

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, AHMEDABAD**

BEFORE: SHRI SANJAY GARG, JUDICIAL MEMBER

AND

SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. Nos. 1030/Ahd/2024 & 1038/Ahd/2024

(निर्धारण वर्ष / Assessment Year : 2013-14)

Parthiv Jawaharbhai Shah A/2, New Sanjay Flats, Panchwati Second Lane, Ambawadi, Ahmedabad, Gujarat- 380006	बनाम/ Vs.	Income Tax Officer Ward 1(3)(1), Ahmedabad
Income Tax Officer Ward 1(3)(1), Ahmedabad	&	Parthiv Jawaharbhai Shah A/2, New Sanjay Flats, Panchwati Second Lane, Ambawadi, Ahmedabad, Gujarat- 380006
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : CYXPS2038F		
(Appellant)	..	(Respondent)

Assessee by :	Shri S. N. Soparkar, Sr. Advocate & Ms. Urvasi Sodhan, A.R.
Revenue by :	Shri Rignesh Das, CIT. DR

Date of Hearing	17/12/2025
Date of Pronouncement	18/02/2026

ORDER

PER ANNAPURNA GUPTA, AM:

The cross appeals filed by the Assessee and Revenue are against the order passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (hereinafter referred to as “NFAC”), Delhi (hereinafter referred to as

“CIT(A)”) dated 19.03.2024 , under Section 250 of the Income Tax Act, 1961 (hereinafter referred to as the “Act”) and relates to Assessment Year (A.Y.) 2013-14.

2. Brief facts relating to the case are that as per information reflected on Insight Portal of the Department, which was uploaded by the DDIT (Inv.), Unit-1(3), Ahmedabad, the assessee was found to have carried out banking transactions amounting to Rs.89,23,60,000/- with an entity, M/s Orange Tradex, which was a dummy entity carrying out no activity other than circulation of funds. Since, as per the AO income had escaped assessment, the case was reopened by issuing notice u/s.148 of the Act on 29.03.2021. In response to the said notice, the assessee filed return on 27.04.2021. Thereafter, assessment was completed adding the entire receipts from M/s. Orange Tradex of Rs.89,23,60,000/- to the income of the assessee treating it as unexplained cash credits u/s.68 of the Act on account of failure of the assessee to demonstrate that it was engaged in real transactions with M/s. Orange Tradex and not mere circulation of funds as per the information in the possession of the AO.

3. Aggrieved by the said order, the assessee filed appeal before the Ld. CIT(A) raising both, legal grounds challenging the validity of the assessment framed, as well as grounds challenging the merits of the addition made. The Ld. CIT(A) rejected the legal grounds raised by the assessee. On merits, he held that the assessee was a mere conduit in the circulation of funds, finding the assessee to have transferred the funds received from M/s

Orange Tradex to another entity i.e. M/s Matrix International, immediately on receipt of the funds. He, accordingly, held that the assessee must have earned commission income for acting as conduit in the circulation of funds and directed the AO to charge commission @2% on the amount received from Orange Tradex amounting to Rs.89,23,60,000/-, as commission income in the hands of the assessee. Accordingly, he deleted the addition made by the AO u/s.68 of the Act of the total transactions purportedly carried out by the assessee with M/s Orange Tradex of Rs.89.23 Crores, however, he directed addition to be made to the tune of 2% of the said amount as commission income earned by the assessee on account of being found to be engaged in providing accommodation entries.

4. Aggrieved by this order of the Ld. CIT(A), both the assessee and the Revenue have come up in appeal before us.

4.1 The assessee in its appeal in ITA No.1030/Ahd/2024 has challenged the order of the Ld. CIT(A) both, on account of rejection of its legal contention as well as its contention on merits of the transaction with M/s. Orange Tradex being proved to be genuine.

4.2 The grounds raised by the assessee are as under:

- “1. *In law and in the facts and circumstances of the appellant's case, the order passed by the learned CIT(A) u/s 250 of the Income-tax Act is ab initio void being bad in law.*
2. *In the facts and in the circumstances of the case, the Assessing Officer-has erred in passing impugned assessment*

order u/s 147 r.w.s 144B of the Act, which is bad in law and void in nature and deserves to be deleted.

3. *In the facts and in the circumstances of the case, the Ld. CIT(A) has erred in not holding that the reassessment notice issued under Section 148 of the Act is invalid notice and consequent reassessment order deserves to be quashed.*
4. *In the basis of facts and circumstances of the case, the Ld. CIT(A) has erred in not holding that the reassessment notice issued by AO is bad in law as the assessing officer has no reasons to believe that income chargeable to tax has escaped assessment.*
5. *In the facts and in the circumstances of the case, the Ld. CIT(A) has erred in not holding that the reassessment notice issued by Assessing Officer is bad in law and based upon borrowed satisfaction hence deserves to be quashed*
6. *In the facts and in the circumstances of the case, the Ld. CIT(A) has erred in not holding that the reassessment notice issued by Assessing Officer is on incorrect fact and deserves to be quashed.*
7. *In law and in the facts and in the circumstances of the case of appellant, the Ld. CIT(A) has erred in sustaining addition of Rs. 1,78,47,200/- being 2% of Rs. 89,23,60,000/- as commission income even when the appellant has already discharged its onus as cast u/s 68 of the Act. The Ld. AO may be directed to delete the entire addition.*
- 7.1 *Without prejudice to the above, the loan received by the appellant amounted to Rs.46,95,30,000/- but the Ld. CIT(A) has sustained the addition on the basis of loan amounting to Rs. 89,23,60,000/-. The Ld. CIT(A) ought to have restricted the addition of alleged commission @ 2% on Rs. 46,95,30,000/- as against Rs. 89,23,60,000/-.*
8. *The appellant craves leave to add, alter or amend and/or withdraw any ground or grounds of appeal either before or during the course of hearing of the appeal."*

4.3 The Revenue in its appeal in ITA No.1038/Ahd/2024 has challenged the order of the Ld. CIT(A) deleting the addition made by the AO u/s.68 of the Act of the amounts received by the

assessee from Orange Tradex of Rs.89.23 Crores. The grounds raised by the Revenue are as under:

- “1. *On the facts and circumstances of the case and in law, the Ld.CIT(A) has erred in directing the Assessing Officer to estimate the commission @2% of Rs. 89,23,60,000/- as commission income in the hands of the appellant.*
2. *"The appellant craves leave to amend or alter any ground or add a new ground, which may be necessary".*
3. *"It is, therefore, prayed that the order of Ld. CIT(A) may be set aside and that of the Assessing Officer be restored".*

5. We shall first deal with the assessee's appeal on **ITA No.1030/Ahd/2024.**

6. Taking up first the legal ground raised in ground nos. 1 to 6 of the assessee's appeal, the arguments made by the Ld.Counsel for the assessee challenged the reopening in the present case on account of following:

- i. the reopening was based on borrowed satisfaction
- ii. the objections of the assessee to the reopening were not disposed of by the AO.

7. Several case laws were referred for the proposition that the assessment framed would be invalid where reopening was based on borrowed satisfaction /objections to the reopening were not disposed of by the AO. The same shall be dealt with in the later part of our order.

8. Both the parties were heard on the legal challenge raised by the assessee and the orders of the authorities below perused.

9. For dealing with the legal contention of the assessee, it is necessary to reproduce the reasons for reopening the case of the assessee, the copy of which was filed before us at paper book page nos.28 and 29, and which reads as under:

“1. Brief details of the assessee: in this case, the assessee has filed original return of income for the A.Y. 2013-14 on 30.09.2013 declaring total income of Rs.7,35,142)

2. Brief details of information collected/ received by the AO: In this case, information was reflected on Insight Portal which has been uploaded by DDIT (Inv.), Unit-193), ahmedabad. As per Information uploaded, debit and credit transactions amounting to Rs. 89,23,60,000/- have been carried out by the assessee as per the details of transactions ascertained from the bank account of Orange Tradex Pvt. Ltd.

As per information uploaded it is stated that that bank accounts of Mis Orange Tradex had been utilized for circulation of fund and no actual business activity has been carried out in these concerns. In the same way, other transactions in the bank accounts of these concerns also appears to be rotation of funds only. It seems that no actual business activity has been carried out in these concerns. Further, it has also been stated in the information uploaded that the concern viz. Orange Tradex Pvt Lid is merely paper concerns.

3. Basis of forming reasons to believe and details of escapement of income:

On perusal of the details furnished and the information uploaded by the DDIT (Inv.), Unit-1(3), Ahmedabad, a is very clear that the as per the bank details of Orange Tradex Pvt. Ltd., transactions of Rs.80,23,00,000/- in the name of the above named assessee have been carried out. In view of the above facts, I have reason to believe that the income of Rs.80.23.60.000/- has escaped assessment within the meaning of Section 147 of the Act therefore, it is a fit case for reopening of the assessment by invoking the provision of sec. 147 of the IT. Act. Accordingly, it is a fit case for issuing notice u/s 148 of the LT. Ad

4. Applicability of the provisions of section 147/151 to the facts of the case:

After analyzing the above information provided by Investigation Wing the data made available in the ITS details of the assessee prima facie, I have reason to conclude that the assessen had failed to disclose fully and truly all the particulars of his income. While

forwarding the above information, Investigation Wing had also provided the relevant portion of Investigation in this case and banking transactions made by the assessee during the year under consideration as per the bank details/account ascertained in the case of Orange Tradex Pvt. Ltd.

In view of the above. I have reason to believe that income chargeable to tax has escaped assessment within the meaning of section 147 of the I.T. Act for A.Y. 2013-14 by an amount of more than Rs. 1 lakh and I am satisfied that this is a fit case for re-opening the assessment for A.Y. 2013-14

In this case, more than four years have lapsed from the end of the assessment year under consideration. Hence, necessary sanction to issue notice u/s. 148 of the Act is being obtained from Pr. Commissioner of Income Tax-1, Ahmedabad as per the provisions of Section 151 of the Act.”

10. As is evident from the above, the AO formed belief of escapement of income of the assessee on the basis of details and information furnished by the DDIT (Inv.), Unit-1(3), Ahmedabad to the effect that the bank accounts of Orange Tradex had been used for circulation of funds and no actual business activity had been carried out in this concern and there was transactions to the tune of Rs.89,23,60,000/- in the name of the assessee from this entity i.e. Orange Tradex. In the reasons, the AO also notes that while forwarding the information regarding Orange Tradex, the Investigation Wing had provided the relevant portion of investigation in this case and the banking transactions made by the assessee during the year under consideration as per bank account details/account ascertained in the case of the Orange Tradex. In sum and substance, the reasons for escapement of income of the assessee were recorded by the AO on the basis of information provided by the Investigation Wing to the AO that the assessee had entered into bogus transactions with Orange Tradex to the tune of Rs.89.23 Crores. The orders of the

authorities below reveal that the copy of reasons as aforesaid was supplied to the assessee and all information forwarded by the Investigation Wing to the AO based on which reasons were recorded by the AO was also provided to the assessee during the re-assessment proceedings. This fact is noted at para 4 of the assessment order as under:

“4. Further in the said reply stated to pass speaking order dealing the objection raised by the assessee. Accordingly all documents available i.e. Approval U/s. 151, Inspectors report, Statement of Chandresh C Vyas and Letter from DDIT(Inv), Unit-1(3), Ahmedabad, have been forwarded to the assessee vide letter dated 11.03.2022 wherein the objections raised by the assessee have also been disposed off as well in a speaking order and requested to furnish information called for and posted the cases for hearing on 15.03.2022. The assessee has filed reply and sought further adjournment for 7 working days without furnishing any information. Later on, on 16.03.2022, the assessee has filed details enclosing the bank statements, ledger copies of Orange Tradex Pvt Ltd and also the details from whom the unsecured loans were obtained during the year.”

And the said fact has been admitted by the assessee in his submissions filed to the Ld. CIT(A) at page 6 of the CIT(A)'s order at point no.7, which is a tabulation of the assessment proceedings, as under:

<i>Sr. No.</i>	<i>Section under which notice was issued</i>	<i>Issue date</i>	<i>Response date by Assessee</i>	<i>Remarks</i>
7.	Issue letter	11.03.2022	16.03.2022	AO had enclosed further documents as evidence for reopening the case as asked for by the appellant, also requesting the appellant to file balance information as called for in the earlier notices which were duly submitted by the

				<i>appellant in response to the same. The appellant had clearly stated therein of no unsecured loan being taken from Orange tradex Pvt Ltd. (Copy of such response submitted on 16.03.2022 is at paperbook page no. 71-72)"</i>
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11. Therefore, the entire information available with the AO which was received from the Investigation Wing of the Department, leading to the formation of his belief of the transaction entered into by the assessee with Orange Tradex being accommodation entries and not real transactions, were all made available to the assessee during assessment proceedings itself.

12. In the backdrop of the above facts, we shall proceed to deal with the legal contentions raised by the Ld. Counsel for the assessee before us. The first contention is that the satisfaction of the AO was a borrowed satisfaction and the AO had not applied his mind to the information provided to him. To support his contention, he has pointed out from the reasons that there is no description of the nature of transaction therein. Also he contended that the quantum of transaction of Rs.89.23 Crores mentioned in the reasons was incorrect being only to the tune of Rs.46.95 crs. which fact was demonstrated to the AO and the Ld.CIT(A) by filing copies of ledger account of M/s Orange Tradex and also bank account of the assessee reflecting transactions with the said entity. He contended that based on these facts, it is evident that the AO had merely relied on the

report of investigation made available to him and had not verified the facts in relation to the assessee, which would have revealed both the nature of the transaction as also the correct quantum of transaction entered into by the assessee with M/s Orange Tradex.

13. We are not in agreement with the contention of the Ld. Counsel for the assessee as above. The reason being that the assessee had been provided all information relating to its alleged transaction with Orange Tradex gathered by the Investigation Wing of the Department, but despite so the allegation of borrowed satisfaction of the AO or for that matter non application of mind by the AO, is only a general allegation levelled by the assessee without any specific reference to the material and information made available to him. The assessee had all material with him regarding its transaction with Orange Tradex dug out by the Investigation Wing of the Department. The assessee therefore was aware of the specifics of the information relating to its transaction with Orange Tradex and why it was considered to be not real by the Revenue authorities, i.e both the Investigation Wing and the AO. That being so the assessee ought to have referred to the information made available to it while alleging that the AO had no knowledge of the nature of transaction or for that matter the quantum of transaction of the assessee with Orange Tradex, so as to attribute non application of mind/borrowed satisfaction of the AO of escapement of income of the assessee. The assessee's case merely rests on the contents of the reason recorded and no reference has been made of the material found by the Investigation wing, which admittedly, was

made available to the assessee. We, therefore, find no merit in the contention of the Ld.Counsel for the assessee that the reasons recorded for reopening the case of the assessee were based on borrowed satisfaction and were without any application of mind by the AO, and accordingly reject the same.

14. The other contention raised by the Ld. Counsel for the assessee before us was that the AO had not disposed of the objections raised by the assessee to the reopening of the case. In this regard, he pointed out that the assessee had objected to the reopening vide letter dated 25.02.2022 and the AO had not disposed of the assessee's objection to the same. Ld. DR, however, has contended that this contention was raised by the assessee before the AO who had categorically pointed out that the assessee's objections had been dismissed by him by passing a speaking order. He drew our attention to para 8 of the assessment order as under:

"8. The assessee vide his reply dated: 26.03.2022 objected to the proposal of addition and the same are dealt as under:

a. The assessee has stated that the, objection raised by them for issue of notice U/s. 148 were not disposed off. The same is not accepted to the fact that the objections raised by the assessee were duly disposed off and the same were communicated and as well as stted in the show cause issued. However as the assessee has again brought the same issue on record, the detailed letter wherein the objections were disposed off vide dated 11/02/20222 and 11/03/2022 are duly incorporated below:

"The assessee was issued with notice U/s. 148 on 29.03.2021 requesting to file return of income. This notice was issued as assessment has escaped income. Notice U/s. 148 would be issued to any assessee for the reasons that income has escaped assessment which needs to be brought to tax if any after giving sufficient opportunity to the assessee concerned. The relevant portion of section 148 is reproduced herewith "Before

making the assessment, reassessment or recomputation under section 147, the Assessing Officer shall serve on the assessee a notice requiring him to furnish within such period, as may be specified in the notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139" The assessee has furnished its return of income for the assessment year 2013-14 on 27.04.2021 in response to notice issued u/s 148. In continuation to the proceedings 143(2) was issued to the assessee on 13.01.2022 along with the reason duly enclosed for which the case has been reopened and notice U/s. 142(1) was issued on 20.01.2022. In spite of the reason duly available in the 143(2) notice, the assessee vide its reply has sought reasons for reopening. The same were duly furnished to the assessee vide notices issued U/s. 142(1) dated 31.01.2022 and further information has been called for, based on the reasons furnished. However the assessee failed to furnish the information and rather requested to quash the proceedings as proper procedures were not followed. There is no doubt that Notice U/s. 148 was issued well in time. By the reply of the assessee by filing the return it has acknowledged the issue of notice in time. As and when the assessee has requested for reasons, the same were also been furnished to the assessee as per its request. Hence, it is very clear that all the procedures have duly been followed and there is no reason for the proceedings to be quashed as requested by the assessee.

Vide dated 11/03/2022 is as under

"In continuation to the pending scrutiny proceedings in your case for the AY 2013-14, you have filed a reply dated 25/02/2022. As per the reply certain objections were raised against the notice issued u/s 148 dated 29/03/2021. And also as well as the notice supplying the reasons dated 13/01/2022. The reply dated 25/02/2022 have been carefully gone through and the assessee has raised objection to the reopening of the case and further requested certain documents to be furnished. In view of the above it is submitted that a notice u/s 143(2) was issued on 13/01/2022 along with the reasons duly enclosed for which the case have been reopened. Further, notice u/s 142(1) was issued on 20/01/2022 calling for information. However, the assessee vide its letter dated 21/01/2022 which was received on 24/01/2022 has requested to provide the reasons for reopening. Accordingly, on 31/01/2022 the reasons for which the reopening were duly provided to the assessee wherein it was also clearly stated in para 4 that necessary sanction to issue notice u/s 148

is obtained from the Pr. Commissioner of Income Tax -1, Ahmedabad as per the provision of section 151 of the IT Act. Then on 03/02/2022 the assessee has raised objection and stated that the entire process of reopening and issue of Notice U/s. 148 is liable to be quashed wherein he has challenged the issue of notice u/s 143(2) and the issue of notice us 142(1). On 11/02/2022 a speaking order has been passed rebutting the objection of the assessee on the issue of reopening and issue of notice U/s. 148 and also the issue of notice u/s 143(2) and 142(1). Further, the reasons have been duly provided to the assessee well in hand. It was stated in the reply that all procedures have been duly followed and there is no reasons for the proceedings to be quashed as requested by the assessee thereby it was also requested to furnish the information called for vide notice u/s 142(1) dated 20/01/2022. As there was no reply to the notice issued another notice was issued on 16/02/2022 calling for information. The assessee vide its latter dated 25/02/2022 raised further objections. With regard to the same it is herewith submitted that as the objections were duly disposed off vide dated 11/02/2022, the assessee is now requested to furnish the information called for without any further delay. In his reply the assessee has called for certain documents, whatever documents were asked for in the form of reasons etc were duly provided to the assessee which are the basis for reopening the case. However, further more documents were requested and the same are enclosed to this letter. Further, in his reply the assessee relied on Garden Finance Ltd. Vs ACIT (268 ITR pp.92). The said case cannot be treated as ratio, applicable to the facts in the assessee's case, as objections raised have already been duly disposed off. "

As can be seen from the above the objections are duly disposed off and the contention of the assessee on the said issue is not tenable."

15. Referring to the same, he pointed out that the AO had categorically noted the assessee's objection being disposed off vide letter of the AO dated 11th February, 2022 and 11th March, 2022.

16. To this, the Ld. Counsel for the assessee pointed out that the assessee had received copy of reasons only on 31st January, 2022 to which the assessee had responded by stating that it had been given only four days' time to comply with the notice issued

u/s.142(1) of the Act, which was contrary to the directions of the Hon'ble High Court stating that 60 days' time be given to the assessee to respond to the reasons recorded. He further contended that thereafter in response to the notices issued u/s.142(1) of the Act, the assessee sought further time to file its objection to the reasons, which were finally submitted vide letter dated 25th February, 2022 and the AO had not dealt with the objections raised by the assessee therein.

17. Having heard both the parties, the facts on record reveal that the reasons for reopening the case of the assessee, as also all material with the AO passed on to it by the Investigation Wing of the Department and based on which reasons for reopening were recorded, were handed over to the assessee on 11-03-2022 and thereafter the assessee filed objections to the reopening vide its letter dated 25th February, 2022 which were not disposed off by the AO by way of speaking order. However, we have gone through the objections raised by the assessee, copy of which was placed before us at paper book page nos. 115 to 135. To summarise the objections of the assessee, the same were to the effect that:

- i. The reasons lack validity since they did not specify the nature of transaction nor quantify correctly amount of transactions entered into by the assessee with Orange Tradex.
- ii. There was no reason to believe that income had escaped assessment and the AO had merely relied on the information received from the DDIT (Inv.).
- iii. Reopening was based on borrowed satisfaction.

18. All the objections of the assessee to the reopening of its case are the same which have been raised before us against the validity of assessment framed in the present case u/s 147 of the Act. The same have been dealt with by us above and rejected finding them to be general objections, with no reference to the specific information collected by the Investigation Wing and supplied to the assessee.

19. As noted above the assessee was not only provided copy of the reasons recorded, but also, the information collected by the Investigation Wing of the department revealing the transaction of the assessee with Orange Tradex to be bogus. The assessee's objections to the reopening, therefore, ought to have been specific, referring to all information available when objecting to the reopening. Merely referring to the reasons recorded for reopening stating them to be vague for not mentioning the nature or quantum of transaction of the assessee with orange Tradex, would not suffice, until this fact was pointed out from the information supplied to the assessee alongwith the reasons. All objections of the assessee, are clearly with reference to only the reason recorded and there is no reference to the material available alongwith the reasons. These general objections of the assessee, typically do not qualify as objections at all. And therefore the act of the AO in not disposing off the same, we hold, does not effect the validity of the assessment framed u/s 147 of the Act in the present case. The argument of the Ld.Counsel regarding non disposal by AO of the objection of the assessee to the reopening

of the case, invalidating the assessment framed, is therefore rejected.

20. All the case laws relied upon by the Ld. Counsel for the assessee are also of no assistance to the assessee, since, they have not been demonstrated to have been rendered in identical facts and circumstances as in the case of the assessee before us and hence are all distinguishable on facts.

21. The legal grounds raised by the assessee in Ground Nos. 1 to 6 are therefore dismissed as above.

22. We shall now take up the grounds raised on the merits of the addition made. While dealing with the merits of the addition, we are dealing both with the Revenue's appeal and the assessee's appeal together, since, the issue is common and interrelated. As noted in the facts of the case, the AO had held the assessee to have received bogus credits from Orange Tradex amounting to Rs.89.23 Crores and taxed the same as unexplained credits u/s.68 of the Act, and the Ld. CIT(A), though had found the said transactions to be bogus however finding all the amounts received by the assessee from M/s Orange Tradex to have been transferred on the same date itself to another entity i.e. M/s Matrix International he held the assessee to be only a conduit in providing accommodation entries and, therefore liable to be taxed only to the extent of commission earned on providing alleged accommodation entries. Accordingly, he directed the AO to treat 2% of the transactions with Orange Tradex of Rs.89.23 Crores to

be the quantum of commission earned by the assessee and be taxed as such in the hands of the assessee.

23. The grievance of the assessee is that all its transactions were genuine and, therefore, the Ld. CIT(A) had erred in treating the assessee as an accommodation entry provider. The Revenue, on the other hand, has contended that the Ld. CIT(A) erred in treating the assessee as a mere conduit in providing accommodation entry and on the contrary the entire receipts from Orange Tradex ought to have been taxed in the hands of the assessee as unexplained credits u/s.68 of the Act ,as done by the AO.

24. Having heard both the parties, the issue before us is whether the amounts received by the assessee from Orange Tradex ought to be treated as its unexplained credits u/s.68 of the Act, as done by the AO or be deleted in entirety for having proved the genuineness of the transaction, as contended by the Ld.Counsel for the assessee or the assessee be treated as only an accommodation entry provider in relation to the amounts received from Orange Tradex and commission income earned thereon only be taxed, as held by the Ld.CIT(A). The findings of the Ld.CIT(A) therefore, which have been assailed before us are:

- That the transaction of the assessee with M/s Orange Tradex during the year is bogus. (assailed by the assessee)
- That the quantum of the transaction is Rs.89.23 Crs. (assailed by the assessee)

- That the assessee is only an accommodation entry provider and not the real beneficiary of the bogus transaction. (assailed both by assessee and Revenue)

25. First, dealing with the findings of the Ld. CIT(A) that the transactions entered into by the assessee with Orange Tradex was a bogus transaction, we find that in discharge of its onus to prove the genuineness of the transaction, the assessee had merely filed documentary evidence i.e. its own bank account or the financials of Orange Tradex etc. The adverse information available with the AO from the Investigation Wing of the Department pertaining to transactions undertaken by the Orange Tradex and Orange Tradex being only a shell entity, have not at any point of time been controverted by the assessee either before the AO, CIT(A) or even before us despite the fact that the incriminating information relating to Orange Tradex was supplied by the AO to the assessee and was therefore very much available with the assessee. In fact, we find, the assessee has made no attempt to bring out the said information available with the Department. It is clear, therefore, that the assessee has made no attempt to controvert whatever adverse information was available regarding the transaction with Orange Tradex being bogus. Without controverting the adverse information against it, the assessee, we hold, cannot claim to have discharged its onus of proving the genuineness of the transactions by filing basic documentary evidences of confirmation, etc. In the light of the same, we hold that the assessee has no case for canvassing and contending before us that the assessee's transactions with Orange Tradex were shown to be genuine.

26. Having held so, we come to the next step of adjudication before us as to whether this bogus transaction entered into by the assessee ought to be treated as unexplained credit in the hands of the assessee itself or only commission income earned on the same. The Ld. CIT(A)'s order reveals that from the details furnished by the assessee during appellate proceedings, he noted that the assessee to have transferred all receipts from the Orange Tradex, immediately to another entity i.e. M/s Matrix International. On the basis of this information, he held that the assessee was only a conduit in the bogus transactions, transferring funds received from Orange Tradex to another entity and therefore, it was only an accommodation entry provider and not real beneficiary of the amounts received from Orange Tradex. On the basis of these facts he held that only commission income be taxed in the hands of the assessee. Ld. DR before us has not controverted the fact noted by the Ld. CIT(A) that the fund received from Orange Tradex was immediately transferred to another entity by the assessee. In the light of the same, we see no reason to disagree with the Ld.CIT(A) that since the assessee clearly was not a beneficiary of the bogus transaction but only a conduit in the transfer of funds, the receipts from Orange Tradex could not be taxed in entirety in the hands of the assessee u/s. 68 of the Act. The order of the Ld. CIT(A) holding that the assessee, therefore, needed to be taxed only on account of commission income received by it, is held to be correct.

27. Coming to the third aspect relating to this issue, the assessee contended that the quantum of transactions carried out

by the assessee with Orange Tradex was not to the tune of Rs.89.23 Crores but only to the tune of Rs.46.95 Crores. That, therefore, even if any addition on account of commission income earned needed to be made it should be restricted to this quantum of transaction only. This fact has been, we have noted, pleaded by the assessee both before the AO and before the Ld. CIT(A). Ledger account of Orange Tradex in its books of account reflecting the fact of the assessee having received amount of only Rs.46.95 Crores and not Rs.89.23 Crores, as noted by the AO were filed. Even bank statement of Orange Tradex was filed by the assessee to the authorities below. However, we note that none of the authorities below have made any attempt to verify this fact. At the same time, we have also noted from the reasons recorded by the AO that the copy of the bank statement of Orange Tradex revealed the assessee to have entered into the transactions to the tune of Rs.89.23 Crores with Orange Tradex. Copy of this bank account was in the possession of the AO and he had forwarded this copy to the assessee also. The assessee, we find, has made no attempt to point out that even as per the copy of bank statement of Orange Tradex in the possession of AO, the transaction of Orange Tradex with the assessee was only to the tune of Rs.46.95 Crores and not Rs.89.23 Crores as noted by the AO. In the light of the same, the fact relating to the quantum of transaction of the assessee with Orange Tradex has remained unverified and for this limited purpose, we consider it fit to restore the issue to the AO with the direction to verify the quantum of transaction of the assessee with Orange Tradex during the year and, thereafter, compute commission income earned by the assessee by applying

the rate of 2% on the quantum of the said transaction, as directed by the Ld. CIT(A).

28. In view of the above, the grounds raised by the assessee with respect to the findings of the Ld. CIT(A) holding the assessee to have earned commission income are rejected whereas the grounds raised with respect to the computation of commission income is allowed for statistical purposes. The ground raised by the Revenue in its appeal challenging the order of the Ld. CIT(A) deleting the addition made by the AO u/s.68 of the Act of Rs.89,23,60,000/- is dismissed.

29. In the combined result, the appeal of the assessee is partly allowed for statistical purposes while Revenue's appeal is dismissed.

This Order pronounced on 18/02/2026

Sd/-
(SANJAY GARG)
JUDICIAL MEMBER
Ahmedabad; Dated 18/02/2026

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

S. K. SINHA

True Copy

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad