

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

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER
AND
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

**ITA No. 1964/AHD/2025
Assessment Years: 2012-13**

Income Tax officer, Ward – 3(3)(1), Ahmedabad - 380015	Vs.	Dhara Varun Shah, 10, Palm Beach Bunglow, Thaltej Hebatpur Road, Thaltej, Ahmedabad, Gujarat - 380059 [PAN – CAMPS2278E]
(Appellant)		(Respondent)
Assessee by	None	
Revenue by	Shri Yogesh Mishra, SR-DR	
Date of Hearing	18.02.2026	
Date of Pronouncement	25.02.2026	

ORDER

PER NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER:

This appeal is filed by the Revenue against the order of National Faceless Appeal Centre(NFAC), Delhi [hereinafter referred to as 'CIT(A)'], dated 07.08.2025 for the Assessment Year (AY) 2012-13 in the proceedings u/s 143(3) r.w.s. 147 of the Income Tax Act.

2. The brief facts of the case are that the assessee had filed her return of income for AY 2012-13 on 29.09.2012 declaring total income of Rs.19,50,270/-. The case of the assessee was reopened on the basis of information that she had obtained bogus long term capital loss/bogus business loss through manipulation of stock price on the stock exchange

in the scrip of M/s NYSSA Corporation Ltd. In the course of assessment, no compliance was made by the assessee. Therefore, the entire transaction of Rs. 56,46,700/- in the scrip of NYSSA Corporation Ltd. was treated as sham transaction by the AO and added to income. The assessment was completed u/s. 143(3) r.w.s. 147 of the Act on 19.12.2019 at total income of Rs. 75,96,970/-.

3. Aggrieved with the order of the AO the assessee had filed an appeal before the First Appellate Authority, which was decided by the Ld. CIT(A) vide the impugned order and the appeal of the assessee was allowed. Now the Revenue is in appeal before us. The following grounds have been taken in this appeal:

1. *"The Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs. 56,46,700/- made by the Assessing Officer, by holding that the transactions in the scrip of NYSSA Corporation Ltd. were genuine, without appreciating that the said scrip was confirmed by SEBI and the investigation Wing, Mumbai, as manipulated and used for providing accommodation entries for bogus long-term capital gains (LTCG), short-term capital losses(STCL), and business losses.*
2. *The appellant craves leave to add, alter and/or to amend all or any of the ground before the final hearing of the appeal.*

4. When the matter fixed for hearing on 27.01.2026 no one appeared on behalf of the assessee. In fact, the notice sent to the assessee was also returned unserved by the postal department. Therefore, a direction was given to get the notice served through the Ld. DR. The matter was next fixed for hearing on 18.12.2026 when an adjournment application was filed by the assessee and the matter was adjourned to 18.02.2026. However, there was no compliance once again on 18.02.2026 and neither any adjournment application was filed by the assessee.

5. Shri Yogesh Mishra, the Ld. SR-DR submitted that the assessee did not make any compliance before the AO and no evidence in support of the trading done in the penny scrip of NYSSA Corporation Ltd. was brought on record. The copy of contract notices, demat account, bank statement etc. were not filed. In the absence of any compliance the AO had rightly treated the entire transaction in the scrip of NYSSA Corporation Ltd. as bogus, considering the information as received from the Investigation Wing. The Ld. Sr. DR explained that in the course of search and seizure operation carried out at entry-operators on 19.03.2019, the entry operators had admitted that they had manipulated the price of scrip of NYSSA Corporation Ltd. and provided accommodation entry to the beneficiaries. The Ld. SR-DR submitted that the Ld. CIT(A) had admitted additional evidences and allowed relief to the assessee without allowing any opportunity to the Assessing Officer. Further the evidences filed before the Ld. CIT(A) could not have established that the transaction of the assessee was genuine. He, therefore, strongly supported the order of the AO.

6. As already mentioned earlier, none was present on behalf of the assessee.

7. We have carefully gone through the materials available on record and considered the submissions of the Revenue. Though the assessment order was passed u/s. 143(3) r.w.s. 147 of the Act, it is evident from the perusal of the order that no compliance was made by the assessee before the AO. The AO had issued a notice u/s. 142(1) of the Act on 10.10.2019 which was not complied. Thereafter, a show-cause notice dated

07.11.2019 was issued but once again there was no compliance. It is thus found that no evidence was brought on record before the AO to establish the genuineness of the credit entries appearing in the form of transaction in the scrip of NYSSA Corporation Ltd. The CIT(A) had allowed relief to the assessee by giving the following finding:

5.2 *In this ground, the assessee contested the addition made by the AO on account of unexplained transactions/sham transactions to the tune of Rs 56,46,700/- (entire transaction in the scrip of 'NYSSA Corporation Ltd. The AO vaguely relied upon the material forwarded by the Investigation Wing and held that during the course of search and seizure proceedings, the statement was recorded from the brokers, operators, director of paper companies that had bought these shares, directors of Penny stock companies, all confessed of providing entries of bogus long term capital gain, bogus short term capital loss and bogus business losses through manipulation of stock price on the stock exchange with detailed modus operandi. On the basis of these statements of concerned brokers, operators, director of paper companies, the AO came to a conclusion that the transactions to the tune of Rs 56,46,700/- (entire transaction in the scrip of 'NYSSA Corporation Ltd made by the assessee were not genuine.*

During the course of the appellate proceedings the assessee submitted certain evidences such as confirmations ITR copies, calculation of income, demat account details and bank statements authenticating the genuineness of the transactions.

5.2.1 *The assessee was dealing with stock broker ASE Limited and filed sample copies of purchase and sale bills of NYSSA Corporation. The transactions are clearly reflected in broker's ledger and assessee's bank statements. Moreover, appreciation in the value of scrip is only about 100% of the purchase value but not any astronomical increase. Therefore, in the given facts and circumstances, appreciation in the value of the scrip is reasonable and convincing. The assessee also discharged her onus in proving the genuineness of the transactions by filing the all relevant details in the assessment order, the AO stated that there were confessional statement from brokers/ exit providers but did not brought any specific adverse material mentioning in such statements given by the entry/ exit operators about the assessee. The A.O also did not mention any specific moratorium order given by the SEBI with respect to the scrip dealt by the assessee. Thus the A.O failed to establish the non-genuineness of the transactions, As such, the addition made by the A.O is not backed by any specific material, therefore the same is not warranted, hence deleted. Hence, the assessee's appeal is allowed.*

8. It is thus found that certain additional evidences in the form of confirmation, ITR copies, demat accounts details, bank statements, etc. were filed before the Ld. CIT(A), on the basis of which he had held that the transaction done by the assessee in the scrip of NYSSA Corporation Ltd. was genuine. However, these documents were not forwarded to the AO for obtaining a remand report. Neither any finding was given by the Ld. CIT(A) that the purchase and sale transactions in the shares of NYSSA Corporation Ltd. were routed through the demat account. It is also not evident whether the assessee was a regular trader in the shares or whether the transactions in the shares of NYSSA Corporation Ltd. was one-off transaction. Further, whether the purchase of scrips of NYSSA Corporation Ltd. was made through stock-exchange or by way of off-market transaction, has also not been looked into. These were vital aspects to be considered while adjudicating upon the genuineness of the share transactions. Since these issues have not been examined by the Ld. CIT(A), his decision to held the transactions as genuine cannot be upheld. In the interest of justice, therefore, we deem it proper to set aside the matter to the file of Jurisdictional AO with a direction to allow another opportunity to the assessee to explain the transactions made in the scrip of NYSSA Corporation Ltd. The assessee is free to file the additional evidences brought on record before the Ld. CIT(A) or any other evidence, to establish the genuineness of the transactions in the scrip of NYSSA Corporation Ltd, before the AO. The assessee is also directed to comply to any other query/requirement of the AO in this respect.

9. In the result, the appeal of the Revenue is allowed for statistical purpose.

Order pronounced in the Court on 25/02/2026 at Ahmedabad.

Sd/-
(SIDDHARTHA NAUTIYAL)
Judicial Member

Sd/-
(NARENDRA PRASAD SINHA)
Accountant Member

Dated – 25th February, 2026

Neelesh Kumar

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 / DR, ITAT,
6. गार्ड फाईल / Guard file.

आदेशानुसार/BY ORDER,

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