



**IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT**  
**BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER.**

आयकरअपीलसं./ITA No.248/RJT/2025

निर्धारणवर्ष / Assessment Year: (2013-14)

*(Hybrid Hearing)*

|  |      |     |   |
|--|------|-----|---|
| Sameer Shah (HUF),<br>1 "Swapneel",<br>Gurudatatrey Temple,<br>Palace Road,<br>Jamnagar - 361008 | Opp. | Vs. | The ITO Ward 1(3),<br>Jamnagar - 361001 |
| स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAWHS3749E  |      |     |   |
| <b>(Appellant)</b>   |      |     | <b>(Respondent)</b>                     |

Appellant by : Shri Sagar Shah, Ld. AR  
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR  
Date of Hearing : 04/09/2025  
Date of Pronouncement : 14 /10/2025

**आदेश / ORDER**

**Per, Dr. Arjun Lal Saini, AM**

Captioned appeal filed by the assessee, pertaining to Assessment Year 2013-14, is directed against the order passed under section 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") by National Faceless Appeal Centre (NFAC), Delhi/Commissioner of Income-tax (Appeals), dated 27/02/2025, which in turn arises out of an order passed by the Assessing Officer dated 13/09/2021, u/s 147 read with section 144B of the Income Tax Act, 1961.



2. Grievances raised by the assessee, which, being interconnected, will be taken up together, are as follows:

*1. The order passed by the Ld. FAO as well as order passed by National Faceless Appeal Centre under Section 250 is bad in law as well as on facts as the order is passed against the principles of natural justice, though the assessee has specifically prayed to grant an opportunity of heard and the same was not granted. Thus, the order is passed under the gross violation of maxim Audi Alteram Partem read with article 14 of the constitution and therefore, the order is liable to be quashed.*

*2. The order passed by the Ld. FAO as well as order passed by National Faceless Appeal Centre under Section 250 has erred in law while passing the appellate order by merely stating that assessee has not challenged that the order passed by the Ld. FAO as well as order passed by National Faceless Appeal Centre under Section 250 not disposed the objections raised by assessee during the assessment proceedings and hence, now, while filing the appeal, the ground raised cannot be sustained and hence that ground was dismissed merely on the reason that the assessee has not challenged this action of Ld. FAO. But the contention of Ld. FAO as well as NFAC, Delhi is against the principle laid down by the Hon'ble Supreme Court in the case of GKN Drive craft (India) Ltd. vs Income Tax Officer in Civil Appeal No.7731 of 2002. Thus, the NFAC admitted that the Ld. FAO has not disposed off the objection filed by the assessee vide letter dated 28.06.2019 and thus order passed by the NFAC as well as the Ld. FAO is in violation of the order passed by Hon'ble Supreme Court of India and hence required to be quashed.*

*3. Based on the set of evidence and arguments placed on records the order passed by the Ld. FAO as well as order passed by National Faceless Appeal Centre under Section 250 failed to consider that "it is quite a trite law that suspicion how so ever strong may be but cannot be the basis of addition except for some material evidence brought on record" it means that presumption or suspicion how strong it may appear to be true, but needs to be corroborated by some evidence to establish a link against the third party evidence placed on record by the assessee. However, the settled law in force in India is not followed in the present case, the addition made and confirmed is not backed by single evidence against the assessee and both the lower authorities are failed to bring anything on record. Reliance is placed in the recent judgment dated 17.11.2023 of the High Court of Delhi in the case of Saraswati Petrochem Pvt. Ltd. vs. Income Tax Officer, Ward 22(3) In W.P.(C) 10802/2018.*

*4. The order passed by the Ld. FAO as well as order passed by National Faceless Appeal Centre under Section 250 is bad in law as well as on facts as the order is passed without dealing with all the facts brought on the records by the assessee which is duly backed by the genuine third party evidences, which was not cross verified by any of the lower Authorities, Without demonstrating as to why the evidence submitted by assessee is not considered, the grounds raised by the assessee was only dealt based on the generalized modus operandi carried out by Tax Evaders wherein the name of assessee is not involved and therefore, The order passed by the Ld. FAO as well as order passed by National*



*Faceless Appeal Centre under Section 250 is non-speaking one and is required to be quashed.*

*5. The order passed by the Ld. FAO as well as order passed by National Faceless Appeal Centre under Section 250 is bad in law as well as on facts as FAO is under an obligation to furnish material and information that helped him to form a belief that income, otherwise chargeable to tax, has escaped assessment. However, the order passed by the Ld. FAO as well as order passed by National Faceless Appeal Centre under Section 250 has disputed the Long-term capital gain earned on sale of the aforementioned script and stated that the investment is of penny stock and made the alleged addition of Rs. 39,90,501/- under section 68 of the Act.*

*6. Based on the facts and evidence already on records, it is clear that the claim of long-term capital gain claimed u/s. 10(38) is in accordance with the provision of the Act. There is no finding of the learned assessing officer as to why the claim of the assessee based on this evidence is not in accordance with the law. Not only that, but the learned assessing officer has also added the amount of Rs. 39,90,501/ u/s 68 of the act. Based on the documents placed on records, the Ld. AO has not recorded any reason as to why the addition can be made under section 68 of the act and on what reasons and why the evidence placed on record which are the third-party evidence are not considered.*

*7. Based on the set of facts and evidence on record the order passed by the Ld. FAO as well as order passed by National Faceless Appeal Centre under Section 250 has erred in law as well as on facts in passing the appellate order and in contending that assessee was involved in the bogus LTCG and price ragging activity without having direct nexus or any concrete evidence to disprove the facts brought on record by the assessee. Even the lower authority failed to deal with the set of evidence already on record. Further, no evidence is brought on record by the order passed by the Ld. FAO as well as order passed by National Faceless Appeal Centre under Section 250 that assessee was involved in such activity nor any evidence against the appellant was found for undertaking such activity.*

*8. Based on the set of evidence and arguments placed on record the NFAC while passing the appellate order failed to provide the opportunity of cross examination regarding details reported on AIMS module of ITBA portal, whether the information was reported based on any Investigation Wing Report / Statement of any person reported by Income Tax Department? However, no such information was shared with assessee till date. Hence in absence of providing opportunity of cross examination, the order passed is bad in law considering the order of Hon'ble Supreme Court in the case of M/S Andaman Timber Industries vs. Commissioner of Central Excise in Civil Appeal No. 4228 of 2006.*

*9. The order passed by the Ld. FAO as well as order passed by National Faceless Appeal Centre under Section 250 is bad in law as well as on facts by upholding the addition originally made by merely relying on concept of PREPONDERANCE OF PROBABILITY and the judgements based on the same. In such a manner, every gain earned by any genuine investor will be within this scope and every gain earned can be termed as non-genuine or an accommodation entry based on the probability. The evidence submitted by the appellant termed as colorable evidence is without verifying the genuineness and veracity of the evidence which is of the third party i.e. bank, share transfer agent, demat service provider and broker. All these agencies are separate without any dominance of the*



*assessee controlled by various government agencies. Calling such genuine third-party evidence as accommodative or not genuine is merely the pre-determined mind set of the FAO as well as NFAC based on the concept of PREPONDERANCE OF PROBABILITY, which is not appropriate in present case, as the matter under consideration is backed by the third-party documentary evidence proving the genuineness of the transactions undertaken.*

*10. The order passed by the Ld. FAO as well as order passed by National Faceless Appeal Centre under Section 250 is bad in law as well as on the facts as appellate order passed is without considering the order passed by the Honorable Gujarat High Court in the case of PCIT v. Champalal Gopiram Agarwal - [2023] 155 taxmann.com 66 (Gujarat) wherein it was held that The High Court held that the Tribunal found that assessee had discharged the initial burden cast upon it under provisions of section 68. Shares of companies were purchased online, payments were made through banking channels, and shares were dematerialized. Additionally, the shares were transferred from the dematerialized account and received consideration through legitimate banking channels. FAO did not have any independent source or evidence to show an agreement between the assessee and any other party to convert unaccounted money by taking the fictitious loss. The decision of FAO was unsupported by any material on record, and the finding was purely on an assumption basis. Thus, no substantial question of law arose from the order of the Tribunal, and the same was to be upheld.*

*11. The order passed by the Ld. FAO as well as order passed by National Faceless Appeal Centre under Section 250 has erred in law as well as on facts by relying on Hon'ble Kolkata High Court in the case of PCIT Vs Swati Bajaj (Calcutta High Court) Appeal Number: IA No. GA/2/2022, without considering the judgement passed by Supreme Court of India in case of Principal Commissioner of Income Tax V. Kuntala Mohapatra Pamidighantam Sri Narasimha and Aravind Kumar JJ SLP(Civil) Diary No. 5269 of 2024, it was held that; "SLP dismissed against the order of High Court that where shares were purchased via Account Payee Cheques, held in demat account for over 12 months, and sold through a recognized stock exchange after payment of security transaction tax assessee was eligible to claim exemption under section 10(38) for long-term capital gains.*

*The instant case of the appellant is covered under the facts of the above-mentioned case law as the appellant has duly placed the documentary evidence and facts submitted the following conditions have been duly fulfilled.*

*i. Shares were purchased via Account Payee Cheque: The copy of bank statements reflecting the purchase amount along is placed on your records and bill of Broker.*

*ii. Shares were held in demat account for more than 12 months: The shares were directly purchased form demat account on 04.08.2010 which is evident from the contract note and the average period of holding of shares is 13 months (purchased on 04.08.2010 & initial sale on 10.12.2012 out of which the shares are held for almost 13 months in demat account.*

*iii. Shares were sold through recognized stock exchange after payment of Security Transaction Tax: The Security Transaction Tax has been paid which is evident from the copy of Sale Contract note attached as above.*



*12. The NFAC, Delhi has erred in law as well as on facts without considering the judgement passed by Income Tax Appellate Tribunal, Rajkot Bench vide ITA No 272/RJT/2023 Considering the Judgement held I the above case and based on the facts of the case being the same script and similar evidence placed on the record involving bank statements and purchase and sale certificates. The FAO has failed to consider the same.*

*13. The order passed by the Ld. FAO as well as order passed by National Faceless Appeal Centre under Section 250 is and in law as well as on facts by merely relying on the information reported under the AIMS module of the ITBA that script in which the appellant made the investment is found to be penny stock. However, there is no supporting evidence / findings of authority such as SEBI/Investigation Wing which suggest that the script is actually a penny stock and appellant has direct nexus for Gain through such mela fide activities or the persons engaged in such activity has given the name of the assessee. The absence of any such findings, the whole assessment proceedings and subsequent findings of the NFAC is bad in law and the addition made in the present case is baseless and requires to be deleted.*

3. Although, this appeal filed by the Assessee, Assessment Year 2013-14, contains multiple ground of appeals. However, at the time of hearing I have carefully perused all the above grounds raised by the Assessee. I find that most of the grounds raised by the Assessee, are either academic in nature or contentious in nature. However, to meet the end of justice, I confine myself to the core of the controversy and main grievances of the Assessee. The solitary grievance of the assessee in this appeal is that the claim of long-term capital gain claimed u/s. 10(38) in respect of the script “Tuni Textile Ltd” is in accordance with the provision of the Act, therefore, addition made by the assessing officer may be deleted.

4. So far, the above grounds are concerned, the script “Tuni Textile Ltd” is covered in favour of assessee by the decision of ITAT-Rajkot. When this appeal was called out for hearing, Learned Counsel for the assessee invited my attention to the order dated 18.10.2024, passed by the Division Bench of this Tribunal in the case of Shah Parag Gulabchand in ITA No.272/RJT/2023 for the Assessment Year 2013-14, order dated 31.07.2024 whereby the issue relating to Long term capital gain, in respect of a script of Tuni Textile, has been discussed and adjudicated in favour of assessee. Learned Counsel for the assessee submitted



that the present appeal is squarely covered by the aforesaid order of the Tribunal, a copy of which was also placed before the Bench.

5. Learned Departmental Representative nevertheless relied upon the orders of the authorities below.

6. I see no reasons to take any other view of the matter than the view so taken by the Division Bench of this Tribunal in the case of Shah Parag Gulabchand in ITA No.272/RJT/2023 for the Assessment Year 2013-14, order dated 31.07.2024 (supra). In this order, the Tribunal has inter alia observed as follows:

*“11. We have given our thoughtful consideration to rival contention. We have perused case file as well as paper books furnished by assessee. We note that assessee purchased 8,500 shares of Tuni Textile on 04.08.2010 from the M/s Sharukh N Tara for the sum of Rs. 1,65,048.36/-, the details are given below:*

| <i>Particulars</i>                | <i>Amount</i>               |
|-----------------------------------|-----------------------------|
| <i>Share Purchase Amount</i>      | <i>1,57,250/-</i>           |
| <i>Security Transaction Tax</i>   | <i>20.56/-</i>              |
| <i>Shares Transaction Expense</i> | <i>7777.80</i>              |
| <b><i>Total</i></b>               | <b><i>1,65,048.36/-</i></b> |

*The assessee submitted copy of contract note received from M/s Sharukh N. Tara, vide paper book page no.14 to 15.Immediately after purchasing the shares a request letter regarding demat account details was duly sent to assessee by the Broker M/s. Sharukh N. Tara which is placed at paper book page no. 16.The assessee, also submitted Balance Sheet along with the Schedule of Investments for the financial year 2009-2010 wherein the Investment in shares of KGN is evident. The assessee has also explained, the source of purchase stating that it is from, income generated from sale proceed of various shares sold on 14.07.2010, 20.07.2010, 26.07.2010, 30.07.2010 (Evident from the sale contract notes and ledger account of M/s. Sharukh N. Tara enclosed at paper page no.19 to 27, and such sale of shares are already taxed in the relevant Assessment Year i.e. 2011-12, vide ITR and Computation of Income at paper book page no.28 to 30. Out of the sale proceeds, the shares of Tuni Textiles were purchased which is also evident from the contra ledger account of the Broker attached. Therefore, we note that assessee has explained the source of purchase of shares in a satisfactory manner.*

*12.The assessee held the shares for more than 12 months of the period which is evident through the below mentioned table.*

| <i>Script Name</i> | <i>Purchase Date</i> | <i>Sale Date</i> | <i>Period of Holding in Months</i> |
|--------------------|----------------------|------------------|------------------------------------|
|--------------------|----------------------|------------------|------------------------------------|



|              |          |          |    |
|--------------|----------|----------|----|
|              |          |          |    |
| KGN          | 15.04.08 | 04.02.13 | 58 |
| Tuni textile | 04.08.10 | 15.05.12 | 21 |
| Tuni textile | 04.08.10 | 16.05.12 | 21 |
| Tuni textile | 04.08.10 | 28.05.12 | 22 |
| Tuni textile | 04.08.10 | 04.06.12 | 22 |
| Tuni textile | 04.08.10 | 05.06.12 | 22 |

The assessee has sold the shares of Tuni Textiles & KGN during F.Y. 2012-13 and the transactions carried out by the assessee through ANS Private Limited who is SEBI registered Stockbroker. The details of the transactions are as follows:

| Sr. No. | Particular of script    | Sale date | Sale Amt. (Rs.)  | Purchase date | Purchase Amt. (Rs.) | Index cost of acquisition | Capital gain     |
|---------|-------------------------|-----------|------------------|---------------|---------------------|---------------------------|------------------|
|         |                         |           | (i)              |               | (ii)                | (iii)                     | (iv)=(i-iii)     |
| 1.      | KGN                     | 04.02.13  | 2,18,105         | 15.04.08      | 5,000               | 7,320                     | 2,10,785         |
|         | <b>Total (A)</b>        |           | <b>2,18,105</b>  |               | <b>5,000</b>        | <b>7,320</b>              | <b>2,10,785</b>  |
| 2.      | Tuni textile            | 15.05.12  | 22,09,000        | 04.08.10      | 46,250              | 55,422                    | 21,53,578        |
| 3.      | Tuni textile            | 16.05.12  | 29,77,040        | 04.08.10      | 62,900              | 75,374                    | 29,01,666        |
| 4.      | Tuni textile            | 28.05.12  | 10,17,900        | 04.08.10      | 18,500              | 22,169                    | 9,95,731         |
| 5.      | Tuni textile            | 04.06.12  | 13,86,750        | 04.08.10      | 23,125              | 27,711                    | 13,59,039        |
| 6.      | Tuni textile            | 05.06.12  | 3,93,505         | 04.08.10      | 6,475               | 7,759                     | 3,85,746         |
|         | <b>Total (B)</b>        |           | <b>79,48,195</b> |               | <b>1,57,250</b>     | <b>1,88,435</b>           | <b>77,95,760</b> |
|         | <b>Sum of 2-6 above</b> |           |                  |               |                     |                           |                  |

|                          |  |                  |  |                 |                 |                  |
|--------------------------|--|------------------|--|-----------------|-----------------|------------------|
| <b>Grand Total (A+B)</b> |  | <b>82,02,300</b> |  | <b>1,62,250</b> | <b>1,95,755</b> | <b>80,06,545</b> |
|--------------------------|--|------------------|--|-----------------|-----------------|------------------|

➤ **The details of other charges paid during the sale of shares is as follows:**

|                           |                     |
|---------------------------|---------------------|
| Security Transactions Tax | Rs. 10,030/-        |
| Service Tax               | Rs. 4,950.14/-      |
| Share Transaction Expense | Rs. 798.42/-        |
| Stamp Duty                | Rs. 798.42/-        |
| <b>Total</b>              | <b>Rs. 16,577/-</b> |

\*the other charges are Evident from the Contract Note & Ledger attached herewith from page no. 32 to 37.

We find that assessee submitted a copy of Contract Note & Ledger, which is placed at paper book page no.32 to 37. A copy of bank statements reflecting the Sale of Shares i.e. Receipts as



mentioned in the above table are attached from page nos. 38 to 40 of the assessee's paper book. The assessee held shares of KGN and Tuni Textiles and sold the same shares which is evident from the copy of Transaction Statement from period 01.04.2012 to 31.03.2013, vide paper book page no.41 to 43. We find that assessee has submitted above Plethora documents and evidences to support the purchase and sale transaction, however, we note that assessing officer has not refuted or discredited these evidences and documents. The assessing officer does not mention why he is not accepting these evidences. On the contrary, the assessing officer has just brushed aside these evidences without even a word on why they are not acceptable. It is a well settled Law that when an assessee has all the possible evidence in support of its claim, they cannot be brushed aside based on surmises.

13. Thus, the above-mentioned facts have been duly complied with in case of the assessee and thus, the assessee can duly claim exemption u/s 10(38) of the Act. The Hon'ble Gujarat High Court in the case of PCIT v. Champalal Gopiram Agarwal, R/TAXAPPEAL NO, 366 OF 2023 JULY25,2023, held that the Tribunal found that assessee had discharged the initial burden cast upon it under provisions of section 68. Shares of companies were purchased online, payments were made through banking channels, and shares were dematerialized. Additionally, the shares were transferred from the dematerialized account and received consideration through legitimate banking channels. The assessing officer did not have any independent source or evidence to show an agreement between the assessee and any other party to convert unaccounted money by taking the fictitious loss. The decision of assessing officer was unsupported by any material on record, and the finding was purely on an assumption basis. Thus, no substantial question of law arose from the order of the Tribunal, and the same was to be upheld. We note that the assessee submitted the following documents and evidences, before the assessing officer viz: (i) copy of contract note received from M/s Sharukh N. Tara (vide Pb. 14 to 15), (ii) Request letter regarding demat account details (vide Pb. 16), (iii) balance sheet along with the Schedule of Investments for the financial year 2009 to 2010 (vide Pb. 17 to 18), (iv) Sale contract notes and ledger account of M/s Sharukh N. Tara of Shares – Source of purchase (vide Pb. 19 to 27), (v) ITR and computation of income of AY.2011-12 (vide PB. 28 to 30), (vi) Notice dated 07.04.2011 issued by BSE about subdivision of the shares from one share into 10 shares (vide Pb. 32 to 37), (vii) Contract note & ledger reflecting sale of shares (vide Pb. 32 to 37), (viii) Bank statements reflecting sale of shares (vide Pb. 38 to 40) and (ix) transaction statement from period 01.04.2012 to 31.03.2013 (vide Pb. 83 to 99). We note that by submitting the above documents and evidences, the assessee has proved that the transaction was done through the banking channel and that satisfied the condition mentioned in section 10(38) of the Act, moreover the period of holding is also 22 months. The Learned Counsel also submitted that in assessee's case no action has been taken by the Stock Exchange Board of India (SEBI) and there is no investigation report of the SEBI.

14. We note that Hon'ble Jurisdictional High Court of Gujarat in the case of Jagat Pravinbhai Sarabhai, [2022] 142 taxmann.com 247, held that where Assessing Officer noted that assessee had indulged in scrip of shell company and had claimed long term capital gain on sale of shares and made addition under section 68 holding that entire transaction was bogus and in the nature of penny stock, however, since genuineness of investment in shares by assessee was substantiated by him by producing copy of transaction statement for period from 1-6-2001 to 1-10-2010 and shares were retained for more than ten years and were sold after



*such long time, hence investment was not bogus therefore it cannot be treated that investment was made in penny stock. The findings of the Hon`ble Court is reproduced below:*

*"2. As submitted by learned senior advocate Mr. M.R. Bhatt for M.R. Bhatt and Co., the assessee revenue proposes the following substantial questions of law, which according to the submission requires examination.*

*"Whether on the facts and circumstances of the case and in law, the decision of Appellate Tribunal is ex facie perverse because the Appellate tribunal deleted the addition of Rs. 2,10,474/- made on account of bogus long term capital gain, without appreciating the entire gamut of fact that the assessee transacted in penny stock namely M/s. Devika Proteins Ltd. thus earning bogus Long term Capital Gain and claiming it to be exempt under section 10(38) of the Income-tax Act?"*

*3. The assessee filed the return of income for the assessment year 2011-12 on 29-3-2012 declaring his total income Rs. 3,11,490/-. Subsequently the assessment was reopened as information was received that assessee has indulged into script of shell company and had claimed long term capital gain on sale of shares of Devika Proteins Limited to the tune of Rs. 2,10,474/- and that the amount was claimed as exemption under section 10(38) of the Income-tax Act, 1961 (hereafter referred to as 'the Act')*

*3.1 The Assessing Officer made addition of the said amount. The entire transaction was treated as bogus and in the nature of penny stock. By adding Rs. 2,10,474/- under section 68 of the Act, total income was assessed at Rs. 5,21,964/-.*

*3.2 In appeal by the assessee before the Commissioner of Income-tax (Appeals), the issue was re-examined. According to the appellate authority the assessee had furnished evidence to show that the shares were brought as genuine investment which was long back in the year 2000-01. As the shares were in the nature of old investment, they could not be treated as penny stock by any stretch of imagination.*

*4. The Income-tax Appellate Tribunal further examined the question in appeal preferred by the revenue and confirmed the view of the appellate authority noticing that the shares were purchased in the year 2001 and they were sold after long time in the year 2010-11.*

*5. The genuineness of investment in the shares by the assessee was substantiated by him by producing copy of transaction statement for the period from 1-6-2001 to 1-10-2010. The investment was made in the year 2000-01. The shares were retained for more than ten years and were sold after such long time. These circumstances suggested that the investment was not bogus or investment made in penny stock. The shares were purchased in order to invest and not for the purpose of earning exempted income by frequent trading in short span.*

*6. The finding recorded by the appellate authority and confirmed by the appellate tribunal is based on material before them. They are in the realm of findings of fact. No error could be noticed in the findings and conclusion that the investment was longstanding and genuine and was not penny stock on the basis of which the capital gain was wrongly claimed.*

*6.1 On the facts of case, no question of law much less substantial question of law arises.*



7. Resultantly, appeal is dismissed”.

15. We note that Judgment of Hon`ble Calcutta High Court in the case of Swati Bajaj and others(supra), referred by learned DR for the revenue, should not be applicable to the assessee, as it is outside the territorial jurisdiction of Gujarat. However, the Judgments of Hon`ble Jurisdictional High Court of Gujarat are applicable to the assess under consideration. The Judicial discipline demands that once an order has been passed by the jurisdictional High Court, on a particular issue, lower authorities are duty bound to act in accordance with the same.

16. The Hon`ble, jurisdictional Gujarat High Court in the case of **Mamta Rajivkumar Agarwal, Tax Appeal No.408 of 2023**, dated 11.09.2023 held that there was no evidence available on record suggesting that the assessee or his broker was involved in rigging up of the price of the script of M/s Shree Nath Commercial & Finance Ltd. The assessee had acted in good faith. The Tribunal, therefore, correctly held that the Assessing Officer had acted only on assumption which was misconceived. The Hon`ble, jurisdictional Gujarat High Court in the recent case of **Shri Ambalal Chimanlal Patel, vide Tax Appeal No.260 of 2024**, dated 15.04.2024 held that both the appellate authorities, that is, “CIT(A) and ITAT” have taken into consideration the notice of contract memo placed on record by the respondent assessee with regard to the purchase and sale of shares and it is also found by the assessee that the respondent was holding shares of other fifteen companies and it has continued to hold the shares over three years and therefore, sale of the shares cannot be said to be bogus merely on the basis of suspicion on account of the fact that the substantial quantum of capital gain and has been earned by the assessee on account of trading in respect of the said shares. Merely because trading in the shares of the said company was suspended on the Stock Exchange, in absence of any material brought on record to suggest that purchase and sales of said shares was bogus, the Assessing Officer was not justified in absence of any material to support his finding that there has been collusion or connivance between the broker and the assessee for the introduction of his own unaccounted money, resulting into a bogus transaction. We note that there is no infirmity in the order passed by the CIT(A). That being so, we decline to interfere with the order of Id. CIT(A) in deleting the aforesaid additions. His order on this addition is, therefore, upheld and the grounds of appeal of the Revenue are dismissed.

7. As the issue is squarely covered in favour of the assessee by the decision of the Coordinate Bench, in the case of Shah Parag Gulabchand in ITA No.272/RJT/2023 for the Assessment Year 2013-14, order dated 31.07.2024 (supra) and there is no change in facts and law and the Revenue is unable to produce any material to controvert the aforesaid findings of the Coordinate Bench (supra). I find no reason to interfere in the said order of the Coordinate Bench, therefore, respectfully following the binding judgment of the Coordinate Bench I allow the appeal of the assessee.



8. In the result, appeal filed by the assessee is allowed.

**Order pronounced in the open court on 14/ 10/ 2025.**

**Sd/-  
(Dr. A. L. SAINI)  
ACCOUNTANT MEMBER**

Rajkot

दिनांक/ Date: 14/10/2025

**Copy of the Order forwarded to**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot