

IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, NAGPUR

BEFORE SHRI NARENDRA KUMAR CHOUDHRY, JUDICIAL MEMBER

ITA no.379/Nag./2025
(Assessment Year : 2012-13)

Nareshchandra Kawale
Plot no.601, New Nakasha
Lashkaribagh, Nagpur 440 001 Appellant
PAN – ACMPK9340F

v/s

Asstt. Commissioner of Income Tax
Circle-5, Nagpur Respondent

Assessee by : Shri Shubham Jain, Ld. Adv
Revenue by : Shri Surjit Kumar Saha, Ld. DR

Date of Hearing – 27/06/2025

Date of Order – 27/06/2025

ORDER

The present appeal has been filed by the assessee challenging the impugned order dated 08/04/2025, passed by the learned Commissioner of Income Tax (Appeals), Bhubaneswar, [for short, "*learned CIT(A)*"] for the assessment year 2012-13.

2. The assessee's case was re-opened under section 147 of the Income Tax Act, 1961 (for short "*the Act*"), admittedly on the basis of search and seizure action carried out on the assessee, which resulted into making of addition of Rs.2,87,271, on the reason that thorough

investigation was conducted by the Income Tax Department, Investigation-2, Mumbai, wherein it was found that a syndicate of persons were acting in collusion and executing managed transactions on the stock exchange generating bogus long term capital gain / bogus short term capital loss for various beneficiaries.

3. This Court find that the Hon'ble Jurisdictional High Court in Sejal Jewellers v/s Union of India, [2025] ITL-881 (Bom.) has also dealt with identical issue, wherein the case of the assessee was re-opened on the basis of search and seizure operation carried out in the premises of third party and, therefore, the Hon'ble Jurisdictional High Court held that the assessment would have been made under section 153 of the Act but not under section 147 of the Act. The Hon'ble Jurisdictional High Court has ultimately quashed the assessment proceedings along with notice issued under section 148 of the Act. Thus, respectfully following the aforesaid decision of the Hon'ble Jurisdictional High Court cited above, the assessment order itself is hereby quashed.

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

Order pronounced in the open Court on 27.06.2025

**Sd/-
N.K. CHOUDHRY
JUDICIAL MEMBER**

Copy of the order forwarded to:

- (1) The Assessee;*
- (2) The Revenue;*
- (3) The PCIT / CIT (Judicial);*
- (4) The DR, ITAT, Nagpur; and*
- (5) Guard file.*

*Pradeep J. Chowdhury
Sr. Private Secretary*

By Order

Sr. Private Secretary
ITAT, Nagpur