

IN THE INCOME-TAX APPELLATE TRIBUNAL "C" BENCH,  
MUMBAI

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

ITA No. 1166/MUM/2025  
(A.Y. 2018-19)

Income Tax Officer, Ward – 2(1), Ashar IT Park, Waghle Estate, 6 <sup>th</sup> Floor, Thane West-400604, Maharashtra	v/s. बनाम	<b>Shahid Shabbir Godil</b> 502, A Wing, Floorgreen View Patel Complex, Mira S.O. Road, Thane - 400 107, Maharashtra
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AJTPG6615P</b>		
<b>Appellant/अपीलार्थी</b>	<b>..</b>	<b>Respondent/प्रतिवादी</b>

Appellant by :	Shri Rasesh Shah, AR
Respondent by :	Mr. Virabhadra S. Mahajan (Sr. DR)

Date of Hearing	08.07.2025
Date of Pronouncement	11.08.2025

**आदेश / ORDER**

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

The present appeal is filed by the Revenue 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. 147 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] dated 30.03.2023 for the Assessment Year [A.Y.] 2018-19.



2. The grounds of appeal are as under:

1. *On the facts and circumstances of the case and in law, the CIT(A) has erred in deleting the addition of Rs. 6,96,07,010/-, holding that the assessee has provided list of names of local dealers and the respective amount of purchases made from them, whereas the AO in Para No.4.6.1 has categorically given a finding that even after repeated opportunities the assessee has merely submitted a list of names and amount without any documentary evidence. The CIT(A) erred in failing to take note of the categorical observation of the AO in Para 4.5.2 of the Assessment Order that in view of the above observation of the Auditor, it is evident that only transactions in Crypto Currency carried out through Zebpay have been audited and no audited of contract notes in respect of transactions claimed to have been carried out by the assessee through other local traders/platform have been audited by the auditor.*
2. *On the facts and circumstances of the case and in law, the CIT(A) has erred in deleting the addition of Rs.1,30,00,000/- on account of loan taken from Maryan Godil by only making a cryptic passing remark on the 'loan availed' on Page No.42 &43 of the appellate order. The CIT(A) in his order has not verified/discussed this issue while arriving at his conclusion which is in stark contrast to the findings of the AO in Para 4.5.3 of the assessment order wherein the AO has given a categorical finding that even though the assessee has also contended that the loan amount of Rs.1,30,00,000/- has already been considered in total credits in bank account, however, on perusal of bank statement of Axis Bank no credit/debit of loan received/paid to Maryan Godil is found.*
3. *On the facts and circumstances of the case and in law, the CIT(A) has erred in allowing the issue of Rs.5,85,99,387 (inclusive of Rs.2,76,02,000/-) on the mere footing that credits are received from Mumtaz Shabbir Godil, Arif Jamiruddin Shaikh, Shabbir Hajismail Godil, Ashanurup Creations Pvt Ltd, Prachi Fashion Pvt Ltd and Matashree Prints Pvt Ltd on a regular basis in Axis Bank A/c.No.917020045481078 of the appellant, which is contrast to the findings on Page No.10 of the assessment order, wherein the AO has categorically mentioned that no details of the receipts in bank account from Mumtaz Shabbir Godil, Arif Jamiruddin Shaikh, Shabbir Hajismail Godil, Ashanurup Creations Pvt Ltd, Prachi Fashion Pvt Ltd and Matashree Prints Pvt Ltd have been furnished.*

3. It may be stated here that in the course of appellate proceedings before the Tribunal, the assessee supported the order of Id.



CIT(A) by filing application under Rule 27 vide letter dated 05.07.2025

wherein it raised the following grounds:

- *On the facts and circumstances of the case as well as law on the subject, the learned Assessing Officer has erred in assuming jurisdiction u/s. 147 by passing order u/s. 148A(d) and issuing notice u/s 148 of the I.T. Act, 1961.*
- *On the facts and circumstances of the case as well as law on the subject, the learned PCIT has erred in giving mechanical approval to the order passed by the Assessing Officer u/s. 148A(d). Even otherwise the approval is not supported by generation of DIN.*
- *On the facts and circumstances of the case as well as law on the subject, the Jurisdictional Assessing Officer has erred in issuing notice u/s, 148A(b) and 148 when it was actually required to be issued by the Assessment Unit (NFAC).*

4. Brief facts of the case are that in this case information was received by the AO from the Investigation wing of the department that the assessee had made transactions in Crypto Currencies by way of investment in Bitcoins totalling Rs. 1,83,93,490/- during the relevant year. On perusal of ITR filed u/s 139(1) of the Act, it was noticed that the assessee had declared income of Rs. 8,01,500/- for A.Y 2018-19. As the income of the assessee was not commensurate with investment in Bitcoins, the proceedings u/s 147 of the Act were initiated and notice u/s 148 was issued on 31.03.2022. The assessee did not file ROI in response to notice issued u/s 148 of the Act till date.

3.1 The AO made following observations:

- i) Despite repeated opportunities given to the assessee to file related evidences of source of purchase/investment in Bitcoins



from Zebpay and other local traders/platform, the assessee simply reiterated his modus operandi. **On perusal of the reply it was not clear as to from whom i.e. the family members/other parties the assessee got the funds in his bank account for trading in Bitcoins in respect of particular credits in his bank account and to whom he returned the funds back in case of cancellation of particular transactions.**

- ii) It was evident that only transactions in Crypto Currency carried out through Zebpay had been audited and **no audit of contract notes in respect of transactions claimed to have been carried out by assessee through other local traders/platform have been audited by the auditor.** Thus, purchases from ZebPay to the extent of Rs. 1,93,93,490/- were only substantiated. **The assessee failed to give any data with regard to the purported local traders and how the amount was traded. Hence, the assessee failed to substantiate the purchases claimed to the extent of Rs. 6,96,07,010 ( 8,90,00,500 - 1,93,93,490).** The assessee was repeatedly requested to explain the purchases from the local traders, however, he failed to do so.
- iii) Apart from submitting a list of names and amount, no other details had been furnished by the assessee though **he was required to give complete details of the purported traders from whom the transactions were made.** In absence of any details, the amount of purported purchases to the



extent of Rs.6,96,07,010/-was considered as unexplained expenditure u/s 69C r.w.s 115BBE and taxed accordingly.

- iv) Regarding the issue of **receipt of loan of Rs. 1,30,00,000/- from Maryan Godil**, the assessee was requested to furnish PAN, Contra confirmation, ITR and Bank account of Maryan Godil to establish the creditworthiness, genuineness and identity of the person. However, in reply to this issue the assessee contended that this loan amount of Rs. 1,30,00,000/- had already been considered in total credits in bank account. However, on perusal of bank statement of Axis bank **no credit/debit of loan received/paid to Maryan Godil was found. Moreover, the assessee had not given any evidences to establish the credit worthiness, genuineness and identity of the person.** The assessee thus failed to discharge the primary onus cast upon him to furnish the details required to establish the genuineness of loan transaction. In the absence of same the unexplained loan of Rs. 1,30,00,000/- was considered as unexplained cash credits u/s 68 of the Act.
- v) It was seen that there was difference of credit entries in Axis bank account and sales declared in original return of income was of Rs. 5,85,99,387/-. The assessee in reply contended that out of total credits of Rs. 14,92,59,826/- the assessee had returned Rs. 5,37,65,387/- with the note “Amount return without transaction”. **However, the assessee had not given any details/evidences in respect of family members/parties**



**from whom the funds were earlier received for trading in Bitcoins and to whom the funds were returned back.**

3.2 From the above, he concluded that the assessee failed to substantiate his claim with supporting evidences in respect of various queries raised during assessment proceedings. The onus was on the assessee to submit the verifiable evidences of trading carried out in Bitcoins, loan availed, funds taken from family members/parties for purchase of Bitcoins and funds returned back etc. and the AO should have sufficient time to verify the evidences given by the assessee. At the end to the assessment proceedings, the assessee had put forth various submissions without any documentary evidences, hence the same was not acceptable. In view of above discussion and failure on the part of assessee to furnish the required evidences of transactions undertaken in Bitcoins and loan availed despite giving repeated opportunities till date and hearing via Video conferencing, the inference was drawn that the assessee was persistently intransigent in not fully complying with these notices and additions were made to the total income.

4. In the subsequent appeal, before the ld.CIT(A) the assessee made various contentions as below:

i) Addition of Rs. 6,96,07,010/- In the course of appellate proceedings before him, it was submitted that the assessee was into the



trading of crypto-currency and the modus operandi of his business was as below: (a) Buy from local traders/platform on credit and sell to Zebpay and after selling make payment to local traders after deducting a small amount of commission. (b) Buy from Zebpay and sell to local traders/platform. (c) Sometimes we buy from Zebpay and are unable to sell the same so we return the bitcoin to Zebpay again.

ii) Further, since the assessee was dealing in the commodity of bitcoin in the nature of trading, he considered the same as business of trading in crypto currency and offered profit from the same u/s. 44AB of the Act. During the year under consideration, there were neither any norms specified by the RBI nor any clarity issued by the Government of India on whether Crypto assets would amount to capital receipts or not and nor any guidance notes were provided by the Institute of Chartered Accountants of India (ICAI) regarding determination of turnover from trading in Crypto currency. However, the fact remained that the assessee had offered profit from trading in crypto currency u/s. 44AB of the Act of Rs. 9,62,426/- in the original return of income. It is also submitted that the assessee offered Sales and Purchases from trading in crypto currency amounting to Rs. 9,06,60,439/- and Rs. 8,90,00,500/- respectively. It was explained that the purchases made in crypto currency were not only through Zebpay Platform but also through off



market transactions from local people. The assessee also explained modus operandi wherein during the year under consideration, the assessee undertook transactions wherein he bought crypto currency (Bitcoin) including off market transactions and sold the same on nearly the same dates to earn from the arbitrage opportunity. The assessee also undertook transactions wherein he bought crypto currency on behalf of local people on credit basis and make sales through Zebpay Platform and thereon make due payments to the local traders after deducting a small percentage of commission ranging from 0.1% -0.5%.

iii) The assessee submitted the copy of all Sale orders/Contract notes made through Zebpay account to substantiate his Sales of Rs. 9,06,61,855/-. The assessee also furnished copy of all purchase orders undertaken through Zebpay account of Rs. 1,93,93,490/- and **provided list of names of local dealers and the respective amount of purchases made from them amounting to Rs. 6,96,07,010/-**.

iv) While framing the assessment order, the AO concluded that the purchases from Zebpay account of Rs.1,93,93,490/- was substantiated but purchases to the extent of Rs. 6,96,07,010/- [Rs.8,90,00,500/- (-) Rs. 1,93,93,490/-] remained unsubstantiated and proceeded to make addition of Rs. 6,96,07,010/-. It is re-iterated that



with regards to the difference of amount of Rs. 5,85,99,387/- as pointed out in the show-cause notice, it was submitted that the assessee has not done any other business apart from trading in crypto currency and the turnover in the audit report is matching with Zebpay Account statement of the assessee. The credits of Rs. 5,85,99,387/- pertained to purchase and sale transactions pertaining to Zebpay account statement of other concerns wherein it can be inferred that the bank account of the assessee was used for the said transactions and wherein assessee had only earned commission income.

v) This was evident from the fact that in the Axis Bank account, there were various credits and debits at regular intervals and the same fund were rotated for trading in crypto currency. The total credits in the axis bank statement amounts to Rs. 14,93,09,827/- and total debits amounts to Rs. 14,92,59,110/-. It is submitted that it is a well settled law that only real income can be taxed and not notional income and on the said transactions of Rs. 5,85,99,387/-, the assessee had earned only commission income of 0.1%- 0.5%.

