

Dy. Commissioner Of Income Tax, Mumbai vs Kishor Premchand Lahrani Huf, Mumbai on 13 May, 2026

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

BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER

ITA NO. 7699/Mum/2025 (AY 2014 -15)

DY. COMMISSIONER OF INCOME TAX ROOM NO. 420, 4TH FLOOR, KAUTILYA BHAWAN, BANDRA KURLA COMPLEX, BANDRA EAST, MUMBAI-400051, MAHARASHTRA (Appellant)	Vs	KISHOR PREMCHAND LAHRANI 801, 8TH FLOOR, ENCHANTE, 14TH ROAD, KHAR WEST, MUMBAI-400052, MAHARASHTRA PAN: AABPL2052J (Respondent)
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CO. No. 375/Mum/2025
(Arising out of ITA No. 7699/Mum/2025)
A.Y: 2014-15

KISHOR PREMCHAND LAHRANI 801, 8TH FLOOR, ENCHANTE, 14TH ROAD, KHAR WEST,, MUMBAI- 400052, MAHARASHTRA PAN: AABPL2052J (Appellant)	Vs	DY. COMMISSIONER OF INCOME TAX ROOM NO. 420, 4TH FLOOR, KAUTILYA BHAWAN, BANDRA KURLA COMPLEX, BANDRA EAST MUMBAI-400051, MAHARASHTRA (Respondent)
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ITA NO. 6615/Mum/2025 (AY 2014-15)

With

ITA NO. 6616/Mum/2025 (AY 2015-16)

With

ITA NO. 6617/Mum/2025 (AY 2016-17)

ITA 7699/Mum/2025 & Ors..
CO 375/Mum/2025 & Ors.;

DY. COMMISSIONER OF INCOME TAX KAUTILYA BHAWAN, ROOM NO. 420, 4TH FLOOR, G BLOCK, BANDRA KURLA COMPLEX,, MUMBAI- 400051, MAHARASHTRA	Vs	KISHOR PREMCHAND LAHRANI HUF 801, 8TH FLOOR, ENCHANTE, 14TH ROAD, KHAR (WEST) MUMBAI-400052, MAHARASHTRA
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PAN: AAAHK2645F

(Appellant)

(Respondent)

CO. No. 299/Mum/2025
(Arising out of ITA No. 6615/Mum/2025)
A.Y: 2014-15
With

CO. No.300/Mum/2025
(Arising out of ITA No. 6616/Mum/2025)
A.Y: 2015-16
With

CO. No. 301/Mum/2025
(Arising out of ITA No. 6617/Mum/2025)
A.Y: 2016-17

KISHOR PREMCHAND
LAHRANI HUF
801, 8TH FLOOR,
ENCHANTE, 14TH ROAD,
KHAR (WEST), MUMBAI-
400052, MAHARASHTRA

Vs

DY. COMMISSIONER OF
INCOME TAX
KAUTILYA BHAWAN, ROOM
NO. 420, 4TH FLOOR, G
BLOCK, BANDRA KURLA

PAN: AAAHK2645F

COMPLEX,
MUMBAI-400051,
MAHARASHTRA

(Appellant)

(Respondent)

ITA NO. 6618/Mum/2025 (AY 2014-15)
With
ITA NO. 6619/Mum/2025 (AY 2015-16)

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ITA 7699/Mum/2025 & Ors..
CO 375/Mum/2025 & Ors.;

DY COMMISSIONER OF
INCOME TAX

KAUTILYA BHAWAN,
ROOM NO. 420, G BLOCK,
BANDRA KURLA
COMPLEX, BANDRA EAST,
MUMBAI-400051,
MAHARASHTRA
(Appellant)

Vs

PUNEET KISHOR LAHRANI

801, 8TH FLOOR, ENCHANTE,
14TH ROAD, KHAR WEST,

MUMBAI-400052,
MAHARASHTRA

PAN: ACQPL6691J
(Respondent)

CO. No. 293/Mum/2025
(Arising out of ITA No. 6618/Mum/2025)

A.Y: 2014-15

With

CO. No. 294/Mum/2025

(Arising out of ITA No. 6619/Mum/2025)

A.Y: 2015-16

PUNEET KISHOR
LAHRANI
801, 8TH FLOOR,
ENCHANTE, 14TH ROAD,
KHAR WEST, MUMBAI-
400052, MAHARASHTRA

PAN: ACQPL6691J

(Appellant)

Vs
DY COMMISSIONER OF
INCOME TAX
KAUTILYA BHAWAN, ROOM
NO. 420, G BLOCK, BANDRA
KURLA COMPLEX, BANDRA

EAST,

MUMBAI-400051,

MAHARASHTRA

(Respondent)

ITA NO. 6620/Mum/2025 (AY 2014-15)

With

ITA NO. 6621/Mum/2025 (AY 2015-16)

With

DY COMMISSIONER OF
INCOME TAX
KAUTILYA BHAWAN, ROOM
NO. 420, 4TH FLOOR,
BANDRA KURLA
COMPLEX, BANDRA EAST,
MUMBAI-400051,

MAHARASHTRA

Vs
REENA KISHOR LAHRANI
801, 8TH FLOOR, ENCHANTE,
14TH ROAD, KHAR WEST

MUMBAI-400052,

MAHARASHTRA

PAN: ABIPL5205F

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ITA 7699/Mum/2025 & Ors..

