

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ "बी", अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, AHMEDABAD

श्री संजय गर्ग, न्यायिक सदस्य एवं
श्री मकरंद वसंत महादेवकर, लेखा सदस्य के समक्ष।
Before Shri Sanjay Garg, Judicial Member And
Shri Makarand V. Mahadeokar, Accountant Member

आयकर अपील सं/ITA No.174/Ahd/2021
निर्धारण वर्ष /Assessment Year : 2015-16

Pramod Ramavatar Poddar 203, Pinnacle Business Prk Corporate Road Prahladnagar Ahmedabad - 380 015	<u>बनाम/</u> <u>v/s.</u>	The Pr. CIT, Central Circle Ahmedabad - 380 009
स्थायी लेखा सं./PAN: ABRPP 6193 R		
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
Assessee by :	Shri Mehul K. Patel, Advocate	
Revenue by :	Shri R.P. Rastogi, CIT-DR	

सुनवाई की तारीख/Date of Hearing : 19/11/2025
घोषणा की तारीख /Date of Pronouncement: 17/02/2026

आदेश/ORDER

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the Assessee against the order of the Learned Pr.Commissioner of Income Tax (Central), Ahmedabad [hereinafter referred to as 'Pr.CIT'] dated 30/03/2021 passed in exercise of his revision jurisdiction under Section 263 of the Income-Tax Act, 1961 [hereinafter referred to as "the Act" for short] for Assessment Year (AY) 2015-16.

2. The appeal is time barred by 31 days. Considering the submissions of the Ld. AR and shortness of the delay, the delay in filing the present appeal is hereby condoned.

3. The brief facts of the case are that in this case the assessee had filed return of income for AY 2015-16 on 21.11.2015 declaring total Income of Rs.4,12,890/. The case was selected for scrutiny assessment under CASS and notice u/s 143(2) of the Act was issued on 29.07.2016. Subsequently, assessment was completed u/s 143(3) of the Act, 1961 on 20.11.2017, wherein, Long Term Capital Gain of Rs. 1,28,49,116/- was treated as non-genuine and bogus and the amount so credited in the books of account of assessee was treated as income as per provisions of section 68 of the Act and the same was added to the total income of the assessee.

4. Thereafter, on perusal of the records, the Ld. PCIT noted that the assessee had sold 152602 shares of Surabhi Chemicals & Investment Limited at a sale consideration of Rs.1,49,33,250/-. That the assessing officer (in short, "The AO") had made addition of Rs.1,28,49,116/- after deducting Rs.20,84,134/- as purchase cost, which was irregular as per the provision of section 115BBE(2) of the Act. He observed that since the entire transactions of purchase and sale of these shares was held by the AO as bogus and added u/s 68 of the Act in the assessment order, no deductions for purchase cost was allowable u/s 115BBE(2) of the Act. He further observed that, in this case, the purchase of shares was in physical mode and no proof of actual delivery of shares at the time of purchase has been furnished by the assessee during the assessment proceedings. He, therefore, initiated the revision proceedings u/s 263 of the Act and ultimately held that the order passed by the Assessing Officer u/s

143(3) of the Act, on 20.11.2017 was erroneous and prejudicial to the interest of revenue. He, in exercise of his powers conferred u/s.263 of the Act, set aside the order of the Assessing Officer to that extent and directed him to disallow deduction claimed as purchase cost for an amount of Rs. 20,84,134/- u/s 115BBE(2) of the Act after providing proper opportunity of being heard to the assessee. So far as the contention of the assessee that the issue relating to claim of bogus LTCG was pending before this Tribunal, the Ld. CIT(A) observed that the order under revision was on account of disallowance of cost u/s 115BBE(2), whereas the order under appeal before the ITAT was relating to the validity of the quantum additions made by the AO on account of claim of bogus LTCG. He, therefore, held that the issues were different, even though interlinked.

5. Before us, the Ld. Counsel for the assessee has furnished a copy of the order of the Tribunal dated 18/02/2022 passed in ITA No.2246/Ahd/2018 for AY 2015-16, whereby, the Tribunal has set aside the order of the Ld. CIT(A) passed in quantum proceedings relating to the addition made by the AO on account of bogus LTCG and the Tribunal has further remitted the matter back to the file of the Ld. CIT(A) for disposing the appeal of the assessee afresh on merits.

6. The Ld. Counsel for the assessee has submitted that the matter relating to the genuineness of the claim of LTCG since has already been restored by the ITAT to the file of the Ld. CIT(A) and since the issue relating to the addition of cost price of shares is also interlinked and any finding given by the Ld. CIT(A) on the issue of genuineness of the LTCG will have bearing on

the issue of addition of purchase cost of the shares, therefore, both the issues are required to be decided together.

7. We find merit in the aforesaid contention of the Ld. Counsel for the assessee. It will be in the interests of justice that both the above issues, since are interlinked and finding on one issue will have bearing on the finding on the other issue, therefore, to avoid hardship to the assessee and to avoid multiplicity of litigation, should be decided collectively. The order of the Ld. PCIT is accordingly modified and it is directed that both the issues will be decided by the Ld. CIT(A) in the quantum appeal as restored by this Tribunal vide order dated 18/02/2022 to the file of the Ld. CIT(A). The Ld. CIT(A), if so require, may also call upon the remand report from the AO on any of the issues before him.

8. This order is passed in the peculiar facts and circumstances of the case and will not hold any binding precedent in future.

9. In the result, the appeal of the assessee is disposed of as directed above.

**Order is pronounced under provision of Rule 34 of ITAT Rules, 1963
on 17/02/2026.**

**Sd/-
(Makarand V. Mahadeokar)
Accountant Member**

**Sd/-
(Sanjay Garg)
Judicial Member**

दिनांक/Dated 17/02/2026

टी. सी. नायर, व. नि. स. / T.C. NAIR, Sr. PS

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

1. ँपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंघित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (ंपील) / The CIT(A)- (NFAC), Delhi
5. विभागीय प्रतिनिधि, आयकर ँपीलीय ँधिकरण ,ंहमदाबाद /DR, ITAT, Ahmedabad.
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार (Asstt. Registrar)
आयकर ँपीलीय ँधिकरण, ITAT, Ahmedabad