

**IN THE INCOME TAX APPELLATE TRIBUNAL, RANCHI BENCH, RANCHI**

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND  
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER

IT(SS)A No. 10 & 11/Ran/2023

(Assessment Year-2012-13 & 2013-14)

Sri Vishal Palriwal, ISHATVAM, Flat No. 801, 8th Floor, Kanke Road, Ranchi-834008. <b>PAN No. AHNPP 0913 H</b>	Vs.	A.C.I.T., Central Circle-1 Ranchi.
Appellant/ Assessee		Respondent/ Revenue

IT(SS)A No. 12/Ran/2023

(Assessment Year-2012-13)

Sri Gaurav Palriwal, Flat No. 701, 7th Floor, ISHATVAM, Behind Kanke Petrol Pump, Kanke Road, Ranchi-834008. <b>PAN No. AIAPP 8110 E</b>	Vs.	A.C.I.T., Central Circle-1 Ranchi.
Appellant/ Assessee		Respondent/ Revenue

IT(SS)A No. 13/Ran/2023

(Assessment Year-2013-14)

Sri Saurav Palriwal, Block No. 1, Flat No. 3C, space Town VIP Road, Raghunathpur, Kolkata. <b>PAN No. ATCPP 9277 D</b>	Vs.	A.C.I.T., Central Circle-1 Ranchi.
Appellant/ Assessee		Respondent/ Revenue

IT(SS)A No. 14/Ran/2023

(Assessment Year-2013-14)

Smt. Priti Palriwal, Flat No. 701, 7th Floor, ISHATVAM, Behind Kanke Petrol Pump, Kanke Road, Ranchi-834008. <b>PAN No. AMDPP 5673 K</b>	Vs.	A.C.I.T., Central Circle-1 Ranchi.
Appellant/ Assessee		Respondent/ Revenue

IT(SS)A No. 15/Ran/2023

(Assessment Year-2013-14)

Smt. Renu Palriwal, Block No. 1, Flat No. 3C, Space Town VIP Road, Raghunathpur, Kolkata-700052 <b>PAN No. AJLPP 9129 K</b>	Vs.	A.C.I.T., Central Circle-1 Ranchi.
Appellant/ Assessee		Respondent/ Revenue

ITA No. 121/Ran/2024  
(Assessment Year-2011-12)

Sri Gaurav Palriwal, Flat No. 701, 7th Floor, ISHATVAM, Behind Kanke Petrol Pump, Kanke Road, Ranchi-834008. <b>PAN No. AIAPP 8110 E</b>	Vs.	A.C.I.T., Central Circle-1 Ranchi.
Appellant/ Assessee		Respondent/ Revenue

ITA No. 44/Ran/2023  
(Assessment Year-2011-12)

Sri Vishal Palriwal, ISHATVAM, Flat No. 801, 8th Floor, Kanke Road, Ranchi-834008. <b>PAN No. AHNPP 0913 H</b>	Vs.	I.T.O., Ward-3(2), Ranchi.
Appellant/ Assessee		Respondent/ Revenue

ITA No. 45/Ran/2023  
(Assessment Year-2011-12)

Smt. Priti Palriwal, Flat No. 1402, 4th Floor, Sri Ram Garden Sri Block, Kanke Road, Ranchi-834008. <b>PAN No. AMDPP 5673 K</b>	Vs.	I.T.O., Ward-2(2), Ranchi.
Appellant/ Assessee		Respondent/ Revenue

ITA No. 46 & 47/Ran/2023  
(Assessment Year-2011-12, 2012-13)

Sri Gaurav Palriwal, Flat No. 701, 7th Floor, ISHATVAM, Behind Kanke Petrol Pump, Kanke Road, Ranchi-834008. <b>PAN No. AIAPP 8110 E</b>	Vs.	I.T.O., Ward-1(3), Ranchi.
Appellant/ Assessee		Respondent/ Revenue

ITA No. 48/Ran/2023  
(Assessment Year-2015-16)

M/s Gaurav Palriwal (HUF), Flat No. 701, 7th Floor, ISHATVAM, Behind Kanke Petrol Pump, Kanke Road, Ranchi-834008. <b>PAN No. AAEHG 4704 K</b>	Vs.	I.T.O., Ward-1(3), Ranchi.
Appellant/ Assessee		Respondent/ Revenue

ITA No. 64/Ran/2023  
(Assessment Year-2011-12)

Sri Kamal Kumar Palriwal, Through L/H Sri Saurav Palriwal, Block No. 1, Flat No. 3C, Space Town VIP Road, Raghunathpur, Kolkata. <b>PAN No. AFCPP 7152 D</b>	Vs.	A.C.I.T., (OSD), Ward 5(2), Kolkata.
Appellant/ Assessee		Respondent/ Revenue

ITA No. 65 & 66/Ran/2023  
(Assessment Year-2011-12 & 2013-14)

Smt. Renu Palriwal, Block No. 1, Flat No. 3C, Space Town VIP Road, Raghunathpur, Kolkata-700052 <b>PAN No. AJLPP 9129 K</b>	Vs.	A.C.I.T., (OSD), Ward 5(2), Kolkata.
Appellant/ Assessee		Respondent/ Revenue

Assessee represented by	Sri Devesh Poddar, A.R.
Department represented by	Smt. Rinku Singh, CIT-DR
Date of hearing	12/06/2025
Date of pronouncement	12/06/2025

**ORDER**

**PER: BENCH**

1. All these appeals are filed by the by the different assessees against the separate orders of the Id. CIT(A), Patna-3, Patna dated 09/02/2023, 31/01/2023 and 17/02/2023 for the A.Ys. 2011-12, 2012-13, 2013-14 and 2015-16 respectively. Since all the appeals have identical facts and grounds except variation in the amount of addition/disallowances, therefore, all these appeals are clubbed and heard together and are being decided by this common order. As a lead case, we take IT(SS)A No. 10/Ran/2023 for the A.Y. 2012-13, in this appeal, the assessee has raised following grounds of appeal:

- "1. *For that proceedings initiated U/s 148 is bad in law to the extent that search operation was conducted upon the assessee on 07/02/2019 and proceedings U/s 148 has been initiated on 30/03/2019. The AU categorically mentions states that information was received from the investigation unit subsequent to the search operation against the assessee and his family. As such, once the search has conducted place, reassessment if any, could only have been done by invoking section 153A and not U/s 148. As such, the proceedings U/s 148 is ab-initio void and assessment framed thereby is fit to be quashed.*
2. *For that the order of assessment has been passed in a haste and summary manner without proper application of mind by the AU and the approving authority U/s 151 since at multiple places, AU states that statement is reproduced as under:- .... however nothing of that sought is reproduced and rather, AU continued with its own findings. Moreover AU at Para 11 of the order states that before dealing with specific details of this particular case, it is necessary to give background of the report from investigation wing. Thereafter the AU has only discussed the detailed thesis of penny stock without any specific discussion to the facts of assessee's case. As such, the order of assessment passed lacks proper findings and is bad in law.*
3. *For that the proceedings initiated U/s 148 is uncalled for and ab-initio void since the same has been initiated on information received from the investigation unit which can only tantamount to be borrowed satisfaction and reason to suspect. The reasons recorded by itself cannot be concluded to be the reasons to believe recorded by the AO on its own application of mind. As such, proceedings initiated U/s 148 is bad in law and fit to be deleted.*
4. *For that Ld AU was not justified in making the addition as undisclosed income by disallowing the exemption of Long Term Capital Gains claimed U/s 10(38) to the extent that the identical issue was involved in case of one of the family member (brother - Saurav Palriwal), wherein the identical share transactions have been accepted by the department and no adverse findings were drawn.*
5. *For that the Ld CIT(A) was not justified in confirming the addition of Rs. 21,52,500/-made as undisclosed income, which otherwise was claimed exempted U/s 10(38). No specific adverse findings have been mentioned against the assessee by any of the lower authorities. The AO acknowledges that during the assessment proceedings, the assessee has submitted all the relevant documents as called for, however the addition has been made on simple allegation that assessee traded in the script of M/s Global Capital Markets Limited which is said to be tainted and a penny stock script. The addition being made on assumption basis is bad in law.*
6. *For that the assessee at its behest has submitted all the relevant documents as were called for during the assessment proceedings. It is pertinent to mention that the assessee traded with a bona fide intention and that the script MIs Global Capital markets Ltd is yet a listed share traded in BSE which has recently issued bonus shares. Merely because some brokers were involved in price manipulation, assessee cannot be held liable so as to call for disallowing its claim U/s 10(38).*

7. *For that mere mentioning of the fact that information has been received from PMO by itself will not highlight a case or call for AO to make addition in a summary and vague manner without discussing the facts of each case. Ld AO has failed to discuss the facts of the assessee case on basis of the documents produced, however went ahead in making the addition discussing the thesis of penny stock and the modus operandi behind the same. None of the brokers/ agents in their statement before Income Tax authorities have stated the name of the assessee being involved in alleged sham transaction. If Ld AO was so inclined in making the addition, the same could have only been made after discussing the facts of assessee's case and holding an adverse findings on basis of the documents submitted.*
  8. *For that the Ld AO was not justified in charging interest on the assessed income. Following the decision of Hon'ble Jharkhand High Court (Jurisdictional High Court). interest U/s 234A & B is to be charged on the returned income and not on the assessed income. The decision of the Jurisdictional High Court is binding upon the subordinate authorities even if not agreeable on law. As such, interest U/s 234 A & B should only be charged on the returned income and not on the assessed income.*
  9. *For that other grounds in detail will be argued at the time of hearing."*
2. The brief facts of the case are that the a search and seizure operation under Section 132 of the Income Tax Act, 1961 (in short, the Act) was conducted upon the Palriwal Group on 07/02/2019 of which the assessee is one of the Member in the said group. The appellant had filed his return of income for the year under consideration on 01/06/2012 declaring total income of ₹ 4,11,228/-. Thereafter, the Assessing Officer received an information that the appellant has claimed exempt income of ₹ 21,52,500/- as Long Term Capital Gain (LTCG). The information was extracted from the statement of the appellant recorded on oath during the course of search and seizure operation in the Palriwal Group. Subsequently, notice under Section 148 of the Act dated 30/03/2019 was issued to the assessee requiring him to file return of income with true particulars of income. The appellant, in response to the notice under Section 148, filed his return of income without making any changes to its original return. Accordingly,

statutory notices were issued under Section 142(1) and 143(2) of the Act. The Assessing Officer completed the assessment under Section 143(3)/147 of the Act determining total income of ₹ 25,63,728/-.

3. Aggrieved by the order of the Assessing Officer, the assessee filed appeal before the Id. CIT(A), who vide the impugned order, upheld the action of the Assessing Officer by dismissing the appeal of the assessee.
4. Further aggrieved, the assessee has filed present appeal before this Tribunal. At the outset of hearing, the Id. AR of the appellant has filed a detailed written submission with regard to all the appeals mentioned above as under:

*"1. That the proceeding U/s 153A was initiated in IT(SS) No. 11 - 15/Ran/2023 and ITA No. 121/Ran/2024 wherein apart from the addition on merits, we state that the assessment for these years were unabated/completed as on date of search and thus addition if any could only be made on basis of seized incriminating material.*

*2. That the legal issue i.e. Whether proceedings U/s 153A can be initiated in absence of seized incriminating material in case of an unabated assessment, now stands now stands settled by the decision of Hon'ble Apex Court in the case of PCIT Vs Abhisar Buildwell Pvt Ltd - 454 ITR 212 and in the case of PCIT Vs King Buildcon Pvt Ltd - 456 ITR 770. The Hon'ble Apex Court followed its former decision in the later one. In the case of PCIT Vs Abhisar Buildwell Pvt Ltd - 454 ITR 212, the Hon'ble Apex Court had concluded as under:-*

*13. For the reasons stated hereinabove, we are in complete agreement with the view taken by the Delhi High Court in the case of Kabul Chawla (supra) and the Gujarat High Court in the case of Saumya Construction (supra) and the decisions of the other High Courts taking the view that no addition can be made in respect of the completed assessments in absence of any incriminating material.*

*14. In view of the above and for the reasons stated above, it is concluded as under:*

*(i) that in case of search under section 132 or requisition under section 132A, the AO assumes the jurisdiction for block assessment under section 153A;*

*(ii) all pending assessments/reassessments shall stand abated;*

*(iii) in case any incriminating material is found/unearthed, even, in case of unabated/completed assessments, the AO would assume the jurisdiction to assess or reassess the 'total income' taking into consideration the incriminating material unearthed during the search and the other material available with the AO including the income declared in the returns; and*

*(iv) in case no incriminating material is unearthed during the search, the AO cannot assess or reassess taking into consideration the other material in respect of completed assessments/unabated assessments. Meaning thereby, in respect of completed/unabated assessments, no addition can be made by the AO in absence of any incriminating material found during the course of search under section 132 or requisition under section 132A of the Act, 1961. However, the completed/unabated assessments can be re-opened by the AO in exercise of powers under sections 147/148 of the Act, subject to fulfilment of the conditions as envisaged/mentioned under sections 147/148 of the Act and those powers are saved.*

*The question involved in the present set of appeals and review petition is answered accordingly in terms of the above and the appeals and review petition preferred by the Revenue are hereby dismissed. No costs.*

- 3. The above decision of Hon'ble Apex Court is squarely applicable in above 6 case of the assessee group, since in the order of assessment there is no whisper of any seized incriminating material found during the search action which could suggest or call for the addition to be made.*
- 4. That the identical issue on merits involved in all these captioned appeals is with respect to addition made U/s 68 by disallowing the Long Term Capital Gains claimed as exempt income U/s 10(38). It is not in dispute that all the assessee has disclosed exempt income U/s 10(38) from sale of shares in name of M/s Global Capital Market Ltd.*
- 5. That it is not in dispute that during the assessment proceedings and the appellant proceedings, the assessee had produced all relevant documents such as demat account statement, bank statement showing purchase & sale, STT paid details etc to establish the genuineness of the transaction.*
- 6. That there is no evidence with the revenue department which can directly allege that the assessee in person was involved in price rigging and manipulation so as to earn bogus LTCCG.*
- 7. That apart from quoting any other High Court decision, we at the outset would like to place reliance on the decision of Hon'ble Jharkhand High Court (Jurisdictional) in the*

*case of CIT Jamshedpur Vs Arun Kumar Agarwal (HUF) TA No 04 of 2011 dated 13th July 2012, wherein it has been held that:-*

*We have considered the submissions of the learned counsel for the parties and we are of the considered opinion that the learned Assessing Officer was much influenced by the enquiry report which may has been brought on record by the efforts of the Assessing Officer and that enquiry report was prepared by the SEBI and from the observations made by the Assessing Officer himself, it is clear that after getting that enquiry report, the SEBI prima facie found involvement of some of the share brokers in unfair trade practices. Even in a case where the share broker was found involved in unfair trade practice and was involved in lowering and rising of the share price, and any person, who himself is not involved in that type of transaction, if purchased the share from that broker innocently and bonafidely and if he show his bonafide in transaction by showing relevant material, facts and circumstances and documents, then merely on the basis of the reason that share broker was involved in dealing in the share of a particular company in collusion with others or in the manner of unfair trade practices against the norms of S.E.B.I and Stock Exchange, then merely because of that fact a person who bonafidely entered into share transaction of that company through such broker then only by mere assumption such transactions cannot be held to be a shame transaction.*

*At this juncture, it would be relevant to mention here that it is not disputed by the Revenue before us that the shares of these assesseees were already shown in the earlier Balance Sheet submitted by the assesseees, and therefore, in that situation, how the revenue condemned the transaction even on the ground of steep rise in the shares. If within a period of one year, the share price has risen from Rs.5 to 55 and from 9 to 160 and one person was holding the shares much prior to that start of rise of the share, then how it can be inferred that such person entered into sham transaction few years ago and prepared for getting the benefit after few years when the share will start rising steeply. In present case even there was no reason for such suspicion when the shares were purchased years before the unusual fluctuation in the share price. Here in this case, we have given example of one of the Tax Appeal wherein the shares were purchased in the year 2004 and were, sold in the year 2006, which is said to be one of the case wherein the gap in the purchase and sale of the shares was narrowest. In other cases as we have noticed from the various orders of the C.I.T.(Appeals) that, the shares of some of the companies were purchased by the assesseees even five years ago from the time of sale and those purchasers were already disclosed in the Balance Sheet of the assessee, then from any angle, it is proved that the assesseees had held the shares much prior to 12 months of the sale of the shares. Hence, these Appeals are dismissed.*

8. *Lastly, we would like to submit that in parallel to the case of assessee, a 148 assessment on identical issue was being framed in case of Sri Saurav Parliwal*

*(family member of the assessee group) wherein for AY 2011-12 vide order dated 19/09/2018 U/s 147/143(3), the LTCG declared and claimed as exempt income has been accepted. The copy of the said assessment order is attached herewith. As such, on identical facts, consistency should be maintained and that revenue department cannot have different stands in case of different assessee for the identical facts.*

*As such, in view of the above mentioned facts and submissions, we state that the addition made by the Ld AO and confirmed by the Id CIT(A) is fit to be deleted."*

The Id. AR of the assessee finally submitted that the case of the assessee are squarely covered in favour of the assessee by decision of this Tribunal in the case of Smt. Saorj Agarwal Vs ACIT in IT(SS)A No. 24 and 25/Ran/2023 and ITA Nos. 80 to 82/Ran/2023 order dated 01/05/2025.

5. On the other hand, the Id. CIT-DR has vehemently supported the orders of the lower authorities.
6. We have considered the rival submissions and perused the material available on record. From perusal of record, we found that the case of the assessee with regard to issue of unabated assessment is squarely covered by the decision of this Tribunal dated 01/05/2025 in the case of Smt. Saroj Agarwal Vs ACIT (supra) wherein the ITAT has decided as under:

*"5. We have considered the rival submissions. A perusal of the assessment order shows that the Assessing Officer has not brought out any incriminating material much less any material found in the course of search which could give reason that the assessee has claimed bogus Long Term Capital Gain (LTCG). As no material has been found in the course of search in the impugned assessment years for the purpose of disbelieving the claim of LTCG u/s. 10(38) of the Act, in view of the principles laid down by the Hon'ble Supreme Court in the case of Abhisar Buildwell Pvt. Ltd. (supra), the assessment orders for both the assessment years i.e. AYs. 2013-14 and 2015-16 stand quashed.*

7. We further found that the issue involved in this appeal with regard to Long Term Capital Gain is also covered by the decision of this Tribunal dated 01/05/2025 in the case of Smt. Saroj Agarwal Vs ACIT (supra) wherein the ITAT has decided as under:

*"10. We have considered the rival submissions. A perusal of the facts of the present case shows that in the case of the assessee's son Saurav Kumar Paliwal in the assessment year 2011-12 the transactions in respect of the same company being Global Capital Markets Ltd. has been accepted by the Assessing Officer as genuine and has granted the benefit of exemption u/s. 10(38) of the Act. In the case of the assessee, it is noticed that the Assessing Officer has relied on certain investigation report of the Investigation Wing of the Department and had disallowed the assessee's claim of exemption u/s. 10(38) of the Act. No evidence whatsoever connecting the assessee to such alleged manipulation has been found nor shown by the revenue. This being so, as also considering the principles laid down by the Hon'ble High Court of Ranchi in the case of Arun Kumar Agarwal (supra), the addition as made by the Assessing Officer and confirmed by the Ld. CIT(A) by disallowing the assessee's claim of exemption u/s. 10(38) of the Act stands deleted. All the three appeals of the assessee are allowed.*

*11. In the result, all the captioned appeals of the assessee are allowed."*

8. In view of the above facts and circumstances and by respectfully following the above decision passed by this Bench, we direct to delete the addition made by the Assessing Officer and confirmed by the Id. CIT(A). In the result, grounds of appeal raised by the assessee are allowed.
9. In the result, this appeal of the assessee is allowed.
10. Now we take IT(SS)A Nos. 11 to 15/Ran/2023, ITA No. 44 to 48/Ran/2023, ITA 64 to 66/Ran/2023 and ITA No. 121/Ran/2024 for the A.Y. 2011-12, 2012-13,

2013-14 and 2015-16, we find that in these appeals, the assessee has raised similar grounds of appeals except variation of addition as made by the Assessing Officer and as confirmed by the Id. CIT(A). We also find that the facts of these cases and the grounds of appeals as raised by the assessee in these appeals are similar to the facts and grounds of appeal as raised in IT(SS)A No.10/Ran/2023 for the A.Y. 2012-13, where we have allowed the appeal of assessee by following the decision of this Bench in the case of Smt. Saroj Agarwal (supra). Therefore, keeping in view the principle of consistency on similar set of facts, all these appeals of assessee are also allowed with similar direction. In the result, grounds of appeals are allowed.

11. In the result, all the appeals of assessee are allowed.

Order announced in open court on 12th June, 2025.

Sd/-  
(GEORGE MATHAN)  
JUDICIAL MEMBER

Sd/-  
(RATNESH NANDAN SAHAY)  
ACCOUNTANT MEMBER

Ranchi, Dated: 07/07/2025

*\*Ranjan*

Copy to:

1. Assessee
2. Revenue
3. CIT
4. DR
5. Guard File

By order

Sr. Private Secretary, ITAT, Ranchi