INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCHES, MUMBAI

BENCH: SMC

BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

<table>
<tr><td colspan="3">ITA 5560/MUM/2025
निर्धारण वर्ष/Assessment Year: 2014-2015)</td></tr>
<tr><td>SHRIPAL ROOPCHAND JAIN
1 AZAD SHOPPING CENTRE OPP RAILWAY STATION, MUMBAI-400062, MAHARASHTRA</td><td rowspan="2">Vs.</td><td>ITO 31(3) (4)
KAUTALIYA BHAVAN BANDRA EAST BKC MUMBAI-400051, MAHARASHTRA</td></tr>
<tr><td>अपीलार्थी Appellant</td><td>प्रत्यर्थी Respondent</td></tr>
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<tr><td colspan="2">Permanent Account Number of Assessee:</td><td>AACPJ4830F</td></tr>
<tr><td colspan="3"></td></tr>
<tr><td colspan="2">अपीलार्थी द्वारा/Appellant represented by:</td><td>Shri Sanjay Sharma, CA</td></tr>
<tr><td colspan="2">प्रत्यर्थी द्वारा/Respondent represented by:</td><td>Shri Pradeep Singh Saktawat - SR. DR.</td></tr>
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सुनवाई की तारीख / Date of conclusion of hearing:	**09-Jun-2026**
घोषणा की तारीख / Date of pronouncement:	**21-Jul-2026**

आदेश / ORDER

PER SHRI SANDEEP GOSAIN, JUDICIAL MEMBER:

This appeal is filed by the Assessee against the order of Ld. CIT (A) vide DIN: ITBA/APL/S/250/2025-26/1079635973(1) dated 04-Sep-2025 for the Assessment Year 2014-2015. The Assessee has raised the following grounds of appeal:

1) *The ld. ITO erred in disallowing claim of long term capital gains u/s 10(38) and making addition under section 68.*

2. The solitary ground raised by the assessee relates to challenging the order of the CIT(A) upholding the denial of exemption of long-term capital gain earned by the assessee.

3. I have heard the counsels for both parties, perused the material placed on record, the judgments cited before us, and the orders passed by the Revenue Authorities. From the records, I noticed that the assessee has claimed exempt income under Section 10(38) of the Income-tax Act on account of long-term capital gain earned as a result of trading in the shares of a company named Shree Shaleen Textile Limited. However, the said exemption was denied on the ground that the said company, Shree Shaleen Textile Limited, in whose shares the long-term capital gain was earned by the assessee, did not have strong financials, was not engaged in any genuine activities, and was designed to provide accommodation entries.

4. It was also submitted that the evidence collected by the AO suggested that Shree Shaleen Textile Limited was a shell company facilitating accommodation entries and that the allegations against the assessee were supported by the statements recorded under oath of the alleged entry providers, Akash Agarwal and Sawan Jajoo. It was also submitted that action had been initiated against the said company by the BSE and SEBI.

5. Whereas, on the contrary, the learned AR reiterated the same arguments as were raised before the Revenue Authorities and submitted that the assessee had entered into genuine transactions, had purchased shares of Shree Shaleen Textile Limited through account payee cheques, and, after holding them for a long period, sold the said shares, whereupon the sale consideration was received through account payee cheques. It was further

submitted that merely because the price of the said scrip had increased substantially, it did not prove that the company was a shell company, as the transactions entered into by the assessee were carried out through banking channels and on the legitimate platform of the BSE after payment of STT (Securities Transaction Tax).

6. It was further submitted that the delivery of the shares was routed through the demat account and that there was no pre-arrangement whatsoever in respect of the sale of the shares of the said scrip. Having considered the arguments of both the parties and after appreciating the orders passed by the Revenue Authorities, I am of the view that the entire transaction relating to the purchase and sale of shares of the said scrip was entered into by the assessee through banking channels and on the legitimate platform of the BSE after payment of STT. Even the delivery of the shares was routed through the demat account. Thus, in my view, the share market worldwide operates on the principle of future potential and not merely on the financials of a company. Further, the statement of the said Sawan Kumar Jajoo was of no consequence, as the said Sawan Kumar Jajoo was in no way associated with the company. No document from the Registrar of Companies, Maharashtra, has been placed on record to demonstrate that the said Sawan Kumar Jajoo was either a promoter, a major shareholder, or a director of the company. Thus, clearly, on the admission of a wrongdoer, the legitimate claim of the assessee could not be denied.

7. Even from the records, I notice that the AO has referred to 87 companies allegedly providing accommodation entries. However, the list of such companies was not placed on record. The AO could not establish any clear or live link between Shree Shaleen Textile Limited and either Sawan

Kumar Jajoo or Akash Agarwal. Further, no adverse orders passed by any of the statutory authorities, namely the BSE or SEBI, against Shree Shaleen Textile Limited or its promoters have been placed on record. Thus, there is nothing on record to suggest that Shree Shaleen Textile Limited was a penny stock company.

8. Even otherwise, the assessee has relied upon the following decisions:

1. ***Pratibha S. Mhatre – ITA No. 695/MUM/2018;***
2. ***Pawankumar Bachrajchandan – ITA No. 2592/MUM/2023;***
3. ***Rashmiben P. Kanungo – ITA No. 2131/Ahd/2018;***
4. ***Smt. Veena Chaturvedi v. DCIT (CC)-2(3), ITAT "F" Bench, Mumbai, ITA No. 1702/Mum/2021;***
5. ***Combined Appellate Order dated 21.09.2022 passed by the Hon'ble ITAT, "SMC" Bench, Mumbai, in the cases of Suresh M. Jain HUF (ITA No. 6614/Mum/2019), Heena Suresh Jain (ITA No. 6617/Mum/2019), and Rameshkumar Mohanlal Jain (ITA No. 315/Mum/2020), all relating to A.Y. 2014-15; and***
6. ***Appellate Order dated 10.01.2023 passed by the Hon'ble ITAT, "SMC" Bench, Mumbai, in the case of Kiran Bhanwarlal Jogani in ITA No. 2441/Mum/2022 for A.Y. 2014-15.***

Wherein, it was submitted that all the above cases involved transactions in the same scrip of Shree Shaleen Textile Limited. In all these cases, the additions made by the Assessing Officer were deleted by the respective Co-ordinate Benches of the ITAT.

8.1. The operative portion of the one of the decision of Coordinate Bench of ITAT in the case of, ***Smt. Veena Chaturvedi v. DCIT (CC)-2(3),*** is reproduced herein below:

> *18. We have heard the rival submissions and perused the relevant finding given in the impugned orders as well as material referred to before us. It is an undisputed fact that assessee has purchased 4,97,500 shares of Shreenath Commercial and Finance Limited from 10/03/2011 to 11/03/2011 in the open market on the Online Trading Portal of the Stock Exchange through registered Broker, RBK Share Broking Limited. One important fact to be noted here that in so far as RBK Share Broking Ltd. is concerned, nothing adverse has been found nor there is an enquiry that the said broker has provided any kind of accommodation entry or was involved in any such dubious transaction. On 22/03/2011 bonus shares were issued at the ratio of 1:1 and accordingly, assessee had held that 9,95,000 shares were sold after almost 2 years from 16/01/2013 to 21/01/2013 for sums aggregating to Rs. 8,29,88,876/-, on which assessee had earned a long-term capital gain of Rs. 7,29,88,736/- which claimed as exempt. Apart from that, all the documentary evidences in the form of contract note for purchase and sale of shares; copy of Demat Account reflecting receipt and transfer of shares; ledger account of Share Broker in assessee's books of accounts and bank statement reflecting payment on purchase and receipt of consideration on sale of shares were filed. We have already noted the various contentions raised by the Assessing Officer and his observations and the counter submissions made by the assessee before the authorities below as well as before us. From the perusal of the statement of Shri Rajendra Chaturvedi, husband of the assessee, it is noted that, he has stated that he had made investments in more than 50 scrips on behalf of himself and his family members and the investment in the shares of M/s. Shreenath Commercial & Finance Ltd. was made by him only on behalf his wife, the assessee. The average purchase rate of the shares was Rs.20/- per share and average sale rate was between Rs.79/-*

to Rs.86/- per share. He has also stated that the entire shares of purchases through stock exchange by online through registered broker and the shares were purchased when the financial condition of the said company was good and the profits were substantially increased including the turnover which was in several crores. He has also stated that the assessee nor any of the family member had any connection or business with the promoters of the company or any kind of alleged exit providers. Now in the case of her husband, Shri Rajendra Chaturvedi, the coordinate bench on exactly similar facts and reasoning of the AO and CIT (A) has deleted the said addition.

20. The AO has observed that the prices of the shares had reached upto 500/- per share to show assessee has gained multifold, however, assessee had sold the price changing price between Rs.79 to Rs.86/- per share which was quoted price in the Bombay Stock Exchange on which rate such shares were traded and had bought the shares at average price of Rs. 20/- per share. However, the main point which has been discussed at length by the ld. AO in his order that in the case of exit providers, there is the order of the SEBI dated 04/12/2014 in the case of Moryo Industries Ltd., who was one of the six exit providers of the impugned shares of Chaturvedi family. On this ground, the ld. AO has endeavored to depict nexus between the exit providers and Shreenath Commercial & Finance Ltd., and all the concerns have common promoter Shri Giriraj Kishore Agarwal. Therefore there was whole nexus which was found by the SEBI and these exit providers were banned by the order of the SEBI on 04/12/2014. As per the Interim order of the SEBI dated 04/12/2014, wherein primary investigation was undertaken on the dealings in the scrip of Moryo Industries Limited on noticing huge rise in the traded volumes and price of the said scrip on the Bombay Stock Exchange from 15/01/2013 to 31/08/2014. In the said interim order, a tenuous connection was drawn between 91 persons/entities comprising of Moryo Industries Limited, Promoters, Directors and Preferential Allottees and they were temporarily restrained from buying, selling or dealing in the securities market. The said SEBI order is only in respect *of scrip of Moryo Industries Ltd. and nowhere there is any whisper or mention about the scrip of M/s. Shreenath Commercial & Finance Ltd.; nor in the said list of 91 persons/entities, contain the name of either Shreenath Commercial and Finance Limited or the assessee or family members. Thus, per se, the said interim SEBI order does not impinge upon the assessee or the transaction of the scrip of Shreenath Commercial and Finance Limited in the Bombay stock exchange. Moreover, one very important fact which was brought on record before the authorities below that <u>SEBI vide final order dated 21/09/2017 had revoked the earlier interim order dated 04/12/2014 by categorically holding that there are no adverse findings against the said persons with respect to their role in the price manipulation in the scrip of Moryo Industries Limited.</u> Thus, the entire basis and premise of the ld. AO to draw his adverse inference on the basis of interim SEBI order dated 04/12/2014 has no legs to stand. One of the major contentions of the ld. AO was that in the case of exit providers, SEBI has given an adverse remark and all the observation on preliminary investigation by SEBI has been referred and relied upon the AO, therefore, the inference drawn by the ld. AO about the purchase of the scrips by these entities from the assessee, which has now been found by SEBI in its final order that there was no such manipulation by the these entities. In any case, firstly, the said SEBI order has nothing to do with the scrip of M/s. Shreenath Commercial & Finance Ltd. and secondly, the revocation of this order by the SEBI in its final order dated 21/09/2017 itself demolishes the entire foundation of the AO's inference.*

21. Apart from that, no enquiry either by the SEBI or any Government agencies has been done in the case of M/s. Shreenath Commercial & Finance Ltd. or the broker from whom assessee has purchased online or the assessee or the family member. In so far as one of his observations that one Shri. Giriraj Kishore Agarwal was the promoter, Director of various entities including M/s. Shreenath Commercial & Finance Ltd., he became the Director of this company on 10/11/2016.

i.e., after more than 3 ½ years, when the assessee had sold shares through Bombay Stock Exchange. In any case, the adverse inference of common link of Shri Giriraj Kishore Agarwal was discharged by the final SEBI order dated 29/11/2017. Therefore, tenuous connection made by the ld. AO to link M/s. Shreenath Commercial & Finance Ltd. with Moryo Industries Limited and other alleged exit providers through Shri Giriraj Kishore Agarwal does not hold any ground.

22. In so far as general observation in respect of share brokers on whom survey action was conducted by Directorate of Investigation Wing of Kolkata who had allegedly accepted the role in providing accommodation entry of bogus/ long term capital gain first of all such a reference is wholly out of context because assessee has not dealt with any of these brokers. Two statements of such brokers were also provided to the assessee by the ld. AO but no way they were connected to the assessee nor assessee has dealt with them nor is assessee's name figuring anywhere. The assessee had made transaction of purchase and sale of shares through RBK Share Broking Limited against which there is no such enquiry or information that this broking entity was involved in any kind of accommodation entry. Although these brokers have given the list of various scrips in which they have done the trading in shares for providing accommodation entry and one of the scrip mentioned was M/s. Shreenath Commercial & Finance Ltd. As per the statement of Shri Ritesh Jain, it was also alleged that M/s. Manu Stock Broking is a broking house for some of the exit providers related to sale of shares by Chaturvedi Family, however, in his statement there is no mention about the scrip and M/s. Shreenath Commercial & Finance Ltd. The said statement is part of the assessment order and nowhere in the said statement there is any whisper about the said credit or assessee or her family. When his statement was confronted to Mr. Rajendra Chaturvedi, then also in his statement he has not admitted that he had any connection with any of the four alleged share brokers nor there any mention in the statement of Shri Ritesh Jain. In so far as *notices u/s. 133(6) issued by the ld. AO to the exit providers and only few of them had replied. The only conclusion which has been drawn by the ld. AO that they had offered a very meager income and do not have any substance. However, in none of the replies which AO has noted, that they have stated that they had any transaction with the assessee. Further, ld. AO has not provided and how these entities were connected with scrip of M/s. Shreenath Commercial & Finance Ltd. and how they were involved in the alleged modus operandi adopted by the accommodation entry provider for bogus capital gain including the assessee, at least there has to be some primafacie or some mention about the assessee or about the scrip from such enquiry so as to draw some kind of adverse inference.*

23. In so far as various reports of the ld. AO and ld. CIT (A) by and large are same and ld. AO has stated that nothing new has been brought on record. Though there are decisions cited by both the parties and also assessee had cited various decisions of the Hon'ble Bombay High Court as mentioned above wherein the Hon'ble Bombay High Court had held that where the transactions have been made both purchase and sales through online and there is no adverse material or information except with some brokers have stated in their statement that they have provided accommodation entry in various scrips in one such scrip involved, that does not lead to drawing any adverse inference to treat the share transactions as bogus done through stock exchange.

24. Be that as may be, we find that on exactly similar set of facts and identical finding, this Tribunal in the case of the assessee's husband Shri Rajendra Chaturvedi and Mrs. Pallavi Pandey supra, the Co-ordinate Bench has deleted the said addition after observing as under:-

"We have heard the rival submissions of both the parties and perused the material on record including the various case laws referred by the rival parties during the course of hearing. The undisputed facts are that the assessee has purchased 28 lakhs of shares of M/s. Shrinath

Commercial and Finance Ltd. between 04.03.2011 to 15.03.2011 M/s. Shrinath Commercial and Finance Ltd thereafter Issued bonus shares in the ratio of 1:1 on 22.03.2011 and thus the assessee came to hold 56 lakh shares in the said company. We note that these shares were purchased through recognised stock exchange through registered broker and were credited in the D-mat account of the assessee. Similarly, the bonus shares were also credited in the said D-mat account held by the assessee. All these purchases of shares were supported by the contract notes issued by the authorised brokers of the stock exchange and the payments were made through banking channels. Thereafter, the assessee sold these shares during the period commencing on 23.08.2012 to 08.02.2013 for a total consideration of Rs 41,48,39,241/- and was received through banking channel thereby making a long-term capital gain of Rs 35,44,38,501/- which was claimed as exempt under section 10(38) of the Act as long term capital gain on sale of shares. We notice that all these transactions were carried out on a recognised stock exchange by the assessee through registered brokers duly evidenced by the contract notes and entries in the D-mat account and the sale and purchase consideration reached through banking channels. The AO has also only relied on the Investigation carried out by the Investigation wing, Kolkata and Mumbal that assessee is a beneficiary of these bogus long term capital gain entries. Nowhere the AO has brought on record any other evidence than relying on the report of investigation wing that the assessee is beneficiary of this huge racket of taking bogus entries of long-term capital gain. The 40 has disbelieved these documents by observing that these are sham and bogus documents without pointing out any specific defect or infirmity as these were issued as per the system of the recognised stock exchange through registered brokers. Similarly, the Ld. CIT(A) has upheld the order of AO by holding that the assessee is beneficiary of a big racket whereby the prices of the shares were rigged and manipulated to yield bogus gain to various entities/individuals of which assessee was one. Thus, we find merit in the arguments of the Ld AR that assessee has furnished all the information. details, documentary evidences before the AO but the AO has not done any further verification to find out the truth or done anything to prove the money trail of the funds as has been alleged in the order. Under these circumstances, we are not in a position to sustain the order of Ld. CIT(A) upholding the order of AO wherein the long-term capital gain has been held to be non-genuine and bogus."

25. Once on the same set of facts the Co-ordinate Bench have deleted the said addition, then in the case of the assessee, no different view

> *can be taken. Respectfully following the same, addition made by the ld. AO is deleted including the addition of alleged commission made u/s.69C, which is deleted. Thus, on merits, appeal of the assessee is allowed.*
>
> *26. However, in so far as validity of reopening is concerned, the same is left open and the same is purely academic and allow the appeal of the assessee on merits.*
>
> ***27. In the result, appeal of the assessee is allowed.***

9. Therefore, keeping in view the facts and circumstances discussed above, and also keeping in view the doctrine of ***binding precedent*** and judicial consistency, and respectfully following the decisions of the ***Co-ordinate Benches***, I quash and set aside the orders passed by the Revenue Authorities. Accordingly, I direct the AO to delete the addition.

10. Accordingly the ground raised by the assessee stands allowed.

11. In the result appeal filed by the assessee stands allowed.

Order pronounced in the open court on 21.07.2026.

Sd/-
SANDEEP GOSAIN
JUDICIAL MEMBER

Mumbai
Dated:

RY-SrPS

Copy to:

1	**SHRIPAL ROOPCHAND JAIN, 1 AZAD SHOPPING CENTRE OPP RAILWAY STATION, MUMBAI-400062, MAHARASHTRA**
2	**ITO 31(3) (4) , KAUTALIYA BHAVAN BANDRA EAST BKC, MUMBAI-400051, MAHARASHTRA**
3	THE PCIT / CIT,
4	THE D.R., ITAT, MUMBAI BENCH
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