s.132(4) of the Act of respective key persons in the light of various evidences/papers/documents etc. found & seized from their premises. The AO has discussed the whole modus operandi in the body of the assessment order.

3.2 The AO has further mentioned that the assessee had traded in several scrips and ASHIKACR is one of them. In this context, a show-cause notice was issued asking the assessee to explain why sale proceeds of Rs.3,35,70,685/- derived on sale of shares of ASHIKACR should not be added back as unexplained credit u/s.68 of the Act by treating the same as a sham transaction. The reply filed by the assessee did not find favour with the AO on the ground that the key person of said group had admitted entire nature of bogus transaction in the statement recorded u/s.132(4) of the Act and it was established that the assessee had availed bogus entries through concerns belonging to group engaged in accommodation entry business. Therefore, the AO added a sum of Rs.3,35,70,685/- to the total income of the assessee treating the same as unexplained cash credit u/s.68 of the Act.



4. In the subsequent appeal before the Id.CIT(A) the assessee agitated the addition. However, he rejected the arguments by observing that in the instant case the Ld. AO has passed speaking order after analysis, investigation and considering views of the assessee and has gone to the very root of the transactions after doing deep analysis of the facts and circumstances. There was no basis in the claim of assessee that SEBI order dated 25.05.2015 was revoked by SEBI itself and that the statements of third party have not been confronted to him. It is seen that the Ld. AO has passed his finding after analysing the financials and price and after examining the same, he concluded that the transaction of share trading was sham. The shares in which the assessee had claimed to have made a deal, are identified as Penny Share by the Investigation wing of the Department because rates of these shares were not based on business results of the companies but same were fluctuated by Insider's trading from zero value (negligible price) to very high price and vice versa without any reason or basis to accommodate or generate tax free income. The share prices of the penny stocks were artificially inflated by the stock brokers so that the abnormal profit could be introduced in the books of accounts being unaccounted money by converting black money into white in the books of accounts. The scrips of ASHIKACR were purchased in the month of September 2013 for Rs.141/- per share and



were sold in the month of December 2013 for Rs.243/- per share. Thus, the prices of shares were manipulated at 20 to 25 times the face value. He held that the transaction of share trading by the assessee is colourable device in guise of investment in listed shares. Entire transactions were stage managed with object to plough back her unaccounted income in form of fictitious share transactions, the Ld. AO was justified in treating such bogus transactions in penny stock under purview of unexplained, cash credit u/s.68 of the Act. In the result, the addition made was upheld.

5. Before us, the ld.DR has relied on the orders of the authorities below. Per contra the ld.AR has contented that the ld.CIT(A) has not taken cognizance of the documentary evidences filed during assessment and appeal proceedings such bank statement, contract notes, demat account etc. to substantiate sale and purchase transactions. The ld. AR drawn attention to detailed written submissions dated 03.02.2021 as made before the ld.CIT(A) which has also been reproduced in the body of the appellate order from pages-4 to 10 of the order. He neither appreciated the documentary evidences nor the decisions relied upon by the assessee wherein on identical facts, similar additions have been deleted. In the course of hearing before us, the ld.AR has placed on record order passed by SEBI dated 19.07.2011



whereby it has exonerated Ashika Stock Broking Ltd. It is also submitted that the said scrip is being still traded as per MCA site giving company's information dated 04.06.2025.

6. We have carefully considered the facts of the case, rival submissions etc. The only dispute in the present appeal is against the addition made under [section 68](#) of the Act on account of proceeds from the sale of shares by treating the scrip of Ashika as penny stock. The assessee filed all relevant evidences i.e contract notes, bank statements, Demat account etc, besides claiming the transaction was made on the platform of stock exchange and through banking channels. The Id.AO did not point out any infirmity in the evidences submitted before him. Therefore, it could be safely concluded that the AO 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 etc. by conniving with any entry operator/exit provider, who were involved in artificial price rigging of shares. Rather, the AO merely on the basis of suspicion rejected the claim of the assessee, without establishing any link between the assessee with the entry operators/exit providers, who were allegedly involved in price rigging of shares artificially of the aforesaid companies.



6.1 It may be stated here that the coordinate Bench of ITAT, Mumbai has decided certain cases as described below wherein similar additions made in respect of the same scrip involving identical facts and circumstances were deleted. Relevant paras are reproduced for the sake of clarity and easy reference:

## 6.2 **Shri Abhishek Doshi ITA no.3122/Mum./2022 dated 31.05.2023**

“4. We have considered the submissions of both sides and perused the material available on record. The only dispute in the present appeal is against the addition made under [section 68](#) of the Act on account of proceeds from the sale of shares by treating the scrips as penny stocks. It is undisputed that the assessee has transacted in the shares of M/s Parag Shilpa Investments Ltd and M/s Ashika Credit and Capital Ltd. The shares of M/s Parag Shilpa Investments Ltd were purchased via a preferential allotment basis, while the assessee has placed on record the contract notes for the purchase of shares of M/s Ashika Credit and Capital Ltd. From the sale of shares of M/s Parag Shilpa Investments Ltd, the assessee earned long-term capital gains, which was claimed as exempt under [section 10\(38\)](#) of the Act. While from the sale of shares of M/s Ashika Credit and Capital Ltd, the assessee earned short-term capital gains. On the basis that the aforesaid companies were part of the investigation by the Directorate of Income Tax (Investigation), Kolkata, Mumbai, and Ahmedabad, and certain investors as well as entry operators have earned bogus long-term capital gains from transacting in shares of the aforesaid companies, the AO treated these companies as paper entities and disallowed the claim of exemption under [section 10\(38\)](#) on account of long-term capital gains and a lower rate of tax on short-term capital gains earned by the assessee. The AO also referred to the value of the shares at a different point in time including the period during which the assessee was holding the shares. However, from the perusal of the assessment order, it is evident that neither in the findings of the Investigation Wing, referred by the AO from pages 4-6 of the assessment order, nor in the statements of beneficiaries and entry providers recorded during the aforesaid investigation, as mentioned from pages 12-22 and thereafter from 24-31 of the assessment order, there is any mention of the name of the assessee. Further, the aforesaid findings also do not establish any nexus of these tainted investors, exit providers, or entry operators with the assessee in any manner.

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 rejected the claim of the assessee, without establishing any link between the 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.

6. In the result, the appeal by the assessee is allowed.”

### 6.3 **Amrita Abhishek Doshi ITA 1353/Mum/2024 dated 27.08.2024**

“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 ld. DR respectfully relied on the order of Swati Bajaj (Supra) where the action of the ld. 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 ld. 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 ld. 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 ld. 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 income earning activity did the assessee derive such unaccounted monies to support his theory that he had routed such unaccounted monies in the guise of Amrita Abhishek Doshi 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 ld. 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 ld. 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 ld. 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.”



6.4 We notice that the AO has primarily placed reliance on the report given by the Investigation Wing of the Income-tax Department, Kolkata in order to arrive at the conclusion that the Long Term Capital Gain reported by the assessee is bogus in nature. We notice that the investigation report prepared by Investigation Wing, Kolkata is a generalized report with regard to the modus operandi adopted in manipulation of prices of certain shares and generation of bogus capital gains. We notice that the AO has placed reliance on the said report, without bringing any material on record to show that the transactions entered by the assessee were found to be a part of manipulated transactions, i.e., it was not proved that the assessee has carried out the transactions of purchase and sale of shares in connivance with the people, who were involved in the alleged rigging of prices. The co-ordinate bench of ITAT, Mumbai in detailed judgements(supra) has considered all relevant aspects of the case and deleted similar addition made u/s 68 of the Act w.r.t. this very scrip. The assessee had filed all the relevant documents in support of the transactions taking place through registered stock brokers. In the investigation report of Kolkata, nowhere name of the assessee figured nor evidences were found during the search and the entire allegations were based on surmises and conjectures only. Moreover, authorities below failed to establish any



money trail involved in the transaction and has only guessed that the assessee might have paid his own money to route the same into books of accounts. Considering the above discussion, the facts on record and the legal position emerging out of catena of decisions of Hon'ble jurisdictional High Court and direct decisions rendered by the co-ordinate benches of Mumbai, ITAT order, we hold that the addition made by the AO is devoid of any merit. The Id.CIT(A) in the appellate order has in a preconceived manner endorsed the assessment order rather than by way of independent application of mind. This order is therefore, set aside. We have no hesitation in deleting the addition and allowing the grounds of appeal. The AO is therefore, directed to delete the additions made u/s 68 of the Act.

7. In the result, the **appeal of the assessee is allowed.**

Order pronounced in the open court on 10.06.2025.

Sd/-

**SANDEEP GOSAIN**

(न्यायिक सदस्य / JUDICIAL MEMBER)

Sd/-

**PRABHASH SHANKAR**

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 10.06.2025

Lubhna Shaikh / Steno

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//  
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आयकर अपीलीय अधिकरण/ ITAT, Bench,  
Mumbai.

