

IN THE INCOME TAX APPELLATE TRIBUNAL
“PATNA BENCH, PATNA
VIRTUAL HEARING AT KOLKATA

**Before Shri George Mathan, Judicial Member and
Shri Rajesh Kumar, Accountant Member**

I.T.A. No.475/Pat/2024

Assessment Year: 2014-15

ACIT, Circle-4, Patna.....Appellant

vs.

Sushila Sultania, Patna.....Respondent

503, Venkatesh Apartment,
Dakbunglow Road, Budh Marg,
Patna, Bihar-800001.
[PAN: ACMPS5390M]

Appearances by:

Shri Ashwani Kumar, JCIT, appeared on behalf of the appellant.

Shri Neelkhanth Kandelwal, AR, appeared on behalf of the Respondent.

Date of concluding the hearing : August 14, 2025

Date of pronouncing the order : August 26 , 2025

ORDER

Per Rajesh Kumar, Accountant Member:

The present appeal is filed by the revenue for the assessment year 2014-15 against the order dated 21.05.2024 of the National Faceless Appeal Centre [hereinafter referred to as ‘CIT(A)’] u/s 250 of the Income Tax Act (hereinafter referred to as the ‘Act’).

2. The only issue raised by the revenue in this appeal is against the order of the ld. CIT(A) deleting the addition of Rs.1,84,74,698/- and Rs.8,79,748/- as made by the Assessing Officer u/s 68 r.w.s. 115BBE and u/s 69C respectively.

3. Facts in brief are that the case of the assessee was reopened u/s 147 by issuing notice u/s 148 of the Act on 31.03.2021. The said notice was duly complied by the assessee by filing return of income on 22.04.2021 declaring total income at Rs.19,11,200/-. The Assessing

Officer reopened the assessment of the case on the ground of credible information received qua the assessee being beneficiary of bogus long-term capital gain. The Assessing Officer noted that the assessee has undertaken bogus transactions in equity shares amounting to Rs.1,75,94,950/- on which the claim of long-term capital gain of Rs.1,66,22,025/- was claimed as exempt. The Assessing Officer thereafter issued statutory notice u/s 143(2) and u/s 142(1) along with questionnaire calling thereby the various details and information from the assessee qua the said consideration received by the assessee from sale of shares of M/s Surabhi Chemical & Investment Ltd. The assessee provided all the relevant documents before the Assessing Officer submitting therein that the assessee purchased 3,00,000 equity shares of M/s Surabhi Chemical & Investment Ltd. at a price of Rs.2/- per shares which were sold after a period of two years for a consideration of Rs.1,75,94,950/- and long-term capital gains of Rs.1,69,94,950/- was earned which was claimed u/s 10(38) of the Act as exempt. Thereafter, the Assessing Officer without doing any enquiry or pointing out any defect or discrepancy in the documents before him but only based on the investigation report stated that there was a big racket operating in the country in sale and purchase of shares thereby generating bogus LTCS and STCG. The Assessing Officer also discussed the money trail and fluctuation of prices and noted that the assessee has earned unrealistic rise on investments which were not genuine. Finally, he added the entire sale consideration of Rs.1,75,94,950/- to the income of the assessee u/s 68 of the Act. The Assessing Officer also added notional commission @5% on such bogus sales thereby making an addition of Rs.8,79,748/- u/s 69C of the Act.

4. In the appellate proceedings, the ld. CIT(A) allowed the appeal of the assessee by directing the Assessing Officer to delete the addition by observing that the Assessing Officer only formed his opinion on the basis

of report of the investigation wing and has not applied his own mind nor pointed out any discrepancy in the evidence filed by the assessee. The Id. CIT(A) finally deleted the addition on the ground of non-application of independent mind and lack of enquiry done by the Assessing Officer.

5. After hearing the rival submissions and perusing the materials on record, we find that in this case, the assessee sold 3,00,000 equity shares of M/s Surabhi Chemical & Investment Ltd. during the instant financial year and the assessee claimed long-term capital gains of Rs.1,69,94,950/- u/s 10(38) of the Act as exempt. We note that the assessee filed all the supporting evidences qua sale and purchase along with proofs of payment through banking channel. We also note that the Assessing Officer only formed his opinion on the basis of investigation wing's report rather than carrying out any further enquiry during the assessment proceedings. We further note that in the appellate proceedings, the Id. CIT(A) after taking into consideration of all the facts and submissions of the assessee, deleted the addition so made by the Assessing Officer. We find that SEBI has done investigation in the price rigging of equity shares of M/s Surabhi Chemical & Investment Ltd. and vide order dated 27.01.2021 held that there was nine persons/entities involved but neither the name of the assessee or M/s Surabhi Chemical & Investment Ltd. was mentioned in the report of the SEBI. We also note that trading or purchase and sale of shares were done by the assessee on the stock exchange platform. We further note that the shares were purchased on 29.06.2012 and sold on 19.11.2013 whereas the SEBI reported rigging of share prices between 10.08.2012 and 04.09.2013 and therefore, there was no report of rigging as on the date of the purchase or sale by the assessee. In this respect, a specific query was confronted to the Id. DR as to non-conducting of an enquiry and not pointing out any deficiency in the evidences filed by the assessee, the Id. DR could not controvert the findings given by the Id. CIT(A). Therefore, we do not

find any infirmity in the appellate order which is a very reasoned and speaking and consequently, we are inclined to uphold the order of the Id. CIT(A).

6. In terms of the above, the appeal of the revenue is dismissed.

Kolkata, the 26th August, 2025.

Sd/-
[George Mathan]
Judicial Member

Sd/-
[Rajesh Kumar]
Accountant Member

Dated:26.08.2025.

RS

Copy of the order forwarded to:

1. Appellant -
2. Respondent -
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches