

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SMT RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No.84/Mum/2024
(Assessment Year :2014-15)**

ACIT, Circle-2(1)(1) Mumbai	Vs.	Avin Rajendrakumar Agrawal 402, Indira Apartment Tejpal Scheme Road Vile Parle East Mumbai - 400 057
PAN/GIR No.AGMPA5525A		
(Appellant)	..	(Respondent)

**CO No.43/Mum/2024
(Arising out of ITA No.84/Mum/2024
(Assessment Year :2014-15)**

Avin Rajendrakumar Agrawal 402, Indira Apartment Tejpal Scheme Road Vile Parle East Mumbai - 400 057	Vs.	ACIT, Circle-2(1)(1) Mumbai
PAN/GIR No. AGMPA5525A		
(Appellant)	..	(Respondent)

Assessee by	Shri Chaitanya Joshi
Revenue by	Shri Pravin Salunkhe, Sr. AR
Date of Hearing	17/10/2025
Date of Pronouncement	30/12/2025

आदेश / O R D E R**PER BENCH:**

The present appeal has been filed by the Revenue and the cross objection by the assessee against the order dated 24.11.2023 passed by the National Faceless Appeal Centre, Delhi, for the assessment year 2014–15, arising out of the reassessment proceedings completed under section 147 read with section 144 of the Income-tax Act, 1961.

2. The Revenue, through its grounds of appeal, has assailed the action of the learned Commissioner of Income Tax (Appeals) in deleting the addition of Rs.48,86,410/- made by the Assessing Officer by treating the long-term capital gain declared by the assessee on sale of shares as bogus and taxable under section 68 of the Act. The assessee, by way of cross objection, has challenged the validity of initiation of reassessment proceedings under section 147 of the Act.

3. The brief facts, as borne out from the record, are that the assessee is an individual who filed his return of income for the assessment year under consideration on 21/07/2014 declaring a total income of Rs.6,27,56,190/-. Subsequently, the Assessing Officer received information from the Directorate of Income Tax (Investigation), Indore, alleging that the scrip of M/s. Midland Polymers Limited was a penny stock listed on the Bombay Stock Exchange and was allegedly

used for providing accommodation entries in the form of bogus long-term capital gains or short-term capital losses.

4. It was alleged that the share price of M/s. Midland Polymers Limited had risen abnormally during the relevant period without any commensurate improvement in the financial performance of the company and that such price movement was the result of manipulation. Since the assessee had transacted in the said scrip during the relevant previous year, the Assessing Officer recorded reasons to believe that income chargeable to tax had escaped assessment and issued notice under section 148 of the Act on 31/03/2021.

5. In response to the notice under section 148, the assessee filed return of income on 18/05/2021 declaring the same income as originally returned. During the reassessment proceedings, the Assessing Officer examined the alleged modus operandi of penny stock transactions, referred to the price movement of the scrip, corporate actions undertaken by the company, and the statement of Shri Satyanarayan Rathi, Managing Director of Midland Polymers Limited. On the basis of these observations and relying primarily on the investigation report, the Assessing Officer concluded that the long-term capital gain claimed by the assessee was not genuine.

6. Accordingly, the Assessing Officer treated the long-term capital gain of Rs.48,86,410/- claimed by the assessee as

unexplained cash credit under section 68 of the Act and completed the reassessment under section 147 read with section 144 of the Act.

7. Aggrieved by the assessment order, the assessee preferred an appeal before the learned Commissioner of Income Tax (Appeals). After considering the submissions of the assessee, examining the documentary evidence placed on record, and analysing the findings of the Assessing Officer, the learned CIT(A) deleted the addition. The learned CIT(A) recorded a categorical finding that the Assessing Officer had failed to conduct any independent enquiry to disprove the evidence furnished by the assessee and had merely relied upon generalized investigation material. The learned CIT(A) also relied upon binding judicial precedents, including the judgment of the Hon'ble Bombay High Court in *Indravadan Jain HUF*.

8. Aggrieved by the relief granted by the learned CIT(A), the Revenue is in appeal before us. The assessee, by way of cross objection, has challenged the validity of reopening under section 147 of the Act.

9. We have carefully considered the rival submissions, perused the material placed on record, and examined the impugned orders in the light of the factual matrix emerging from the record. The fulcrum of the Assessing Officer's action rests entirely upon information received from the

Investigation Wing, coupled with a generalized analysis of price movement of the scrip of M/s. Midland Polymers Limited, without carrying out any independent verification or enquiry qua the specific transactions undertaken by the assessee. The assessment order proceeds largely on presumptions drawn from third-party information and statements, without establishing any direct nexus between the assessee and the alleged modus operandi of generating accommodation entries. Except for reproducing the investigation report and narrating the alleged pattern noticed therein, the Assessing Officer has not brought on record any cogent or corroborative material to demonstrate that the assessee was a participant in any pre-arranged or artificial transaction.

10. It is an admitted and undisputed position on record that the assessee was allotted 1,20,000 equity shares of M/s. Midland Polymers Limited on 24/01/2013 at a face value of Rs.10 per share, pursuant to a valid allotment advice issued by the company. These shares were duly credited to the assessee's Demat account maintained with Stock Holding Corporation of India Limited. Subsequently, pursuant to resolutions passed by the Board of Directors of the said company, the equity shares underwent corporate actions including subdivision of face value and issue of bonus shares, resulting in the assessee holding 24,00,000 equity shares. All these events are supported by contemporaneous documentary evidence placed on record, including allotment advice, Demat

statements and corporate action intimations, and none of these facts have been disputed or rebutted by the Assessing Officer.

11. Out of this substantial shareholding, the assessee transferred only 5,00,000 shares to the Demat account of M/s. K.M. Jain Stock Brokers Private Limited, a registered stock broker, with explicit instructions to sell the shares on the floor of the recognized stock exchange at prevailing market prices. Thereafter, only 1,22,000 shares were actually sold on 25.03.2014 through the stock exchange mechanism and the corresponding sale consideration was received through regular banking channels. Significantly, the remaining and overwhelming majority of the shares continued to remain in the assessee's Demat account. The sale transactions are duly supported by contract notes, Demat delivery instructions, and bank statements evidencing receipt of sale proceeds, all of which were furnished before the Assessing Officer.

12. This factual aspect assumes considerable importance while examining the allegation of accommodation entry. The record clearly demonstrates that the assessee did not liquidate the entire shareholding even when the market price of the scrip allegedly touched its peak at around Rs.73.70 per share. Instead, the assessee sold only a comparatively small portion at approximately Rs.42.15 per share. Had the intention of the assessee been to merely obtain an

accommodation entry in the garb of exempt long-term capital gains, nothing prevented him from offloading the entire holding at peak prices so as to maximise the alleged benefit. The conscious decision to sell only a part of the holding, while retaining the bulk of the shares, militates strongly against the allegation that the transaction was pre-arranged, colourable or sham in nature. Such conduct is wholly inconsistent with the typical pattern of exit-driven accommodation transactions alleged by the Department.

13. The allegation of the Assessing Officer that the sharp rise in share price was unsupported by the financials of the company has also been adequately rebutted by the assessee. It was specifically brought to the notice of the Assessing Officer, by way of a detailed show cause reply dated 23.03.2022, that during the relevant period the income of Midland Polymers Limited had increased to Rs.87.32 lakhs in F.Y. 2013-14 and profits had risen to Rs.39.43 lakhs from Rs.13.63 lakhs in the preceding year. It was further explained that the company had expanded into diversified business activities including textiles, pharmaceuticals and real estate. These factual submissions, supported by material placed on record, were neither controverted nor disproved by the Assessing Officer, and no adverse material has been brought on record to negate these assertions.

14. The Assessing Officer's observation regarding lack of creditworthiness of buyers or exit providers is equally

unsustainable. The shares were sold through a registered broker on the floor of a recognized stock exchange, and the identity or financial capacity of anonymous market participants cannot be imputed to the assessee in the absence of any evidence showing collusion, prior arrangement, or flow-back of funds. There is no material whatsoever on record to establish that the assessee had any control over price discovery or that any unaccounted cash was introduced into the system by the assessee. No trail of cash, direct or indirect, has been unearthed during the course of assessment proceedings.

15. It is also noteworthy that the statement of Shri Satyanarayan Rathi, Managing Director of Midland Polymers Limited, relied upon by the Assessing Officer, does not name the assessee nor does it allege that the shares of the company were used to provide accommodation entries to the assessee. A careful reading of the statement, in its entirety, does not implicate the assessee in any manner. Reliance on such a statement, without corroboration and without confronting the assessee with any incriminating material emanating therefrom, is legally untenable and cannot form the sole basis for sustaining the impugned addition.

16. Equally important is the fact that the temporary suspension of trading in the scrip by SEBI was only for a brief period owing to technical or procedural reasons, and not on account of any finding of price rigging or manipulation. No

adverse order has been passed by SEBI holding that the scrip was involved in fraudulent or manipulative practices. In the absence of any regulatory finding against the scrip, the presumption drawn by the Assessing Officer remains purely conjectural and unsupported by evidence.

17. The assessee is admittedly a regular investor and had disclosed substantial income exceeding Rs.6.27 crores during the relevant year. In such circumstances, it defies logic to suggest that the assessee would resort to an alleged accommodation entry of approximately Rs.48 lakhs in a single scrip, particularly when all transactions were routed through transparent, verifiable, and legally recognized channels. The overall conduct of the assessee does not exhibit any attributes normally associated with accommodation entry operations.

18. The learned Commissioner of Income Tax (Appeals) has meticulously examined each of these factual aspects, analysed the documentary evidence, and correctly applied the ratio laid down by the Hon'ble Bombay High Court in *Indravadan Jain HUF* and other binding precedents. The finding that the Assessing Officer failed to conduct any independent enquiry and merely relied on generalized investigation reports is clearly borne out from the record.

19. In view of the totality of facts and circumstances, the conduct of the assessee, the partial sale of shares while retaining the substantial holding, the absence of any

incriminating material or cash trail, and the failure of the Assessing Officer to rebut the documentary evidence, we find no infirmity in the well-reasoned order of the learned CIT(A). The allegation that the transaction represented an accommodation entry is devoid of factual and legal foundation.

20. Accordingly, the deletion of the addition made under section 68 of the Act by treating the long-term capital gain as bogus is upheld and the grounds raised by the Revenue are dismissed.

21. Since the appeal of the Revenue has been dismissed on merits, the cross objection filed by the assessee challenging the validity of the reassessment proceedings has become academic in nature and is accordingly dismissed as infructuous.

22. In the result, the appeal filed by the Revenue as well as the cross objection filed by the assessee are dismissed.

Order pronounced on 30th December, 2025.

Sd/-
(RENU JAUHRI)
ACCOUNTANT MEMBER

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Mumbai; Dated 30/12/2025
KARUNA, sr.ps

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai