

**IN THE INCOME-TAX APPELLATE TRIBUNAL “D” BENCH,
MUMBAI**

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

**ITA No.1808/MUM/2024
(A.Y. 2014-15)**

Mr. Ratan Bahubali Bhalwankar C/o – 2 nd Floor, Gita Building, Sion Circle, Mumbai - 400 022, Maharashtra	v/s. बनाम	Assistant Commissioner of Income Tax – 16(3), Aayakar Bhavan, Mumbai - 400021, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AACPB7285Q		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	Shri Margav Shukla, Adv and Shubham Shah
Respondent by :	Shri Annavarani Kasuri, (Sr. AR)

Date of Hearing	14.08.2025
Date of Pronouncement	13.10.2025

आदेश / ORDER

PER PRABHASH SHANKAR [A.M.]:-

The present appeal is preferred by the assessee 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. 143(3) of the Income-tax Act, 1961 [hereinafter referred to as “Act”] dated 30.12.2016 for the Assessment Year [A.Y.] 2014-15.



2. The grounds of appeal are as under:-

1. On given facts, circumstances and judicial pronouncements Hon. CIT (Appeals) erred in confirming the assessment in the absence of valid notice under section 143(2) of the Income Tax Act, 1961. Such upholding of assessment in the absence of Valid Notice under section 143(2) is bad in law and liable to be quashed.
2. On given facts, circumstances and judicial pronouncements Hon. CIT (Appeals) erred in confirming the addition on account of sale proceeds of shares of M/s PS IT Infrastructure & Services Limited (Swift IT Infrastructure Pvt. Ltd.) by treating it as unexplained credit u/s 68. Such addition is bad in law and liable to be deleted.
3. Without prejudice to the above, On given facts, circumstances and of judicial pronouncements Hon. CIT (Appeals) erred in denying the cost of acquisition of shares along with Indexation M/s PS IT Infrastructure & Services Limited (Swift IT Infrastructure Pvt. Ltd.) and the same shall be allowed. Such addition of sales proceeds without allowing the cost of its acquisition is bad in law and liable to be allowed.
4. On given facts, circumstances and judicial pronouncements Hon. CIT (Appeals) erred in confirming the addition on account of ad-hoc commission being paid @ 4% of Sale Proceeds from Shares, even though said expense has neither been incurred nor claimed. Such confirmation of addition is bad in law and liable to be deleted.

Additional Ground of Appeal:-

1. "On the given facts, circumstances and judicial pronouncements; Ld. Assessing Officer has erred in completing the assessment without giving an opportunity of cross examination of the parties whose statements were relied upon while concluding the assessment. Such assessment order without granting an opportunity of cross examination to the assessee is bad in law and addition made in such assessment order is liable to be deleted."

3. We take up the **ground no.2 and 4** at first which involve merits of the additions made and are interlinked. Brief facts of the case are that for the year under consideration, assessee filed its



Return of Income declaring total income of Rs. 19,99,247/-.

Thereafter, its case was selected for scrutiny assessment. During the year under consideration, assessee sold shares of **PS IT Infrastructure and Services Limited**, for a consideration of Rs. 2,47,64,002/- and had claimed exemption of Rs. 2,42,64,002/- under section 10(38) of the Act being long term capital gains. Relying on the information received from Investigation Wing Kolkata, it was alleged by the AO that said scrip was a penny stock. Consequently, the AO after discussing the entire modus operandi based on the said report, denied the exemption claimed and taxed the entire sale consideration of Rs. 2,47,64,002/- under section 68 of the Act and further calculated commission expense on ad hoc basis of 4% of sale consideration and made addition of Rs. 9,90,560/- to the income of the assessee u/s 69C of the Act. Thereafter, the assessee filed appeal before Id.CIT(A) and the same was dismissed.

4. Before us, the Id.AR has contended that the assessee had made investment of Rs. 5,00,000/- in equity shares of Swift Infrastructure Services Private Limited on 26.03.2012 and purchased 50,000 shares at Face Value of Rs. 10 per share.Said shares were purchased from Rigmadirappa Investment Private Limited vide account payee cheque. The payment receipt and bank account



statement of the assessee highlighting the payment entry were duly submitted. Thereafter, Swift Infrastructure Services Private Limited was amalgamated with Parag Shilpa Investment Limited and a new company was formed known as PS IT Infrastructure and Services Limited, the assessee was allotted 50,000 shares of PS IT in lieu of his holding in Swift Infrastructure Services Private Limited. Thereafter, the shares of PS IT being listed on BSE, assessee sold its shares on BSE in March, 2014 at the price available on BSE. The total sale consideration amounted to Rs. 2,47,64,002/-. In support of the above, contract notes, Demat account statement had been duly submitted. Further, assessee has had no knowledge of the buyers of the shares sold by him since the sale had been made through BSE wherein details of buyers were not known and the price was also calculated on the basis of the demand and supply equation and assessee had no power to decide the price of the shares.

4.1 The Id.AR has submitted that the AO has relied upon the report of the Kolkata Investigation Wing and has explained the modus operandi of the penny stock. Further, he at para 7.3 of the assessment order has stated that statement of Mr. Jagdish Purohit was recorded under section 132(4) wherein he has stated that Rigmadirappa Investment Private Limited was one of the 246 entities which were



floated by him to provide bogus entries. However, the assessee was never been provided a copy of such statement neither an opportunity for cross examine Mr. Purohit had been granted to assessee. Furthermore, at para 7.5 of the assessment order the AO stated details of exit providers to whom he had issued notice under section 133(6) of the Act did not comply. It is further reiterated that shares had been sold on stock exchange and assessee did not know as to who purchased the shares. Further, nowhere involvement of assessee had been proved by the department in price fluctuations etc. Furthermore, assessee neither knew nor department had proved any links with exit providers. Besides, the AO relied on the statements of Sajjan Kedia however, neither this statement nor an opportunity to cross examine him had been provided to the assessee. In light of the above-mentioned facts, it could be concluded that AO just relied upon reports and statements and he neither rejected nor disproved the evidences submitted by the assessee with respect to the purchase and sale of shares.

4.2 The Id.AR has placed reliance on certain judgements of co-ordinate benches of Tribunal wherein shares of **PS IT Infrastructure and Services Limited** have not been categorized as Penny stock and sale and purchase of these shares by the assessee's



were considered as genuine and exemption under section 10(38) of the Act was allowed i.e. Hitesh Mangilal Jain (ITA No. 261-262/Mum/2024), Vikram Chandan v/s ITO (ITA No. 70/Mum/2024) and Bhadrash Mansukhlal Dodhia v/s ACIT Central 1 (ITA No. 5544/Mum/2018).

4.3 With regard to the decision rendered in case of **Mr. Hitesh Mangilal Jain (ITA No. 261-262/Mum/2024)**, it is submitted that the facts of the case are identical and the comparative analysis is as under:

Hitesh Mangilal Jain	FACTS OF THE CASE	Ratan Bahubali Bhalwankar (Assessee)
<i>PS IT Infrastructure</i>	<i>Name of the Script</i>	<i>PS IT Infrastructure</i>
<i>07-05-2012</i>	<i>Date of Purchase</i>	<i>26-03-2012</i>
<i>40,000</i>	<i>No. Of Shares</i>	<i>50,000</i>
<i>10</i>	<i>Purchase Price/Share</i>	<i>10</i>
<i>4,00,000</i>	<i>Purchase Consideration</i>	<i>5,00,000</i>
<i>Rigmadirappa Investment Private Limited</i>	<i>Purchased from</i>	<i>Rigmadirappa Investment Private Limited</i>
<i>Account Payee Cheque</i>	<i>Mode of Purchase</i>	<i>Account Payee Cheque</i>
<i>21-08-2014 to 18-12-2014</i>	<i>Date of Sale</i>	<i>06-03-2014 to 30-03-2014</i>
<i>27-30 Months</i>	<i>Period of Holding</i>	<i>24-25 Months</i>
<i>Rs. 3,07,36,906</i>	<i>Sale Consideration</i>	<i>2,47,64,002</i>
<i>On Bombay Stock Exchange</i>	<i>Mode of Sale</i>	<i>On Bombay Stock Exchange</i>
<i>Through RTGS</i>	<i>Receipt of Consideration Sale</i>	<i>Through RTGS</i>



4.4 As caould be seen from the above, in case of Mr. Hitesh Jain sold 40,000 shares for a consideration of Rs. 3,07,36,906/- whereas assessee sold 50,000 shares for a consideration of 2,47,64,002/- which meant the prices had gone up even post sale of assessee and even in that case, it was not held as penny stock. Based on the above facts and circumstances of the case, the issue involved and facts of the case are identical, it was requested follow the order of the Co-ordinate Bench and allow the appeal of the assessee.

4.5 In respect of alleged payment of commission on above transaction, it is contended that the assessee has not claimed any commission expense. Further, the AO has himself considered the entire sale consideration as income of the assessee under section 68 of the Act. Hence, the ad-hoc addition made on account of commission expense is liable to be deleted.

5. Before us, the ld. DR has placed reliance on the orders of authorities below.

6. On careful consideration of all the relevant facts of the case and we notice that the assessee had purchased the shares from the market in physical form, got it transferred to his name and later dematerialised the same. The payment for purchase of shares was



made through banking channels. Later, the assessee had sold the shares in the stock exchange platform through a registered broker and received the sale consideration through banking channels after holding the same for almost two years. The assessee has furnished copy of demat statement, which shows entry and exit of the shares. Neither the Id.CIT(A) nor the AO have found fault with any of the documents furnished by the assessee evidencing the purchase and sale of shares. Further, the AO has also not carried out any independent enquiry with regard to the transactions carried on by the assessee, i.e., he has simply relied upon the generalised the report given by the Investigation wing. We notice that the AO has placed reliance on the said report, without bringing any material on record to show that the transactions entered by the assessee were found to be a part of manipulated transactions, it was not proved that the assessee has carried out the transactions of purchase and sale of shares in connivance with the people, who were involved in the alleged rigging of prices.

7. We also find that the similar issue involving the same scrip has been dealt with by the coordinate benches of ITAT in a number of cases and decided in favour of the respective assessee. Apart from relying on the cases cited by the assessee in preceding paras, we may



refer to identical case of Kishor Bachubhai Mujat in ITA 199/Mum/2024 (ITAT,Mumbai) dated 23.10.2024 involving the same scrip. The relevant parts of the order are extracted below:

“2. In this case, the Assessee had declared its total income of Rs.23,91,110/- by filing its return of income on 31.03.2017, which was subsequently reopened u/s 147 of the Act after recording reasons for reopening on 17.03.2017 mainly on the ground that the Assessee has taken bogus Long Term Capital Gains (LTCG) and consequently notice u/s 148 of the Act dated 28.03.2017 was issued. The Assessee in response to the same filed its return of income on 31.03.2017. Thereafter other statutory notices were issued in response to which the Assessee filed the relevant details and documents.

3. On perusing the return and details and documents filed by the Assessee, it was seen by the Assessing Officer (AO) that the Assessee has shown LTCG of Rs. 89,96,533/- on sale of shares of M/s. PS IT Infra Ltd.& M/s. Zodiac Ventures Ltd.. As per AIR information, the trade value of shares of M/s. PS IT Infra Ltd. is Rs.63,88,650/- and as per copy of return the sale value of M/s.Zodiac Ventures Ltd. is mounting to Rs.28,20,121/-, totaling to Rs.92,08,771/-. As per working of LTCG attached with the return of income, the Assessee has shown LTCG of Rs.89,96,533/- on sale of shares of such companies during the assessment year under consideration and has claimed the same as exempt u/s 10(38) of the Act.

3.1 The AO therefore in order to verify the transactions carried out by the Assessee show caused the Assessee to provide the relevant documents and further recorded the statement of the Assessee. Thereafter the AO by considering "the reply of the Assessee and the mode of acquisition of shares, sale of shares, unusual rise in prices, findings of the investigation wing, analysis of transactions, ignorance of the Assessee about shares and penny stock companies, financial analysis of penny stock companies and order of SEBI/BSE dated 24.08.2017 whereby as a surveillance measures trading in the securities of M/s. Zodiac Ventures Ltd. was suspended w.e.f. 27.08.2015", ultimately disallowed the claim of the Assessee u/s 10(38) of the Act and consequently made the addition of Mr. Kishore Bachubhai Mujat Rs.92,08,771/- u/s 68 of the Act and Rs.2,67,363/- being commission as determined by the AO @ 5% of the total consideration received which comes to Rs.4,60,439/- - Rs.1,93,075/- (purchased price of



the alleged shares) and added the same to the total income of the Assessee u/s 69 of the Act.

7. We have heard the parties and perused the material available on record. The Assessee had purchased following shares:Sl. Name of Purchase Price Date of Date of sale Sale Price Number of No. the purchase shares company purchased 1 M/s. PS IT Rs.2,34,000/- 14.07.2012 77500 shares @ Rs.6388650, 23400 Infra Ltd. Rs.532/- per initially the share (from shares were 19.11.2014 to of M/s.shares dematerialized the same and subsequently sold the same on recognized stock exchange platform. It is also not in controversy that the Assessee carried out the transactions of purchase and sale through banking channel/cheques. It is also not in controversy that the Assessee before the authorities below has duly submitted the relevant documents such as copy of bank statements in order to show sale and purchase of shares, copy of share transfer form, copy of amalgamation of M/s.Crescent Digital Technologies Ltd. with M/s. PS IT Infra Ltd., copy of application of dematerialization of shares, copy of Dmat statement showing dematerialization of the shares, copy of letter intimating splitting of shares issued of M/s. PS IT Infra Ltd., copy of Dmat statement before/after splitting of shares, copy of contract notes in each of the shares, copy of highlighting bank statements incorporating the share transactions evidence related to selling shares of M/s. Zodiac Ventures Ltd., copy of letter intimating splitting of shares issued by M/s. Zodiac Ventures Ltd., copy of statement before sub-division of shares, copy of form 10DB evidencing payment of STT as mandatory requirement of section 10(38) of the Act, copy of chart showing details of data, quantity, sale of shares It is admitted fact that both the authorities below have not doubted the aforesaid documents but doubted the transactions carried out mainly on the basis of the investigation carried out by the Investigation Wing and mode of acquisition of the shares and unusual rise in the price, ignorance of the Assessee about shares and penny stock companies, financial analysis of the penny stock companies and order of the SEBI/BSE dated 24.08.2017. Admittedly in the SEBI report/order no role has been assigned to the Assessee and even otherwise the Assessee has not played any role in the rigging of the shares, as it simply made the investment as a casual investor. It is also a fact that as on today the Assessee is holding 162500 shares of M/s. PS IT Infra Ltd. and 335375 shares of M/s. Zodiac Ventures Ltd. which strengthens the genuineness of the claim of the Assessee. Further, as on today, as per screenshot of money control website of the aforesaid scrips, the said companies/scrips are still currently listed on stock exchange and the SEBI by passing subsequent order dated 09.01.2019 revoke the suspension of M/s. Zodiac Ventures



Ltd. which was made vide order dated 24.08.2017. On the aforesaid facts and circumstances analyzations made above we are of the considered view that the Assessee has discharged its onus cast upon him u/s 68 of the Act and therefore the addition in hand is un-sustainable.

*7.2 The Jurisdictional High Court in various cases including in the case of **Pr. CIT-3 vs. Ziauddin A Siddique in Income Tax Appeal No.2012 of 2017 decided on 04.03.2022** has also dealt with the identical issue as involved in the instant case, where the AO though considered the documents submitted by the Assessee in support of its claim qua sale and purchase of shares however, not criticized the same and there was no allegation against the Assessee that he has participated in any price rigging of the scrips involved. For ready reference, the decision of the Hon'ble High Court is reproduced herein below:*

"JUDGEMENT

1. The following question of law is proposed:

"Whether on the facts and in the circumstances of the case and in law, the Hon'ble Tribunal was Justified in deleting the addition of Rs.1,03,33,925/- made by AO u/s 68 of the I.T. Act, 1961, ignoring the fact that the shares were bought/acquired from off market sources and thereafter the same was demated and registered in stock exchange and increase in share price of Ramkrishna Fincap Ltd. is not supported by the financials and, therefore, the amount of LTCG of Rs. 1,03,33,925/- claimed by the assessee is nothing but unaccounted income which was rightly added u/s 68 of the I. T. Act, 19617"

2. We have considered the impugned order with the assistance of the learned Counsels and we have no reason to interfere. There is a finding of fact by the Tribunal that the transaction of purchase and sale of the shares of the alleged penny stock of shares of Ramkrishna Fincap Ltd. ("RFL") is done through stock exchange and through the registered Stock Brokers. The payments have been made through banking channels and even Security Transaction Tax ("STT") has also been paid. The Assessing Officer also has not criticized the documentation involving the sale and purchase of shares. The Tribunal has also come to a finding that there is no allegation against assessee that it has participated in any price rigging in the market on the shares of RFL

3. Therefore, we find nothing perverse in the order of the Tribunal.



4. Mr. Walve placed reliance on a judgment of the Apex Court in *Principal Commissioner of Income-tax (Central)-1 vs. NRA Iron & Steel (P.) Ltd. 2019 (103) taxmann.com 48 (SC)*. but that does not help the revenue in as much as the facts *in that case* were entirely different.

5. In our view, the Tribunal has not committed any perversity or applied Incorrect principles to the given facts and when the facts and circumstances are properly analysed and correct test is applied to decide the issue at hand, then, we do not think that question as pressed raises any substantial question of law.

6. The appeal is devoid of merits and it is dismissed with no order as to costs."

7.3 Even the Hon'ble Jurisdictional High Court in the case of **PCIT31, Mumbai vs. Indra Indravadan Jain HUF (ITA No.454 of 2018)** decided on 12.07.2023) almost on the similar facts and circumstances as involved in this case, affirmed the deletion of the identical addition made by the AO on account of alleged bogus claim *u/s 10(38)* of the Act, by holding as under:

"4. The A.O. did not accept respondent's claim of long-term capital gain and added the same in respondent's income under **Section 68** of the Act. While allowing the appeal filed by respondent, the CIT[A] deleted the addition made under **Section 68** of the Act. The CIT[A] has observed that the A.O. himself has stated that SEBI had conducted independent enquiry in the case of the said broker and in the scrip of RFL through whom respondent had made the said transaction and it was conclusively proved that it was the said broker who had inflated the price of the said scrip in RFL. The CIT(A) also did not find anything wrong in respondent doing only one transaction with the said broker in the scrip of RFI. The CITIA] came to the conclusion that respondent brought 3000 shares of RFI, on the floor of Kolkata Stock Exchange through registered share broker. In pursuance of purchase of shares the said broker had raised invoice and purchase price was paid by cheque and respondent's bank account has been debited. The shares were also transferred into respondent's Demat account where it remained for Mr. Kishore Bachubhai Mujat more than one year. After a period of one year the shares were sold by the said broker on various dates in the Kolkata Stock Exchange. Pursuant to sale of shares the said broker had also issued contract notes cum bill for sale and these contract notes and bills were made available during the course of appellate proceedings. On the sale of shares respondent effected delivery



of shares by way of Demat instructions slip and also received payment from Kolkata Stock Exchange. The cheque received was deposited in respondent's bank account. In view thereof, the CIT[A] found there was no reason to add the capital gains as unexplained cash credit under [Section 68](#) of the Act. The tribunal while dismissing the appeals filed by the Revenue also observed on facts that these shares were purchased by respondent on the floor of Stock Exchange and not from the said broker, deliveries were taken, contract notes were issued and shares were also sold on the floor of Stock Exchange. The ITAT therefore, in our view, rightly concluded that there was no merit in the appeal.

5. We also find no infirmity in the order passed by the ITAT and no substantial questions of law as proposed in the appeal arises."

7.4 We further observe that the **Hon'ble Apex Court in the case of Pr. CIT vs. Renu Agarwal (2023) 456 ITR 249(SC)** has dismissed the SLP against the judgment passed in ITA No.44 of 2022 on 06.07.2022 by the Hon'ble Allahabad High Court, wherein the Hon'ble High Court has also dealt with the identical issue as involved in the instant case and ultimately affirmed the deletion of identical addition allegedly made on penny stock, by holding as under:

"Judgment, Heard Sri Krishna Agarawal, learned counsel for the appellant.

This appeal under [section 260A](#) of the Income-tax Act, 1961 has been filed challenging the order dated January 17, 2022, passed by the Income-tax Appellate Tribunal, Lucknow Bench 'SMC' Lucknow in I. T. A No. 205 of 2020 (assessment year 2014-15).

The basic question involved in the present appeal is with regard to deletion of some amount which was added by the Assessing Officer on the allegation of penny stock.

The appeal of the respondent-assessee was allowed against the assessment order. The appeal filed by the assessee was allowed by the Commissioner (Appeals) Against the appellate order the Revenue had filed the aforesaid income-tax appeal which has been dismissed by the Income-tax Appellate Tribunal. After detailed discussion, the Income-tax Appellate Tribunal has recorded the following findings of fact:

"The above findings recorded by the learned Commissioner (Appeals) are quite exhaustive whereby he has discussed the basis on which the Assessing Officer had made the additions. While allowing relief to the assessee, the learned Commissioner (Appeals) has specifically held that there is no adverse comment in the form of general and specific statement by the principal officer of the stock exchange or by the company whose



shares were involved in these transactions and he held that the Assessing Officer only quoted the facts pertaining to various completely unrelated persons whose statements were recorded and on the basis of unfounded presumptions. He further held that the name of the appellants were neither quoted by any of such persons nor any material relating to the assessee was found at any place where investigation was done by the Investigation Wing. The learned Commissioner (Appeals) relying on various orders of the Lucknow Benches and other Benches has allowed relief to the assessee by placing reliance on the evidence filed by the assessee before the Assessing Officer. I do not find any adversity in the order of the learned Commissioner (Appeals) specifically keeping in view the fact that the Lucknow Benches in a number of cases after relying on the judgment of the hon'ble Delhi High Court in the case of Krishna Devi had allowed relief to various assessees."

The concurrent findings of fact have been recorded by the first appellate authority and the Income-tax Appellate Tribunal. Thus, no substantial question of law is involved in the present appeal. The matter is concluded by findings of fact.

For the reasons aforesaid, we do not find any good reason to entertain this appeal. Consequently, it is dismissed."

7.5 On the aforesaid analyzations and respectfully following the dictum **laid down by** the Hon'ble High Court, we are inclined to delete the additions under consideration; hence, the same are deleted.

8. Now coming to the various legal grounds raised by the Assessee, as we have deleted the additions under consideration, hence, are inclined not to delve into these issues, as adjudication of the same would prove futile exercise.

9. Consequently, the appeal filed by the Assessee stands allowed.

Order pronounced in the open court on 23.10.2024."

7.1 Likewise in the case of **Parshwanath Jewellers Private**
in **ITA No.4647/MUM/2024 (ITAT,Mumbai)** dated 25



November, 2024, similar decision was rendered involving the same scrip. Relevant parts of the order are extracted as under:

*“13. We heard the rival submission and considered the documents available in the record. We note that the share scrip, **M/s PS IT Infra & Services Ltd** is stated as a tainted scrip by the Ld.AO relying on the investigation report of DDIT Inv 3(3) Kolkata but no such specific evidence was brought in the record. The Ld.AO only on the basis of the surmises and conjectures, made the addition under [section 68](#). The assessee is a regular trader of the shares and also dealt with the market. There is no evidence that assessee is involved in the price rigging with any or about the scrip mentioned by the SEBI. The nature of company is public limited and huge amount is invested by the public. The assessee himself regular trader of share and continued the same profession since long. The evidence which are submitted by the assessee is never be discarded by any of the revenue authorities. We respectfully relied on the order of Renu Agarwal (supra) and [Vikram N Chandan](#) (supra). Related to this scrip, the ITAT Mumbai Bench has already taken the view in favour of the assessee in case of [Bhadresh Mansukhlal Dudhediya](#) (supra). We respectfully relied on the order of **High Court of Bombay in the case of Pr. CIT v. Ziauddin A Siddique [Income-tax Appeal No. 2012 of 2017, dated 4-3-2022]** held that the Assessing Officer also has not criticized the documentation involving the sale and purchase of shares. The Tribunal has also ITA No.4647 & 4648 /Mum/2023 Paresh Ratansi Nissar come to a finding that there is no allegation against assessee that it has participated in any price rigging in the market on the shares. In our considered view the ld. AO did not able to bring any evidence related to the involvement of assessee in price rigging or any cash trail related proof of rotation of assessee's own cash. Only on general view the addition can not be sustained. We set aside the impugned appeal order. The addition amount to Rs. 27,58,991/- is quashed.”*

8. Considering the above discussion, the facts on record and the legal position emerging out of catena of decisions of jurisdictional High Court and direct decisions rendered by the co-ordinate benches of Mumbai ,ITAT order, we hold that the addition made by the AO u/s



68 of the Act in the year under consideration is devoid of any merit. The claim of the assessee u/s 10(38) of the Act has been made based on facts which could not be rebutted by the AO. The documentary evidences could not be rejected without bringing on record any substantial piece of evidence and just on the basis of certain individuals who also were not produced for cross examination of their stated stands. Moreover, the jurisdictional High Court decisions cited supra are on identical facts as also the co-ordinate benches of Mumbai tribunal have a binding precedence. None of them could be distinguished by the Id.CIT(A) anywhere in the appellate order. Apparently, he has in a preconceived manner dittoed the assessment order rather than by way of independent application of mind. We have no hesitation in setting aside the appellate order. The AO is therefore, directed to delete the addition made u/s 68 of the Act.

9. Since we have already decided the issue of LTCG in the foregoing paras and deleted the addition made u/s 68 of the Act, thus holding the share transactions as genuine, the above ground of the Revenue has no merit which is accordingly, **dismissed**.

10. In respect of **ground no.1 and 3** as also the additional ground of appeal, the Id.AR in the course of hearing has categorically



submitted not to press these grounds in the event of deletion of the impugned additions. Since the assessee has been granted full relief on merits of the case, the above grounds being not pressed **stand dismissed.**

11. In the result, **the appeal is partly allowed.**

Order pronounced in the open court on 13/10/2025.

Sd/-

SANDEEP GOSAIN

(न्यायिकसदस्य / JUDICIAL MEMBER)

Sd/-

PRABHASH SHANKAR

(लेखाकारसदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 13.10.2025

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
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,



ITA No. 1808/Mum/2024
A.Y. 2014-15
Ratan Bhaubali Bhalwankar

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.

