

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "B", MUMBAI

**BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER**

**ITA No.4339/Mum/2025
(Assessment year: 2014-15)**

DCIT-19(1), Mumbai 506, Piramal Chambers, Lalbaugh, Mumbai-400012	vs	Bharat Ramji Bhai Manek 6, Ground Floor MotiwalaBldg, 44- C, Proctor Road Grant Road, Mumbai-400007 PAN: AACPM3397G
APPELLANT		RESPONDENT

Assessee by : Shri Ronak Doshi,
Respondent by : Shri Leyaqt Ali Aafaqui, (SR DR)

Date of hearing : 28/01/2026
Date of pronouncement : 10/02/2026

ORDER

Per: Anikesh Banerjee (JM):

The instant appeal of the revenue was filed against the order of the NFAC, Delhi [for brevity 'the Ld. CIT(A)], order passed under section 250 of the Income Tax Act 1961 (for brevity 'the Act') for assessment year 2014-15, date of order 08.04.2025. The impugned order emanated from the order of the Ld. Income-tax Officer Ward 19(1)(2), Mumbai (for brevity the Ld. AO) order passed under section 143(3) of the Act date of order 27.12.2016.

2. The revenue has taken the following grounds.

“Grounds of Appeal

1. *Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the disallowance of Rs. 2,19,84,438/- being claimed as Long Term Capital Gain u/s. 10(38) of the 1.T. Act on sale of penny stock scrip M/s. First Financial Services Limited.*

2. *Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the disallowance of Rs. 2.19.84,438/- claimed as LTTCG, without appreciating the fact that the assessee is case was re-opened based on information from DGIT (Investigation), Mumbai that the assessee was a beneficiary of a scheme hatched by promoters/brokers/operators who rigged the prices of M/s. First Financial Services Limited for commission, and that the capital gains were from an arranged transaction executed to obtain accommodation entries of bogus LTTCG after routing unaccounted money.*

3. *Whether on the facts and circumstances of the case and in law, Ld. CIT(A) has erred in deleting the disallowance claimed as exemption of LTTCG, without appreciating that the assessee entered into a penny stock transaction which was an arranged, pre-conceived series of steps lacking commercial content an artificially structured transaction with the sole intent to evade taxes.*

4. *Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in not appreciating the order of SEBI dated 06.09.2017, which held there was no adverse evidence against the assessee in the manipulation of penny stock M/s. First Financial Services Ltd (Scrip Code 511369), but failed to disclose any details, evidence, or basis on which the assessee was acquitted along with other beneficiaries, in violation of the SEBI Act.*

5. *Whether on the facts and circumstances of the case and in law, Ld. CIT(A) has erred in deleting the disallowance claimed as exemption of LTTCG by accepting the assessee's documentation at face value without adequately considering the underlying fraudulent intent and orchestrated steps to present the transactions as genuine, thereby overlooking the true character and intent behind them.*

6. *Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in not considering the direct and circumstantial evidence in light of the Supreme Court decisions in Durga Prasad More (1971) 82 ITR 540 (SC) and Sumati Dayal [1995] 80 Taxman 89 (SC), which hold that courts and tribunals must judge evidence by applying the test of probabilities and surrounding circumstances an exercise already performed by the Assessing Officer*

7. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the entire disallowance claimed as exemption of LTCG by ignoring that in cases of suspicious or bogus trade, the onus is on the assessee to establish the genuineness of the price hike and prove that the price of the penny stock was not manipulated, as held by the Hon'ble Calcutta High Court in Pr. CIT vs. Swati Bajaj (1.A. No. GA/2/2022 in ITAT No. 6 of 2022, dated 14.06.2022).8. Whether on the facts and circumstances of the case and in law. Ld. CIT(A) has erred in deleting the disallowance claimed as exemption of LTCG without appreciating that on a similar issue, the Hon'ble ITAT, Kolkata in the case of Manoj Jain (HUF) (ITA No. 1782/KOL/2018) treated the penny stock transaction as income from other sources instead of LTCG-a decision upheld by the Hon'ble Calcutta High Court ((2024) 164 taxmann.com 133 (Cal)) and confirmed by the Hon'ble Supreme Court by dismissing the SLP (SLP(C) No. 21636/2024 dated 20.09.2024).

9. The tax effect involved in this case is Rs. 74,64,036/-, which is below the prescribed limit in CBDT Circular F.No.279/Misc. 142/2007-ITJ(Pt) amended vide No. 09/2024 dated 17.09.2024. However, this case falls under the exception specified in CBDT Circular No. 05/2024 dated 15.03.2024 for "Organized Tax Evasion" cases, including accommodation entries of penny stocks, where the decision to file an appeal/SLP shall be taken on merit without regard to the tax effect and monetary limit.

10. The appellant craves leave to amend or alter any grounds or add a new ground which may be necessary."

3. The brief facts of the case are that the assessee is an individual and filed the return u/sec. 139(1) by declaring total income of Rs.21,82,130/-. The notice u/sec. 143(2) was duly issued and the Ld. AO found that the assessee had made the transaction of Scrip, First Financial Services Ltd. (FIRST-FIN / FFSL) and transaction has identified as bogus transaction. The assessee sold the share and earned the long term capital gain amount of Rs. 2,19,84,437/- and claimed exemption u/sec. 10(38) of the Act. The Ld. AO rejected the assessee's claim u/sec. 10(38) of the Act and added back the entire amount of Rs.2,19,84,437/- with the total income of the assessee. Being aggrieved assessee filed an appeal before the Ld. CIT(A). The Ld. CIT(A) allowed the appeal of the assessee and deleted the addition. Being aggrieved revenue filed an appeal before us.

4 The Ld. DR argued and filed the written submission. We consider his submission and the relevant part of the DR's submission is reproduced as below:

"1. Burden of Proof Lies on the Assessee to Establish Genuineness of Price Hike in Suspicious Penny Stock Transactions

Argument: The AO correctly analyzed the abnormal price surge in M/s. First Financial Services Ltd. shares from Rs. 20/- (preferential allotment) to over Rs. 290/- within months without any corresponding business developments, financial growth, or market rationale, This, coupled with statements from directors and intermediaries (e.g.. Shri Naresh Garg and Anil Agarwal) confessing to rigged trades for bogus LTCCG, establishes the transaction as a sham designed to launder unaccounted money, The assessee's mere submission of demat statements and broker confirmations is insufficient, as these are self-serving documents ignoring the orchestrated modus operandi.

Rebuttal to CIT(A): The CIT(A) erred in accepting the transaction at face value without appreciating the surrounding circumstances, including the DGIT (Investigation)'s report on collusion among promoters, brokers, and beneficiaries. The CIT(A)'s reliance on the absence of direct adverse SEBI evidence against the assessee overlooks that SEBI's order confirmed overall manipulation in the scrip, shifting the onus to the assessee to disprove involvement.

Misplaced Reliance on Documentary Form Over Substance: The CIT(A) fell into error by accepting standardized documents (demat, contract notes) at face value without scrutinizing the underlying economic reality. The Hon'ble Supreme Court in *McDowell & Co. Ltd. vs. CTO (1985)* and *CIT vs. Durga Prasad More (1971)* has consistently held that the court must look at the substance of the transaction and not be mesmerized by the legal form. A transaction, though legal in form, can be a "colourable device" if its sole purpose is tax avoidance. The orchestrated price rise of FFSL shares (from Rs. 20 to nearly Rs. 290 in months) with no fundamental financial backing is the quintessential substance-over-form situation.

The CIT(A) failed to consider the manipulative intent behind the penny stock scheme, where the assessee's LTCCG claim was based on artificially rigged prices.

Shifting of Onus: In cases of suspicious transactions, especially with penny stocks, the initial onus to prove the genuineness of the transaction, the creditworthiness of the company, and the source of the spectacular gains shifts heavily onto the assessee. The assessee merely provided procedural documents but failed to explain the commercial rationale behind the investment or the reason for the extraordinary price rise. The CIT(A) erred in placing the entire burden on the department to provide a direct "smoking gun" against the assessee.

Judicial Precedents:

Supreme Court: In *Durga Prasad More v. CIT* [1971] 82 ITR 540 (SC), the Apex Court held that courts must judge evidence by applying the test of human probabilities and surrounding circumstances, rejecting apparent transactions if they mask the true intent. Similarly, in *Sumati Dayal v. CIT* [1995] 214 ITR 801 (SC), it was ruled that artificial transactions lacking substance must be disregarded, even if documented.

Bombay High Court Sanjay Bimalchand Jain vs. PCIT (2018) 89taxmann.com 196: The Court upheld the addition of LTCG from penny stock transactions as unexplained cash credit under Section 68, noting the lack of credible evidence to support the genuineness of the share price rise and the assessee's involvement in a structured tax evasion scheme.

ITAT Mumbai: In Kailash Chandra Gupta HUF v/s ITO (I.T.A. No. 4013/Mum/2023 (A.Y. 2012-13): "The assessee cannot escape from the burden cast upon him and unfortunately in these cases, the burden is heavy as facts establish that the shares which were traded had phenomenal and fanciful rise and short fall in price in short span, which led to LTCG/STCL. Therefore, until the assessee discharges his burden of proof, the addition made by the AO cannot be faulted." (page 23), the ITAT rejected LTCG exemption u/s 10(38) for penny stock gains, holding that suspicion based on modus operandi and lack of economic rationale justifies addition u/s 68, adding Rs. 84.79 lakh as unexplained credit.

Other Relevant: The Hon'ble Calcutta High Court in *Pr. CIT v. Swati Bajaj* emphasized that in suspicious penny stock trades, the assessee must prove the legitimacy of the price hike and absence of manipulation.

2. Orchestrated Nature of the Transaction: Preconceived Steps Lacking Commercial Substance

Argument: The assessee's acquisition of preferential shares during the lock-in period, followed by sales post-lock-in through specific brokers (M/s. Samurai Securities Pvt. Ltd. and M/s. GSB Capital Markets Ltd.), aligns with the identified penny stock scheme where black money is routed via exit providers. The AO's summons u/s 131 and analysis of the company's negligible net worth (negative earnings per share) confirm no bona fide investment intent, rendering the LTCG bogus.

Rebuttal to CIT(A): The CIT(A) failed to consider the holistic evidence, including SEBI's confirmation of price rigging and the Investigation Wing's report on accommodation entries. Accepting documentation without probing intent overlooks the artificial structure, as the transaction was executed solely to claim tax-exempt gains u/s 10(38).

Failure to Appreciate the "Penny Stock" Modus Operandi: The CIT(A) failed to consider the holistic picture painted by the Investigation Wing. The detailed modus operandi-preferential allotment, price rigging through circular trading, use of exit providers, and statements of entry operators like Shri Raj Kumar Kedia and Shri Anil Agarwal establishes a pre-meditated scheme. The assessee's transaction fits perfectly into this pattern. The Hon'ble Supreme Court in *SumatiDayal vs. CII (1995)* held that the test of human probabilities must be applied. It is improbable that a genuine investor would achieve such miraculous returns on a company with negligible net worth and no business fundamentals.

CIT(A) did not adequately address the fraudulent intent and orchestrated steps, as revealed in SEBI's investigations continuing into 2014-15.

Judicial Precedents:Supreme Court: The dismissal of SLP in *Manoj Jain (HUF) v. ITO [SLP (C) No. 21636/2024, dated 20.09.2024]* upheld the Calcutta High Court's ruling [2024] 164 *taxmann.com* 133, treating penny stock LTCG as income from other sources due to manipulated trades.

In PCIT v. NRA Iron & Steel (P) Ltd. (2019) 103 taxmann.com 48 (SC) Key Point: The Supreme Court affirmed that if SEBI investigations reveal manipulative practices in penny stock transactions, the Revenue can treat such gains as unexplained income under Section 68. *Observation:* Mere stock exchange transactions do not establish genuineness if the overall scheme is fraudulent.

In Suman Poddar v. ITO (2020) 117 taxmann.com 796 (ITAT Kolkata): The ITAT upheld additions based on SEBI's findings that the assessee was part of a penny stock manipulation scheme. *Observation:* The tribunal rejected the argument that transactions through stock exchanges were genuine, as they lacked economic substance.

3. SEBI Order Interpretation and Organized Tax Evasion Exception

Argument: While SEBI's order dated 06.09.2017 (interim, later partially revoked for some entities) did not name the assessee adversely, it confirmed systemic manipulation in M/s. First Financial Services Ltd, shares, The AO's independent evidence-financial analysis and statements suffices for tax purposes, as tax authorities are not bound by SEBI findings absent exoneration.

Rebuttal to CIT(A): The CIT(A) misinterpreted SEBI's order as acquitting the assessee, ignoring that SEBI lifted restrictions for 307 entities in 2017 due to insufficient evidence for trading bans, but did not rule out tax evasion. The AO's circumstantial evidence (e.g., no business rationale for price surge) remains unchallenged.

Misinterpretation of SEBI Order: The CIT(A) placed undue weight on the SEBI order from 2017. SEBI's jurisdiction is to protect the securities market and its investors, not to adjudicate under the Income-tax Act. An order revoking trading restrictions for lack of prima facie evidence under SEBI regulations does not equate to a clean chit for income tax purposes. The standard of proof and the objective of proceedings under the two statutes are fundamentally different. The Income Tax Authority is entitled to draw its own conclusions based on its investigation. CIT(A)'s reliance on SEBI, noting that the order did not exonerate the scrip's manipulation and that the assessee's transaction fits the penny stock evasion pattern.

Judicial Precedents:

Supreme Court: In *McDowell & Co. Ltd. v. CTO* [1985] 154 ITR 148 (SC), the Court condemned colorable devices for tax avoidance, emphasizing that transactions must have commercial purpose beyond tax benefits.

ITAT Mumbai: in ITO -24(2)(1), *Mumbai v. Kailash Chandra Gupta (HUF)* (dated 26.07.2024, relevant to 2025 discussions), the Tribunal recognized the menace of bogus LTCG through penny stocks, upholding additions despite CBDT circulars, as such cases fall under organized tax evasion exceptions.

1. 4. Erroneous Application of Principles of Natural Justice: While the assessee's request for cross-examination is noted, it is not an absolute right in all circumstances. When the evidence is overwhelming and of a general nature establishing a large-scale scheme (as is the case here), and the assessee fails to provide any credible explanation for the suspicious gains, the addition can be sustained. The CIT(A) erred in treating the lack of cross-examination as a fatal flaw, ignoring the circumstantial evidence and preponderance of probability.

Judicial Precedents:

Kailash Chandra Gupta HUF v/s ITO (L.T.A. No. 4013/Mum/2023 (A.Y. 2012-13): "Thus, not giving cross-examination opportunity did not and would not vitiate the proceedings as whatever information to be given to each assessee, was already given and necessary notices u/s. 143(2)/142(1) mentioned required particulars by the concerned Assessing Officers. Thus, full opportunity was afforded to the assessee, held by Hon'ble Kolkata High Court." (Para25(1))

6. Conclusion

The order passed by the learned CIT(A) is flawed, perverse, and contrary to the weight of evidence on record. It represents a myopic view that prioritizes procedural documentation over substantive justice and the reality of an orchestrated tax evasion scheme.

The Assessing Officer's order, based on a thorough investigation, correctly characterized the transaction as a sham and added the sum of Rs. 2,19,84,438 to the assessee's income under Section 68. The findings of the AO were based on a preponderance of probability, surrounding circumstances, and direct evidence of a larger conspiracy, which the assessee failed to rebut with anything beyond self-serving documentation. It is humbly urged to allow the Revenue's appeal and mandate reversal of the CIT(A)'s order to prevent abuse of tax exemptions."

5. The Ld. AR advanced his arguments and filed a paper book comprising **pages 1 to 177**, which has been taken on record. The Ld. AR contended that the entire transaction relating to the scrip FFSL, which was treated as bogus by the Ld. AO, was genuine. In support of his submissions, the Ld. AR placed heavy reliance on the order of the Ld. CIT(A). The Ld. AR further submitted that the assessee's name was initially reflected in the interim order passed by the Securities and Exchange Board of India (SEBI), Mumbai, dated 19.12.2014, wherein the assessee was alleged to be involved in price manipulation of the said scrip. Pursuant to the said interim order, an investigation was carried out by SEBI. However, subsequently, a further order was passed by SEBI wherein, upon completion of the investigation, it was categorically held that the assessee was not involved in any price rigging activity.

6. Subsequent to the interim orders, a detailed investigation was conducted to examine the role of the debarred entities in the alleged price manipulation of the FFSL scrip. Upon completion of the investigation, no violation of the provisions of the SEBI was found in respect of 91 entities against whom directions had earlier been issued vide the interim orders. The details of the entities in

respect of whom no prima facie findings of price manipulation were recorded were duly noted.

7. The Ld. AR further submitted that during the assessment as well as the appellate proceedings, the assessee had furnished complete documentary evidence, including contract notes, demat statements, bank statements, and copies of the ledger accounts issued by the brokers, namely, Samurai Securities Pvt. Ltd. and GSB Capital Market Ltd. It was contended that the Ld. AO did not reject or discredit any of the documents or evidences furnished by the assessee during the course of the assessment proceedings.

For detailed factual submissions, the Ld. AR invited our attention to the impugned appellate order, and in particular to the observations of the Ld. CIT(A) recorded in paragraph 4 thereof, which are reproduced hereunder:

“4. Analysis & Adjudication:-

4(a). Even though the assessee raised many grounds, all are pointed towards the addition made by the AO u/s. 68 of the IT Act by treating the sale proceeds of shares as sham transaction.

4(b). I have considered facts & circumstances of the case. I have also considered the assessee's submissions. I have also gone through the documents such as bank statements, demat account, contract notes and SEBI's orders as furnished by the assessee. From the facts of the case, it is known that the assessee applied for 75,000/- equity shares of M/s. First Financial Services Ltd at the rate of Rs. 20 per each share and got allotment of shares on 12.03.2012. Towards this, the assessee made payment through banking channels of Rs. 15,00,000/- through its Bank of Baroda Account bearing no. 04200100008063. Subsequently, the assessee got the allotment of shares in its demat account held with M/s. Samurai Securities P Ltd on 13.06.2012 demat account no. 1203860000001681, The lock in period as stipulated by SEBI regulation got over by 29.04.2013, therefore, the assessee is in liberty to sell the shares after this date. Therefore, the assessee sold the shares in the BSE through its brokers M/s. Samurai Securities P Ltd & M/s. GSB Capital Markets Ltd on various dates which are as under.-

Date of Sale	Quantity
17.06.13	10000
08.07.13	10000
11.07.13	10000
15.07.13	10000
16.08.13	2000
23.08.13	3000
26.08.13	4000
29.08.13	2000
02.09.13	2000
03.09.13	3000
04.09.13	2500
05.09.13	2000
06.09.13	750
10.09.13	2500
11.09.13	5000
12.09.13	5000
13.09.13	1250
	75000

“4(c). Thus, since the assessee sold the shares through BSE through its brokers M/s. Samurai Securities P Ltd, the anonymity of buyers was prevalent. However, the AO contends that the assessee manipulated these transactions through entry providers and exit providers and the mediators. However, the AO did not bring any specific and direct instances of the assessee's involvement in taking accommodation entries. The AO quoted about many other people and entities who are involved in taking accommodation entries. Initially, SEBI passed an interim order on December 19, 2014 and August 11, 2015 by restraining 152 entities from accessing the securities market for buying and selling of shares. However, after completion of investigation, SEBI revoked the aforesaid orders in respect of 91 entities. This order was passed on 6th

September, 2017 in which the SEBI has given a finding that the assessee prima facie was not involved and accordingly earlier orders were revoked.

The assessee provided necessary copies of the SEBI's orders and the same were considered. Thus, the above facts and documents prove that the assessee has done the transactions in BSE through its brokers M/s. Samurai Securities P Ltd & M/s. GSB Capital Markets Ltd and through banking channels. The AO even though quoted the statements of entry providers i.e., Naresh Garg, Anil Agarwal etc. but did not bring any specific and direct instances of the assessee's involvement in taking accommodation entries. None of the above entry providers confessed about the assessee's involvement in taking accommodation entries. The AO has given various direct instances of other entities who got benefitted from this manipulation of escalation of prices of the scrip. Thus, the AO failed to bring any direct corroborative evidence to show that the assessee was a beneficiary. Further, SEBI after conducting investigations came to a conclusion that the assessee was not involved in manipulation of escalation of prices of the scrip. Therefore, it cannot be said that the assessee is involved in price escalation of the scrips. Thus, the addition made by the AO is found to be not justified, therefore, the same is not warranted and the addition made by the AO is hereby deleted and the grounds raised by the assessee are hereby allowed.”

8. The Ld. AR further contended that the said scrip was duly examined and adjudicated by the Hon'ble Calcutta High Court in the case of **PCIT(1) vs. R.C. Suppliers P. Ltd. bearing No.GA/1/2025/GA/2/2025** date of order **13.05.2025**. the relevant observation of the Lordship is reproduced as below:

“The learned Tribunal examined the factual aspects and noted that the share price of M/s. First Financial Services Ltd. was rigged by some persons but the assessee was not aware of that and the assessee was not involved in share price rigging. Further, the learned Tribunal noted that SEBI had conducted an investigation and also examined the role of the assessee and by order dated 2nd April, 2014 SEBI found that the assessee was not involved in price rigging of shares of First Financial Services Ltd. Therefore, the Tribunal came to the conclusion that the addition made by the Assessing Officer was not justified. The learned Tribunal also referred to a similar case of the Mumbai Tribunal in the case of Sunita Chaudhry vs. ITO in ITA No. 143/Mum/2022, dated 13.10.2022, which was also concerning the scrips of M/s. First Financial Services Ltd. and the Tribunal took note of the report drawn by SEBI pursuant to the investigation and found the assessee was not involved in the share price rigging. Therefore, the learned Tribunal on examination of the admitted factual position granted relief to the assessee.”

9. We respectfully relied on the order of Coordinate Bench of ITAT, Ahmedabad in the case of **Manish Devendra Kumar Shah vs ITO reported in 2025 (172) taxmann.com 466 (Ahemedabad-Trib)**. The relevant observations contended by the Bench **para no. 8.14 to 8.15** is reproduced as below:

“8.14. The issue of penny stock transactions and their taxability under section 68 of the Act requires a comprehensive and well-founded approach. The mere fact that a stock has exhibited significant price fluctuations or has been categorized as a penny stock does not by itself, render transactions in such shares non-genuine. The stock market operates under a regulatory framework where shares, irrespective of their financial fundamentals, are allowed to be traded on stock exchanges. Once such share is permitted to be listed and traded, any investor or trader - whether a regular market participant or a one-time investor- is free to take advantage of price movements and seek potential profits. Price volatility in shares can arise due to various market forces, including speculative trading, demand supply dynamics, market sentiments and external economic factors. The mere fact that a share has witnessed unusual price movements does not automatically lead to the conclusion that all transactions in that share are sham or that an assessee's trading activities lack genuineness. However, in cases where there is an allegation of share price manipulation, the AO must conduct a detailed investigation to establish whether the assessee was merely an investor availing market opportunities or an active participant in a scheme of manipulation designed to launder unaccounted income. The investigation must go beyond analyzing share price patterns and financial statements of the concerned company and should establish a direct link between the assessee's transactions and an alleged larger scheme of price rigging. If the revenue seeks to treat a transaction bogus, it must be supported by concrete evidence that the purchase or sale of share was a sham. This would require proving that the transaction lacked actual transfer of ownership, that the contract notes, Demat entries were mere paper transactions, or that the corresponding money flow was circular in nature, involving accommodation entries. Additionally, if the sale or purchase is alleged to

be non-genuine, the revenue must demonstrate that the entire money trail, from the purchase to the final realization of sale proceeds, was a facade used to introduce unaccounted income. It is settled principle of law that the primary onus lies on the assessee to substantiate the genuineness of the transaction by furnishing documentary evidence. If the fundamental aspects are satisfied, the burden then shifts to the revenue to bring on record specific material evidence proving that the transactions were merely a colourable device aimed at tax evasion. The mere fact that a share has been subject to price manipulation does not automatically lead to addition under section 68 of the act unless it is conclusively demonstrated that the assessee was part of the scheme, and the transactions were structured to generate artificial gains or losses. In the present case such detailed investigation by AO is absent.

8.15. Considering the discussion hereinabove, the assessee's grounds challenging the addition of Rs.1,07,92,400/- under Section 68 on account of bogus LTCG and penny stock transactions (Grounds 1.1, 3.1, 3.2, and 3.3) are allowed. Accordingly, the addition of Rs.1,07,92,400/- under Section 68 of the Act is deleted."

10. We have carefully considered the rival submissions, perused the material available on record, and examined the judicial precedents relied upon by both sides. It is an undisputed fact that the assessee purchased the shares of FFSL through banking channels, the shares were duly credited to his demat account, and the subsequent sale transactions were carried out through a recognized stock exchange via registered brokers. The corresponding sale proceeds were received through banking channels, and all primary documentary evidences such as contract notes, demat statements, bank statements, and broker ledger accounts were duly furnished by the assessee and have not been disproved or discredited by the Ld. AO. We further note that although SEBI had initially passed interim orders alleging price manipulation in the said scrip, upon completion of a detailed investigation, SEBI categorically held that the assessee was not involved in any

price-rigging activity and revoked the earlier directions insofar as the assessee was concerned. The revenue has failed to bring on record any specific, direct, or cogent material to establish the assessee's involvement in the alleged accommodation entry scheme or to demonstrate a live nexus between the assessee and the so-called entry operators. Mere reliance on general investigation reports, statements of third parties, or abnormal price movement of the scrip, without any direct evidence linking the assessee to manipulation, cannot by itself justify the addition. The Ld. CIT(A) has passed a reasoned and well-considered order after examining the entire factual matrix, documentary evidence, and the outcome of SEBI proceedings. The findings recorded by the Ld. CIT(A) have also been consistently upheld by various coordinate benches of the Tribunal and by the Hon'ble Calcutta High Court in cases involving the very same scrip, wherein it has been held that in the absence of concrete evidence establishing the assessee's participation in price manipulation, the exemption claimed on long-term capital gains cannot be denied merely on suspicion or on the basis of surrounding circumstances. In view of the above facts and circumstances, and respectfully following the binding judicial precedents and order of the coordinate bench in **Manish Devendra Kumar Shah** (supra) we find no infirmity in the order passed by the Ld. CIT(A) in deleting the addition of Rs.2,19,84,437/-. Accordingly, all the grounds raised by the revenue are dismissed.

11. In the result, the appeal of the revenue bearing **ITA No.4339/Mum/2025** is dismissed.

Order pronounced in the open court on 10th day of February 2026.

Sd/-

(MAKARAND VASANT MAHADEOKAR)
ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 10/02/2026
SAUMYASr.PS

Sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
5. गार्डफाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar), ITAT, MUMBAI