आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

(Through Virtual Hearing)

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER
AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA Nos.151 & 152/RPR/2025
निर्धारण वर्ष / Assessment Years : 2018-19 & 2019-20

The Income Tax Officer/Income Tax Officer-3(1)
Raipur (C.G.)

.....अपीलार्थी / Appellant

बनाम / V/s.

Rahul Kathuria
29, 81, Christian Colony,
Raja Talab, Raipur-492 001 (C.G.)
PAN: AEVPK0960J

.....प्रत्यर्थी / Respondent

Assessee by : Shri V.K. Jindal, CA
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 04.11.2025
घोषणा की तारीख / Date of Pronouncement : 26.11.2025

आदेश / ORDER

PER BENCH:

The captioned appeals preferred by the revenue emanates from the respective orders of the Ld.CIT(Appeals)/NFAC, dated 27.01.2025 for the assessment years 2018-19 & 2019-20.

2. Since both the parties herein conceded that the facts and issues involved in both these appeals are substantially similar and identical, therefore, on hearing their submission, both these matters are heard together and disposed off vide this consolidated order.

3. That before proceeding for adjudication, it is also pertinent to mention here that the assessee had filed an application under Rule 27 of the Income Tax (Appellate Tribunal) Rules, 1963 which was later withdrawn by the assessee as evident from the order sheet entry dated 19.09.2025 for both the assessment years i.e. A.Ys. 2018-19 & 2019-20.

4. First, we would take up the appeal filed by the Revenue in ITA No.151/RPR/2025 for A.Y.2018-19 for adjudication wherein grounds of appeal raised by the Revenue are as follows:

> "1. Whether on facts and in the circumstances of the case, the ld. CIT(A) was justified in deleting the addition of Rs.2,04,23,038/- which was added by the A.O?
>
> 2. Whether on facts and in the circumstances of the case, the ld. CIT(A) was justified in deleting the addition of

> Rs.2,04,23,038/- by ignoring the findings/facts of the Investigating Wing as brought on record by the A.O.
>
> 3. The order of the Ld. CIT(A) is erroneous both in law and on facts.
>
> 4. Any other ground which may be adduced at the time of hearing."

5. The Revenue has challenged the deletion of addition of Rs.2,04,23,038/- by the Ld. CIT(Appeals)/NFAC and hence, they are before us questioning the validity of such deletion of addition on merits.

6. The brief facts emanating in the assessment year 2018-19 are that the Income Tax Department had received information on financial transactions/activities relating to the assessee under "Risk Management System" for A.Y.2018-19 falling within the Explanation 1(i) of proviso to Section 148 of the Income Tax Act, 1961 (for short 'the Act'). The said information reveals that the assessee had traded in the scrip of "Oasis Tradelink Ltd." during the year. The said scrip was rigged by the entry provider namely Shri Naresh Manakchand Jain. The fact further illustrated by the A.O in the assessment order is that a search and survey action was conducted on a syndicate of persons led by Shri Naresh Jain on 19.03.2019 by DDIT (Inv.), Mumbai. It was observed by the A.O that Shri Naresh Jain and his associates were involved in providing accommodation entries in the form of capital gains/losses in several scrips to various beneficiaries across the country. The group network in fact spreads across

the country and includes various participants such as the operator, numerous beneficiaries, intermediaries who would arrange for beneficiaries, exit providers, intermediaries etc. Thereafter, the A.O writes that the assessee was one of the beneficiaries who had traded in the scrips of "Oasis Tradelink Ltd." during the year which was rigged by the said entry provider and his associates i.e. Shri Naresh Jain and accordingly, made the impugned addition.

7. That when the matter came up before the Ld. CIT(Appeals)/NFAC, it was observed and held as follows:

> "5.2. Briefly stating the background of the case, the appellant is an individual. He had originally filed his Return of Income (RoI) for A.Y. 2018-19 declaring total income of Rs.28,26,160/-. Subsequently, based on information received "under Risk Management system" that the assessee had traded in the scrip of 'Oasis Tradelink Ltd.' (hereinafter referred to as 'Oasis' in short) during the year. The said scrip was rigged by an entry provider namely `Naresh Manakchand Jain'. A Search and Survey action was conducted on a syndicate of persons led by Shri Naresh Jain on 19.03.2019 by DDIT (Inv) unit-7(1) & 7(3) Mumbai which revealed that `Naresh Jain' and his associates were involved in providing accommodation entries in the form of Long term Capital Gains/Losses in several scrips to various beneficiaries and this appellant was allegedly one of them.
>
> 5.3. Based on such information notice u/s.148A was issued to which the appellant had made a reply explaining the trading in scrip of 'Oasis' but the AO decided to proceed with the issuance of notice u/s 148. There is no specific mention in the assessment order whether any RoI was filed in response to notice u/s 148 and if yes, what was the income disclosed in such RoI. In the concluding paragraphs where computation is given, there is reference to RoI filed in response to notice u/s 148. Drawing the inference from such description and going by the written submission of the

appellant; it is inferred that the appellant filed the RoI in response to notice u/s 148 on 23.04.2022 disclosing same total income as it was disclosed in the original RoI i.e. Rs.28,26,160/-.

5.4. During the subsequent proceedings, notice u/s 143(2), 142(1) etc. were issued and there is no dispute on any procedural aspect of them. The re-assessment proceedings culminated in passage of an order u/s 147 r.w.s. 144B on 27.03.2023. The same is impugned here and hence this appeal order.

5.5. The grounds no. 1, 2 and 3 of the appeal are with respect to the addition of Rs.2,04,23,038/- which is the crux of the dispute also; are taken up together as under:

> "1. The Assessing Officer erred in making addition of Rs.2,04,23,038/-, on account of sale of shares, holding it to be unexplained credit, invoking sec. 68. Conclusion drawn and consequent addition made by the AO is arbitrary, baseless and not justified.
>
> 2. Without prejudice to ground no. 1 above, the addition of Rs.2,04,23,038/- is illegal inasmuch as sec. 68 is not applicable to the addition made by AO.
>
> 3. Without prejudice to ground no. 1 and 2, the AO erred in adding the amount of sale consideration of Rs. 2,04,23,038/-, in place of short term capital gain amount of Rs.45,796/-."

5.5.1. In the assessment order it is observed, inter alia, that;-

"A Search and Survey action was conducted on a syndicate of persons led by Shri Naresh Jain on 19-03-2019 by DDIT (Inv) unit-7(1) & 7(3) Mumbai. The focus of this action was on Shri Naresh Jain and his associates who were involved in providing accommodation entries in the form of Long term Capital Gains/Losses in several scrips to various beneficiaries across the country. The tentacles of this network are spread across the country and inter alia include various participants such as the operator, numerous beneficiaries, intermediaries who would arrange for beneficiaries, exit providers, intermediaries (who acted as aggregators for exit providers), share broking firms, hawala operators, jama-kharchi companies etc. Premises of the entities in the syndicate were identified across Mumbai, Lucknow, Kolkata and Chennai. To

unearth the same a search and seizure action was mounted on Shri Naresh Jain and associates. During the course of search and seizure action, several incriminating documents, communications and digital data has been found, which led to unearth the operations of the syndicate, establishing clearly the modus operandi of providing Bogus Long term capital gain (LTCG)/Loss and rigging the prices of various scrips on stock exchange for providing Bogus Long term capital gain (LTCG)/Loss.

.....

The purchase and sale transactions were carried through registered broker and through demat accounts but the assessee cannot escape from the onus of proving the transaction to be genuine. It is a fact that the assessee has purchased and the sold i.e. traded the scrip of Oasis Tradelink in order to claim the gain or loss during the year. This may be through broker or through demat accounts but cannot refrain from the main intention to be beneficiary to claim the Long term or short term capital gain/loss. Further the assessee has objected to the LTCG of Rs.2,04,23,038/- saying it is the gross sale consideration and in respect of share transaction, it is only the profit or loss which is required to be considered for purpose of taxation and the same has been already

considered /offered by the assessee in the assessee in its return of income. This

contention of the assessee is also not acceptable. The main focus here in this case is the reasons on which the case of the assessee was reopenined ie. He has been found trading in the scrip of Oasis Tradelink during the assessment year under consideration hence not only the profit or loss element is in question, but the whole trade is in question. The assessee has admitted that he had earned amount of Rs 2,04,23,038/- on account of sale proceeds in this trade with Oasis Tradelink. Here the basic information is that the assessee has traded in the scrip of Oasis Tradelink and which is found to be true. To sum up, the assessee's submission in respect of transactions with Oasis Tradelink is not considerable due to above reasons."

5.5.2. In response to the same the appellant has made several detailed submissions online, impugning the addition under discussion. Though, the appellant's submission has been cited in the foregoing part of the appellant order, however, for

the sake brevity the same is not reproduced here. Nevertheless, the same is considered in juxtaposition with the facts and circumstances narrated in the assessment order. The careful perusal of the facts and circumstances recorded in the assessment order and consideration of appellant's submission point to incontrovertible facts that the appellant has traded in the shares of 'Oasis' as well as other listed companies. The appellant has earned Long Term as well as Short Term capital gain as well as Loss also. The appellant has carried out all the share transactions online, through a registered share broker namely, Exclusive Securities Ltd. The appellant has paid Security Transaction Tax on purchases as well as sales of the shares, at prevailing rates. This is also undisputed that the profit and loss resulting from such share transactions has been disclosed by the appellant. There is no inconsistency pointed out in terms of disclosed profit or loss vis-a-vis statement issued by the share broker of the appellant. The appellant has made clarification regarding source of the investment stating that the broker of the appellant i.e. Exclusive Securities Ltd. used to provide credit limit for the purposes and sale of the shares. In case of outstanding balance exceeding the specified sanctioned limit, the appellant was required to make payment to the share broker and in the case of scenario opposite to it, the broker used to pay the differential amount to the appellant. The appellant's submission also explains that such credit facility was available to it for dealing in all shares and it was not exclusive to scrips of 'Oasis'. Also, it is stated that for such credit facility, the broker was charging interest from the appellant and that the same is verifiable from broker's ledger account. The appellant states that all such explanation and documents as detailed below were furnished during the assessment proceedings and have not been disputed by the AO. The appellant had statedly furnished following documents during the assessment proceedings also.

i Copy of account of appellant in the books of broker (Exclusive Securities Ltd.) showing the entries of transaction

ii Statement of profit and loss of all the transactions in shares, provided by the broker

iii Bank statement of the appellant
iv Bank Account from books with detailed narration

5.5.3. The appellant has also furnished separate tabulations of 'Short Term Capital Gain/Loss transactions' during the

year as well as 'intraday trading transactions' during the year. The tabulation of 'Short Term Capital Gain/Loss transactions' during the year shows that the appellant has earned STCG of Rs.6,02,532.59 and has incurred Short Capital Loss of Rs.5,56,736.52 on trading of scrips of 'Oasis' during the year. The appellant has statedly bonafide set off STCL against the STCG of the year and net balance of STCG of Rs.45,796.07 which was disclosed. Similarly, the summary of 'intraday trading transactions' during the year shows that the appellant made the intraday profit of Rs.46,804/- from sale and purchase of scrips of 'Oasis'. The appellant has admitted that "the same was inadvertently, shown as short-term capital gain in income tax return of the assessee which is verifiable from computation of income enclosed supra". Summarizing his transaction in the scrips of 'Oasis', the appellant has stated that "Thus, as evident the total sale value of Oasis Tradelink Ltd. come to Rs.2,03,94,191/- (18961700+1432491) and the purchase value comes to Rs.2,03,01,591/- (1385687+18915904) Thus, the resultant figure of Rs.92600/- (45796+46804) has been shown as short-term capital in income tax return."

5.5.4. The discussion in the foregoing paragraphs, in 5.5.2 and 5.5.3, when seen in the light of the ratio laid down by the Hon'ble Supreme Court in the case of PCIT Vs. Genuine Finance (P) Ltd. [2024] 162 taxmann.com 700[SC]; the appellant's case finds support. In this judgement, the Hon'ble Apex Court held that where the appellant was continuously dealing in share trading of various companies and the entire transaction of purchase and sale of scrips was through Stock Exchanges, through authorized brokers and payments made to brokers were reflected in the bank account, loss incurred in share transactions could not be disallowed.

5.5.5. The appellant has also asserted that "In spite of submitting all evidences, the Ld. AO has observed that the assessee provided the combined profit and loss statement of share trading in the books of Exclusive Securities ltd. But the source of investment towards purchase of shares has not been provided. In response to same, the appellant begs to say that there is no dispute that entire trading in shares including shares of Oasis Tradelink Ltd. and other companies, were made through broker namely Exclusive Securities Ltd. In support of the same, profit and loss statement along with ledger of broker were submitted.

Payments were made to the broker through banking channel only as and when required. Bank statement was also submitted before the AO. Bank accounts held by the appellant was duly shown in Audited Financial statement, thus the entire transaction was duly shown in books of account of the assessee."

5.5.6. The appellant has also cited that "in the case of Shri Aneesh Saggar, Raipur (PAN DFWPS9427F) and Shri Munish Saggar. Raipur (PAN AJJPS3817M], both cases and were reopened on the basis of same information i.e. allegation about Shri Naresh jain and the alleged manipulation in the scrip Oasis Tradelink Ltd. In both the cases, the reopening was resorted to simultaneously as in the case of assessee, on the basis of similar allegation and a draft assessment order was issued proposing similar variation. On rendering of similar explanation, the assessment order has been passed on 23.02.2023 in the case of Shri Aneesh Saggar and 09.03.2023 in the case of Shri Munish Saggar and no addition/ variation has been made to the total income of the said assessee by the faceless unit. Copy of assessment orders and show cause notice were furnished before the Ld. AO vide reply dated 14.03.2022 which is enclosed as at Page No. 65-75 and 76-07."

5.5.7. The appellant has stated that the evidences submitted by him have remained undisputed and uncontroverted and that nothing has been brought on the record by the AO to dispute any of such document/evidences and submissions by way of separate enquiry.

5.5.8. The appellant has also stated that "The appellant vide para no. 04 of letter dated 14.03.2023 (refer Page No. 14-15) and vide para no. 04(i) of letter dated 02.11.2022 (refer Page No. 3) filed before AO, had requested the AO that if anything adverse about the appellant was stated by said Shri Naresh Jain, a copy of any such statement and other details/evidences may be provided to appellant and the appellant may also be allowed to cross-examine them, if needed. In spite of repeated requests, copy of any such statements was not provided to the appellant Since the material utilized by AO against the appellant was never provided to appellant, hence the entire reassessment proceeding is void-ab-initio." The assessment order does not show anything to controvert such submission of the appellant.

5.5.9. The appellant has taken the plea that the AO has observed that the assessee did not furnish true particulars of receipt for sale proceeds of Rs.2,04,23,038/- and that the said figure was taken from BSE data base. However, the appellant had "filed suitable explanation" for the entire transaction pertaining to 'Oasis' with cogent evidence which would have cleared that total sale proceeds on sale of shares was Rs.2,03,94,191.10 and that such sale consideration has been duly reported/disclosed in the appellant's ITR. Disputing the factual accuracy the appellant has asserted that he had "requested the Ld. AO to provide supporting evidence in respect of figures taken as per BSE data Rs.2,04,23,038/- vide reply doted 02.11.2022 (refer Page No. 1-2) However, the same was also not made available to us." The appellant has cited the decision of Hon'ble Supreme Court in the case of C. Vasantlal & Co. vs. CIT 45 ITR 206 (SC) and has assailed the addition under discussion as "tantamount to breach of Principle of Natural Justice".

5.5.10. The appellant also contends that "the assessee has earned short term capital gain of Rs.602532/-, short term capital loss of Rs.556736/- and intraday profit of Rs.46804/-. thus, in total the assessee has earned only 92600/- on which taxes were also paid. It clearly shows, that the assessee was not benefitted by the alleged price rigging done by Naresh J with an intent to bring his unaccounted income into their books of account without paying taxes."

5.5.11. The appellant has also assailed the assessment order citing that various Courts have already held that the third information is only an information and does not constitute "reason to believe" unless such information is subjected to investigation and on the basis thereof independent reasons are recorded by the AO. The appellant has cited several case laws in his support i.e. Durga Prashad Goyal vs. ITO [2006] 98 ITD 227 (ASK.) (SB), Adani Infrastructure & Developers Pvt. Ltd. vs. ACIT (2019) 101 taxmann.com 256 (Gujarat)", ACIT vs. Dharia Construction Company (2010) 328 ITR 515 (SC) and Sesa Sterlite Ltd. vs. ACIT (2019) 417 ITR 334 (Born. HC).

5.5.12. The appellant has assailed the assessment order on technicalities of non-adherence to provisions of section 151A which governs the scheme of faceless assessment in case of income escapements. The appellant pleads that by the virtue of CBDT's notification dated 29.03.2022, the notice u/s

148A/148 should have been issued by automated allocation in faceless manner which was not the case with him.

5.5.13. Besides the above, it is observed that in this case also, the Assessing Officer has applied the concept of Human probabilities and held the above said scrips to be a penny stock without bringing on record how the appellant is involved in any of the scrupulous activities or directly linked to one of the persons who has involved in manipulation/rigging of share prices, entry operator or exit provider as observed by the Hon'ble Bombay High Court in the case of Ziauddin A Siddique in Income Tax Appeal Ni5:20ir of 017 dated 04/03/2022. The ,relevant portion of the decision of the Hon'ble Court is as follows:

"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.1,03,33,925/7 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 the stock exchange and increase in the 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 appellant is nothing but unaccounted income which was rightly added u/s 68 of the I. T. Act, 1961?"

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 the stock exchange and through the registered Stockbrokers. 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 the appellant 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. Waive placed reliance on a judgment of the Apex Court in Principal Commissioner of Income-tax (Central)-1 vs. NRA

Iron & Steel (P.) Ltd. 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 analyzed and the 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."

5.5.14. On the set of facts identical to the present case, the Hon'ble Delhi High Court in the case of Pr. CIT v. Smt Krishna Devi in ITA 125/2020 dated 15.01.2021 held as under: -

"8. Mr. Hossain argues that in cases relating to LTCG in penny stocks, there may not be any direct evidence in the hands of the Revenue to establish that the investment made in such companies was an accommodation entry. Thus, the Court should consider the aspect of human probabilities that no prudent investor would invest in penny scrips. Considering the fact that the financials of these companies do not support the gains made by these companies in the stock exchange, as well as the fact that despite the notices issued by the AO, there was no evidence forthcoming to sustain the credibility of these companies, he argues that it can be safely concluded that the investments made by the present Respondents were not genuine. He submits that the AO made sufficient independent enquiry and analysis to test the veracity of the claims of the Respondent and after objective examination Of the facts and documents, the conclusion arrived at by the AO in respect of the transaction in question, ought not to have been interfered with. In support of his submission, Mr. Hossain relies upon the judgment of this Court in Suman Poddar v.ITO, [2020] 423 ITR 480 (Delhi), and of the Supreme Court in Sumati Dayal v. CIT, (1995) Supp. (2) SCC 453.

9. Mr. Hossain further argues that the learned ITAT has erred in holding that the AO did not consider examining the brokers of the Respondent. He asserts that this holding is contrary to the findings of the AO. As a matter of fact, the demat account statement of the Respondent was called for from the broker M/s. SMC Global Securities Ltd under

Section 133(6) of the Act, on perusal whereof it was found that the Respondent was not a regular investor in penny scrips.

10. We have heard Mr. Hossain at length and given our thoughtful consideration to his contentions but are not convinced with the same for the reasons stated hereinafter.

11. On a perusal of the record, it is easily discernible that in the instant case, the AO had proceeded predominantly based on the record and held that the Respondent had successfully discharged the initial onus cast upon it under the provisions of Section 68 of the Act. It is recorded that "There is no dispute that the shares of the two companies were purchased online, the payments have been made through banking channel, and the shares were dematerialized, and the sales have been routed from the demat account, and the consideration has been received through banking channels." The above-noted factors, including the deficient enquiry conducted by the AO and the lack of any independent source or evidence to show that there was an agreement between the Respondent and any other party, prevailed upon the ITAT to take a different view. Before us, Mr. Hossain has not been able to point out any evidence whatsoever to allege that money changed hands between the Respondent and the broker or any other person, or further that some person provided the entry to convert unaccounted money to get the benefit of LTCG, as alleged. In the absence of any such material that could support the case put forth by the Appellant, the additions cannot be sustained.

12. Mr. Hossain's submissions relating to the startling spike in the share price and other factors may be enough to show circumstances that might create suspicion; however, the Court has to decide an issue based on evidence and proof, and not on suspicion alone. The theory of human behavior and preponderance of probabilities cannot be cited as a basis to turn a blind eye to the evidence produced by the Respondent. With regard to the claim that observations made by the CIT(A) conflicted with the Impugned Order, we may only note that the said observations are general in nature and later in the order, the CIT(A) itself notes that the broker did not respond to the notices. Be that as it may, the CIT(A) has only approved the order of the AO, followed the same reasoning, and relied upon the report of the Investigation Wing.

Lastly, the reliance placed by the Revenue on Suman Poddar v. ITO (supra) and Sumati Dayal v. CIT (supra) is of no assistance. Upon examining the judgment of Suman Poddar (supra) at length, we find that the decision therein was arrived at in light of the peculiar facts and circumstances demonstrated before the ITAT and the Court, such as inter alia, lack of evidence produced by the Appellant therein to show the actual sale of shares in that case. On such basis, the ITAT had returned the finding of fact against the Appellant, holding that the genuineness of the share transaction was not established by him. However, this is quite different from the factual matrix at hand. Similarly, the case of Sumati Dayal v. CIT (supra) too turns ITA 125/2020 and connects matters to its own specific facts. The above-stated cases, thus, are of no assistance to the case sought to be canvassed by the Revenue.

13. The learned ITAT, being the last fact-finding authority, based on the evidence brought on record, has rightly concluded that the lower tax authorities are not able to sustain the addition without any cogent material on record. We thus find no perversity in the Impugned Order.

14. In this view of the matter, no question of law, much less a substantial question of law arises for our consideration.

15. Accordingly, the present appeals are dismissed."

5.5.15. Similar to the above decision, the Hon'ble 'F' Bench of the ITAT, Mumbai; in identical set of facts; in the case of Farzad Sheriar Jehani vs. ITO — 17(1)(4), Mumbai in ITA NO. 2065/MUM/2023 (A.Y. 2014-15) has held as under: -

"The revenue has not brought on record any materials linking the appellant in any dubious transactions relating to entry, price rigging or exit providers. Even in the SEBI report, there is no mention or reference to the involvement of the appellant. We can only presume that the appellant is one of the beneficiaries in these transactions merely as an unsuspecting investor, who has entered an investment fray to make a quick profit. Even the assessing officer has applied the presumptions and concept of human probabilities to make the additions without their being any material against the appellant."

5.5.16. In the light of aforesaid discussion of the facts and circumstances of the case as well as respectfully following the

judicial authorities discussed above, the grounds no. 1, 2 and 3 of the appeal are allowed."

8. At the time of hearing, the Ld. Counsel for the assessee submitted that the assessee had filed all the details and evidences regarding entire transactions pertaining to "Oasis Tradelink Ltd." with cogent evidence and material explaining the total sale proceeds on the sale of shares of Rs.2,03,94,191.10 and that such sale consideration has been duly reported/disclosed in the assessee's return of income. These facts have not been disputed by the department. It was submitted by the Ld. Counsel that the only ground for which the A.O made addition is that the scrips of "Oasis Tradelink Ltd." is rigged by entry provider i.e. Mr. Naresh Jain and his associates and therefore, on suspicion only, it has been held by the A.O that the assessee is a beneficiary. However, nowhere in the assessment order, the A.O had brought out any nexus of the assessee with the said Mr. Naresh Jain nor had brought any evidence of nexus that the assessee knowingly took benefit of such rigged shares of "Oasis Tradelink Ltd.".

8.1 Further, the Ld. Counsel for the assessee submitted that the entire transaction was carried out through recognized stock exchange i.e. Bombay Stock Exchange (BSE) and the assessee is in regular habit of purchase and sale of shares and this is not a case of isolated transaction and if at all, there is any rigging of shares of "Oasis Tradelink Ltd.", the assessee is merely an unsuspecting investor. Hence, additions in the

hands of the assessee is misplaced, arbitrary, bad in law liable to be quashed.

8.2 It is further contended by the Ld. Counsel for the assessee that the department have received information relating to the assessee under the "Risk Management System" for the relevant A.Y. 2018-19, but what are those information which the department has received from the "Risk Management System" was never shared with the assessee for his response in violation of principles of natural justice. That further, the entire spectrum of investigation and addition in this case emanates from search and survey action conducted on a syndicate of persons led by Shri Naresh Jain on 19.03.2019 by DDIT (Inv.), Mumbai. This action reveals that Mr. Naresh Jain has rigged various shares and provided accommodation entries to various beneficiaries. Such report/information of the DDIT (Inv.), Mumbai was also not shared with the assessee and no opportunity was provided to the assessee to cross examine or furnish reply regarding the same. Again, there is gross violation of the principles of natural justice wherein, certain informations were collected on the back of the assessee and have been used against him without even confronting him with the same.

8.3 It was also contended by the Ld. Counsel for the assessee that search and survey action had taken place in the premises of Mr. Naresh

Jain and his associates i.e. third party premises and there is no iota of any evidence which even remotely suggests that any search for the relevant assessment year was conducted in the premises of the assessee. Rather, there had been no search and survey at all in the premises of the assessee. Therefore, whatever incrementing materials as alleged by the revenue were unearthed was from the premises of the third party pertaining to the assessee on which basis the department had proceeded against the assessee and in such scenario, assessment should have been completed u/s.153C of the Act and not u/s. 147 of the Act as in the present case of the assessee. Hence, in this count also, the assessment is void ab initio for wrong application of law. It was submitted by the Ld. Counsel therefore that on merits as well as per the legal contentions raised by the assessee, the additions made by the A.O is arbitrary, bad in law, hence, liable to be deleted.

9. Per contra, the Ld. Sr. DR supported the findings of the sub-ordinate authorities and placed reliance on the decisions of the Hon'ble High Court of Calcutta in the case of Pr. CIT Vs. Swati Bajaj, [2022] 446 ITR 56 (Cal) a/w. other decisions as appearing in her written submission dated 04.11.2025 which is placed on record and duly considered herein.

10. We have carefully considered all the documents/materials on record, heard the parties herein and have analyzed the facts and circumstances in

this case. That on perusal of the assessment order, it is crystal clear that the A.O has not established any case of any direct nexus of an illegal benefit that has been derived by the assessee knowingly while trading in the scrips of "Oasis Tradelink Ltd." through the entry provider viz. Shri Naresh Jain and his associates. The assessee had submitted all the details and evidence regarding the entire transaction pertaining to "Oasis Tradelink Ltd." explaining total sale proceeds on the sale of shares of Rs.2,03,94,191.10 and that such sale consideration has been duly reported/disclosed in the assessee's return of income. These facts remains undisputed by the department. That the sole reason, for which, the A.O had made addition in the hands of the assessee is that the scrips of "Oasis Tradelink Ltd." in which the assessee has transacted had been rigged by entry provider viz. Shri Naresh Jain and his associates. However, the Revenue has not brought on record any material/evidence linking the assessee to any dubious transaction related to such entry price riggers or exit providers. The Revenue has also not pointed out by filing any SEBI report mentioning or referring conscious involvement of the assessee in such price rigging and knowingly getting benefit through the entry providers. In fact, at the time of hearing, the Ld. Sr. DR conceded that as per the assessment order, there is no direct nexus brought on record so to even suggest any illegal benefit that was derived knowingly by the assessee while trading in the scrips of "Oasis Tradelink Ltd." nor any evidence have

been placed on record by the Ld. Sr. DR to demonstrate that the assessee was beneficiary in this price rigging by entry provider viz. Shri Naresh Jain and his associates. There has been no transaction between the assessee and the entry provider, no transaction between assessee and broker suggesting malafide gains by assessee. Nothing has been substantiated by the A.O for making the additions. Therefore, we concur with the arguments put forth on merits by the Ld. Counsel for the assessee and we do not find any factual basis for such additions made by the A.O in the hands of the assessee.

11. The reliance placed by the Ld. Sr. DR in the decision of the Hon'ble High Court of Calcutta in the case of Pr. CIT Vs. Swati Bajaj (supra) and other decisions as appearing in her written submission dated 04.11.2025 are absolutely misplaced so far so forth in the said decision of the Hon'ble High Court of Calcutta in the case of Pr. CIT Vs. Swati Bajaj (supra), wherein the Hon'ble High Court had specifically reversed the findings of the Tribunal on the ground that there was direct nexus between the assessee and the entry provider and that it was malafide and conscious transaction entered into by the assessee in connivance with the entry provider/broker and other intermediaries in order to defraud the revenue. However, in the present case, the Revenue has not brought on record any evidence to even suggest that the assessee had willfully transacted in the

said share transactions of "Oasis Tradelink Ltd." so to derive benefit from Shri Naresh Jain and his associates. There is no evidence against the assessee by the Department to suggest any connivance of the assessee and the entry providers to obtain any illegal gains. The assessee had been trading in sale and purchase of shares frequently. That when the Revenue has failed to bring on record direct nexus of illegal benefit being derived by the assessee, in such circumstances, the assessee can only be termed as unsuspecting investor who had entered into investment by way of regular practice and it is not an isolated transaction. Therefore, case laws relied upon by the Ld. Sr. DR being substantially different on facts will not be able to come to the assistance of the Revenue.

12. That as discernable from the order of the department that they have received information relating to the assessee under the "Risk Management System" but what are those informations which the department has received from the "Risk Management System" was never shared with the assessee for his response. That further, there was search and survey action conducted on Shri Naresh Jain and his associates by DDIT (Inv.), Mumbai which in fact reveals that the said Shri Naresh Jain had rigged various shares and provided accommodation entries to various beneficiaries. However, this report/information of the DDIT (Inv.), Mumbai was also not shared with the assessee and no opportunity was provided to

the assessee to cross examine or furnish reply regarding the same. Nothing has been brought on record by the Ld. Sr. DR also which can suggest that these relevant reports/informations which was used against the assessee were also communicated to the assessee for his response. Hence, there is gross violation of the principles of natural justice in the present case.

13. The **Hon'ble Chhattisgarh High Court** in the case of **ACIT, Circle-1, Raipur (C.G.) Vs. Sun and Sun Inframetric Pvt. Ltd., TAXC No. 5 of 2022 and TAXC No.7 of 2022, dated 03.08.2022**, had upheld the findings of the Tribunal observing that information and statement which were used against the assessee without enabling the assessee to put forth his defence, such procedure defeats the rules of natural justice of doctrine of *audi alteram partem*.

14. The **Hon'ble Supreme Court** in the case of **CIT Vs. Amitabh Bachhan (2016) 384 ITR 200 (SC)** while upholding the mandatory requirement for adhering to the principles of natural justice, in any proceedings by a quasi-judicial authority also referred to the decision in the case of **the C.I.T., West Bengal, II, Calcutta Vs. M/s. Electro House, (1972) 82 ITR 824 (SC),** wherein it was held and observed that a breach of principles of natural justice effects the legality of the order. Any contravention of the principles of natural justice vitiates the order passed by the authority. Accordingly, the Hon'ble Apex Court has ruled that it is

mandatory to provide an opportunity to the assessee to be heard on all issues especially where conclusions are drawn adverse to the assessee.

15. The Hon'ble Supreme Court has consistently emphasized the importance of adequate natural justice in the judicial and quasi-judicial proceedings. This principle ensures fairness, reasonableness and due process preventing arbitrary action and upholding fundamentality of the legal process. In the case of **Maneka Gandhi Vs. Union of India (UOI) and Ors. AIR 1978 SC 597**, the Hon'ble Apex Court expanded the scope of natural justice holding that any action violating fairness, reasonableness and due process is arbitrary and unconstitutional. In the case of **State of Orissa Vs. Dr. (Miss) Binapani Dei, 1967 AIR 1269**, the Hon'ble Apex Court has established that even administrative orders affecting a person's rights must adhere to the principles of natural justice. There are certain principles ensuring within the parameters of natural justice, one of them is "*audi alterm partem*" which mandates that before taking any action against a party, they must be given an opportunity to be heard and present their case.

16. The right to be heard is the cornerstone of natural justice and in this regard in the case before the **Hon'ble Uttarakhand High Court** in 2022 regarding a practising advocate, **Dushyant Mainali (CLR No.22/2022)** wherein the Hon'ble High Court had observed that the said advocate

Mainali was accused of professional misconduct for allegedly misleading the litigant and causing the delay in filing revisional petition. The Hon'ble High Court directed the Bar Counsel of Uttarakhand to initiate disciplinary proceedings against the lawyer. Mainali challenged these remarks before the Hon'ble Supreme Court, contending that he was neither a party to the case before the High Court nor was involved in any capacity. The remarks, therefore, not only tarnished his professional reputation but were also made in clear violation of the principles of natural justice. The **Hon'ble Apex Court** in **Civil Appeal No.15191/2022**, arising out of a Special Leave Petition filed by Dushyant Mainali examined the Hon'ble High Court's order and found the approach to be legally untenable. Hon'ble Justice Gavai (as he was at that time) speaking for the bench, noted that "we are of the considered view that the approach of the High Court in making the observations against the appellant without giving him any opportunity of being heard is totally unsustainable in law." The bench went on to delete the entire portion of the high court's order that contained the contentious remarks and directives against Mainali, holding that such a move violates the fundamental principles of fairness and due process.

17. Reverting to the facts of the present case, the information received by the department from "Risk Management System" was never shared with the assessee. That the report of the DDIT (Inv.), Mumbai was also not

communicated to the assessee for his response. But those report/information were finally used to make the additions in the hands of the assessee. Therefore, whether it is an assessment order, whether it is an order passed by the Ld. CIT(Appeals)/NFAC u/s. 250 of the Act, whether it is revisonary order u/s. 263 of the Act so far so forth any order passed by an authority has to be always in compliance with the principles of natural justice and if that is not complied with, the order itself is vitiated and has to be quashed.

18. The Ld. Sr. DR was unable to demonstrate that the said informations i.e. informations received from the "Risk Management System" and the report of the DDIT (Inv.), Mumbai were communicated to the assessee. Nowhere in the assessment order, there is any iota of evidence to demonstrate that the assessee was given an opportunity of hearing with regard to the said informations which were in possession of the Revenue. That without providing any opportunity, the Revenue has proceeded to use the same against the assessee in violation of principles of natural justice and as per the mandate of the aforesaid judicial pronouncements, therefore, the assessment order itself is void ab initito, hence, quashed.

19. Let us examine the other contention raised by the Ld. Counsel for the assessee that since in the case of the assessee, incriminating material

as alleged by the Revenue have been unearthed from the premises of third party search relating to the assessee and that since there was no search conducted on the premises of the assessee himself, in such scenario, whether the assessment has to be completed u/s.153C of the Act and not u/s. 147 of the Act as had been done in the present case of the assessee.

20. We find that in the similar facts and circumstances, the **Hon'ble High Court of Rajasthan Jodhpur Bench in D.B. Civil Writ Petition No. 17651/2022 connected with D.B. Civil Writ Petition No. 17523/2022 dated 21/03/2024** observed and held as follows:

> "14. In view of above, it is clear that the entire basis for reopening the assessment is nothing but the material and information collected during search conducted in the premises of another assessee. Collection of details relating to search would not mean collection of new incriminating material and information, independent of the incriminating material and information collected during search proceedings.
>
> 15. Learned counsel for the petitioner is correct in submitting that in fact, search was carried out in the year 2016 and the respondents had the authority to reopen the assessment by invoking the powers under Section 153C of the Act of 1961 and draw reassessment proceedings under Section 153A of the Act of 1961. That was not done within the period of limitation prescribed under Section 153B of the Act of 1961. The respondent-authority was fully aware of the fact that proceedings under Section 153C of the Act of 1961 would be barred by limitation, therefore, recourse was taken to the provisions contained in Section 148 and Section 148A of the Act of 1961 which has no application in the present cases."

Similarly in another decision of **Hon'ble High Court of Rajasthan** in the case of **Shyam Sunder Khandelwal Vs ACIT (2024) 161 taxmann.com 255 (Raj.)** which has been observed and held as follows:

> "In cases of the person other than on whom search was conducted but material belonging or relating such person was seized or requisition, the Assessing Officer has to proceed under Section 153C. The two pre-requisites are that the Assessing Officer dealing with the assessee on whom search was conducted or requisition made, being satisfied that seized material belongs or relates to other assessee shall handover it to Assessing Officer having jurisdiction of such assessee. Thereafter, the satisfaction of Assessing Officer receiving the seized material that the material handed over has a bearing for determination of total income of such other person for the relevant preceding years. On fulfillment of twin conditions the Assessing Officer shall proceed in accordance with the provisions of Section 153A."

21. Further, the **Hon'ble High Court of Bombay** in the case of **Sejal Jewellery & Anr. Vs. Union of India & Ors 2025 (2) TMI 870** has held that the foundation of the present case was certainly a search action which was under taken by the revenue against a third party, if the record would not indicate something which is not on the basis of such new material gathered under the search and seizure action u/s.132, if this be the case then certainly provisions of section 153C r.w.s. 153A would be applicable. The Hon'ble High Court of Bombay in the aforesaid judgment further held and observed that the provisions of Sections 147, 148 vis-à-vis Section 153A and Section 153C of the Act are quite compartmentalized. To avoid any overlapping of these provisions, the legislature in its wisdom has

thought it appropriate to provide for an independent effect, to be given u/s. 153A r.w.s. 153C of the Act by incorporating the "non-obstante" clause, in these provisions, which carves out an exception to any normal/regular action being resorted to u/s.147 of the Act.

22. Reverting to the facts of the present case, undisputedly, there was no search in the premises of the assessee and that the search and survey had taken place in the premises of Mr. Naresh Jain & his associates, wherein, incriminating material in relation to the assessee were found which formed the basis of the department to proceed against the assessee u/s.147 r.w.s 144B of the Act. It was found out that Mr. Naresh Jain and his associates were involved in rigging of shares in connivance with share brokers, entry providers, money launders for providing illegal benefits to the beneficiaries and one such shares was that of "Oasis Tradelink Ltd". So these were the results of a search conducted in the third party premises, not in the premises of the assessee. Therefore, in such cases as per the judicial dictate enshrined in the aforesaid pronouncements mandates the appropriate legal provision to get triggered is Section 153C and not Sections 147/148 of the Act. Therefore, the assessment framed u/s. 147 r.w.s. 144B of the Act is held to be void ab initio and the same is, thus, quashed.

23. That since the assessment order itself is quashed, any other subsequent proceedings becomes non-est as per law.

24. That the appeal filed by the Revenue against such non-est order is infructuous, hence dismissed.

25. In the result, appeal of the Revenue in ITA No.151/RPR/2025 for A.Y.2018-19 is dismissed.

ITA No.152/RPR/2025
A.Y.2019-20

26. Now we shall adjudicate the appeal filed by the Revenue in ITA No.152/RPR/2025 for A.Y.2019-20, wherein grounds of appeal raised by the Revenue are as follows:

> "1. Whether on facts and in the circumstances of the case, the Ld. CIT(A) was justified in deleting the addition of Rs.64,11,909/- which was added by the A.O?
>
> 2. Whether on facts and in the circumstances of the case, the Ld. CIT(A) was justified in deleting the addition of Rs.64,11,909/- by ignoring the findings/facts of the Investigating Wing as brought on record by the A.O.
>
> 3. The order of the ld. CIT(A) is erroneous both in law and on facts.
>
> 4. Any other ground which may be adduced at the time of hearing."

27. The facts and issues involved in the present appeal are substantially similar and identical with that of ITA No.151/RPR/2025 for A.Y.2018-19,

except for, the name of accommodation entry provider, the scrips in which the assessee has traded in and the corresponding value involved. Since the remaining all other facts in this appeal are "*parimateria*" with ITA No.151/RPR/2025 for A.Y.2018-19, therefore, our findings rendered in ITA No.151/RPR/2025 for A.Y.2018-19 shall ***mutatis mutandis*** apply to ITA No.152/RPR/2025 for A.Y.2019-20.

28. In the result, appeal of the Revenue in ITA No.152/RPR/2025 for A.Y.2019-20 is dismissed as infructuous.

29. In the combined result, both the appeals of the Revenue are dismissed.

Order pronounced in the open court on 26th November, 2025.

Sd/-	Sd/-
ARUN KHODPIA	**PARTHA SARATHI CHAUDHURY**
(ACCOUNTANT MEMBER)	**(JUDICIAL MEMBER)**

रायपुर/ RAIPUR ; दिनांक / Dated : 26th November, 2025.
SB, Sr. PS

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

1. अपीलार्थी /The Appellant.
2. प्रत्यर्थी /The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच, रायपुर / DR, ITAT, Raipur Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.