vi) It is well settled law that in the business of trading even crypto-trading there cannot be case of sale without any purchase and as a corollary when the sales are accepted, the corresponding 100%



purchase cannot be disallowed. In view of the above submissions, the humble prayer of the assessee is that, as the AO's has not accepted the books of accounts u/s 145, the addition of Rs. 6,96,07,010 should be replaced by a single addition by estimating the commission income at the rate of 0.1% to 0.5% on sale of crypto currency assuming suppressed sale of Rs.5,85,99,387/- being difference between Rs. 14,92,59,826/- (-) Rs.9,06,60,439/- and in such case the estimated profits shall in the range of Rs. 58,560/- ( 0.1%) to Rs. 2,92,997/- (0.5%) and no further addition of cash credit or alleged bogus purchase is warranted as the total credits in the bank account the total credits in the bank account is already considered in estimation of profits.

4.1 The Id.CIT(A) made following conclusions:

- 1) On going through the facts of the case and the documents at hand it was found that the purchases made in crypto currency were not only through Zebpay Platform but also through off market transactions from local people. The appellant also undertook transactions wherein he bought crypto currency on behalf of local people on credit basis and make sales through Zebpay Platform and thereon make due payments to the local



traders after deducting a small percentage of commission ranging from 0.1% -0.5%.

- 2) He assessee submitted the copies of all Sale orders/Contract notes made through Zebpay account to substantiate his Sales of Rs9,06,61,855/-. He also furnished copies of all purchase orders undertaken through Zebpay account of an amount of Rs. 1,93,93,490/- and provided list of names of local dealers and the respective amount of purchases made from them amounting to Rs. 6,96,07,010/-. This further explained the total purchases made in crypto currency of an amount of Rs. 8,90,00,500/-.
- 3) Therefore, it is evident that the assessee substantiated his claim with supporting evidences in respect of various queries raised during the assessment proceedings.
- 4) It is seen that the credits in the bank account included credits received from Mumtaz Shabbir Godil, Arif Jamiruddin Shaikh, Shabbir Hajismail Godil, Ashanurup creations Pvt. Ltd., Prachi fashion Pvt. Ltd. and Matashree Prints Pvt. Ltd. on a regular basis in Axis bank. The total credits of Rs. 5,85,99,387/- (inclusive of Rs. 2,76,02,000/-) was thus explained.



5) In view of the facts of the case at hand and the discussion above, these grounds of appeal were, accordingly, allowed and the addition made by the AO on this account is, hereby, deleted.

5. Before us, the Id.DR vehemently argued that the Id.CIT( A) deleted the additions made without taking into account specific observations and findings of the AO in respect of all the ground of appeal which mainly emphasized that relevant details were not submitted despite adequate opportunity of hearing.

6. The Id.AR, on the other hand, repeated the same contentions as made during proceedings before the lower authorities inter alia submitting that the assessee filed detailed reply. Even after filing detailed submissions in the course of assessment proceedings, the AO was not satisfied and he made addition of Rs. 6,96,07,010/- as per the findings given at Para no. 4.6.1 of the assessment order. The assessee filed detailed written submissions before Ld. CIT(A) who was satisfied with the submissions of the assessee and therefore he deleted the addition.

6.1 In the course of assessment proceedings, the assessee, in fact submitted that the assessee purchased Bitcoin of Rs. 1,93,93,490/- from



Zebpay. The AO has duly given credit of this amount and disallowed the other purchases only on the ground that it was not verified by auditors. In the above context, it is submitted that the total purchases of Rs. 8,90,00,500/- is appearing in the audited financial statements and the auditors have not made any comments in respect of the other purchases. He simply stated that he test-checked only in respect of purchases made from Zebpay. He didn't make any comment in respect of other purchases. So, it cannot be said that the other purchases are not verifiable. The other purchases represent the purchases from local parties. The assessee had shown corresponding sales against the purchases and so it cannot be doubted in absence of any such information that such purchases are bogus.

6.2 The assessee received a loan of Rs. 1,30,00,000/- from his wife (Maryam Godil) which was added by the AO u/s. 68 on account of unexplained cash credits. He didn't make the addition of Rs. 5,85,99,387/- in respect of credit entries appearing in the bank account of the assessee representing receipts from different persons. The addition was not made as he had already made addition of Rs. 6,96,07,010/- and thereby he allowed the telescoping. As per the AO, there was difference in credit entries in Axis Bank A/c. and sales



declared in the original return of income. The assessee explained the credits as amount received from various persons.

7. We have duly considered all the relevant facts of the case. It is noticed that the revenue has filed the instant appeal mainly on the ground that the Id.CIT(A) deleted the additions without taking note of the AO's observations repeated at various places of the assessment order wherein he specifically pointed out that the assessee did not furnish relevant details. From the perusal of the appellate order vis-à-vis the assessment order, we find that the grounds have sufficient merits.

7.1 In so far as the claim of the assessee with regard to local purchase worth Rs 6.96 cr, it is evident that the AO specifically asked the assessee to produce relevant details of such purchases, the assessee admittedly submitted merely the names of local dealers and amount of purchases made from them. Besides, the assessee admitted that such local transactions were not audited which was restricted to purchase from Zebpay only. Despite such glaring omissions on the part of the assessee in this regard and its failure to furnish relevant details even during appeal proceedings, we are of the view that the Id.CIT(A) erred in deleting the substantial part of the purchases without bringing on sufficient evidence on record. It is also incomprehensible as to why the



audit was restricted to only a part of the purchases and not the entire purchases including local purchases.

7.2 Likewise the Id.CIT(A) deleted the addition of Rs 1.30 cr which was added as unexplained cash credit in the absence of even primary details to prove the identity, creditworthiness of the lender as also the genuineness of the said transaction. The AO did call for such details which were not submitted. Even then the Id.CIT(A) deleted the addition without any justification. The revenue has rightly pointed out that the CIT(A) in his order has not verified/discussed this issue while arriving at his conclusion which is in stark contrast to the findings of the AO in Para 4.5.3 of the assessment order wherein the AO has given a categorical finding that even though the assessee has also contended that the loan amount of Rs.1,30,00,000/- has already been considered in total credits in bank account, however, on perusal of bank statement of Axis Bank no credit/debit of loan received/paid to Maryan Godil was found.

7.3 Besides, certain deposits in the bank account were claimed to be belonging to certain individuals aggregating to Rs 5.85 cr. It is noticed that the AO made the addition with the observation on **page no.10 of the assessment order, wherein the AO has**



**categorically mentioned that no details of the receipts in bank account** from Mumtaz Shabbir Godil, Arif Jamiruddin Shaikh, Shabbir Hajismail Godil, Ashanurup Creations Pvt Ltd, Prachi Fashion Pvt Ltd and Matashree Prints Pvt Ltd had been furnished. It is evident from the contents of the appellate order in this regard as well that such details were not furnished before the Id.CIT(A) also. But, he went on delete the addition without any evidence.

8. From the above discussion, we are of the considered opinion that the Id.CIT(A) was not justified in deleting the additions completely overlooking the findings and observations of the AO wherein he has categorically pointed out the necessary evidence were not furnished by the assessee before him. Therefore, the appellate order is set aside and all the issues raised by the Revenue in ground nos. 1,2 and 3 as also the legal grounds taken by the assessee by way of additional grounds of appeal are remitted back to him for de novo consideration after allowing adequate opportunity to both the sides and take decision in accordance with law.



9. In the result, the grounds of appeal of the revenue are **allowed for statistical purposes.**

Order pronounced in the open court on **11.08.2025.**

Sd/-

**SANDEEP GOSAIN**

(न्यायिक सदस्य / JUDICIAL MEMBER)

Sd/-

**PRABHASH SHANKAR**

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 11.08.2025

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

