

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI**

BEFORE SHRI SANDEEP GOSAIN, (JUDICIAL MEMBER)

**I.T.A. No. 3851/Mum/2025
Assessment Year: 2014-15**

Nilesh Premjibhai Patel 1206, Pratmesh Pooja CHS Ltd TPS III Road, Borivalli (W), Mumbai. PAN: ANOPP7101N	Vs.	ITO, Ward 32(2)(4) Kautilya Bhavan Mumba
(Appellant)		(Respondent)

Appellant by	Shri Resesh Shah (Virtually Appeared)
Respondent by	Shri. Nagnath Pasale, SR. DR

Date of Hearing	05.01.2026
Date of Pronouncement	06.01.2026

ORDER

Per: SHRI. SANDEEP GOSAIN, J.M.:

The present appeal has been filed by the assessee challenging the impugned order dated 31.03.2025, passed u/s. 250 of the Income Tax Act, 1961 ('the Act'), by the learned National Faceless Appeal Centre, Delhi, ('NFAC'), for the assessment year 2014-15. The assessee raised the following grounds:

- 1. On the facts and circumstances of the case as well as law on the subject, learned CIT(A) has erred in confirming the action of assessing officer in making an addition of Rs. 25,23,965/- u/s. 68 by rejecting the claim of exemption u/s. 10(38).*

2. It is therefore prayed that addition made by the assessing officer and confirmed by CIT(A) may please be deleted.

3. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal.

2. The only effective ground raised by the assessee relates to challenging the order of Ld. CIT(A) in confirming the additions made by AO u/s 68 of the Act.

3. I have heard the counsels for both the parties, perused the material placed on record, judgments cited before me and also the orders passed by the revenue authorities. From the records, I noticed that in the return of income for the year under consideration, the assessee had shown exempted long term capital gain of Rs. 25,23,965/- on account of sale of scrip Blazon Marbles Ltd. However in the course of assessment proceedings the AO was of the view that assessee had received accommodation entries in long term capital gain in scrip of Balzon Marbles Ltd on account of the fact that Kolkata investigating wing Directorate had under taken detailed investigation into 84 penny stocks including Blazon Marbles Ltd which suggested that various persons including the assessee had obtained accommodation entries in the form of long term capital gain. It was observed by the AO that the face value of the share was Rs. 10/- in September 2011 and price was jacked upto Rs. 49.40 from 10 in 8 months i.e till may 2012. The AO was also of the view that the financial health of the company was not good as compare to the increase in price of share

after providing opportunity of hearing to the assessee and after recording the statement made additions u/s 68 of the Act which were also upheld by the Ld. CIT(A).

4. After having meticulously gone through the documents placed on record and after hearing the arguments of the parties I noticed that assessee had purchased shares by paying purchase consideration of Rs. 17,482/- through account payee cheque and in support the of said purchase of shares, the assessee had filed demat account, share transfers form and bank statement evidencing the remittance of payment. And in support of sale of shares, assessee had filed contract notes, demat account, bank statement evidencing receipt of consideration.

5. In order to substantiate his arguments with regard to genuineness of purchase and sale of shares of Blazon Marbles Ltd., in question, the assessee had specifically submitted that entire payments were made by account payee cheque for the purpose of purchase of share and the investment was also duly recorded in the books of account. The assessee further placed on record his arguments to the effect that the said investment was accepted by the AO in the year when the shares were purchased in A.Y 2011-12.

6. From the records I also noticed that the said transaction of sale is reflected in the demat account and supported by contract notes. The payment received by the assessee for the sale of shares was also properly recorded

in the bank accounts as the entire payments were received through banking channel. Since the above transactions were also covered under the various regulations like SEBI, Service Tax etc and also the contract notes reflects payments of STT but still the AO made the addition on the basis of general information report of 84 alleged penny stocks companies.

7. The AO had not specifically named the persons whose statements were recorded therefore admitting to provide accommodation entry in the form of STCL/LTCG. Even in the entire assessment order the AO had not mentioned the name of any such person. Although the General '*modus operatndi*' had been narrated by AO at para No. 8.3 of its order but this cannot be a sole criteria for reaching to the conclusion that bogus long term capital gain was generated by the assessee.

8. Even in the case of Blazon Marbles Ltd order u/s 151 of SEBI Act, 1992 was passed on 13.10.2017 by the SEBI only levying penalty on certain persons for making procedural violations and for non-appearances to the summons issued by the SEBI. Even that order does not allege any involvement of the assessee with manipulation of share price. Even the same scrip namely Blazon Marbles Ltd was subject matter of addition in other cases also and the decision in the respective cases had already been rendered in favoure of respective assessee's by the Coordinate Benches of ITAT, Mumbai itself more

particularly in the case of **Shri Yogesh P. Thakkar Vs. DCIT, in ITA No. 1605 & 1612/Mum/2021** even in the case of **Preeti Chirania Vs. ITA in ITA No. 4245/Mum/2024** the Coordinate Bench of ITAT had held that the “*revenue has not placed on record any material to reject the evidences placed by the assessee in support of the transactions and the additions have been made solely on the basis of general investigation report received by the Ld.AO from Mumbai Investigation Directorate. The said report is only reference to the modus operandi of certain entry / exit providers of accommodation entries and is in no way implicating the genuine transaction in trading in shares carried out by the assessee. Since the assessee has relied upon the catena of decisions of different courts and also jurisdictional ITAT more particularly the Hon'ble ITAT Mumbai having same script of M/s Tilak Finance Ltd as discussed by us above, therefore, in view of our detailed discussion and also keeping in view of judicial pronouncements particularly by the Hon'ble Supreme Court and binding decision of Jurisdictional Bombay High Court and the decision of Hon'ble ITAT having dealt with same script M/s Tilak Finance Ltd, therefore while adhering to the principles of judicial consistency and maintaining judicial discipline, we direct the AO to delete the additions made u/s 68 of the Act.*”

9. Therefore considering the overall facts of the present case and also keeping in view of the decision of the Coordinate Bench of ITAT in the case of **Yogesh P.**

Thakkar (Supra) & Preeti Chirania (supra), wherein the same scrip of Blazon marbles Ltd was involved and also keeping in view of the fact that assessee had duly proved the nature and source of credit representing sale proceeds of share of Blazon Marbles Ltd therefore while adhering to the principles of judicial consistency and maintaining the judicial discipline, I direct the AO to delete the additions made u/s 68 of the Act.

10. In the result, the appeal filed by the assessee stands allowed.

Order pronounced in the open court on 06/01/2026

Sd/-
(SANDEEP GOSAIN)
Judicial Member

Mumbai:
Dated: 06/01/2026
RKR, Sr. PS

Copy of the order forwarded to:

- (1)The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy

By order

(Asstt. Registrar)
ITAT, Mumbai