

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "B", MUMBAI**

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER
AND SHRI ANIKESH BANERJEE, JUDICIAL MEMBER**

**ITA No.185/Mum/2025
Assessment Year: 2016-17**

ACIT Circle-22(1), Mumbai		Nilesh Haresh Parwani
Piramal Chambers, Lalbaugh, Mumbai- 400012.	Vs.	501 Chumchum, Saraswati Road, Santacruz (West), Mumbai-400054.
		PAN: ANGPP 1224 L
(Appellant)		(Respondent)

**C.O. No.44/Mum/2025
(Arising out of ITA 185/Mum/2025)
Assessment Year: 2016-17**

Nilesh Haresh Parwani		ACIT Circle-22(1), Mumbai
B-3401 One Avighna Park, Near Curry Road Railway Station, Currey Road, Lower Parel East, Mumbai-400012.	Vs.	Piramal Chambers, Lalbaugh, Mumbai- 400012.
PAN: ANGPP 1224 L		
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Rakesh Joshi (Virtually present)
Revenue by : Shri Leqaqut Ali, Sr. DR

Date of Hearing : 24.02.2025

Date of Pronouncement : 25.02.2025

ORDER

PER AMARJIT SINGH, ACCOUNTANT MEMBER:

The Revenue has filed the present appeal against the impugned order dated 28.11.2024 of the Id. CIT(A) passed under section 250 of the Income Tax Act, 1961 ("the Act") by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi ["learned CIT(A)"], for the assessment year 2016-17.

2. In its appeal, the Revenue has raised the following grounds: -

1. *"Whether on the facts and in circumstances of the case and in law, Ld.CIT(A) was justified in deleting the addition made by the AO amounting to Rs. 41,72,212/-being bogus Short Term Capital Loss by entering into sham transactions.*

2. *"Whether on the facts and in circumstances of the case and in law, the Ld.CIT(A) has erred in ignoring the crucial finding of the survey action u/s 133A of the Act that JM Financial had manipulated accounting methodology so as to artificially inflate the distributable surplus and the SEBI guidelines have been flouted by the J M Mutual Fund by classifying a portion of capital as distributable surplus and thereafter artificial payout to the investor in the form of dividend and assessee is one of the beneficiary.*

3. *"On the facts and in the circumstances of the case, the Ld. CIT(A) was justified in deleting the addition made by the A.O. even though it is well established that the modus operandi of these sham transactions of generating bogus LTCG/STCG had to be considered in the light of surrounding circumstances, normal course of human conduct and preponderance of probability.*

4. *"On the facts and the circumstance of the case and in law the Ld. CIT(A) erred in not appreciating the fact of the case and modus operandi utilized by entry operators for providing accommodation entries under the garb of Long Term Capital Gain/Short Term Capital Gain Loss by manipulating/rigging up the share price.*

5. *It is prayed that this appeal is filed even if the tax effect is below the monetary limit since the case falls under exception specified in para 3.1(h) of the CBDT Circular 05/2024 dated 15.03.2024.*

6. *The appellant craves leave to amend or alter any ground or submit additional ground which may be necessary."*

3. At the outset, we find that in column 10 of Form No. 36 filed by the Revenue, the tax effect relating to the grounds of appeal raised by the Revenue is mentioned as Rs.9,03,837/-, which is

below the monetary limit of Rs.60 lakh, applicable to appeals before the Tribunal, as per CBDT Circular no.9 of 2024, dated 17/09/2024. Therefore, in view of the aforesaid, Revenue's appeal deserves to be dismissed. However, the Revenue is granted the liberty to seek recall of this order if, at a later point in time, it is found that the appeal falls under any of the exceptions provided in the Circular referred to above.

4. Since we have dismissed the appeal of the Revenue because the low tax as (supra) in this order, therefore, cross objection filed by the assessee become infructuous and dismissed as not pressed.

5. In the result, the appeal of the Revenue and assessee is dismissed.

Order pronounced in the open court on 25.02.2025.

Sd/-
(ANIKESH BANERJEE)
JUDICIAL MEMBER

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Mumbai, Date: 25.02.2025
Biswajit, Sr. P.S.

Copy to:

1. The Appellant:
2. The Respondent:
3. The CIT,
4. The DR

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By Order