



आयकर अपीलीय अधिकरण "एस एम सी" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "SMC" :: PUNE

BEFORE MS.ASTHA CHANDRA, JUDICIAL MEMBER
AND
DR.DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.2211/PUN/2025

निर्धारण वर्ष / Assessment Year: 2018-19

The Income Tax Officer, Ward-11(1), Pune.	Vs	Sachin Motilal Mutha, H-4, Kalyan co. Op. Hsg. Sco., Shankarsheth Road, Mahatma Phule Peth, Pune – 411004.
		PAN: AHDPM2649F
Appellant/ Revenue		Respondent /Assessee

Assessee by	Shri Sachin Motilal Mutha (Assessee)
Revenue by	Shri Harish Bist – Addl.CIT(Through Virtual Hearing)
Date of hearing	01/12/2025
Date of pronouncement	28/01/2026

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This is an appeal filed by the Revenue against the order of Id.Commissioner of Income Tax(Appeal)[NFAC] passed under section 250 of the Income Tax Act, 1961 for the A.Y.2018-19 dated 21.07.2025 emanating from the Assessment Order passed under section 147 r.w.s 144B of the Act, dated 25.03.2023. The Revenue has raised the following grounds of appeal :



“(i) Whether on the fact and circumstances of the case, the Ld. CIT(A) is right in holding that the assessee has proved the genuineness of transactions in sale and purchase of shares of M/s.PMC Fincorp Ltd. without appreciating the fact that, Mr. Rajkumar Modi, director cum operator of the company M/s. PMC Fincorp Ltd. admitted on oath us. 132(4) of the Income Tax Act, 1961 that the scrip price was rigged & managed by him to provide accommodation entry of Long Term Capital Gain to various beneficiaries including the assessee in lieu of commission.

(ii) Whether on the facts & circumstances of the case. The Ld.CIT(A) erred in deleting the addition of Rs.76,874/- without appreciating the fact that the assessee has failed to explain the credit in its bank of account.

(iii) The appellant craves leave to add, alter, amend and modify the above ground raised at time of proceedings before the Hon'ble Tribunal which may please be granted.”

Submission of ld.DR :

2. Ld.Departmental Representative(ld.DR) for the Revenue merely relied on the order of the Assessing Officer.

Submission of Assessee :

3. Assessee himself appeared for the hearing. Assessee submitted that Assessee had purchased shares of PMC Fincorp Limited through PSE Securities Limited who is a registered broker with BSE/NSE. Assessee submitted that these were reflected in



Demat Account of the Assessee. Assessee submitted that the ITO has erroneously alleged that shares were purchased from Vibrant Securities with Client Code: 3156. Assessee further submitted that Assessee is not aware about Vibrant Securities. Assessee submitted that he had submitted all the details before the Id.CIT(A) and Id.CIT(A) after considering the submission, deleted the addition. Assessee further submitted that Assessing Officer had erroneously added Rs.76,874/- whereas, this is the total amount of sale consideration consisting of various shares of various companies. Ld.AR invited our attention to the chart which is reproduced by Id.CIT(A) in his order at page no.5 and 6. Assessee further submitted that thus, there is no basis for assessment order. Assessee further submitted that ITO has not even mentioned the date of notice u/s.148 in his order. Assessee further submitted that copies of statements of Rajkumar Modi were never provided to the Assessee. Assessee relied on the order of Id.CIT(A). Assessee filed a written submission supporting the order of Id.CIT(A). Assessee also submitted that reopening is bad in law, as there was no material for reopening. Ld.AR submitted that reasons recorded for reopening contains incorrect facts. This explains that notice u/s.148 was issued on incorrect facts, hence it is bad in law.



Findings & Analysis :

4. We have heard both the parties and perused the records. In this case, Assessee had filed Return of Income for A.Y.2018-19 on 30.08.2018 declaring total income at Rs.4,62,730/- and claiming loss of Rs.2,87,147/-. Assessee filed copy of Acknowledgment of said Return of Income and it is kept on record.

4.1 Assessing Officer issued notice u/s.148 of the Act. Date of notice u/s.148 is not mentioned in the assessment order. However, we had directed ld.DR to file copy of notice u/s.148 of the Act. Accordingly, ld.DR filed copy of the notice u/s.148 of the Act, dated 27.03.2022 for A.Y.2018-19. Assessee filed Return of Income in response to the notice u/s.148 of the Act.

4.2 Ld.DR for the Revenue also filed copy of order u/s.148A(d) of the Act, dated 27.03.2022 for A.Y.2018-19. The relevant paragraphs of the order u/s.148A(d) of the Act, are reproduced asunder :

“Further, it is seen that you have traded in PMC FIN Corp shares through Vibrant Securities in A.Y. 2018-19 having Client Code 3196.

3. It is verified from the return filed for A.Y. 2018-19 on 30/8/2018 declaring total income of Rs. 4,26730/- and the same has been



processed by the CPC Bangalore. However, the return filed for A.Y. 2018-19 does not reflect the capital gain on account of sale of securities and the sale of PMC Fin Corp P LTd wherein you have been named a beneficiary. Capital gain arising out of sale of investment not reflected in return of income for A.Y. 2018-19 and capital gain on investment in scrips in PMC Fin Corp Ltd through Vibrant Securities for A.Y. 2018-19 not reflected. I have reasons to believe that income chargeable to tax on account of Capital gain on sale of immovable property of Rs. above Rs. One Lakh has escaped assessment for A.Y.2018-19 u/s 147 of the Income Tax Act, 1961 and it needs to be assessed for AY 2018-19.”

4.3 Based on the above mentioned Reasons the Assessing Officer(AO) had issued Notice u/s.148 of the Act. Assessee filed Return of Income in response to Notice u/s.148 of the Act. Assessee filed various submission during assessment proceedings. The AO was not satisfied with the submission of the Assessee and hence in the Assessment Order the Assessing Officer made Addition of Rs.76,874/- u/s.68 of the Act. In the Assessment Order it is mentioned as under :

“..... it is very well proved that the assessee has purchase shares of bogus scrip of M/s. PMC Fin. Corp. and sold the same during the F.Y. 2017-18 relevant to the A.Y. 2018-19 and derived at LTCG. Assessee has failed to produce any authentic documentary evidence with regard to the quantum of sale made relating to the shares of M/s. PMC Fin. Corp., the entire exemption u/s10(38) amounting to Rs.6930/- is hereby disallowed and sale price shown under the head LTCG of Rs.76,874/- is proposed to be added as unexplained cash credit u/s.68 of the Income-tax Act, 1961.



Addition : Rs.76,874/-”

4.4 Thus, in the Assessment Order the AO alleged that Sale Price of Rs.76,874/- is to be added.

4.5 Aggrieved by the Assessment Order the Assessee filed appeal before the Id.CIT(A).

5. Ld.CIT(A) allowed the appeal filed by the Assessee.

Ld.CIT(A) held as under :

Quote, “4.1 The documentary evidences furnished by the appellant have been verified and the reply of the appellant is carefully gone through. It is true that the appellant had purchased 200 shares of PMC Fincorp Ltd through PSE Securities at the rate of Rs.5.78 per share. It is also a fact that the appellant got 200 bonus shares of PMC FinCorp Ltd. Further, these 400 shares were sold by the appellant through PSE Securities only for a net rate of 0.34 (after brokerage, as per sale contract note).

5. DECISION

The appellant has proved the genuineness of transactions in sale and purchase of shares of PMC FinCorp Ltd. It was made through PSE Securities which is an approved broker of the BSE/NSE. Therefore, the A.O's version that these transactions were made through Vibrant Securities is not correct. Also, when the transactions were through a recognised broking house, the rigging of share price is ruled out. Even if the price was a rigged one, it was beyond the reach of the appellant. Otherwise also, the appellant has neither claimed huge exempt income



under section 10(38) of the Act nor claimed any loss for setting off other incomes. Therefore, the addition of Rs.76,874 made to the total income of the appellant without any logic is hereby DELETED and the appellant is allowed to claim long term capital loss of Rs. 1156 as per sale contract note.

All grounds of appeal stands disposed of.

6. In the result, the appeal is ALLOWED.”Unquote.

5.1 In this case, the Ld.CIT(A) observed that AO has alleged that the Assessee has made the impugned purchase of PMC Fincorp Ltd from Vibrant Securities, however the purchases were made from PSE Securities which is a BSE registered Stock broker.

6. Revenue has not brought on record any documentary evidence to disprove the facts mentioned by the Ld.CIT(A).

7. Revenue has not brought on record any evidence about role of Vibrant Securities which AO has mentioned in the Reasons recorded for reopening and also in the Assessment Order. Assessee has proved before ld.CIT(A) that Vibrant Securities have no connection to assessee.

7.1 Therefore, we do not find any infirmity in the Order of the Ld.CIT(A).



7.2. Revenue in the Ground No.1 has referred to Statement of Mr.Rajkumar Modi recorded u/s 132(4) of the Act. However, Revenue has not filed copy of the said statement. The AO has not referred to any specific question/answer of the said statement in the Assessment Order. The Assessee was not provided copy of the said statement. Assessee was not provided any opportunity of Cross examination. In these facts revenue's reliance on the statement is misplaced and in this case the impugned statement has no evidentiary value.

7.3 Accordingly Ground No.1 raised by the revenue is dismissed.

Ground No.2 :

8. The assessee has sold shares of various companies during the year. The list is mentioned in the Id.CIT(A)'s order.

8.1 These transactions were through recognized broker and amounts have been credited in the bank account. Therefore, the addition was rightly deleted by the Ld.CIT(A). Revenue has not brought on record any document to rebut the facts mentioned in the order of the CIT(A). In these facts and circumstances of the case the ground number 2 raised by the Revenue is deleted.



8.2 **Ground No.3** is general in nature, no ground was added or amended. Hence, Ground number 3 dismissed.

9. In the Result, Appeal of the Revenue Dismissed.

10. During the hearing before us the Assessee also challenged the notice u/s 148. He submitted that the Notice u/s 148 is bad in law as it mentions incorrect facts. The AO has not verified any facts before issue of notice u/s 148.

11. We have already reproduced the reasons, where in, the AO has incorrectly mentioned that investment was made through Vibrant Securities. The Ld.CIT(A) has verified that investment was not made through Vibrant Securities. However, since we have dismissed the Appeal of the Revenue we do not intend to adjudicate this ground raised by the Assessee.

12. Accordingly, Revenue's appeal is dismissed.

Order pronounced in the open Court on 28 January, 2026.

Sd/-
MS.ASTHA CHANDRA
JUDICIAL MEMBER

Sd/-
Dr.DIPAK P. RIPOTE
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 28 Jan, 2026/ SGR



आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "एस एम सी" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

/ / TRUE COPY / /

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.