

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

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER

**ITA No.5233/M/2025
Assessment Year: 2014-15**

Narendra Sevantilal (HUF), 19, Janmabhoomi Marg, Fort, Mumbai – 400001. PAN – AABHN7439R	Vs.	Income Tax Officer, Ward 25 (3)(1), Kautilya Bhavan, Mumbai- 400051
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Dharan Gandhi a/w Ms. Vinita
Nara, Ld. Advocates

Revenue by : Shri Praveen K. Srivastav, Sr. D.R.

Date of Hearing : 20.11.2025

Date of Pronouncement : 12.01.2026

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 30.06.2025, impugned herein, passed by the National Faceless Appeal Centre (NFAC)/Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) u/s 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2014-15.

2. In this case, the Assessee had made the investment of Rs.58,26,070/- in Sunrise Asian Limited and therefore, during the course of original assessment proceedings, the Assessee was asked to prove the source of such investment. The Assessee as per latest AO, submitted the confirmation to the extent of **Rs.32,85,000/- only** as a loan from third party however, failed to prove the credit worthiness of the parties from whom confirmation of Rs.32,85,000/- was produced. Therefore, the case of the Assessee was reopened by the latest AO under Section 17 of the Act by issuing a notice dated 19.03.2021 u/s 148 of the Act, mainly on the reason that out of total investment of **Rs. 5826079/-**, the Assessee could not submit the confirmation of **Rs.2541079/-**, which remained un-explained and escaped assessment within the meaning of Section 147 of the Act.

3. The erstwhile AO subsequently by issuing statutory notices, show caused the assessee. The Assessee before the erstwhile AO filed its reply dated 13.07.2021 with several attachments. However, the erstwhile AO ultimately made the addition of **Rs. 3285000/-** vide original assessment order dated **29.12.2016** under Section 143 (3) of the Act, which was subsequently deleted by the then Ld. CIT (A) vide order dated **16.02.2018** under Section 250 (6) of the Act.

4. Subsequently, against such order of the then Ld. CIT (A) dated 16.02.2018 the Department filed second appeal before the Hon'ble ITAT, who vide order dated **01.02.2019** dismissed the appeal of the Revenue Department.

5. Therefore, the AO in order to examine the amount of **Rs.25,41,079/-** out of total investment of Rs.58,26,079/-, show caused the Assessee for filing of confirmation, bank statements and ITRs of lenders qua loans taken during FY 2013-14.

6. The Assessee though filed its reply, however, according to the AO has not submitted any confirmation/bank statements and the ITRs of the loans of Rs.25,41,079/- taken during FY 2013-14 and therefore, in the absence of relevant documents and explanation, the AO ultimately made the addition of **Rs. 25,41,709/-** and added to the income of the Assessee, vide assessment order dated **24.03.2022** u/s 147 r.w.s. 144 of the Act.

7. The Assessee being aggrieved against the said addition filed 1st appeal before the Ld. Commissioner, challenging the addition on various grounds/aspects, however, the Ld. Commissioner vide impugned order dismissed the appeal of the Assessee affirming the addition made by the AO, more or less on same footings, as the AO.

8. Thus, the Assessee being aggrieved has preferred instant appeal.

9. Having heard the parties and perusing the material available on record, this Court observed that from the paper book filed by the Assessee it clearly appears that the AO in the original assessment proceedings issued a notice dated **18.09.2015** under Section 143 (2) of Act and directed the Assessee to produce documents, accounts and any other evidence, of which the Assessee may rely in support of its case.

10. The Assessee in response to said notice dated 18.09.2015 made response vide letter dated 21.09.2015 as acknowledged by the AO on dated 23.09.2015, whereby the Assessee requested for adjournment of the case after 30-09-2015.

11. The AO thereafter by issuing another notice dated 02.08.2016 u/s 142 (1) of the Act, asked the Assessee to furnish various documents, as mentioned in Annexure-2, which read as under: -

"ANNEXURE TO NOTICE U/S 142 (1) OF THE I.T. ACT, 1961.

- 1. Letter of Authority, if represented by CA/Advocate/ITP.*
- 2. Nature of Business/Activities carried on by you during the year.*
- 3. Name & Addresses of the Branches/Godowns/Factories, if any.*
- 4. Copy of income Tax Returns alongwith Computation of Total Income for A.Y. 2014-15 and A.Y. 2013-14.*
- 5. Trading/Profit & Loss Account and Schedules for A.Y. 2014-15 and A.Y. 2013-14.*
- 6. Balance Sheet and Schedules for A.Y. 2014-15 and A.Y. 2013-14.*
- 7. Tax Audit Report, if any for A.Y. 2014-15 and A.Y. 2013-14.*
- 8. Proprietors/Partners Capital Account and explanation for addition in Capital Account during the year relevant to A.Y. 2014-15.*
- 9. Details of Unsecured Loans taken during the year alongwith confirmations of the parties with creditworthiness proof of the parties. Also furnish the details of unsecured loans taken and squared up during the year alongwith confirmations of the parties with creditworthiness proof of the parties.*
- 10. Details of Bank Accounts maintained by you during the F.Y. 2013-14, relevant to A.Y. 2014-15.*
- 11. Copies of earlier years Scrutiny Assessment Orders, if any.*
- 12. Ledger Account of major expenses debited to debited to Profit & Loss Account for Rs. 50,000/- or more.*
- 13. Depreciation Chart alongwith copies of Purchase Bills of newly acquired assets/Addition to Fixed Assets and proof of put to use during the year.*
- 14. Details of income claimed exempt in computation of total income, if any, and working of disallowance u/s 14A r. w. s Rule 8D, if any as to income claimed exempt.*
- 15. Details of Expenses covered u/s 43B of the IT Act relevant to Asstt. Year 2014-15 alongwith proof of payment made, if any.*
- 16. Details of expenses subjected to TDS provisions along with copy of Ledger Account thereof, for the Financial Year 2013-14 relevant to Assessment ear 2014-15 alongwith four quarters TDS Return.*
- 17. A copy of ITS details is enclosed herewith to reconcile with the total income shown in the Return of Income alongwith supporting documentary evidences.*
- 18. You are requested to explain with supporting documentary evidences the following: -*
 - (i) Suspicious transaction relating to short term capital loss on shares.*
 - (ii) Suspicious transaction relating to long term capital gain on shares*

12. The Assessee in response to said notice, made partial compliance and requested for time with regard to **point no.6** of the Annexure (Page No. 10-16 of the paper book).

13. Thereafter, the AO again issued a notice dated **23.11.2016** under Section 142 (1) of the Act and asked certain details vide annexure, which read as under:

“
ANNEXURE
To Notice u/s.142 (1) of the I.T. Act, 1961.
 Name of the assessee: M/s. Narendra Sevantilal Parikh, HUF
 PAN: AABHN7439R A.Y. 2014-15

In connection with the scrutiny assessment proceedings u/s.143(3) of the Income tax Act for the A.Y. 2014-15, you are requested to submit the following information/details:

- 1. Please state whether you have dealt in to purchase or sale of shares of listed companies during the AY 2014-15.*
- 2. Please state whether Short Term Capital Gain (STCG)/ Long term Capital Gain (LTCG)/Short Term Capital Loss (STCL) is claimed in the return of income filed.*
- 3. Please state whether the LTCG is claimed exempt u/s 10(38) of the act.*
- 4. Please furnish details of shares purchased & sold in which LTCG or STCL claimed during the AY 2014-15.*
- 5. Please furnish the details of demat account & Provide copy of demat account for relevant period in which these shares in which LTCG/STCL claimed are held.*
- 6. Mode of acquisition of the shares on whose sale LTCG or STCL is claimed. Whether the shares were acquired through.*
 - a) Preferential allotment through private placement.*
 - b) Whether allotment was made in a private company and the private company merged with a listed company*
 - c) Purchased on stock exchange.*
- 7. Please furnish the details of the payments made for purchase of such shares on which LTCG/STCL claimed.*
- 8. Please state whether any bonus shares were issued. Please state whether the share was split into multiple shares with reduced face value.*
- 9. Please furnish the details of broker & provide copy broker ledger & broker notes & Global Report of share transactions.*

10. Copies of your bank statements from which the shares were purchased & also the copies of bank account in which the sale proceeds of the shares are received, highlighting said transactions.

You are requested to furnish all the details clause-wise alongwith documentary evidence in support of your claim 30/11/2016 at 4:30 p.m. if only a part of the above records are produced and/or only part of the information/ explanation is furnished by you then it will be presumed that you have no information to produce/explanation to offer in regard to the items of information/issues which are not explicitly furnished, then your assessment will be finalized on the basis of material available on record on the said issues/evidence without granting you any further opportunity. Please also take note that the failure to comply with the above notice shall make you liable for penalty proceedings u/s.271(1)(b) of the Income Tax Act, 1961."

14. The Assessee in response to such notice, also filed its reply vide letter dated **23.11.2016** along with various documents {page 80 to 137 of the paper book}.

15. Thereafter, the AO issued summon dated **15.12.2016** to the assessee, in response to which the Assessee submitted a submission/reconciliation of purchase and sale of shares of Sunrise Asian Ltd., as per statement provided with books of account/record.

16. Thereafter, the AO vide showcause notice dated **26.12.2016** asked the Assessee to prove the source of investment along with necessary documents, with regard to the purchase of share of Sunrise Asian Ltd. for **Rs.43,69,988/-**.

17. The Assessee in response to said showcause notice filed its reply dated **27.12.2016** along with relevant documents and confirmation {page nos. 142 to 169 of the paper book}.

18. Thereafter, the AO by issuing another showcause notice dated **28.12.2016** and mentioning therein that the Assessee has given the details of source only of **Rs.43,69,988/-**, requested the Assessee to furnish the details of source of investment in shares of M/s. Sunrise Asian Ltd. for the balance amount of **Rs.14,56,391/-** along with supporting documentary evidence on or before 29.12.2016.

19. Thus, the AO in response to said show cause notice, vide letter dated 29.12.2016 submitted various documents to establish genuineness of the remaining amount of **Rs.14,56,391/-** as well, as sought for by the AO.

20. Thereafter, the AO passed the order on 29.12.2016 making the addition of **Rs. 32,85,000/-** only and in effect/eventually accepted remaining transacted amount of **Rs. 25,41,709/-** as genuine. From the last showcause notice dated 28.12.2016, it is clearly visible that the Assessee according to the AO, has provided details of source for **Rs.43,69,988/-** and therefore, the AO sought for the details and documentary evidence qua remaining amount of **Rs.14,69,391/-** only and the Assessee thus, vide letter dated **29.12.2016** provided the relevant details and documents qua such amount of **Rs.14,69,391/-** as well.

21. From the aforesaid facts and circumstances, it clearly reflects that the Assessee has duly provided the relevant documents and details with regard to the transacted amount of **Rs.58,26,079/-** however, the erstwhile AO still made the addition of **Rs.32,85,000/-** mainly on the reason that said parties had no credit worthiness to give loans to the Assessee.

22. It is a fact that subsequently the then Ld. CIT (A) – 28, Mumbai on appeal filed by the Assessee, vide order dated 16.02.2018, deleted such addition of **Rs.32,85,000/-** and therefore, that amount is not in controversy and it is a fact that the appeal filed by the Revenue Department against the such order dated **16.02.2018** has subsequently been dismissed by the Hon'ble ITAT vide order dated 01.12.2019 being not maintainable, because

of the pecuniary limit in view of the CBDT circular no.03/18 dated 11.07.2018.

23. No doubt, the erstwhile AO has not mentioned about the remaining amount of **Rs.25,41,079/-** clearly in the assessment order, whether the he was satisfied with the said transacted amount or not. However, it is a fact that the AO in the original assessment made the addition of Rs.32,85,000/- only and thus, impliedly or eventually accepted the claim of the Assessee qua the amount of **Rs.25,41,709/-**, which subsequently resulted into reopening the proceeding under Section 147 of the Act and making the addition of such amount, vide re-assessment order dated **24.03.2022** under Section 147 r.w.s. 144(3) of the Act by the AO and affirmation thereof by the Ld. Commissioner vide impugned order, which is under challenge .

24. From the aforesaid peculiar facts and circumstances, this Court is of the considered view that in the original assessment proceeding, all the details and documents were duly furnished by the Assessee in response to the statutory notices and the same were duly examined by the AO and therefore, the only addition of **Rs.32,85,000/-** has been made but not of the transacted amount of **Rs.58,26,079/-** in entirety, which goes to show that remaining amount of **Rs. 25,41,079/-** has been accepted as genuine transaction and therefore, reopening of the assessment proceedings u/s 147 of the Act, was unwarranted and hence, the reopening proceedings under Section 147 of the Act and the notice dated 19.03.2021 under Section 148 of the Act, along with assessment order dated **24.03.2022** passed in pursuance to the aforesaid reopening proceedings and notice u/s 148 of the Act deserves to be quashed, hence the same are quashed.

25. As this Court has quashed the assessment order itself and thus, inclined not to delve into other aspects of the case, as adjudication of the same, would prove to be futile exercise.

26. In the result, Assessee's appeal is allowed.

Order pronounced in the open court on 12.01.2026.

**Sd/-
(Narender Kumar Choudhry)
Judicial Member**

* Tarun Kushwaha
Sr. Private Secretary.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.