

**THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "C" BENCH**

**Before Ms. Suchitra Kamble, Judicial Member  
And Shri Narendra Prasad Sinha, Accountant Member**

**ITA Nos. 1928 & 1929/Ahd/2025  
Assessment Years 2017-18 & 2018-19**

S K Hisaria HUF, G-102, Galaxy Towers, Nr. Grand Bhagwati Hotel, Bodakdev, Ahmedabad PAN: AARHS6377P (Appellant)	Vs	The ITO, Ward-5(3)(2), Ahmedabad (Respondent)
--	----	--

**Assessee by: Shri Tushar Hemani, Sr. Advocate &  
Shri Kushal Fofaria, A.R.**

**Revenue by: Shri Ashok Kumar Suthar, Sr. D.R.**

Date of hearing : 08-01-2026  
Date of pronouncement : 13-01-2026

**आदेश/ORDER**

**Per Suchitra Kamble, Judicial Member:**

These both the appeals are filed against the order dated 03-09-2025 passed by National Faceless Appeal Centre (NFAC), Delhi for assessment years 2017-18 and 2018-19.

2. The grounds of appeals are as under:-

**ITA No. 1928-Ahd-2025**

*“1. The Ld. CIT(A) has erred in law and on facts of the case in confirming action of ld. AO of reopening the assessment u/s. 147 of the Act. Under the facts and circumstances of the case, the action of reopening is without jurisdiction and is not permissible either in law or on facts.*

*2. The Ld. CIT(A) erred in law and on facts in confirming disallowance of exempted long-term capital gain of Rs. 68,03,129/- u/s 10(38) of the Act arising from sale of shares of*

*M/s Kushal Tradelink Limited and adding it back to the total income u/s 68 of the Act.*

3. *The Ld. CIT(A) and Ld. AO have erred in law and on facts in not appreciating that the shares of M/s Kushal Tradelink Limited have been purchased from and sold on the recognised stock exchange.*

4. *The Ld. CIT(A) and Ld. AO have passed the order without properly appreciating the facts and they further erred in grossly ignoring various submissions, explanations and information submitted by the appellant from time to time which ought to have been considered before passing the impugned order. Their action is in clear breach of law and Principles of Natural Justice and therefore deserves to be quashed.*

5. *The learned CIT(A) has erred in law and on facts of the case in confirming action of the Id. AO in levying interest u/s. 234A/B/C/D of the Act.*

6. *The learned AO has erred in law and on facts in in initiating penalty proceedings under Section 271AAC of the Act.*

7. *The appellant craves leave to add, amend, alter, edit, delete, modify or change all or any of the grounds of appeal at the time of or before hearing of the appeal.*

Total tax effect

Rs. 40,81,877/-”

### **ITA No. 1929-Ahd-2025**

“1. *The Ld. CIT(A) has erred in law and on facts of the case in confirming action of ld. AO of reopening the assessment u/s. 147 of the Act. Under the facts and circumstances of the case, the action of reopening is without jurisdiction and in not permissible either in law or on facts.*

2. *The Ld. CIT(A) erred in law and on facts in confirming disallowance of exempted long-term capital gain of Rs.9,06,381/- u/s 10(38) of the Act arising from sale of shares of M/s Kushal Tradelink Limited and adding it back to the total income.*

3. *The Ld. CIT(A) and Ld. AO have erred in law and on facts in not appreciating that the shares of M/s Kushal Tradelink Limited have been purchased from and sold on the recognised stock exchange.*

4. *The Ld. CIT(A) and Ld. AO have passed the order without properly appreciating the facts and they further erred in grossly ignoring various submissions, explanations and information*

*submitted by the appellant from time to time which ought to have been considered before passing the impugned order. Their action is in clear breach of law and Principles of Natural Justice and therefore deserves to be quashed.*

5. *The learned CIT(A) has erred in law and on facts of the case in confirming action of the ld. AO in levying interest u/s. 234A/B/C/D of the Act.*

6. *The learned AO has erred in law and on facts in initiating penalty proceedings under Section 270A of the Act.*

7. *The appellant craves leave to add, amend, alter, edit, delete, modify or change all or any of the grounds of appeal at the time of or before the hearing of the appeal.*

*Total tax effect*

*Rs. 2,71,914/-"*

3. The assessee is a Hindu un-divided family i.e. HUF and original return of income u/s. 139(1) of the Act was filed on 01-08-2017 declaring total of Rs. 1,51,610/-. The same was processed u/s. 143(1) of the Act. On the basis of information received on inside portal regarding search u/s. 132 of the Act carried out in case of Kushal group which is providing accommodation entries in the form of long term capital gain/loss and short term capital gain/loss. The Assessing Officer observed that the assessee is one of the beneficiaries and thus reopened the case u/s. 147 of the Act issuing notice u/s. 148 of the Income Tax Act dated 31-01-2021. The assessee filed return of income in response to the notice u/s. 148 on 19-04-2021 declaring total income of Rs. 1,51,610/-. The assessee requested the Assessing Officer to provide copy of reason recorded for reopening as well as the approval of the competent authority which was provided on 09-02-2022 by the Department to the assessee. In response to the statutory notices u/s. 142(1) of the Act and show cause notice issued under the Income Tax Act, the assessee filed reply and also objected the proposed addition of

Rs. 68,03,129/-. The submissions of the assessee was rejected by the Assessing Officer and the assessment was finalized u/s. 147 r.w.s. 144B of the Act dated 29-03-2022 assessing the total income at Rs. 69,54,740/- in respect of long term capital gain to the extent of Rs. 68,03,129/- and disallowed the claim of the assessee as exempt u/s. 10(38) of the Act.

4. Being aggrieved by the assessment order, the assessee filed appeal before the ld. CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. At the time of hearing, the ld. A.R. submitted that the reasons recorded for reopening are solely based on the information received from the insite portal and there was no independent recording of reasons by the Assessing Officer. The Assessing Officer has not given any reasons in respect of tangible material or information having tax nexus with the said information available on insight portal. Thus, it is settled law that reopening is not permissible merely on the basis of information received on insight portal without application of mind. The A.R. further submitted that the Assessing Officer has only taken a borrowed satisfaction which is also not permissible under the Income Tax Act. On merit as well, the ld. A.R. submitted that the assessee has given all the documentary evidences related to purchase shares in demat form, details of shares credited to demat account, the details of shares sold through stock exchange and the broker details to that extent as well as the security transaction taxes paid by the assessee. These two details clearly states that the assessee was never involved in any short of price manipulation in the said scrip but was a genuine assessee.

6. The ld. D.R. relied upon the decision of the Ahmedabad Tribunal in case of *Gitaben Dineshbhai Patel vs. ITO* ( ITA No. 717/Ahd/2025 order dated 04-11-2025. The ld. D.R. pointed out the fact that the very scrip was involved in the present assessee's case and in fact has held that the Assessing Officer in that has rightly invoked the provisions of section 68 and treated the said long term capital gain as unexplained income.

7. We have heard both the parties and perused the material available on record. It is pertinent to note that the decision given by the ld. D.R. in respect of validity of reopening of the assessment u/s. 147 of the Act, the reasons recorded therein in case of *Gitaben Dineshbhai Patel vs. ITO* (supra) was not reproduced in the said order and therefore the factual aspect in the present case and in the case of *Gitaben Dineshbhai Patel vs. ITO* supra cannot be compared with. From the perusal of the present assessee's case, it can be seen that the reasons recorded by the Assessing Officer categorically mentions that accommodation entry with the non-existent concern but has not given the details as to how the Kushal Tradelinks scrips were manipulated by the assessee. There was no record brought on by the Assessing Officer in the reasons recorded which set out about the doubt of purchase, doubt of sale as well as involvement of the assessee in respect of the price variation in the said scrip. Thus, the reasons itself are not justified and the reopening itself fails. Therefore, on the legal issue itself, the assessment order does not survive. Hence, the appeal of the assessee is allowed.

8. As regards ITA 1929/Ahd/2025, grounds are identical and hence the same is also allowed.

9. In the result, both the appeals filed by the assessee are allowed.

Order pronounced in the open court on 13-01-2026

**Sd/-**  
**(Narendra Prasad Sinha)**  
**Accountant Member**  
**Ahmedabad : Dated 13/01/2026**

**Sd/-**  
**(Suchitra Kamble)**  
**Judicial Member**

a.k.

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
अहमदाबाद