

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
**IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, 'B' CHANDIGARH**

**BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No. 1218/CHD/2024

निर्धारण वर्ष / Assessment Year: 2014-15

Shri Pawan Garg, House No. 766, Sector 16, Panchkula.	Vs	The ITO, Ward 5(5), Chandigarh.
स्थायी लेखा सं./PAN NO: ABMPG4243N		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

Assessee by : Shri Ajay Jain, CA

Revenue by : Dr. Ranjit Kaur, Addl. CIT Sr.DR

Date of Hearing : 27.01.2026

Date of Pronouncement : 02.02.2026

PHYSICAL HEARING

ORDER

PER RAJ PAL YADAV, VP

The assessee is in appeal before the Tribunal against the order of the Id. Commissioner of Income Tax (Appeals) [in short 'the CIT (A)'] dated 04.12.2024 passed for assessment year 2014-15.

2. Though assessee has taken seven grounds of appeal, but his grievance revolves around two issues, namely;

- a) Ld. Id.CIT (Appeals) has erred in confirming the re-opening of assessment by issuance of a notice u/s 148 dated 30.06.2021.
- b) Ld. CIT (Appeals) has erred in confirming the addition of Rs.65,24,960/- which was added by the AO by disbelieving the claim of Long Term Capital Gain. It has been added u/s 68 of the Income Tax Act.

3. The brief facts of the case are that assessee has filed his return of income on 27.09.2014 declaring total income of Rs.4,01,840/-. This return was accepted by the Department without making any changes. Thereafter, according to the AO, he received an information that assessee is a beneficiary of bogus Long Term Capital Gain of Rs.61,23,120/-. He recorded the reasons for re-opening the assessment. Thereafter, he passed the re-assessment order which is a very sketchy one, therefore, we deem it appropriate to take note of the complete order, which reads as under :

“In this case, return of income was filed on 27.09.2014 declaring income of Rs.4,01,840/-. During the course of investigation proceedings on Tradenext Securities Ltd. (erstwhile Lifeline Securities Ltd.), it was found that the assessee is a beneficiary of bogus Long Term Capital Gain of Rs.61,23,120/- through reputed stocks by issuing ante dated forged contract notes during F.Y.2013-14 relevant to A.Y.2014-15. Thereafter, after recording the reasons, the case of the assessee was reopened u/s 147 with the prior approval of the competent authority and notice

u/s 148 was issued on 30.06.2021. In compliance with the notice u/s 148, no ITR was filed by the assessee.

2. Vide notices u/s 142(1) Issued on 12.02.2022, 21.02.2022 and 28.02.2022, the assessee was required to furnish the following information/documents:-

"1. Nature and kind of your business and/or source of your income.

2. Please file ITR in compliance with the notice u/s 148 dated 30.06.2021.

3. Computation of Income for A.Y.-2014-15.

4. During the year under consideration, you have executed the transaction amounting to Rs. 61,23,120/- as a beneficiary of bogus LTCG through reputed stocks by issuing ante dated forged contract notes. Please furnish the detail of all the bank accounts alongwith narration of each credit and debit entries for the F.Y. 2013-14 relevant to A.Y. 2014-15. Please also justify LTCG with documentary evidence."

3. In response to the above notices u/s 142(1), the assessee has not filed any written submission and nor was any adjournment sought for. During the year under consideration, the assessee is a beneficiary of bogus Long Term Capital Gain of Rs.61,23,120/- through reputed stocks by issuing ante dated forged contract notes during F.Y.2013-14 relevant to A.Y.2014-15. Vide above notices u/s 142(1), the assessee was required to justify the Long Term Capital Gain with documentary evidence but he has failed to furnish the reply. Therefore, Long Term Capital Gain of Rs.61,23,10/- as shown by the assessee is treated as undisclosed income of the assessee and added to his income.

Further, a show cause notice with draft assessment order has been issued on 20.03.2022 fixing the date for compliance on 23.03.2022. In response to the show cause notice, neither any written reply nor was any adjournment sought for.

4. After discussion, income of the assessee is computed as under:-

<i>Return income as shown in the ITR filed u/s 139 on 27.09.2014</i>	<i>4,01,840</i>
<i>Add: Addition as discussed in para-3 above</i>	<i>61,23,120</i>
<i>Total income :</i>	<i>65,24,960</i>

After considering the facts of the case, assessment is completed on a total income of Rs.65,24,960/-. Charge interest u/s 234A, 234B, 234C and 234D as per the provisions of IT. Act, 1961. Penalty proceedings u/s 271F for non-filing of ITR in respect to the notice u/s 148 of the IT. Act 1961, penalty proceedings u/s 271(1)(b) for noncompliance of notices u/s 142(1) and penalty proceedings u/s 271(1)(c) for concealing the income or for furnishing inaccurate particulars of income have been initiated separately. Issue notice of demand.”

4. The appeal to the CIT (Appeals) did not bring any relief to the assessee.

5. The ld. counsel for the assessee while impugning the orders of Revenue Authorities submitted that on 06.04.2009, assessee has purchased shares of IndusInd Bank for consideration of Rs.4,17,950/-. All these payments have been made through Account Payee cheque and STT was also paid. The RTGS details are being placed in the Paper Book at page 4. These shares were sold on 03.06.2013 through broker Trade Swift Broking Pvt. Ltd. The sale consideration was Rs.62,03,611/- and the payment was received through RTGS. According to the Revenue, a search was conducted at the premises of Tradenext Securities Ltd. and Kundu Group of Rohtak on 25.01.2021. Therein, one Shri Sunil Batra disclosed that he and his family members have issued such Contract Notes. The AO, thereafter recorded the reasons. He

drew our attention towards copy of the reasons available in the Paper Book, which read as under :

REASONS FOR ISSUANCE OF ~~ORDER~~/S 148 OF INCOME TAX ACT, 1961

i. Brief details of the assessee:

The assessee is an individual and filed his return of income for the A.Y. 2014-15 declaring income of Rs 3,63,850/- which was processed u/s 143(I) at returned income.

ii. Brief details of information collected/received by AO:

As per information disseminated on 'Verification' module of Insight portal under CRUI/VRU High Risk cases, the assessee has executed the following transaction during the F.Y. 2013-14 relevant to A.Y. 2014-15,

Sr. No.	Nature of transaction	Amount
1	Beneficiary of bogus LTCG through reputed stocks by issuing ante dated forged contract notes	6123120/-

iii. Analysis of information collected/received:

During the course of investigation proceedings on Tradenext Securities Ltd (Erstwhile Lifeline Securities Ltd), it was found that the assessee is a beneficiary of bogus LTCG through reputed stocks by issuing ante dated forged contract notes during the F.Y. 2013-14 relevant to A.Y. 2014-15. The case of the assessee was not selected for scrutiny for the F.Y. 2013-14 relevant to A.Y. 2014-15 and no regular assessment was made. Therefore, income to the extent of Rs 61,23,120/- in the case of the assessee has escaped assessment as the assessee is a beneficiary of bogus LTCG.

iv. Findings of the A.O.:-

In view of the above facts i.e. the act of the assessee in being a beneficiary of bogus LTCG of Rs 6123120/- through reputed stocks by issuing ante dated forged contract notes is an income which has escaped assessment in the case of the assessee.

v. **Basis of forming reason to believe and details of escapement of income:**

No regular assessment has been made in the instant case for the A.Y. 2014-15 and on the basis of the investigation proceedings conducted on Tradenext Securities Ltd, I have reason to believe that income of Rs 6123120/- by way of bogus LTCG through reputed stocks by issuing ante dated forged contract notes during the year under consideration has escaped assessment in the case of the assessee.

vi. **Applicability of the provision of section 147/151 to the facts of the case:-**

In view of the above facts, the provisions of clause (b) of Explanation 2 to section 147 are applicable to facts of this case which is reproduced below:-

"where a return of income has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return"

Therefore in terms of explanation 2(b) of section 147 of the Act, I have reason to believe that the assessee has understated the income in its return of income and an amount of Rs 6123120/- by way of bogus LTCG through reputed stocks by issuing ante dated forged contract notes is income of the assessee which has escaped assessment. Therefore I am satisfied that it is a fit case for initiation of proceedings u/s 147 of the Act.

Accordingly, necessary approval u/s 151(1) of the Act is solicited for issuing notice u/s 148 of the Income Tax Act for the A.Y. 2014-15.

(In case the document is digitally signed please refer Digital Signature at the bottom of the page)

6. The ld. counsel for the assessee submitted that these reasons were recorded on 29.06.2021 i.e. one day before the

last day of the limitation. The file was sent for approval and approval was granted on 30.06.2021. Simultaneously, notice u/s 148 was issued on 30.06.2021. The ld. counsel for the assessee has emphasized that AO was not possessing any information except a letter exhibiting the alleged modus-operandi, but how it is connected with the assessee, nothing has been discussed in the reasons. Therefore, there was no tangible material available with the AO for forming a belief that income has escaped assessment. He submitted that re-opening is bad in the eyes of law and therefore, not sustainable. In support of his contention, he relied upon a large number of decisions, which are as under :

- i) PCIT Vs Meenakshi Overseas (P) Ltd. 82 taxmann.com 300(Del)
- ii) G.D.Mother Educational Society V ACIT 170 taxmann.com 667 (Kolkata-Trib)
- iii) Century Tradeserve Ltd. V Union of India 176 taxmann.com 296 (Gujrat High Court)
- iv) Rahul Rastogi V ACIT (ITA No.845/Del/2024) decision of ITAT Delhi Bench (dated 07.03.2025).
- v) M/s Amico Textiles V DCIT (ITA No.430/CHD/2022) decision of ITAT Chandigarh (dated 15.07.2025)

And lastly relied upon the judgement of Hon'ble Supreme Court in the case of Union of India Vs Rajiv Bansal 167 taxmann.com 70 (S.C.)

6.1. On the other hand, ld. DR relied upon the orders of the Revenue Authorities and submitted that AO got information from Investigation Wing about alleged earning of bogus Long Term Capital Gain and has rightly reopened the assessment.

7. We have duly considered the rival contentions and gone through the record carefully. A perusal of Section 147, as was applicable in assessment year 2013-14 would indicate that if AO has reasons to believe that any income chargeable to tax has escaped assessment, for any assessment year, he may, subject to the provisions of Section 148 to 153, assess or reassess such income and also any other income chargeable to tax which has escaped assessment, which comes to his notice subsequently in the course of re-assessment proceedings. The AO must have a tangible information which has a live nexus with the formation of belief that income has escaped assessment. If we peruse the reasons, then it would reveal that there is no information possessed by the AO. He was not even aware which scrips were purchased. How much was the purchase price, whether these were purchased through account Payee Cheques/RTGS or otherwise. The AO was not even aware who was the Broker and how these Contract Notes were held to be bogus. Simpliciter, some

information was uploaded on the Insight Portal by the Investigation Wing, which without cross-verifying with the record of the assessee, AO has treated it as gospel truth and formed the reasons. To our mind, there is no background material available with the AO for formation of belief that income has escaped assessment. In other words, there is no live nexus between tangible material possessed by the AO vis-a-vis formation of belief that income has escaped assessment. Accordingly, the re-opening of assessment is bad in the eyes of law as has been contemplated in various judgements relied upon by the ld. counsel for the assessee. We quash the re-opening of assessment and accordingly, delete the additions.

8. In the result, appeal of the assessee is allowed.

Order pronounced on 02.02.2026.

Sd/-

Sd/-

(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

(RAJPAL YADAV)
VICE PRESIDENT

‘Poonam’

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

सहायक पंजीकार/ Assistant Registrar