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

BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER

ITA No. 1416/Ahd/2026
(Assessment Year: 2015-16)

Tipsons Stock Brokers Pvt. Ltd., 5th Floor, Sheraton House, Polytechnic Road, Ambavadi, Ahmedabad-380015 [PAN : AAACT 7720 K]	Vs.	Dy. Commissioner of Income-tax, Circle 1(1)(1), Ahmedabad
(**Appellant**)	..	(**Respondent**)

Appellant represented by :	Shri Satyaprakash Singh, CA
Respondent represented by:	Shri Abhijit, Sr. DR

Date of Hearing	17.06.2026
Date of Pronouncement	25.06.2026

O R D E R

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

Delay condoned.

This appeal has been filed by the assessee against the order dated 30.12.2025 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 grounds of appeal:-

"1. The learned Commissioner of Income Tax (Appeals) [CIT(A)] has erred in law and on facts in upholding the action of the Assessing Officer in reopening the assessment under section 147 of the Income Tax Act, 1961.

2. The learned Commissioner of Income Tax (Appeals) [CIT(A)] has erred in law and on facts in confirming the action of the Assessing Officer in passing the assessment order without providing the Appellant a reasonable and adequate opportunity of being heard.

3. The learned Commissioner of Income Tax (Appeals) [CIT(A)] has erred in law and on facts in confirming the action of the Assessing Officer in making a disallowance of Rs.1,33,02,020/- under section 37(1) of the Income Tax Act, 1961.

4. Alternatively, and without prejudice to the other grounds, the learned Commissioner of Income Tax (Appeals) [CIT(A)] has erred in law and on facts in not granting full relief to the Appellant in respect of disallowance of service tax amounting to Rs.14,63,270/- under section 37(1) of the Income Tax Act, 1961.

5. The learned Commissioner of Income Tax (Appeals) [CIT(A)] has erred in law and on facts in confirming the action of the Assessing Officer without properly appreciating and considering the submissions, evidences, and supporting documents placed on record by the Appellant during the course of assessment as well as appellate proceedings.

6. The learned Commissioner of Income Tax (Appeals) [CIT(A)] has erred in law and on facts in confirming the action of the Assessing Officer in levying interest under sections 234A, 234B, 234C and 234D of the Income Tax Act, 1961.

7. The learned Commissioner of Income Tax (Appeals) [CIT(A)] has erred in law and on facts in confirming the action of the Assessing Officer in initiating penalty proceedings under section 271(1)(c) of the Income Tax Act, 1961."

3. The brief facts of the case are that the assessee is a company engaged in the business of stock broking and is a trading member of NSE and BSE. It is also a Depository Participant of NSDL. The assessee filed its return of income on 01.10.2015 declaring total income of Rs.79,41,370/-. The return was selected for scrutiny and assessment was completed under section 143(3) of the Act on 08.12.2017 accepting the returned income. Subsequently, notice u/s 148 dated 20.03.2021 was issued. The reasons recorded stated that the assessee had paid Rs.1,33,02,020/- to its directors and, as per Assessing Officer, such payment represented sub-brokerage allegedly prohibited by Regulation 15A of the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 and therefore liable to be disallowed u/s 37(1) of the Act. The assessment was thereafter completed

under section 143(3) r.w.s. 147 and 144B on 24.03.2022 making disallowance of Rs.1,33,02,020/-.

4. Aggrieved by the order of the Assessing Officer, the assessee filed an appeal before the Ld. CIT(A) who upheld the reopening as well as the disallowance, subject to verification of service tax component of Rs.14,63,270/-.

5. Aggrieved by the order of the Ld. CIT(A), the assessee is now in appeal before us.

6. Since Ground No.1 raised by the assessee challenging the assumption of jurisdiction goes to the root of the matter, the same is taken up first.

Ground No.1 – Validity of Reopening u/s 147 of the Act

7. At the outset, the Ld. AR submitted that the original assessment was completed u/s 143(3) of the Act and the notice u/s 148 dated 20.03.2021 was issued beyond four years from the end of the relevant assessment year. The Ld. AR also submitted that all primary facts relating to payment made to directors were fully disclosed during the original assessment proceedings. The tax audit report, audited financial statements and replies furnished during scrutiny proceedings specifically contained details of such payments. Therefore, there was no failure on the part of the assessee to disclose fully and truly all material facts necessary for assessment. The Ld. AR further contended that reopening was merely based upon reappraisal of existing material and amounted to a change of opinion, which is impermissible in law.

8. The Ld. DR, on the other hand, relied upon the orders of the lower authorities.

9. We have carefully considered the rival submissions and perused the material available on record. It is an undisputed fact that the original

assessment was completed u/s 143(3) of the Act on 08.12.2017. The notice u/s 148 was issued on 20.03.2021, admittedly beyond four years from the end of Assessment Year 2015-16. The provision of Section 147 reads as under:-

> *"**147.** If the Assessing Officer has reason to believe that any income chargeable to tax has escaped assessment for any assessment year, he may, subject to the provisions of sections 148 to 153, assess or reassess such income and also any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under this section, or recompute the loss or the depreciation allowance or any other allowance, as the case may be, for the assessment year concerned (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year) :*
>
> ***Provided** that where an assessment under sub-section (3) of section 143 or this section has been made for the relevant assessment year, **no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless any income chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under section 139 or in response to a notice issued under sub-section (1) of section 142 or section 148 or to disclose fully and truly all material facts necessary for his assessment, for that assessment year:***
>
> ***Provided further** that nothing contained in the first proviso shall apply in a case where any income in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment for any assessment year:*
>
> ***Provided also** that the Assessing Officer may assess or reassess such income, other than the income involving matters which are the subject matters of any appeal, reference or revision, which is chargeable to tax and has escaped assessment.*
>
> *Explanation 1.—Production before the Assessing Officer of account books or other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer will not necessarily amount to disclosure within the meaning of the foregoing proviso.*
>
> *Explanation 2.—For the purposes of this section, the following shall also be deemed to be cases where income chargeable to tax has escaped assessment, namely :—*
>
> *(a) where no return of income has been furnished by the assessee although his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax ;*

(b) where a return of income has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return ;

(ba) where the assessee has failed to furnish a report in respect of any international transaction which he was so required under section 92E;

(c) where an assessment has been made, but—

(i) income chargeable to tax has been under assessed ; or

(ii) such income has been assessed at too low a rate; or

(iii) such income has been made the subject of excessive relief under this Act ; or

(iv) excessive loss or depreciation allowance or any other allowance under this Act has been computed;

[52][(ca) where a return of income has not been furnished by the assessee or a return of income has been furnished by him and on the basis of information or document received from the prescribed income-tax authority, under sub-section (2) of section 133C, it is noticed by the Assessing Officer that the income of the assessee exceeds the maximum amount not chargeable to tax, or as the case may be, the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return;]

(d) where a person is found to have any asset (including financial interest in any entity) located outside India.

Explanation 3.—For the purpose of assessment or reassessment under this section, the Assessing Officer may assess or reassess the income in respect of any issue, which has escaped assessment, and such issue comes to his notice subsequently in the course of the proceedings under this section, notwithstanding that the reasons for such issue have not been included in the reasons recorded under sub-section (2) of section 148.

Explanation 4.—For the removal of doubts, it is hereby clarified that the provisions of this section, as amended by the Finance Act, 2012, shall also be applicable for any assessment year beginning on or before the 1st day of April, 2012.

Therefore, the first proviso to section 147, as applicable to the year under consideration, becomes operative. Under the said proviso, reassessment beyond four years can be sustained only where income has escaped assessment by reason of failure on the part of the assessee to disclose fully and truly all material facts necessary for assessment. Moreover, it is also pertinent to mention the reasons recorded by the Assessing Officer for reopening of the assessment, which reads as under:-

"Reasons for reopening of the assessment in the case of M/s. Tipsons Stock Brokers Private Limited for A.Y. 2015-16 u/s 147 of the I.T. Act

1. Brief details of the assessee: In this case, the assessee was filed its return of income for A.Y.2015-16 on 01.10.2015 declaring total income of Rs.79,41,370/-. The same was processed u/s. 143(1) of the Act and subsequently order u/s 143(3) of the Act was passed on 08.12.2017 determining total income at Rs.79,41,370/-.

2. Brief details of Information collected/received by the AO: ***On perusal of the assessment records for the year under consideration****, it is found that the assessee company has made payment of Rs.1,33,02,020/- to its directors towards brokerage payments which was incorrectly shown in the Tax audit report as remuneration which was also reflected in the certified annual accounts. It is seen that out of Rs. 184,50,000/- received as brokerage on security transaction during FY 2014-15, the assessee company paid Rs. 1,33,02,020/- as sub brokerage to its directors on 01.08.2014. Since the provisions of the SEBI Regulation 15A prohibited the directors of a stock broker company to act as sub brokers of the its company (stock broker) hence the payment Rs. 1,33,02,020/- paid as brokerage to its directors is in contravention to the provisions of the said Regulation. Accordingly, expenditure incurred by the assessee as sub brokerage, which is prohibited by law, is required to be disallowed as per the Section 37 (1) of the IT Act. This has resulted in escaped assessment of income of Rs. 1,33,02,020/-,*

3. Analysis of information collected/received

Explanation to Section 37(1) of the Act stipulates that any expenditure incurred by an assessee for any purpose which is an offence or prohibited by law shall not be deemed to have been incurred for the purpose of business or profession UME TAX DEPARTM

Further, as per Regulation 15A (Inserted w.e.f. 23-9-2003) of Securities and Exchange Board of India (Stock Brokers and Sub Brokers) Regulation, 1992, no director of a stock broker shall act as sub-broker to the same stock broker.

On perusal of the assessment records for the year under consideration, it is found that the assessee company has made payment of Rs. 1,33,02,020/- to its directors towards brokerage payments which was incorrectly shown in the Tax audit report as remuneration which was also reflected in the certified annual accounts. It is seen that out of Rs. 184,50,000/- received as brokerage on security transaction during FY 2014-15, the assessee company paid Rs. 1,33,02,020/- as sub brokerage to its directors on 01.08.2014.

Since the provisions of the SEBI Regulation 15A prohibited the directors of a stock broker company to act as sub brokers of the its company (stock broker) hence the payment Rs.1,33,02,020/-paid as brokerage to its directors is in contravention to the provisions of the said Regulation. Accordingly, expenditure incurred by the assessee as sub brokerage, which is prohibited by law, is required to be disallowed as per the Section 37(1) of the IT Act. This has resulted in escaped assessment of income of Rs. 1,33,02,020/-.

4. ***Enquiries made by the AO as sequel to information collected/ received: The facts enumerated above have been found out on examination on the case records of the assessee and are self explanatory. Therefore, no further enquiry is required in this case.*** *On the basis of the same there are reasons to believe that the income chargeable to tax has escaped assessment.*

5. Findings of the AO: ***During the examination of the assessment records, it is noticed that expenditure of Rs. 1,33,02,020/- incurred by the assessee as sub brokerage, which is prohibited by the provisions of the SEBI Regulation, is required to be disallowed as per the Section 37(1) of the IT Act.***

Hence, it is found that an amount of Rs. 1,33,02,020/- for the year under consideration has escaped assessment within the meaning of section 147 of the I.T. Act.

6. Basis of forming reason to believe and details of escapement of income:

It has already been established in the preceding paras that the assessee company has made payment of Rs. 1,33,02,020/- to its directors towards brokerage payments which was incorrectly shown in the Tax audit report as remuneration which was also reflected in the certified annual accounts. It is seen that out of Rs. 184,50,000/- received as brokerage on security transaction during FY 2014-15, the assessee company paid Rs. 1,33,02,020/- as sub brokerage to its directors on 01.08.2014. Since the provisions of the SEBI Regulation 15A prohibited the directors of a stock broker company to act as sub brokers of the its company (stock broker) hence the payment Rs. 1,33,02,020/- paid as brokerage to its directors is in contravention to the provisions of the said Regulation.

In view of the facts enumerated above it can reasonably concluded that the expenditure of Rs.1,33,02,020/- incurred by the assessee as sub brokerage, which is prohibited by the provisions of the SEBI Regulation, is required to be disallowed as per the Section 37(1) of the IT Act and therefore the same requires to be added to the total income. Therefore, I have reasons to believe that income chargeable to tax to the extent of Rs.1,33,02,020/- has

escaped the assessment within the meaning of section 147 of the I. T. Act and it is a fit case to issue notice u/s 148 of the Act.

7. Seventh paragraph will include escapement of income chargeable to tax in relation to any assets (including financial interest in any entity) located outside India: Not Applicable.

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

In this case, return of income was filed for the AY 2015-16 by the assessee and regular assessment u/s 143(3) was made on 18.12.2017. Since, 4 years from the end of the relevant year has expired in this case and the assessee has not truly and correctly disclosed material facts necessary for the assessment year under consideration. It is pertinent to mention here that reasons to believe that income has escaped assessment for the year under consideration have been recorded above (refer paragraph 5 &6 above). I have carefully considered the assessment records containing submissions made by the assessee in response to various notices issued during the assessment proceedings and have noted that the assessee has not fully and truly disclosed the material facts for the year under consideration.

It is evident from the above facts that the assessee had not truly and fully disclosed material facts necessary for his assessment for the year under consideration thereby necessitating reopening u/s 147 of the act.

It is true that the assessee has filed a copy of annual report and audited P&L account and balance sheet alongwith return of income where various information/material were disclosed. *However, the requisite full and true disclosure of all material facts necessary for assessment has not been made as noted above. It is pertinent to mention here that even though the assessee has produced books of accounts, annual report, audited P&L a/c and balance sheet or other evidences as mentioned above the requisite material facts as noted above* ***in the reasons for reopening were embedded in such a manner that material evidence could not be discovered by the AO and could have been discovered with due*** *diligence, accordingly attracting provisions of Explanation 1 of section 147 of the act.*

It is evident from the above discussion that in this case, the issues under consideration were never examined by the AO during the course of regular assessment. This fact is corroborated from the contents of notices issued by the AO u/s 143(2)/142(1) and order sheet entries recorded during the assessment proceedings. It is important to highlight here that material facts relevant for the assessment on the issue(s) under consideration were not filed during the course of assessment proceeding and the same may be ***embedded*** *in annual report, audited P&L A/c, Balance sheet and books of accounts in such a manner that it would require due diligence by the AO to*

extract these information. For aforestated reasons, it is not a case of change of opinion by the AO.

In this case more than four years have been lapsed from the end of assessment year under consideration. Hence necessary sanction to issue notice u/s 148 has been obtained separately from Pr. Commissioner of Income Tax as per the provisions of Section 151 of the act."

10. On perusal of the reasons recorded, we find that the entire basis of reopening arises from examination of the assessment records already available with the Assessing Officer. The reasons recorded specifically state that the alleged escapement was noticed ***"on perusal of the assessment records"*** and no reference whatsoever has been made to any fresh tangible material, external information, investigation report, audit objection or other material coming into possession of the Assessing Officer subsequent to completion of the original assessment.

11. The Assessing Officer himself admits that the annual report, audited accounts and books of account were furnished by the assessee. Having accepted the existence of such disclosure, no specific material fact alleged to have been withheld by the assessee has been identified in the reasons recorded. The bald observation that the facts were "embedded" in the records cannot substitute the statutory requirement of demonstrating failure on the part of the assessee to disclose fully and truly all material facts necessary for assessment.

12. The reasons recorded merely proceed on a different inference that the payment made to directors constituted sub-brokerage prohibited by SEBI Regulations. Such inference has been drawn from material already available on record. Reappraisal of existing material cannot confer jurisdiction under section 147 after expiry of four years in absence of any failure of disclosure by the assessee. We also find that the reasons recorded do not disclose any material demonstrating that the directors acted as sub-brokers of the assessee. The conclusion that the payment represented sub-brokerage is stated without recording the foundational facts supporting such conclusion.

13. In view of above facts, we are of the considered view that the conditions prescribed under the first proviso to section 147 are not satisfied. The reopening is based solely on re-examination of existing material and therefore amounts to a mere change of opinion. Accordingly, we hold that the assumption of jurisdiction u/s 147 is invalid. Consequently, the notice issued under section 148 and the assessment order passed under section 143(3) r.w.s. 147 are hereby quashed.

14. Since the reassessment itself has been quashed, the remaining grounds raised on merits are rendered academic and are not adjudicated.

15. For the sake of completeness, the merits of the case has also been examined.

Issue No.1 - Disallowance of Rs.1,33,02,020/- u/s 37(1) of the Act.

16. The relevant facts essential for adjudication of the issue of the disallowance u/s 37(1) are that the assessee company is engaged in the business of Stock Broker and company is a National Stock Exchange of India Ltd. (NSE) in Capital Market segment, trading member of Future & Options and Currency Derivatives Segments. The Assessing Officer of Bombay Stock exchange (BSE) in Capital Market Segment and trading and member in future & Option Segment of BSE. Further, the assessee-company is also Depository participant of National Securities Depository Ltd. (NSDL). It was alleged that the Assessee Company paid an amount of Rs.1,33,02,020/- on account of Brokerage to the Directors of the company as reported by the Tax Auditor of the company. The Assessing Officer held that the amount paid on account of brokerage is not an eligible deduction owing to SEBI regulations and disallowed the amount paid to the Directors u/s 37(1) of the Act.

16.1 Aggrieved by the order of the Assessing Officer, the Assessee filed appeal before the Ld. CIT(A) who upheld the order of the Assessing Officer.

16.2 Aggrieved by the order of the Ld. CIT(A), the Assessee filed appeal before the Tribunal.

16.3 Before us, the Ld. Counsel argued that it was well submitted before the Revenue Authorities that the amount does not represent sub-brokerage and there was no agreement or arrangement between the directors and the assessee for payment of sub-brokerage. No invoice of sub-broker services has ben issued by the Directors to the assessee. The Ld. AR submitted that the Arranger Fees shared with the Directors cannot be held to be the brokerage earned by the company from the public issue of corporate Bonds. The arrangers fees shared with the directors is not from the Brokerage earned by the company from the securities transaction during the FY 2014-15 and it cannot be treated as a sub-brokerage agent or the director of the company is acting as sub-broker of its company. The Ld. AR further submitted that assessee-company has not contravened any of the provision of the SEBI Regulation and hence this expenditure incurred by the assessee cannot be disallowed as per section 37 of the Act. The Ld. AR argued that, for the year under consideration, the assessee-company was appointed as an arranger to the public issue of Shriram Transport Finance Company Limited and company has earned the Arranger Fees of Rs.1,84,50,000/- from the public issue. The Ld. AR, accordingly submitted that the assessee-company has shared the part of Arrangers fees with the directors of the company as per the resolution and the company has also deducted the applicable TDS on the same. The Ld. AR, accordingly submitted that it cannot be treated as a sub brokerage nor the director of the company is acting as sub broker of its company and hence company has not contravened any of the provision of the SEBI Regulation and hence this expenditure incurred by the assessee cannot be disallowed as per section 37(1) of the Income Tax Act. Company has not entered into any transaction during the assessment year 2015-16.

16.4 The Ld. DR, on the other hand, supported the orders of the lower authorities.

16.5. We have heard the rival submissions and perused the material available on record. We find that the Revenue Authorities proceeded on the basis that the payment of Rs.1,33,02,020/- made to the Directors was in the nature of "sub-brokerage" and, therefore, was prohibited under Regulation 15A of the SEBI Regulations and liable to be disallowed under section 37(1) of the Act. However, this assumption is factually incorrect as per the record before us. The amount of Rs.1,84,50,000/- received by the assessee from Shriram Transport Finance Company Ltd. was not brokerage from stock-broking activities but arranger fees earned for assisting in the public issue of bonds. The payment made to the Directors was merely a share of such arranger fees for the services rendered by them in arranging the issue. There is no material on record to show that the Directors acted as sub-brokers of the assessee-company. Therefore, the provisions of Regulation 15A do not apply and it is also a fact on record that the Directors have paid the taxes at the maximum marginal rate so as the Company. Hence, keeping in view the entire facts of the instant case, we hold that the disallowance made under section 37(1) by the Revenue was on wrong premise.

16.6 Ergo, on totality of facts and circumstances of the case, we hold that the disallowance of Rs.1,33,02,020/- made u/s 37(1) of the Act is not justified.

The grounds raised by the assessee on this issue are accordingly allowed.

Issue No. 2 - Disallowance of Service Tax of Rs.14,63,270/-

17. The alternative ground raised by the assessee relates to the service tax component of Rs.14,63,270/-. The Ld. CIT(A), while confirming the principal disallowance, directed the Assessing Officer to verify whether the amount of Rs.1,33,02,020/- included service tax and, if so, to grant consequential relief in respect of the service tax component.

17.1 Since we have already held that the principal disallowance of Rs.1,33,02,020/- itself is not sustainable and have directed deletion of the entire addition, no separate disallowance survives in respect of the service tax component forming part thereof. Consequently, the alternative ground raised by the assessee becomes infructuous and requires no separate adjudication.

18. Rest of the grounds raised by the assessee being general in nature do not call for any separate adjudication.

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

The order pronounced in the open Court on 25.06.2026

Sd/-	**Sd/-**
(RAHUL CHAUDHARY)	**(DR. B.R.R. KUMAR)**
JUDICIAL MEMBER	**VICE-PRESIDENT**

Ahmedabad; Dated 25.06.2026
***btk*

आदेश की प्रतिलिपि □ ग्रेषित / **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
6. गार्डफाईल /Guard file.

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सहायकपंजीकार (Dy./Asstt. Registrar)
आयकरअपीलीयअधिकरण, अहमदाबाद / **ITAT, Ahmedabad**