

आयकर अपीलीय अधिकरण न्यायपीठ “एक-सदस्य” मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAIPUR BENCH “SMC”, RAIPUR**

**श्री पार्थ सारथी चौधरी, न्यायिक सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

आयकर अपील सं./ITA No.342/RPR/2025

निर्धारण वर्ष / Assessment Year : 2012-13

The Income Tax Officer-1(1),
Bhilai (C.G.)

.....अपीलार्थी / Appellant

बनाम / V/s.

Manish Kumar Mehta
Opportunity. Swami Atmanand English Medium School,
Krishna Talkies Road, Risali,
Bhilai (C.G.)-490 006
PAN: AAHHM3766Q

.....प्रत्यर्थी / Respondent

Assessee by : Shri Pratik Bakliwal, CA
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 06.08.2025

घोषणा की तारीख / Date of Pronouncement : 07.08.2025

आदेश / ORDER**PER PARTHA SARATHI CHAUDHURY, JM**

The captioned appeal preferred by the revenue emanates from the order of the Ld.CIT(Appeals)/NFAC, dated 26.03.2025 for the assessment year 2012-13 as per the grounds of appeal on record.

2. The relevant facts as per the assessment order are extracted as follows:

“3. In brief, the facts of the case are that as per information placed on record, the assessee had procured bogus LTCG/STCG by fund transfer through Shell company M/s Matribhumi Commerce Pvt. Ltd. The assessee has routed his undisclosed income through this shell company and has not disclosed the investments made by him. Accordingly, the assessee sold 4000 shares of KONACOM through Sunil Kumar Kayan, a share broker on 30.06.2011 for a total consideration of Rs.4,83,507/- and acquired Rs.4,83,507/- as long term capital gain on sale of such shares.

4. As far as genuineness of acquisition and sale of subjects shares, are concerned, the Directorate of Income Tax (Investigation), Unit 2(1) Kolkata had carried out extensive investigations in the issue of providing bogus long term or short term ' capital gain accommodation entries to the desired beneficiaries and as a result of such investigation, it has been categorically established that the shares of M/s Multiplus Resources Ltd were in facts penny stocks which were used for accommodation entries by the alleged stock brokers and entry operators by rigging for illegal price - hiking through syndicate trading. It was observed that large amounts were credited/deposited mainly in the cash and bank accounts of the concerns i.e. Riddhi Siddhi Enterprises, S.D Trading Co, Gupta Enterprises, Jaiswal Trading , Rohan Singh which was subsequently transferred mainly to the bank account of M/s DLS Export Pvt Ltd, Chitraksh Vintrade Pvt Ltd, Sukalyana Infrastowers Pvt Ltd, Peacock Vintrade Pvt Ltd. On perusal of MCA website it is seen that M/s DLS Export Pvt Ltd, Chitraksh Vintrade Pvt Ltd, Sukalyana

Infrastowers Pvt Ltd,,Peacock Vintrade Pvt Ltd have been strucked off. Further statement on oa..1-Lwere recorded wherein the brokers have categorically admitted that funds received frohis.,M/s Coral Tradecom Pvt Ltd, Hitendra Commercial Pvt Ltd,IMurlidhar Comrnerci4,Pvi Ltd,'Matribhumi Commerce Pvt Ltd, Yasoda Marketing Pvt Ltd was used to provide bogus long term capital:gain/ short term capital loss to various persons.

The above entities/companies and intermediate companies, it is learned that most of these entities are either non-filer or filed their ITR showing meager income. Apparently these companies were running on papers only and their bank accounts were used for layering of funds. Accordingly Cash Trail, identifying several has been prepared and the name of assessee was found among the list of the beneficiaries.

5. In the statement given by Ashok Kr. Kayan and Sunil Kr. Kayan, they explained the modus operandi of bogus LTCG/STCL provided through Penny stocks as "There was syndicate working in penny stock. At first level, client with unaccounted cash approach to the entry operators for getting LTCG. The entry operator0 turn approach a set of broker who are in their network. The brokers work in co-ordination with each other so that trades are time synchronized and the scrips remains with cartel of broker and entry operator only. The share prices are rigged_so_that a penny stocks gets a high value over a period of one year. Once, the scrips are retain beyond a period of one year in the client accounts they are sold to some jammakharchi company which are operated by the same set of entry operator so that the client get LTCG. Further, since the jammakharchi client has purchased the scrips at higher rate, the rates are lowered over a period of time so that they get capital losses which they can claim in their return of income. Hence, while the individual clients incurs long term capital gain, the jammakharchi company clients earns short term capital loss and there is tax evasion at both the level. The only intention was to bring unaccounted wealth to book without paying taxes or evade paying taxes. It was only meant to- give a lucrative name to the company so that more beneficiaries can be attracted to the scheme.

6. As per information placed on record, notice u/s.133(6) was issued to BSE, Stock Broker, HDFC and to Calcutta Stock Exchange on various dates calling for information concerning the assessee for Year under consideration. Vide

notice u/s.142(1) dated 26.08.2019 along transaction related to shares trading along with detailed questionnaire the assessee was asked to explain that there is suspicious

6.1 In compliance to the above the assessee denied to have made any share trading during the year under consideration. In response to letter issued u/s.133(6) of the Act, Shri Sunil Kay an stock broker at In Stock Exchange furnished the share trading detail of the assessee. He also furnished Contract Note dated 30.06.2011 in the name of the present assessee Shri Manish Kumar Mohta (HUF). Further, in the ledger and statement of accounts of the broker it is clearly given that, cheque of Rs506.58/- has been issued to the assessee on 05.07.2011. The copies are produced as under:

MEMBER : CALCUTTA STOCK EXCHANGE ASSN. LTD.
OFFICE : 6, LYONS RANGE, KOLKATA - 700 001
PHONE : 2239 5214 / 3225, 2231-9511

SEBI REGISTRATION NUMBER : INB 03069817
MEMBER CODE 03745

Date: 24/12/2019

To,
The Office Of The Income Tax Officer
Ward-1(1), Bhilai,
16/32 Bungalow, Sector 6, Bhilai,
Bhilai, Chhattisgarh-490006.

Kind Attention: Mr. Permanand Ujke.

Sub: Calling for information u/s 133(6) of the I.T Act
in the case of Manish Kumar Mehta HUF for A.Y.2012-13 (f.y.2011-12).

Dear Sir / Madam,
We have received your letter no ITBA/AST/S/133(6)/2019-20/1022925794(1) dated 23/12/2019 in addressed to Sunil Kumar Kayan address 33, Raja Santosh Road, 6th Floor, Kolkata - 700 027. Please note that the address mentioned in your mail is incorrect & my address is Sunil Kumar Kayan & co 8, Lyons Range Kolkata-700001. You have sought certain information for your assess sent Manish Kumar Mehta HUF Pan No. AAJHM3766Q for A.Y 2012-2013 (F.Y 2011-2012). In this regard we provide you the details.

(i) Whether any transaction has been made with you by the above assessee for Assessment Year 2012-13(01/04/2011 to 31/03/2012).
Enclosed as contract note.

(ii) If the answer of the above question is in affirmative, please provide the details of such transaction with all related documents reflecting such transactions, along with the relevant portion of ledger showing such transactions made with the above mentioned assessee. Please also provide the mode of transactions.
Enclosed as ledger and bank statement.

Thanking You
Yours Faithfully
SUNIL KUMAR KAYAN & CO
Proprietor

We understand your world

0000340012150
SUNIL KUMAR KAWHANSI EDU
MITHA BILM DRES
BLI LONG RANGE

KOLKATA
WEST BENGAL
700001 (0308)

000722

HDFC BANK LTD.
HDFC BANK LTD.,
STEPHEN HOUSE,
KOLKATA

Statement of accounts

Statement Period : 01-Jul-2011 TO 30-Jul-2011

Account Number : 0000340012150

Date	Particulars	Debit	Credit	Balance
05-Jul-2011	CHO DEP-MICR-ROYD STREET ROYDSTRT,KOLKATA	636104		
05-Jul-2011	CHO DEP-MICR-ROYD STREET ROYDSTRT,KOLKATA		632784	1,848,389.31
05-Jul-2011	SC-RTGS DR-HDFCH1186417173 STOCK EXCH,MUMBAI			1,848,389.31
05-Jul-2011	SC-RTGS DR-HDFCH1186417174 STOCK EXCH,MUMBAI		25.00	7,094.31
05-Jul-2011	SC-RTGS DR-HDFCH1186417558 STOCK EXCH,MUMBAI		25.00	7,069.31
05-Jul-2011	SC-RTGS DR-HDFCH1186419433 STOCK EXCH,MUMBAI		25.00	7,044.31
05-Jul-2011	SERVDETAX-SC-RTGS DR-HDFCH1186417173 STOCK EXCH,MUMBAI		2.60	7,041.71
05-Jul-2011	EDU CESS-SC-RTGS DR-HDFCH1186417173 STOCK EXCH,MUMBAI		0.05	7,041.66
05-Jul-2011	HIGHER EDU-SC-RTGS DR-HDFCH1186417173 STOCK EXCH,MUMBAI		0.03	7,041.63
05-Jul-2011	SERVDETAX-SC-RTGS DR-HDFCH1186417174 STOCK EXCH,MUMBAI		2.50	7,039.13
05-Jul-2011	HIGHER EDU-SC-RTGS DR-HDFCH1186417174 STOCK EXCH,MUMBAI		0.02	7,039.11
05-Jul-2011	SERVDETAX-SC-RTGS DR-HDFCH1186417558 STOCK EXCH,MUMBAI		0.05	7,039.06
05-Jul-2011	HIGHER EDU-SC-RTGS DR-HDFCH1186417558 STOCK EXCH,MUMBAI		0.03	7,039.03
05-Jul-2011	EDU CESS-SC-RTGS DR-HDFCH1186417558 STOCK EXCH,MUMBAI		0.05	7,038.98
05-Jul-2011	SERVDETAX-SC-RTGS DR-HDFCH1186419433 STOCK EXCH,MUMBAI		2.50	7,036.48
05-Jul-2011	EDU CESS-SC-RTGS DR-HDFCH1186419433 STOCK EXCH,MUMBAI		0.05	7,036.43
05-Jul-2011	HIGHER EDU-SC-RTGS DR-HDFCH1186419433 STOCK EXCH,MUMBAI		0.03	7,036.40
05-Jul-2011	EOD SWEEP OUT-00070820004117 CSE,KOLKATA		0.03	7,036.37
05-Jul-2011	CHO PD-MICR INW-SHERATA KUNDU ROYDSTRT,KOLKATA	00000012442		2,340,462.10
05-Jul-2011	CHO PD-MICR INW-MANISH KAWHANSI ROYDSTRT,KOLKATA	00000012457		1,070,428.31
05-Jul-2011	CHO PD-MICR INW-JAYHGREE KHEMANI ROYDSTRT,KOLKATA	00000012441		483,506.55
05-Jul-2011	SWEEP-IN DEBIT - 00070820004117 CSE,KOLKATA		764,589.37	7,859,694.44
05-Jul-2011	CHO PD-MICR INW-PRAVINBHAI RAIKOT,RAIKOT	00000014913		163,934.40
			1,530,000.00	6,841,170.44
				5,441,170.44

Contents of this statement will be considered correct if no errors reported within 30 days of receipt of statement.
HDFC BANK LIMITED

7. Keeping in view of the above facts and circumstances of the case, it is ascertained that an amount of Rs.4,83,507/- credited is considered as unexplained sources of investment under section 69B of the Income Tax Act, 1961 and added to the total income of the assessee. Penalty proceedings u/s 271(1)(c) of the Income Tax Act is initiated separately for concealment of income.”

3. The Ld. CIT(Appeals)/NFAC has provided relief to the assessee by observing as follows:

“7.1.1. During the appellate proceedings while going through the submission filed along with appeal memo the appellant has contended that the contract note was between the Sunil kumar Kayan & Co. and the Manish kumar mohta (HUF), 6, vivekanan Road, Kolkatta. However, in the case of the appellant the name of HUF is Manish kumar Mehta HUF, Address: 62, mahavir colony, Durg. (C.G). Therefore, the appellant has denied to enter into any contract as mentioned above. Further, the appellant has submitted that as per bank statement of M/s Sunil Kumar Kayan & Co. which reflects the entry dated 06.07.2011 a fund remittance of Rs.483506.58/- to Manish Kumar Mohta not Manish Kumar Mehta HUF. Also, no such transaction was found in our bank statement in support of his claim the appellant has submitted a copy of bank statement. Further, the appellant has submitted that as per the bank statement of M/s Sunil Kumar Kayan & co and the contract note, the transaction belongs to someone Manish Kumar Mohta (HUF) r/o 6, vivekanand road, Kolkatta. Also, the AO has not conducted any inquiry from the HDFC Bank. The only similarity between the appellant and someone Manish Kumar Mohta(HUF) is PAN seeded in the contract note.

7.1.2. I this case it is seen that the main focus of AO is to bring the appellant under taxation on the basis of details received from M/s Sunil Kumar Kayan & Co. against the notice issued u/s 133(6). However, as per details received from M/s Sunil Kumar Kayan & Co. it is seen that the transaction belongs to someone Manish Kumar Mohta (HUF). However, the PAN reported was same. As per assessment records, notice u/s 133(6) was issued to BSE, Stock Broker, HDFC and to Calcutta Stock Exchange calling for information concerning the appellant for year under consideration. However, the appellant denied to have any

share trading during the year under consideration. Further, the appellant has filed its return of Income for the year under consideration on 28.03.2013 declaring total income of Rs.305510/-. The appellant has not disclosed trading of any shares or receipt of Rs.483507/- as gathered from the information above, in his original return of income. Later on in response to the notice u/s 148, the appellant has again e-filed his return of income on 27.04.2019 declaring total income at Rs.305510/-. In support of his claim the appellant has also submitted copy of bank account and ledger details as under:

10 March 2021 | User: 120117 | 525 | Menu Shortcut:

Universal Banking Solution from Infosys

Transaction Inquiry Help

A/c ID	5251201200123	CCY/SOL ID	INR/525
A/c Name	MANISH KUMAR MEHATA (HUF)	Balance	0.00 Cr
General Ledger Subhead Code	10200	Closing Balance	0.00 Cr
Opening Balance	20,995.39 Cr	Funds in Clearing	0.00 Cr
Final Balance	0.00 Cr	Effective Available Amt.	0.00 Cr
Available Amt.	0.00 Cr	A/c. Opening Date	21-03-2005
Customer Status	GEN GENERAL	A/c. Status Date	13-04-2007
A/c Status	A Active		
Purge Date	15-04-2007		
Address	62 MAHAVEER COLONY DURG		
City	DURG DURG	State	CG CHHATTISGARH
Country	IN INDIA	Postal Code	491001
Phone Type	COMMUNI	Telex No.	
Phone No.	802212330		
Email ID Type			
Email ID			

General Ledger Date	Value Date	Instrument No.	Withdrawal Amt.	Deposit Amt.	Balance	Narrative
18-07-2012	18-07-2012	18405	1,809.38 Dr		0.00 Cr	A/C CLOSED
31-03-2012	31-03-2012	18427	88,000.00 Dr		1,909.39 Cr	DURG SELF
14-11-2011	14-11-2011			10,800.00 Cr	89,909.39 Cr	BY GL/GZ/NM/ICR-BULK/SET 81
28-10-2011	28-10-2011			15,366.00 Cr	79,019.39 Cr	BY INST 6609 - MANUAL/NON-MICR O
25-10-2011	25-10-2011			36,000.00 Cr	63,653.39 Cr	BY SHREE SITA REFINERS
16-07-2011	16-07-2011	18425	25,000.00 Dr		27,653.39 Cr	HDFC MANISH K MEHTA
15-07-2011	15-07-2011			25,000.00 Cr	52,653.39 Cr	DURG CASH RECEIPT
04-07-2011	04-07-2011			3,803.00 Cr	27,653.39 Cr	GYANCHAND & SONS
04-07-2011	04-07-2011			4,640.00 Cr	24,050.39 Cr	M S RAJESH CO.
04-07-2011	04-07-2011			10,364.00 Cr	19,410.39 Cr	THARUMAL & SONS
17-06-2011	17-06-2011			7,200.00 Cr	9,048.39 Cr	BY INST 102983 - MANUAL/INDN-MICR O
08-06-2011	08-06-2011	18424	1,08,000.00 Dr		1,848.39 Cr	DURG SELF
04-06-2011	04-06-2011			33,806.00 Cr	1,09,846.39 Cr	BY GL/GZ/NM/ICR-BULK/SET 54
27-05-2011	27-05-2011			4,665.00 Cr	25,980.39 Cr	KANTILAL & CO

OK

Vivekananda Road, Kolkata-700 001, however, PAN mentioned there is of the present assessee whose name is Manish Kumar Mehta, Durg. The entire taxability has been placed in the hands of the assessee due to quoting of wrong PAN by M/s. Sunil Kumar Kayan & Co., the broker issuing the said contract note which is extracted as follows:

Order/Authorised Signatory :
M. KAYAN
M/S. SKK

11 নং স্ট্রিটের ৬ নং পল্লী
CONTRACT NOTE - Form AA SUBJECT TO KOLKATA JURISDICTION
Contract Note issued by Member acting for constituents as Brokers and Agents
SUNIL KUMAR KAYAN & CO.
MEMBER - THE CALCUTTA STOCK EXCHANGE ASSOCIATION LTD.
8, LYONS RANGE, GROUND FLOOR, KOLKATA - 700 001
PHONE : 2200-6514, 2211-6811

SEBI REGN. NO. INB 00068817
CLEARING CODE NO. 03/749

333 - MANISH KUMAR MEHTA (HUF)
6, VIVEKANANDA ROAD, KOLKATA
700 007
PAN : AHHN3766Q

CONTRACT NOTE NO. : 987
TRADE DATE : 23/08/23
SETTLEMENT NO. : 232/01/55
SETTLEMENT DATE : 30/09/23

Member
Name this day done by your order and on your account the following transactions:

Order No.	Order Time	Trade No.	Trade Time	Security	Quantity Bought For You	Quantity Sold For You	Gross Rate per Security (Rs.)	Total (Rs.)	Brokerage (Total) (Rs.)	Net Rate (Rs.)	Service Tax (Rs.)	Securities Transaction Tax (Rs.)	Total Net (Rs.)
1121	01:29	1121	01:29	WGL	1000		123.50	123500.00	12350.00	111150.00	11115.00	11115.00	122265.00
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				WGL		1000	123.50	123500.00	12350.00	111150.00	11115.00	11115.00	122265.00
				WGL	1000		123.50	123500.00	12350.00	111150.00	11115.00	11115.00	122265.00
				WGL		1000	123.50	123500.00	12350.00	111150.00	11115.00	11115.00	122265.00
				WGL	1000		123.50	123500.00	12350.00	111150.00	11115.00	11115.00	122265.00
				WGL		1000	123.50	123500.00	12350.00	111150.00	11115.00	11115.00	122265.00
				WGL	1000		123.50	123500.00	12350.00	111150.00	11115.00	11115.00	122265.00
				WGL		1000	123.50	123500.00	12350.00	111150.00	11115.00	11115.00	122265.00
				WGL	1000		123.50	123500.00	12350.00	111150.00	11115.00	11115.00	122265.00
				WGL		1000	123.50	123500.00	12350.00	111150.00	11115.00	11115.00	122265.00
				WGL	1000		123.50	123500.00	12350.00	111150.00	11115.00	11115.00	122265.00
				WGL		1000	123.50	123500.00	12350.00	111150.00	11115.00	11115.00	122265.00
				WGL	1000		123.50	123500.00	12350.00	111150.00	11115.00	11115.00	122265.00
				WGL		1000	123.50	123500.00	12350.00	111150.00	11115.00	11115.00	122265.00
				WGL	1000		123.50	123500.00	12350.00	111150.00	11115.00	11115.00	122265.00
				WGL		1000	123.50	123500.00	12350.00	111150.00	11115.00	11115.00	122265.00
				WGL	1000		123.50	123500.00	12350.00	111150.00	11115.00	11115.00	122265.00
				WGL		1000	123.50	123500.00	12350.00	111150.00	11115.00	11115.00	122265.00
				WGL	1000		123.50	123500.00	12350.00	111150.00	11115.00	11115.00	122265.00
				WGL		1000	123.50	123500.00	12350.00	111150.00	11115.00	11115.00	122265.00
				WGL	1000		123.50	123500.00	12350.00	111150.00	11115.00	11115.00	122265.00
				WGL		1000	123.50	123500.00	12350.00	111150.00	11115.00		

5. Therefore, the mistake has emanated from the contract note itself issued from the office of the broker i.e. M/s. Sunil Kumar Kayan & Co. wherein PAN was wrongly mentioned regarding the present assessee wherein the transaction pertains to Manish Kumar Mohta HUF. The assessee had even submitted his bank statement where there is no credit entry in favour of the assessee regarding the sale of shares amounting to Rs.4,83,507/- which has been rightly held by the Ld. CIT(Appeals)/NFAC after due verification of the said document that the assessee is not beneficiary of any gain from sale of shares regarding the aforesaid amount. Furthermore, it has been determined by the Ld. CIT(Appeals)/NFAC through further verification that in the bank statement of the said broker i.e. M/s. Sunil Kumar Kayan & Co., credit entry shows in the name of Manish Kumar Mohta HUF and not Manish Kumar Mehta and therefore question does not arise itself regarding any benefit derived by the assessee. In fact, it was submitted by the Ld. Counsel that the assessee is working as a broker with regard to edible oils and as per his regular functioning, he is only procuring orders on behalf of various retailers and sending the names of such retailers to the parent company manufacturing edible oils and in lieu of such recommendation of the retailers, the assessee is receiving commission income. These facts have not been disputed by the Department. In fact, the assessee has never engaged in any trading of shares or scrips etc. The evidence of the source

of his income is clearly visible from the return of income filed and in such scenario, it is an admitted fact that when the assessee is not trading in any shares or scrips and that there is no benefit accrued to the assessee as has been examined by the Department and held by the Ld. CIT(Appeals)/NFAC and when it is found that such trading was done by Manish Kumar Mohta HUF and not by the assessee before me, in such circumstances, I do not find any infirmity with the findings of the Ld. CIT(Appeals)/NFAC in providing relief to the assessee which is hereby upheld.

6. As per the above terms grounds of appeal raised by the revenue are dismissed.

7. In the result, appeal of the revenue is dismissed.

Order pronounced in open court on 07th day of August, 2025.

Sd/-

(PARTHA SARATHI CHAUDHURY)

न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 07th August, 2025.

SB, Sr. PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक-सदस्य" बेंच, रायपुर / DR, ITAT, "SMC" Bench, Raipur.

5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur