



आयकरअपीलीयअधिकरण,राजकोटन्यायपीठ,राजकोट।  
IN THE INCOME TAX APPELLATE TRIBUNAL, "SMC"  
RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

आयकरअपील सं./ITA No.24/RJT/2026  
निर्धारण वर्ष/Assessment Year : 2015-16

Amiben Rajeshkumar Punatar, Ashish, 41-New Jagnath Plot, Rajkot – 360001(Gujarat)	बनाम/ Vs	ITO, Ward – 1(2)(1), Rajkot
स्थायीलेखासं./जी आइ आर सं./PAN/GIR No.: AHRPP4181F		
(अपीलार्थी/Assessee)		(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से/Assessee by : Shri Mehul Ranpura, AR  
राजस्वकी ओर से / Revenue by : Shri Dheeraj Kumar Gupta, Sr. DR

सुनवाई की तारीख/**Date of Hearing** : 06/02/2026  
घोषणा की तारीख/**Date of Pronouncement** : 06/02/2026

आदेश/ORDER

**PER, DR. A. L. SAINI, AM:**

Captioned appeal filed by the assessee, pertaining to Assessment Year 2015-16, is directed against the order passed under section 250 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) by National Faceless Appeal Centre (NFAC), Delhi/Commissioner of Income-tax (Appeals) [‘Ld. CIT(A)’], dated 03.08.2023, which in turn arises out of an assessment order passed by the Assessing Officer (hereinafter referred to as ‘AO’) u/s. 147 r.w.s. 144B of the Act, on 30.03.2022.

2. The assessee has raised the following grounds of appeal:

*“1. The grounds of appeal mentioned hereunder are without prejudice to one another.*



*2. The Id. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi (hereinafter referred to as the "CIT(A)") erred on facts as also in law in not deciding ground of appeal related to validity of notice issued u/s 148 of the Income tax Act, 1961. That on facts as also in law, proceedings-initiated u/s. 147 of the Act is invalid and assessment finalized on such invalid initiation deserves to be quashed and may kindly be quashed.*

*3. The Ld. CIT(A) erred on facts as also in law in dismissing the appeal ex-parte without allowing adequate opportunity of being heard.*

*4. The Id. CIT(A) erred on facts as also in law in confirming addition made of Rs.16,16,578/- on account of alleged bogus LTCG on sales of shares of Atlantis Infrastructure and Finance Ltd. The addition confirmed is unjustified and uncalled for, which may kindly be deleted.*

*5. That on facts as also in law, the proceeding-initiated u/s. 147 of the Act is bad in law as the original assessment proceeding initiated in appellant's case u/s. 143(2) for the same reason which is subject matter of present proceeding u/s. 147 of the Act. The assessing officer erred in facts as also on law in reopening assessment for change of opinion.*

*6. Your Honour's appellant craves leave to add, to amend, alter, or withdraw any or more grounds of appeal on or before the hearing of appeal."*

3. Succinctly, the factual panorama of the case is that assessee before me is an Individual and has filed return of income for assessment year (A.Y.) 2015-16, on 24.12.2015, declaring total income at Rs.1,78,810/-. Thereafter, assessment u/s 143(3) of the Act, was completed on 18.12.2017, determining total income of assessee at Rs.1,78,810/-.

4. After completion of regular scrutiny assessment under section 143 (3) of the Act, the assessee's case was selected for complete scrutiny under CASS for the reason of suspicious sale transactions in the shares. Accordingly, assessee's case for the assessment year 2015-16, under consideration, was reopened u/s 147 of the Act, by the Jurisdictional Assessing Officer after recording reasons for reopening. The notice u/s 148 of the Act was issued to the assessee on 31.03.2021, which was duly served on the assessee, requiring the assessee to



furnish the return of income, in response to notice u/s 148 of the Act. In response to notice u/s 148 of the Act, the assessee has filed its return of income on 20.10.2021, declaring total income at Rs.1,78,810/-, as shown in the original return of income.

5. The reason recorded by the assessing officer is reproduced in the assessment, order page No.2. The assessing officer observed that M/s Atlantis Infrastructure & Financial Limited (Formerly known/as Kadvant Secunties Ltd) Sarol Code: 530479 is a penny script and the same has been used for booking bogus claims of Long-Term Capital gains or Short-Term Capital loss by Various beneficiaries. Further, the entry operators are charging @ 3 to 5% in Cash on net pre-arranged bogus LTCG or STCL. On going through the case records as well as return of income filed by the assessee for AY 2015-16, it was noticed by the assessing officer that the assessee had shown long term capital gain of Rs.13,17,084/- from sales of Shares Atlantis Infrastructure & Finance Ltd with Script Code: 530479 (formerly known as Kadvani Securities Ltd) and claimed the same as exempt to tax u/s 10(38) of the IT Act. Therefore, assessing officer issued a show -cause notice to the assessee to explain the transaction. In response, the assessee submitted, purchase bills, sale bills, and also stated that transaction was through banking channel and STT has been properly paid. However, the assessing officer rejected the contention of the assessee and made addition of sale of share's amount of Rs.16,16,578/- as unexplained credits u/s 68 of the Act.

6. Aggrieved by the order of the assessing officer, the assessee, carried the matter in appeal before Ld. CIT(A), who has confirmed the action of the assessing officer, therefore, the assessee is in further appeal before the Tribunal.



7. Shri Mehul Ranpura, learned Counsel for the assessee, argued that there is no whisper in the reasons recorded, of any tangible material which came to the possession of the assessing officer subsequent to the completion of regular assessment under section 143(3) of the Act. The assessee has disclosed the long-term capital gain (LTCG) on the impugned shares in its return of income and assessing officer had already examined the said long-term capital gain and framed the assessment order under section 143(3) of the Act. Hence, there is no any new tangible material with the assessing officer to reopen the concluded assessment after four years. Besides, there is no failure on the part of the assessee to disclose fully and truly all material facts during the regular assessment under section 143(3) of the Act. It reflects an arbitrary exercise of the power conferred under section 147 of the Act, therefore, reassessment proceedings initiated against the assessee on the concluded matter, may be quashed.

8. On the other hand, the Ld. DR for the Revenue has primarily reiterated the stand taken by the Assessing Officer, which I have already noted in earlier para and is not being repeated for the sake of brevity.

9. I have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon and perused the fact of the case including the findings of the Id CIT(A) and other materials brought on record. I note that in the reasons supplied to the petitioner, there is no whisper, what to speak of any allegation, that the petitioner had failed to disclose fully and truly all material facts necessary for assessment and that because of this failure there has been an escapement of income chargeable to tax. The assessee, had already disclosed in its return of income, the long-term capital gain on the shares and the said long-term capital



gain had already been examined by the assessing officer in the regular assessment under section 143(3) of the Act, framed by the assessing officer, therefore, the issue which had already been examined by the assessing officer in the scrutiny assessment under section 143(3) of the Act, and assessee had submitted entire documents and evidences relating to long-term capital gain in the assessment proceedings under section 143(3) of the Act, in these circumstances, the assessing officer does not have any new tangible material to reopen the assessment of the assessee under section 147 of the Act. The Id.Counsel submitted that the assessing officer was not having any material information to form "a reason to believe" that there was an escapement of income.

10. I have also gone through the reasons recorded by the assessing officer and noticed that findings of the assessing officer in the reasons recorded are not correct, and the figures mentioned in the reasons recorded are also not correct. I note that the assessee has shown the LTCG in his books of account and paid the taxes thereon, therefore, it cannot be said that the income has escaped assessment, on account of said shares, as the assessee has shown in the return of income Long Term Capital gain and assessing officer examined while framing the assessment under section 143 (3) of the Act. Hence, the information received by the assessing officer, and based on the information, the re-assessment proceedings, initiated by the assessing officer is bad in law, assessing officer does not have new material to re-open the concluded assessment.

11. I also find that assessee had filed return of income for AY 2015-16, on 24.12.2015, declaring total income at Rs.1,78,810/-. Thereafter, assessment u/s 143(3) of the Act, was completed on 18.12.2017. After this, assessee's case, was reopened u/s 147 of the Act, by the Jurisdictional AO after recording reasons for



reopening, and the notice u/s 148 of the Act was issued to the assessee on 31.03.2021. Hence, the reopening of the assessment in the assessee's case under consideration is after four years, and assessee had disclosed the full information during the regular assessment under section 143(3) of the Act. I note that under the proviso to section 147 of the Act, where an assessment has been completed u/s 143(3) of the Act, and thereafter the assessing officer seeks to take an action u/s 147 of the Act, for re-assessment of income escaping assessment, after the period of 4 years from the end of the relevant assessment year, than such proceedings can be initiated only where income chargeable to tax has escaped assessment for that assessment by reasons of failure on the part of the assessee to disclose fully and truly all material facts necessary for his assessment for that year. The assessment in the present case was sought to be re-opened, after expiry of 4 years from the end of the relevant assessment year and an order of assessment u/s 143(3) of the Act, had already been passed. Therefore, the proceedings u/s 147 of the Act are barred by time. Even in the reasons recorded, there is no reference to the failure on the part of the assessee to fully and truly disclose the material facts. In this regard, the reliance is placed on the decision of the Hon'ble Bombay High Court in the case of Hindustan lever Ltd. vs. ACIT, 268 ITR 332 (Bom) wherein on identical facts initiation of reassessment proceedings were held to be invalid. I also place reliance on the decision of the Hon'ble Supreme Court in the case of Coca cola Export Corporation Vs. ITO 231 ITR 200 (SC) wherein it was held that when facts showed that imports were duly recorded in the books of accounts, there was no basis to form opinion regarding escapement of income. Hence, I note that the initiation of reassessment proceedings was based on a mere change of opinion and for that reliance is placed on the decision of the Hon'ble Delhi High Court in the case of CIT vs. Kelvinator of India Ltd., 256 ITR 1 (Del.). Based, on these



facts and circumstances, I quash the reassessment order framed by the assessing officer under section 147 of the Act, dated 30.03.2022, and allow the appeal of the assessee.

12. As the reassessment itself is quashed, all other issues on merits of the additions, in the impugned assessment proceedings, are rendered academic and infructuous.

13. In the result, the appeal filed by the assessee is allowed.

**Order was pronounced in the open court on 06/02/2026.**

**Sd/-  
(Dr. Arjun Lal Saini)  
लेखा सदस्य/Accountant Member**

राजकोट /Rajkot  
दिनांक/ Date: 06/02/2026

**Copy of the Order forwarded to**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

By Order

// True Copy //

Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot