

आयकर अपीलीय अधिकरण,सूरत न्यायपीठ, सूरत ।
IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT
[conducted through Hybrid mode]

श्री संजय गर्ग, न्यायिक सदस्य एवं
श्री बिजयानन्दा प्रुसेथ, लेखा सदस्य के समक्ष।

Before Shri Sanjay Garg, Judicial Member And
Shri Bijayananda Pruseth, Accountant Member

Sl. No(s)	आयकर अपील सं/ ITA No(s)	निर्धारण वर्ष/ Assessment Year(s)	Appeal(s) by :	
			अपीलार्थी/ Appellant	प्रत्यर्थी/ Respondent
1.	817/SRT/2024	2015-16	The ITO Ward-1(3)(1) Surat-395 009	Shivlal Shamjibhai Ponkia 21, Raghuvir Bungalows City Light Road Umra, Bharthana B.O. Surat - 395 007 PAN: ABRPP 4050 F
2.	1002/SRT/2024	2015-16	The ITO Ward-1(3)(1) Surat-395 009	Sharmishthaben Shivlal Ponkia (Address same as above) PAN: AEZPP 9724 M
3.	1003/SRT/2024	2015-16	The ITO Ward-2 (3)(1) Surat-395 001	Bhanubhai Ranchhodbhai Asodaria 12-13, China Gate B/h. Pushp Vatika New City Light Road Surat - 395 006 PAN: AATPA 9465 E

Assessee by :	Shri Manish J. Shah, AR
Revenue by :	Sl.Nos.1 &2 - Shri Aashish Pophare, CIT-DR Sl.No.3 - Shri Ajay Uke, Sr.DR

सुनवाई की तारीख/Date of Hearing : 14/10/2025
घोषणा की तारीख /Date of Pronouncement: 17/10/2025

आदेश/O R D E R

Per Sanjay Garg, Judicial Member:

The captioned appeals have been preferred by the Revenue, in the case(s) of three different assesseees, against the separate orders of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter referred to as 'CIT(A)'] pertaining to same Assessment Year (AY) 2015-16. Since common facts and issues are involved in all these appeals, these were heard together and are being disposed of by a consolidated order. Revenue's appeal in ITA No.817/Ahd/2024 for AY 2015-16 (in the case of Shivlal Shamjibhai Ponkia) is taken as a lead case for the purpose of narration of facts.

Revenue's appeal in ITA No.817/SRT/2014 for AY 2015-16 :-

2. The Revenue in this appeal has taken the following grounds of appeal:
- "i. On the facts and circumstances of the case and in law the Ld CIT has erred in deleting the addition made of Rs. 4,77,27,036/- by the AO on account of cash credit u/s 69A of the Act in the disguise of exempted long term capital gains on account of sale of the share of JRI Industries and Infrastructure Limited, penny stock and without appreciating the findings of the Assessing Officer that the price movement of the company were not supported by financial fundamentals of the company?*
 - ii. On the facts and circumstances of the case and in law the Ld CIT has erred in ignoring the facts brought on record establishing manipulation of share prices of JRI Industries and Infrastructure Limited as the upward movement of share price was not at all justified by the economic fundamental of company during the period of transactions by the assessee?*
 - . On the facts and circumstances of the case and in law, the Id. CIT(A) has erred in deleting the addition made by the Assessing Officer of Rs. 4,77,27,036/- ignoring the fact that the stock prices of the companies are manipulated to provide the bogus LTCG.*

- iv. *On the facts and circumstances of the case and law, the Ld.CIT(A) has erred in allowing the claim ignoring the judicial pronouncement by the Hon'ble Supreme Court in the case of McDowell Vs CTO wherein it was held that "Colourable devices cannot be part of tax planning and it is wrong to encourage or entertain the belief that it is honourable to avoid the payment of tax by resorting to dubious method. It is the obligation of every citizen to pay the taxes honestly without resorting to subterfuges",*
- v. *On the basis of the facts and circumstances of the case and in law, the Id. CIT(A) ought to have upheld the order of the Assessing Officer.*
- vi. *It is therefore prayed that the order of ld. CIT(A) may kindly be set aside that of the Assessing Officer be restored.*
- vii. *The appellant craves leave to add, alter, amend and/or withdraw any ground of appeal either before or during the course of hearing of the appeal."*

3. The brief facts of the case are that the assessee had filed its return of income for the AY 2015-16 on 30/03/2016 declaring total income of Rs.5,41,600/-, which was processed under Section 143(1) of the Income Tax Act, 1961 ("the Act" for short). Subsequently, in the case of assessee, information was received from the Investigation Wing that the assessee has made transaction of Rs.4,77,27,036/- in the penny scrip stock of JRI industries and Infra Structure Ltd. The assessee has not offered the sale transaction of Rs.4,77,27,036/- in the penny scrip stock of JRI Industries and Infra Structure Ltd. in his return of income. Thus, the assessment was reopened u/s.147 of the Act by way of issuing notice u/s.148 of the Act dated 28/07/2022. The Assessing Officer (AO) held that the assessee had made penny stock transaction of Rs.4,77,27,036/- held during the year under consideration. The AO found that the assessee had shown income of Rs.5,41,600/- only and had not disclosed the transaction entered with reference to penny stock scripts of JRI Industries Ltd. during the year amounting to Rs.4,77,27,036/- and as such treated the same as undisclosed and unaccounted in case of the

assessee. The assessment was completed under Section 147 r.w.s.144B of the Act on 19/05/2023 at total income of Rs.4,82,68,636/-.

4. Aggrieved by the order of the AO, the assessee had filed an appeal before the Ld.CIT(A), which was decided by him vide impugned order dated 19/06/2024 and the appeal of the assessee was allowed, deleting the addition made by the A.O.

5. Aggrieved by the order of the Ld.CIT(A), now the Revenue is in appeal before the Tribunal.

6. However, at the outset, the Ld.AR of the assessee has raised the following legal objection.

“Notice issued u/s 148 as well as consequential reassessment order passed u/s 147, for A.Y. 2015-16, are bad in law on account of being time barred, in view of the judgment of the Hon'ble Supreme Court in the case of UOI v. Rajeev Bansal (2024) 469 ITR 46 (SC) and the Hon'ble jurisdictional Gujarat High Court in the case of Mayurkumar Babubhai Patel v. ACIT- SCA No. 18099 of 2022.”

6.1. The Ld. AR further submitted that the Ld. CIT(A) had not adjudicated the legal grounds taken by the assessee in respect of reopening of the case for the reason that the quantum addition made by the Assessing Officer was deleted on merits. However, the legal ground goes to the root of the case hence, the same is admitted for adjudication. The Ld.AR submitted that the assessment year under consideration is AY 2015-16. He further submitted

that original notice under Section 148 of the Act was issued on 26/04/2021 which was subsequently treated as show-cause notice under Section 148A(b) of the Act. And after passing the order under Section 148A(d) of the Act on 28/07/2022, another notice under Section 148 of the Act was issued by the AO on 28/07/2022. According to the Ld. AR, the first notice dated 26/04/2021 was after the prescribed date 01/04/2021 and that the Revenue has given concession before the Hon'ble Supreme Court that in respect of AY 2015-16, the notices issued u/s.148 of the Act after 01/04/2021 will have to be dropped as they would not fall for completion during the period prescribed under the "Taxation and other Laws (Relaxation and Amendment of certain Provisions) Act, 2020." In this regard, he relied upon the judgement of Hon'ble Supreme Court in the case of *Deepak Steel and Power Limited vs. CBDT*, 174 *taxmann.com* 144 (SC) and also on the judgement of jurisdictional High Court in the case of *Mayurkumar Babubhai Patel vs. ACIT*, 176 *taxmann.com* 25 (Guj).

7. We have carefully considered the rival submissions. There is no dispute to the fact that the first notice under Section 148 for A.Y. 2015-16 was issued on 26/04/2021. In the case of *Deepak Steel and Power Limited (supra)*, the identical issue was involved wherein notice under Section 148 of the Act for A.Y. 2015-16 was issued after 1st April 2021. The Hon'ble Supreme Court, in that case, had referred to the submission of the Revenue made in the case of *Union of India vs. Rajeev Bansal* and had given the following findings: -

"4. The learned counsel appearing for the revenue with his usual fairness invited the attention of this Court to a three-judge bench decision of this Court in *Union of India v. Rajeev Bansal* 2024 SCC OnLine SC 2693/[2024] 167 *taxmann.com* 70/301 *Taxman* 238/469 ITR 46 (SC) more particularly, paragraph 19(f) which reads thus :-

“19. (f) The Revenue concedes that for the assessment year 2015-2016, all notices issued on or after April 1, 2021 will have to be dropped as they will not fall for completion during the period prescribed under the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020.”

5. *As the revenue made a concession in the aforesaid decision that is for the assessment year 2015-2016, all notices issued on or after 1st April, 2021 will have to be dropped as they would not fall for completion during the period prescribed under the taxation and other laws (Relaxation and Amendment of certain Provisions Act, 2020). Nothing further is required to be adjudicated in this matter as the notices so far as the present litigation is concerned is dated 25.06.2021.” [Emphasis supplied.]”*

7.1 It was thus held by the Hon’ble Supreme Court that for the A.Y. 2015-16 all the notices issued on or after 1st April 2021 was required to be withdrawn. In the present case, the first notice under Section 148 of the Act dated 26/04/2021, which was after 1st April, 2021, and was required to be dropped. Therefore, the said notice is held as invalid and consequently the impugned assessment order passed u/s.147 of the Act is bad in law. Therefore, the impugned assessment order u/s.147 of the Act does not survive, hence, quashed. The appeal of the Revenue is, thus, dismissed on legal ground itself. Since the assessee succeeds on the legal issue, we don’t deem it necessary to adjudicate the grounds taken by the Revenue on the merits,

8. In the result, the appeal of the Revenue in ITA No.817/SRT/2024 is dismissed.

ITA No.1002/SRT/2024 & ITA No.1003/SRT/2024

9. The assessment year in both these appeals is also AY 2015-16. The original notice u/s.148 of the Act in ITA No.1002/SRT/2024 was issued on

26/04/2021 and in ITA No.1003/SRT/2024 the same was issued on 30/06/2021, which were after 01/04/2021. Hence, in view of our findings given above in ITA No.817/SRT/2024, the assessment order passed u/s.147 of the Act in both these appeals also do not survive and are hereby quashed. No finding on merits is needed at this stage.

10. In the result, all the three appeals of the Revenue are dismissed.

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 17/10/2025.

**Sd/-
(Bijayananda Pruseth)
Accountant Member**

**Sd/-
(Sanjay Garg)
Judicial Member**

दिनांक/Dated 17/10/2025

टी.सी.नायर, व.नि.स।T.C. NAIR, SK. PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)- (NFAC), Delhi
5. विभागीय प्रतिनिधि,आयकर अपीलीय अधिकरण ,सूरत /AR,ITAT, Surat/Ahmedabad.
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, ITAT,Surat/Ahmedabad