

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

**BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

ITA No.1697/Mum/2024 (Assessment year: 2013-14)

ITA No.1706/Mum/2024 (Assessment year: 2014-15)

Shree Rajlaxmi Infrastructures P. Ltd. Apsara Cinema Building, Dr. D.B. Marg Mumbai, Grant Road, S.O. Mumbai-400007 PAN:AAKCS7700E	vs	ACIT Central Circle 1(4), Mumbai Room No.902, 9 th Floor, Pratishta Bhawan, Old CGO Annexe, M.K. Road, Mumbai-400020
APPELLANT		RESPONDENT

Assessee by : Ms. Asifa Khan & Shri Rajkumar Singh
Respondent by : Shri Arun Kanti Datta - (CIT DR)

Date of hearing : 24/03/2026
Date of pronouncement : 07/04/2026

ORDER

Per: Anikesh Banerjee (JM):

The instant appeals were preferred by the same assessee filed against the combined order of the Ld. Commissioner of Income Tax (Appeal)-47, Mumbai [for brevity the "Ld. CIT(A)"], order passed under section 250 of the Income Tax Act, 1961 (for brevity 'the Act') for Assessment Year 2013-14 and 2014-15, date of combined order 07.02.2024. The impugned order emanated from the orders of the Assistant Commissioner of Income Tax C.C.1(4), Mumbai (for brevity the 'Ld.

AO') orders passed under section 147 of the Act, both the orders dated 31.03.2022.

2. The brief facts of the case is that both the appeals have same nature of fact and have a common issue, so both the appeals have taken together, heard together and for convenience disposed of by a common order. ITA 1706/Mum/2025 A.Y. 2014-15 is taken as lead case and the decision rendered therein shall apply mutatis mutandis to other appeal.

3. The brief facts of the case are that the assessee is engaged in business of real estate development. During the impugned assessment year the assessee derive income from business or professional. The assessee has filed the return and declaring income nil, after showing the current year loss of Rs.86,015/-. The assessment was completed u/sec. 143(3). Subsequently, the case of the assessee was reopened by issuance notice u/sec. 148 of the Act. A survey u/sec. 133A of the Act was conducted in the case of M/s. Sikkim Ferro Alloys Ltd. and its group concern on 16.09.2016. On related to this survey the assessee case was reopened. The revenue has found that the assessee had made a transaction with M/s. Parekh Aluminex Ltd. (PAL) related to its land at Wada. The PAL was agreed to purchase the Wada land from the assessee. The assessee had made a memorandum of understanding with the PAL and as per the understanding amount received by Trisons Agency, Alioth Infrastructure P. Ltd., Manohar Manek Alloys P. Ltd. from M/s. PAL has been agreed to adjust against the sale price of the Wada land. The amount which has been agreed to be adjusted as aforesaid would be payable by Trison Agency Alloys Infrastructure P. Ltd., Manohar Manak P. Ltd. to the Company and the balance price of the land from PAL would be executed

agreement and entire possession of Wada land. Accordingly, the adjustment was made with the PAL in following manner:

Particulars	Amount
Total receivables from PAL and group Companies	1,53,47,07,440/-
Total payables to PAL and group companies by assessee and assessee's group companies	2,30,81,47,500/-
Not payable to the PAL and group Companies. The same has been adjusted.	77,34,40,060/-

Accordingly, the assessee received the advance related to A.Y. 2013-14 amount to Rs.5.50crore and for A.Y. 2014-15 Rs.71.84crore related to the total agreed value. The Ld. AO had treated this transaction of the assessee & PAL as sale of land which was not declared by the assessee in return of income. Accordingly, the additions were made for A.Y. 2013-14 amount of Rs.5,47,66,793/- and for A.Y. 2014-15 amount of Rs.223,91,38,864/- related to the undisclosed sales. The aggrieved assessee filed an appeal before the Ld. CIT(A) and challenged both on merit and on legal issue. The Ld. CIT(A) rejected the appeal of the assessee. Being aggrieved assessee filed an appeal before us.

4. The Ld. AR argued and filed a paper book comprising **page 1 to 153** which has been placed on record. Related to her argument the Ld. AR filed a synopsis by declaring the entire fact related to transaction with assessee and PAL. The relevant part of the submission of the Ld. AR is reproduced as below:

"II. Addition of Rs.2,23,91,38,864/- as business profits in respect of transfer of the land at Wada:

(vi) Impugned addition made pertains to Wada land is an immovable property,

(vii) To settle the accounts with various group concerns of Shri Kamlesh M. Kanungo, Parekh Aluminex Ltd. had agreed to purchase the Wada Land held by the Appellant company for which purposes the title documents pertaining to the said property to investigate the title of land was provided to them. And without any knowledge or consent of Appellant company, the said land was mortgaged by Parekh Aluminex Ltd. as third party collateral to ING Vaishya Bank (now merged with Kotak Mahindra Bank). It was only orally agreed between Appellant company and M/s. Parekh Aluminex Ltd. (hereafter referred as to PAL) to transfer the above stated Wada land on only fulfilment of certain definite terms and conditions such as after receipt of balance and full consideration and for that no written agreement of whatsoever nature was ever entered into between the Appellant company and PAL let alone any registered sale agreement,

(viii) Ownership title of Wada land has always remained with the Appellant company in which position there is no change even as on date and it never got transferred to PAL,(ix) Further physical possession of the Wada land has always remained with the Appellant company and has never been parted to/with M/s. Parekh Aluminex Ltd. at any given point of time till date.

(x) Legal proceeding initiated by banker of Parekh Aluminex Ltd. (PAL), ING Vaishya Bank Ltd. later merged with Kotak Mahindra Ltd. for recovery of loans given to PAL against which loans the above stated Wada land of Appellant company was given as third-party collateral security, Debt Recovery Tribunal (DRT) has passed the order restraining the sale of the Wada land and to maintain the status quo and in the said factual position there is no change even as on today,

(xi) Further suit filed by Appellant company against PAL in Hon'ble High Court of Bombay on 10th December, 2015 against the PAL for enforcement of specific performance is also as on date is pending for hearing and decision even after elapse of more than 8 years.

(xii) As per the ledger account of PAL from the books of Appellant company for the period 01/04/2012 till 31/03/2014 (paper book 2 pages 17 and 18) reflecting that total amount transferred to the Appellant company by its group concern through journal entries on account of PAL as on 31/03/2014 at Rs.77,34,40,060/- only and not Rs.2,30,81,47,500/- being 65% of proposed sale consideration of 350 crore as wrongly stated & assumed by the Assessing Officer.

(xiii) From the books of account and relevant details & documents submitted on assessment record it has conclusively been proved that in the above assessment year Appellant company till 31/03/2014 against the proposed sale of Wada Land has received total amount of only Rs.77,34,40,060/- and not Rs.2,30,81,47,500/- as has wrongly been stated and adopted by Id. AO in the impugned assessment order to compute the alleged addition. The Id. AO has wrongly considered the amount received by group concerns as the money of the Appellant company pending either actual transfer of amounts to the banks of Appellant company from its group concerns or pending passing of the relevant accounting entries in the books of both the

appellant company and its group concerns as stated in suit filed before hon'ble High Court of Bombay. Thus, in view of the same your honour will appreciate that unless actual transfer of amounts stated in the subject suit pertaining to Wada land stated in the suit filed for specific performance to the banks of Appellant company from its group concerns takes place or accounting entries in the books of account of both the appellant company and its group concerns is being passed and effected, Appellant company has no legal ownership or right over the money received and held by its group concerns in their accounts. In view of the above stated factual position entire alleged addition made is wrong on facts and bad in law. We would like to again record that in the above assessment year, it is the only amount of Rs.77,34,40,060/- actually received/ accounted in the books of appellant company till 31/03/2014 and not the amount wrongly considered and adopted by Id. AO at Rs.2,30,81,47,500/- stating it 65% of the proposed sale consideration for computing and making the alleged addition since no legal rights had vested to Appellant company over the amount of Rs. 1,53,47,07,440/- i.e. (Rs.2,30,81,47,500 Rs.77,34,40,060) in the above assessment year pending actual transfer of money or passing of the relevant entries in the books of account of both the appellant company and its group concerns for the said money more particularly when for the proposed sale of Wada Land no agreement let alone any registered agreement has ever been executed and physical possession of subject land was never parted to PAL or anyone else at any given point of time in the above assessment year.

(xiv) As per settled judicial position and law laid down by hon'ble Supreme Court in various judgements rendered from time to time for a valid transfer of an immovable property there has compulsorily to be a written agreement between the vendor (transferor) and transferee for any immovable property which agreement should also compulsorily be registered with the appropriate registering authority followed by the handing over of the physical possession of the subject immovable property from transferor to transferee.

(xv) Before concluding our submission on merit, we would like to also invite the attention of your honour that in A.Y.2013-14 amount of Rs.5.50 crore transferred from one of the group concern to Appellant company has also been taxed by Id. AO treating the said amount as part sale consideration of subject Wada land. The above stated fact proves beyond any reasonable doubt that impugned addition in both the assessment year has been made without establishing the transfer of subject Wada land which is a pre-requisite condition for bringing to tax and computation of capital gain income and or business income in respect of an immovable property being land or building. Your honour will appreciate that there cannot be a valid transfer of a single land property twice by the same owner in two different assessment years and unless a valid transfer as provided under the Income Tax Act, 1961 read with relevant provisions of Transfer of Properties Act, 1882 is being proved to have taken place in respect of a land property charge of tax under the Act cannot be invoked or applied.

Further developments regarding the said property at Wada:**CRIMINAL PROSECUTION**

After the demise of Mr. Amitabh Parekh the Managing Director of M/s. Parekh Alluminex Ltd. (PAL) died on 06.01.2013. Various banks/lenders met and estimated the aggregate debt of the PAL to be Rs. 2200 Crores.

Indian Overseas Bank filed a complaint with CBI-EOW wing Mumbai who registered FIR No. RC-0682017E0005 on 23.05.2017 for offences under Section 1208 and 420 of IPC r/w Section 13(1)(d) and 13(2) of Prevention of Corruption Act, 1998. That various banks have filed separate complaints against PAL which has resulted in the filing of Chargesheet. That SRIPL and KamleshKanungo has been arraigned as accused in some matters against PAL which has resulted in the filing of Chargesheet. That SRIPL and KamleshKanungo has been arraigned as accused in some matters.

Pursuant to registering of the FIR, the Enforcement Directorate has registered ECIR bearing No. ECIR/MBZO-1/05/2018 on 08.03.2018.

It is the case of the prosecuting agencies that the amounts received by KamleshKanungo and Group by PAL have been wrongfully transferred and amounts to proceeds of crime. That the Enforcement Directorate has attached properties worth Rs. 2,05,24,22,587/- and Rs. 217.99 Cr of KamleshKanungo and also group companies.

Wada Land owned by Shree Rajlaxmi Infrastructure Pvt. Ltd. (SRIPL) has also been attached by the Enforcement Directorate vide Provisional Attachment Order 11 of 2019 dated 11.09.2019 for an amount of Rs.

29,79,50,400/-. The Enforcement Directorate filed Original Complaint 1206 of 2019. That the same has been confirmed by the Adjudicating Authority vide order dated 19.02.2020 and the same was challenged vide Appeal No. FPA-PMLA-3812/MUM/2020 with PMLA, Appellate Authority that the Appeal was dismissed vide order dated 24.07.2024. That SRIPL has filed Appeal Before the Bombay High Court challenging the order of PMLA Appellate Tribunal.

KOTAK BANK CLAIM

Also, PAL had without the knowledge of SRIPL or KamleshKanungo Mortgaged Wada Land with ING Vysya Bank (Now merged with Kotak Mahindra Bank). That Kotak Mahindra bank filed Original Application No. 81 of 2016 before the Debt Recovery Tribunal claiming that the said Wada land has been mortgaged to them. The Bank also filed Securitisation Application No. 226 of 2017 before the District Magistrate, Palghar under section 14 of SARFAESI Act, 2002. That vide order dated 12.02.2019 the bank was permitted to take possession of the said Wada Land.

That SRIPL has filed SA 95 of 2019 wherein it has challenged the mortgage of Wada Land. That the Hon'ble DRT vide order dated 18.07.2019 has granted the permission to take possession but has directed that sale of land shall be taken only with leave of court.

The Bank did not take possession of the said land as it was not demarcated and infact has placed a board on the said land and also has also a encumbrance/charge (bhoja) on the said property.

CLAIM OF FARMERS

That the earlier management of SRIPL had purchased the WADA Land from the farmers in between 2006-2007, thereafter in 2012 the management of SRIPL was transferred to Kamlesh Kanungo group vide Share holding transfer. That few farmers have filed SR NO. 14 of 2022, SR No. 13 of 2022 and SR No. 147 of 2024 before the Sub Divisional Officer, Wada Division under section 63 (1) (A) of the Bombay Tenancy and Agricultural Lands Act, 1948. (As no Development for 15 years). That the same is pending adjudication before the Sub Divisional Officer, Wada Division.

Receivable/Payable disclosed as per books of accounts of SRPIL:

Particulars	Amount (Rs.)
Total receivable from PAL and group companies	1,53,47,07,440
Total payables to PAL and group companies by assessee's group companies	2,30,81,47,500
Net payable to the PAL and group companies by assessee and assessee's group companies. The same has been adjusted towards proposed sale of land.(Page 17 of Paper Book -2 A.Y. 2014-15)	77,34,40,060

5. The Ld. DR argued and contended that the assessee had received the advance and the alleged property was duly mortgaged in the Kotak Mahindra Bank Ltd.(KMBL). So, related to this group concern the assessee had received the sale proceed. The Ld. DR invited our attention in appellate order **para 6.10** which is reproduced as below:

“6.10 The details of funds received by appellant as mentioned by the AO in para 5.11 are as under:

S.No.	Name or the concerns	Amount(Rs.)
1	M/s. Trisons Agencies	216,25,00,000/-
2	M/s. Alioth Agencies	5,50,00,000/-
3	M/s. Manohar Manek Alloys P. Ltd.	9,06,47,500/-
4	Total	230,81,47,500/-

The amount of Rs. 5,50,00,000/- was received by appellant during FY 2012-13 ie AY 2013-14, hence the said amount was considered by the AO in computing the total income of appellant for AY 2013-14. AO has deducted the amount while computing the income of AY 2014-15. Therefore, the contention of the appellant that this amount has been added twice is incorrect.”

The Ld. DR stands in favor of the orders of revenue authorities.

6. We have heard the rival submissions and perused the material available on record, including the paper book filed by the assessee and the impugned orders of the revenue authorities. The core issue involved in the present appeal revolves around the taxability of the alleged transaction pertaining to the proposed transfer of land situated at Wada and the consequential additions made by the Ld. AO treating the same as undisclosed business receipts/sales. On careful consideration of the facts, we find that the addition has been made by the Ld. AO primarily on the premise that the assessee had effectively transferred the land to M/s. PAL and had received substantial consideration through various group concerns. However, the assessee has consistently contended that:

- there was no executed or registered agreement for transfer of the said immovable property;
- the ownership as well as physical possession of the land has at all times remained with the assessee;
- the amounts reflected in the books largely pertain to inter-group adjustments and not actual receipt of sale consideration in entirety;
- multiple legal proceedings, including those before the Hon'ble High Court, DRT and under PMLA, are pending, which directly impact the rights and obligations over the said property.

At the same time, we also note that the Ld. AO as well as the Ld. CIT(A) have proceeded to treat the entire transaction as a concluded sale without carrying out a comprehensive verification of the underlying documents, legal status of the property, actual flow of funds, and the real nature of entries passed in the books of account. Further, the reconciliation of receivables/payables, actual receipts, and inter-group adjustments requires detailed factual examination. In our considered view, the issue is highly fact-intensive and cannot be adjudicated conclusively without proper verification of:

- the existence or otherwise of any legally enforceable agreement for transfer;
- the actual receipt of consideration vis-à-vis book entries and group adjustments;
- the status of ownership and possession of the property;
- the impact of ongoing litigations and attachments on the alleged transfer;

- the correctness of figures adopted by the Ld. AO while computing the addition.

Considering the totality of facts and in the interest of justice, we deem it appropriate to set aside the impugned orders and restore the entire issue to the file of the Ld. AO for fresh adjudication after proper verification of facts.

The Ld. AO is directed to:

- examine all relevant agreements, correspondences, and legal documents pertaining to the Wada land;
- verify the actual flow of funds vis-à-vis book entries and inter-group adjustments;
- consider the legal position regarding transfer of immovable property in light of applicable provisions and judicial precedents;
- take into account the outcome/status of ongoing litigations, if relevant;
- afford adequate opportunity of being heard to the assessee and thereafter pass a speaking and reasoned order in accordance with law.

Needless to say, the assessee shall extend full cooperation and furnish all necessary evidences for expeditious disposal of the proceedings.

Accordingly, the appeals of the assessee are allowed for statistical purposes, with the matter restored to the file of the Ld. AO for verification of facts and de novo adjudication. Since we have adjudicated the appeal on merits, the legal grounds raised are rendered academic and are, therefore, kept open.

7. In the result, the appeals of the assessee bearing **ITA No.1697/Mum/2024** and **ITA No.1706/Mum/2024** are allowed for statistical purpose.

Order pronounced in the open court on 07th day of April 2026.

Sd/-

(PRABHASH SHANKAR)
ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 07/04/2026
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.

BY ORDER,

//True Copy//

(Asstt. Registrar), ITAT, MUMBAI