

**IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, AHMEDABAD**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
MS. SUCHITRA R. KAMBLE, JUDICIAL MEMBER**

ITA No. 99/Ahd/2025
(Assessment Year: 2015-16)

Pinkal Rajeshbhai Patel, 45, Sarthi Bungalows, Vibhag-3, Nr. Surdhara Circle, Opp. T.V. Tower, Thaltej, Ahmedabad-380054 [PAN : AHMPP 4790 P]	Vs.	Income Tax Officer, Ward 3(3)(2), Ahmedabad
(Appellant)	..	(Respondent)
Appellant represented by :	Shri Vipul Khandhar, AR	
Respondent represented by:	Shri Abhijit, Sr DR	
Date of Hearing	19.02.2026	
Date of Pronouncement	07.04.2026	

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-

This appeal has been filed by the assessee against the order dated 12.11.2024 passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred to as 'Ld. CIT (A)' in short), under Section 250 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act' in short) for Assessment Year 2015-16.

2. The assessee has raised following additional grounds of appeal, challenging the validity of reopening of assessment u/s 147 of the Act:-

"The learned AO had issued notice u/s 148 originally on 31.03.2021. In respect of the said notice u/s 148 of IT Act, 1961, the AO had given the reason for re-opening of assessment vide letter dated 03.12.2021 wherein the AO has stated that the appellant has entered into accommodation entries as fictitious loan from bogus concerns managed and controlled by the accommodation entry provider duo i.e. Sanjay Shah and Jignesh Shah amt to Rs.4919403/-. The said allegation of avilment of fictitious loans from Sanjay Shah & Jignesh Shah was completely denied by the appellant in his reply.

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Afterwards, while giving the final SCN dated 24.03.2022 in the re-assessment proceeding u/s 147 of IT Act, 1961, the AO contended that the appellant had done transaction of sale & purchase of penny stock namely M/s. Naisargik Agritech (India) Ltd and thereby entire sale consideration on sale of shares of Rs.4919403/- needs to be disallowed. The AO had also stated that the appellant has claimed fictitious LTCG on sale of shares of M/s. Naisargik Agritech (India) Ltd.

So, the appellant wants to submit that the AO has given the reason for re-opening of assessment as availment of fictitious loan and afterwards the AO has completed the re-assessment u/s 147 of IT Act, 1961 vide order dated 30.03.2022 contending that the appellant has claimed the LTCG of penny stock namely M/s. Naisargik Agritech (India) Ltd. So the entire re-assessment proceeding is bad in law and required to be set-aside. The AO has changed his grounds for re-assessment subsequently which is not sustainable in the interest of law and justice. Further, the AO had changed the reason vide SCN dated 24.03.2022 which was also after 31.03.2021 and thereby the said proceeding is considered as time-barred and required to be quashed.”

3. The assessee has raised the aforesaid additional grounds of appeal involving purely legal issues based on facts already available on record. The Ld. AR pleaded that additional grounds involving legal issues be admitted, for which reliance has been placed on the decision of the Hon'ble Supreme Court in the case of National Thermal Power Ltd. Vs. CIT (1998) 229 ITR 383(SC), and on the decision of the Rajasthan High Court in the case of Shilpa Associates Vs. ITO, 263 ITR 317.

4. We have considered the rival submissions and perused the material on record. The additional ground raised by the assessee involves a pure legal issue concerning the validity of reassessment proceedings and all relevant facts are already available on record. Respectfully following the decision of the Hon'ble Supreme Court in NTPC Ltd. (supra) and the decision of Rajasthan High Court in the case of Shilpa Associates (supra), the additional ground raised by the assessee is admitted for adjudication.

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5 The Ld. AR submitted that the reasons recorded for reopening clearly state that the assessee had received accommodation entries in the nature of **fictitious loans amounting to Rs.49,74,275/-** from concerns managed by Jignesh Shah and Sanjay Shah. However, in the reassessment order, the Assessing Officer made addition on an entirely different allegation, namely that the assessee had earned bogus LTCG through penny stock transactions in shares of Naisargik Agritech (India) Ltd. It was, therefore, contended that the Assessing Officer had changed the basis of reopening, which is not permissible in law.

6. The Ld. DR, on the other hand, argued that the assessee has received fictitious capital gains and the addition has been rightly made. The reasons recorded clearly mention about the floating of bogus entities by Jignesh Shah and others.

7. We have carefully considered the rival submissions and perused the material available on record.

The reasons recorded for reopening the assessment read as under:-

"1. The assessee has filed Return of Income for A.Y. 2015-16 declaring total income of Rs. 8,33,240/-

2 As per the information available, a search u/s. 132 of the Act was carried out on 11.09.2018 in the case of Sanjay Shah and Jignesh Shah of Ahmedabad (JSSS hereinafter). The search resulted into seizure of unaccounted cash of 19.37 Crores (related to accommodation entries and commission earned thereon) along with incriminating digital as well as documentary evidences. Clandestine record of unaccounted cash, synchronized trading, proving bogus LTCG in various BSE listed scrips and transport of such cash through angadiyas was found to be maintained.

2.1 During search at residential premises of Jignesh Shah, on analysis of seized material, it has been found that:-

- Company does not exist at its address. Therefore, it lacks identity as well as genuineness.*

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- *During investigation, it has been found that Jignesh S. Shah is managing and controlling multiple companies and concerns. One of the most crucial evidences is in the form of MS Excel Sheet. In this sheet, clandestine record of unaccounted cash, synchronized trading, proving bogus LTCG in various BSE listed scrips and transport of such cash through angadiyas was found to be maintained. In this secret and coded file, delivery (received) and movement (through angadiya etc.) of cash is recorded against transactions of shares on BSE platform. Furthermore, the receipt of commission in form of cash is also recorded under the head "LTCG COMMISSION". The evidences manifest that this is the record of accommodation entries of LTCG against receipt of cash. Such sensitive and confidential information cannot be in possession of Jignesh Shah unless he has live link and close nexus with all these concerns, and he is in control of such concerns. The duo also admitted being involved in providing accommodation entries including bogus LTCG and contrived losses.*
- *Other kind of Digital Data including incriminating MS Excel files, incriminating Word Files, Whatsapp Chats/Images and documents including Khata-Bahis were also found.*

2.2. *The details of transactions made by the assessee with the parties/company/concern managed and controlled by Jignesh Shah and Sanjay Shah during the A.Y. 2015-16 attached in Excel Sheet as Annexure "4". The assessee has entered into accommodation entries as fictitious loan to the tune of Rs. 49,74,275/- via bank account maintained with DCB Bank which is managed and controlled by Jignesh Shah and Sanjay Shah during the A.Y. 2015-16. The assessee is a beneficiary of such accommodation entries as fictitious loan.*

3. After analysis of the information with the facts available on record, it is found that the assessee has entered into accommodation entries as fictitious loan from bogus concerns managed and controlled by the accommodation entry provider duo ie Sanjay Shah and Jignesh Shah to the tune of Rs. 49,74,275/- Therefore, it can be concluded that the transaction done by the assessee with the concern/company parties managed and controlled by Jignesh and Sanjay Shah was only accommodation entries as fictitious loan and as a result of which the assessee has benefitted to the tune of Rs. 49,74,275/-

4. *ITBA/ITD data available in this office, has been verified. (i) As per PAN data base the case of the assessee is found to belong to the territorial jurisdiction of this ward. (ii) The assessee is a beneficiary of accommodation entries as fictitious loan.*

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5 The assessee has entered into accommodation entry through M/s Apar Bizz/M/s Venus Trade/M/s Aa Plus Broking Pvt Ltd/M/s Bhavsar Enterprises and via various bank accounts which are managed and controlled by the entry provider duo i.e. Jignesh Shah and Sanjay Shah. The Proprietors/director(s) of these concerns has/have filed affidavit in which it is inter alia deposed that these concerns are engaged in business of arranging facilitating/providing accommodation entries through its bank accounts. Jignesh Shah in his statement has admitted that bank accounts of this person/firm have been used for providing accommodation entries.

6. By omission on the part of the assessee to disclose fully and truly all the material facts necessary for the A.Y. 2015-16 and in view of the above facts, I have reason to believe that income exceeding to the tune of Rs. 49,74,275/- (More than Rs.1 Lakh) which is chargeable to tax has escaped assessment within the meaning of section 147 of the I.T. Act and hence I am satisfied that it is a fit case for reopening the assessment under section 147 of the IT Act.....”

8. We find that the assessee filed his return of income on 30.09.2015 declaring total income of Rs.8,33,240/-, after claiming deduction under Chapter VI-A of Rs.2,18,438/-. The assessee also declared exempt agricultural income of Rs.1,10,051/- and exempt Long Term Capital Gain (LTCG) of Rs.54,52,613/-. Subsequently, the Assessing Officer issued notice u/s 148 dated 31.03.2021 for reopening of the assessment. In response to the said notice, the assessee filed return of income on 28.05.2021 declaring the same income. The Assessing Officer thereafter issued notice u/s 143(2) and u/s 142(1) and sought certain details from the assessee. During the course of reassessment proceedings, the Assessing Officer relied upon information received from the Investigation Wing that a search action u/s 132 was conducted on 11.09.2018 in the case of Jignesh Shah and Sanjay Shah, who were allegedly engaged in providing accommodation entries including bogus LTCG through various listed penny stock companies. Based on the said information, the Assessing Officer alleged that the assessee had obtained accommodation entries through share transactions of Naisargik Agritech (India) Ltd. and had claimed bogus LTCG. Consequently, the Assessing Officer treated the entire sale consideration of Rs.49,19,403/- received on sale of

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shares as unexplained credit u/s 68 of the Act and added the same to the total income of the assessee.

9. However, a perusal of the reasons recorded for reopening clearly shows that the Assessing Officer had formed a belief that the assessee had received accommodation entries in the nature of fictitious loans amounting to Rs.49,74,275/- from concerns allegedly controlled by Jignesh Shah and Sanjay Shah. Nonetheless, the addition finally made in the reassessment order is on account of alleged bogus LTCG from sale of shares of Naisargik Agritech (India) Ltd. and the Assessing Officer has treated the sale consideration of Rs.49,19,403/- as unexplained credit u/s 68 of the ACT. Thus, it is evident that the reason recorded for reopening and the addition ultimately made are entirely different.

10. In view of the above discussion, we hold that the reassessment proceedings initiated under Section 147 of the Act are invalid in law. Consequently, the reassessment order dated 30.03.2022 is quashed.

11. Since we have quashed the reassessment proceedings on legal grounds, the other grounds raised by the assessee on merits become academic in nature and are not adjudicated.

12. In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on 07.04.2026

Sd/-

(SUCHITRA R. KAMBLE)
JUDICIAL MEMBER

Ahmedabad; Dated 07.04.2026

**btk

Sd/-

(DR. B.R.R. KUMAR)
VICE-PRESIDENT

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आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. संबंधितआयकरआयुक्त/ Concerned CIT
4. आयकरआयुक्त(□ पील) /The CIT(A)-
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, अहमदाबाद/ DR, ITAT, Ahmedabad
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