CO 375/Mum/2025 & Ors.;

(Appellant)

(Respondent)

CO. No. 296/Mum/2025

(Arising out of ITA No. 6620/Mum/2025)

A.Y: 2014-15

With

CO. No. 295/Mum/2025

(Arising out of ITA No. 6621/Mum/2025)

A.Y: 2015-16

REENA KISHOR
LAHRANI
801, 8TH FLOOR,
ENCHANTE, 14TH ROAD,
KHAR WEST, MUMBAI-
400052, MAHARASHTRA

Vs
DY COMMISSIONER OF
INCOME TAX
KAUTILYA BHAWAN, ROOM
NO. 420, 4TH FLOOR, BANDRA
KURLA COMPLEX, BANDRA

PAN: ABIPL5205F
(Appellant)

EAST
MUMBAI-400051,
MAHARASHTRA
(Respondent)

ITA NO. 6623/Mum/2025 (AY 2014-15)

DY COMMISSIONER OF
INCOME TAX
KAUTILYA BHAWAN,
ROOM NO. 420, G BLOCK,
BANDRA KURLA
COMPLEX, BANDRA EAST,
MUMBAI-400051,
MAHARASHTRA
(Appellant)

Vs MEHR LOKESH GURNANI
11TH FLOOR, BARISA
MARINA APARTMENT,
ENCHANTE, DR. AMBEDKAR
ROAD, KHAR WEST
MUMBAI-400052,
MAHARASHTRA
PAN: ASUPG4897M
(Respondent)

CO. No. 297/Mum/2025
(Arising out of ITA No. 6623/Mum/2025)
A.Y: 2014-15

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ITA 7699/Mum/2025 & Ors..
CO 375/Mum/2025 & Ors.;

MEHR LOKESH GURNANI Vs
11TH FLOOR, BARISA
MARINA APARTMENT,
ENCHANTE, DR.
AMBEDKAR ROAD, KHAR
WEST, MUMBAI-400052,
MAHARASHTRA
PAN: ASUPG4897M
(Appellant)

DY COMMISSIONER OF
INCOME TAX
KAUTILYA BHAWAN, ROOM
NO. 420, G BLOCK, BANDRA
KURLA COMPLEX, BANDRA
EAST
MUMBAI-400051,
MAHARASHTRA
(Respondent)

ITA NO. 6622/Mum/2025 (AY 2014-15)

DY COMMISSIONER OF
INCOME TAX
KAUTILYA BHAWAN,
ROOM NO. 420, 4TH FLOOR,
G BLOCK, BANDRA KURLA
COMPLEX, BANDRA EAST,
MUMBAI-400052,
MAHARASHTRA
(Appellant)

Vs LOKESH SHANKAR
GURNANI
11TH FLOOR, BARISA
MARINA APARTMENT,
ENCHANTE, DR. AMBEDKAR
ROAD, KHAR WEST
MUMBAI-400052,
MAHARASHTRA
(Respondent)

MUMBAI - 400051,
MAHARASHTRA

MUMBAI - 400052,
MAHARASHTRA

PAN: AFBPG4873R

(Appellant)

(Respondent)

CO. No. 298/Mum/2025
(Arising out of ITA No. 6622/Mum/2025)
A.Y: 2014-15

LOKESH SHANKAR
GURNANI
11TH FLOOR, BARISA
MARINA APARTMENT,
ENCHANTE, DR.

Vs DY COMMISSIONER OF
INCOME TAX
KAUTILYA BHAWAN, ROOM
NO. 420, 4TH FLOOR, G
BLOCK, BANDRA KURLA
COMPLEX, BANDRA EAST,

AMBEDKAR ROAD, KHAR

MUMBAI - 400051,

WEST

MAHARASHTRA

MUMBAI - 400052,
MAHARASHTRA

PAN: AFBPG4873R

(Appellant)

(Respondent)

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ITA 7699/Mum/2025 & Ors..
CO 375/Mum/2025 & Ors.;

Assessee by

Shri Madhur Agrawal

Revenue by

Shri Ritesh Misra, CIT DR

Date of Hearing

22.04.2026

Date of Pronouncement

13.05.2026

ORDER

PER BENCH:

The present appeals have been filed by the Revenue and cross objections by the assessee challenging the different impugned order dt. 30.09.2025, 25.08.2025 and 26.08.2025 passed under section 250 of the Income Tax Act, 1961 ('the Act'), by the

Commissioner of Income Tax (Appeals) [CIT(A)] for the assessment years 2014-15, 2015-16 and 2016-17

2. Since all the issues involved in these appeals and cross objections are common and identical therefore, they have been clubbed, heard together and consolidated order is being passed. Firstly, we shall take ITA No. 7669/Mum/2025, A.Y 2014-15 as lead case and facts narrated therein.

The grounds raised by the Revenue are as follows :

1) On the facts and circumstances of the case and in law, whether Ld. CIT A was justified in deleting the addition of Rs. 16,95,04,810 made by the AO under section 68 of the I.T. Act, 1961 on account of bogus LTCG, ITA 7699/Mum/2025 & Ors..

CO 375/Mum/2025 & Ors.;

ignoring the fact that the shares were bought OR acquired from off market sources and thereafter the same were demated and registered in stock exchange and increase in share price of Global Infratech and Finance Limited is not supported by the financials and, therefore, the amount of Rs. 16,95,04,810 claimed by the assessee is nothing but unaccounted income which was rightly added under section 68 of the I.T. Act,1961

2) On the facts and circumstances of the case and in law, whether Ld. CIT A was justified in deleting the addition of Rs. 84,75,241 made by the AO under section 69C of the I.T. Act,1961 on account of alleged commission paid to earn bogus LTCG, without appreciating the fact that the assessee must have paid alleged commission to facilitate earning of bogus LTCG and assessee himself accepted under oath paying commission in cash

3. All the grounds raised by the Revenue are interrelated and interconnected and relates to challenging the order of the Ld. CIT(A) in deleting the additions made by the AO under Section 68 of the Act and under Section 69C of the Act. Therefore, we have decided to adjudicate these grounds through the present consolidated order.

4. The Ld. DR, appearing on behalf of the Department, while relying upon the assessment order, submitted that the Ld. CIT(A) was not justified in deleting the additions made by the AO under Section 68 of the Act on account of bogus LTCG, ignoring the fact that the shares were bought/acquired through off-market transactions and thereafter dematerialized and registered on the stock exchange. Thus, according to the Revenue, the increase in the share price of Global Infratech and Finance Ltd. was not supported by the financials of the company and, therefore, the amount claimed by the assessee as LTCG was nothing but unaccounted income, which was rightly added under Section 68 of the Act.

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5. It was also submitted that the Ld. CIT(A) was not justified in deleting the addition made by the AO under Section 69C of the Act on account of commission paid to earn bogus LTCG. It was submitted that the Ld. CIT(A) had not appreciated the fact that the assessee must have paid commission to facilitate earning of bogus LTCG and, in this regard, the assessee himself had made an admission under oath regarding payment of commission in cash. It was further submitted that the admission of the assessee was corroborated by the report of the Investigation Wing and the penny stock analysis conducted by the Department.

6. It was also submitted that the Ld. CIT(A), while deleting the additions, had ignored the settled legal position that the test of genuineness of transactions under the Income Tax Act is based on the principle of preponderance of probabilities, and that strict rules of evidence do not apply, as held by the Hon'ble Apex Court in the cases of Sumati Dayal vs. CIT [214 ITR 801 (SC)], CIT vs. Durga Prasad More [(1971) 82 ITR 540 (SC)] and McDowell & Company Ltd. vs. Commercial Tax Officer [(1985) 3 SCC 230].

7. On the other hand, the Ld. AR appearing on behalf of the assessee reiterated the same arguments as were raised before the Revenue Authorities and also relied upon the order passed by the Ld. CIT(A).

8. We have heard counsel for both the parties, perused the material placed on record, the judgments cited before us, and also the orders passed by the Revenue Authorities. From the records, we noticed that these grounds have been dealt with in detail by the Ld. CIT(A) in paragraph 8 ITA 7699/Mum/2025 & Ors..

CO 375/Mum/2025 & Ors.;

and 9 of the order of ld. CIT(A) contained at Pages No. 86-109 of the Ld. CIT(A) and the same is reproduced herein below:

8. Ground 1-3 challenges the action of the AO in taxing a sum of Rs. 16.95 crores as bogus long term capital gain.

During the year, appellant earned Long Term Capital Gain (LTCG) of Rs. 16,95,04,810/- on sale of equity shares of shares of Global Infratech & Finance Limited ("GIFL"), a company listed on Bombay Stock Exchange. The said gain was claimed as exempt under section 10(38) of the Act. The AO denied exemption to the said LTCG terming the transaction relating to GIFL as bogus.

8.2 The facts of the case and findings and conclusion of the Assessing Officer has already been elaborated above. The appellant filed a detailed submission of 65 pages and paper book of 231 pages. The submission has already been reproduced above.

8.3 The main contentions INCsed by the appellant are summarized as under.

The Appellant has submitted all the relevant documents in order to prove the nature and source of the transaction thereby discharging his onus. Addition under section 68 of the Act is not sustainable since no unexplained credit was found in the books of accounts nor any dis-satisfaction was pointed out by the AO in the evidences and explanation submitted.

The incriminating statements made by the assessee have been retracted and therefore cannot be used against the assessee.

The transactions of purchase and sale of shares are done through proper channel.

The shares of GIFL sold through reputed stock broker, India Infoline Limited on recognized stock exchange regulated by SEBI, payment received directly in bank account and disclosed in the return of income.

The findings by the Investigation Wing or the AO do not show anywhere involvement or connection of the appellant nor that the Appellant has done any arrangement or transactions or accommodation entries for eaming such capital gain.

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The Final Order of SEBI proves that appellant had no role in price manipulation, volume manipulation, in the script of GIFL Statements of alleged exit providers provided by the AO does not prove that the appellant or his family members have any relation with them or have provided any sort of accommodation to the assessee or his family members. Moreover, the statements recorded were in the absence of the appellant and no opportunity to cross examination of such persons was provided to the appellant.

The addition made alleging Long Term Capital Gain in shares of listed company, as sham and bogus is solely on the basis of suspicion, conjectures and preponderance of probability and human behavior.

The assessee has relied upon on the following case laws:

Vijayrattan Balkrishan Mittal Vs. DCIT (ITA 3429/Mum/2019).

Suresh Agarwal Vs. ACIT (ITA 8703/Del/2019).

Vasantraj Birawat v ACIT (61 taxmann.com 295) (Mumbai - Trib.).

Pr. CIT Vs. BLB Cables & Conductors (P.) Ltd. [ITAT No. 78 of 2017, dated 19-06-2018](Cal.).

ITO VS. Indravan Jain (ITA 4861/M/2014).

CIT Vs. Indravan Jain (INCOME TAX APPEAL NO. 454 OF 2018) (Bom.).

Gautam Kumar Pincha Vs. ITO (IT Appeal No.569/Kol/2017).

ITO Vs. Arvind Kumar Jain (HUF) [IT Appeal No.4682(Mum) 2014].

CIT Vs. Vivek Mehta (204 Taxman 177) (P&H).

Alpine Investments (ITA No. 620 of 2008) (Cal.).

CIT Vs. Mukesh Ratilal Marolia (ITXA 456 of 2007) (Bom.).

-CIT Vs. Smt. Jamnadevi Agrawal (328 ITR 656) (Bom.).

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CIT Vs. Shyam R Pawar (229 Taxman 256) (Bom.).

Ramprasad Agarwal (ITA No. 4843/M/2018).

Navneet Agarwal (ITA No. 2281/Kol/2017).

Pramod Kumar Lodha (ITA No. 826/JP/2014).

Manish Kumar Baid Ve, ACIT [ITA 1236/Kol/2017).

Sunil Prakash [ITA 6494/Mum/2014].

Arun Kumar (ITA No. 457/Del/2018).

DCIT Vs. Rajnikant Prahubas Mandavia (ITA 4018402/Ahd/2019). THA DEPA Farzad Sheriar Jehani Vs. ITO (2065/Mum/2023).

Shri Mukesh B Sharma Vs. ITO (ITA. No. 6249/Mum/2018).

DCIT Vs. Rajnikant Prahubas Mandavia (ITA 4018402/Ahd/2019).

CIT Vs. Ashish International, (ITA No. 4299 of 2009).

PCIT Vs. Best Infrastructure (India) Pvt. Ltd.

Arceli Realty Limited (ITA 6492/Mum/2016).

ACIT Vs. Mahesh K Shah, (ITA 5194/Mum/2014).

Kishanchand Chellaram v CIT [1980] 4 Taxman 29 (SC).

H.R. Mehta Vs. ACIT [(387 ITR 561) (Bombay)].

8.4 I have perused the assessment order and findings of AO. I have also carefully perused the various documents submitted by the appellant and submission made. The assessee is an Individual. For the year ended 31.03.2014, the appellant earned, inter alia, Long Term Capital Gain ("LTCG") of Rs. 16,95,04,810/- on equity shares of Global Infratech & Finance Limited ("GIFL"). Such LTCG was claimed exempt under section 10(38) of the Act.

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8.5 A notice under section 153A was issued on 21.09.2016. In response to the said notice, the appellant filed the return of income on 06.10.2016 declaring Total Income at Rs. 78,95,290/-; i.e, the same as per original return.

8.6 The AO has relied on the findings of Investigation Wing, Kolkata, in respect of LTCG/STCL entries claimed by large number of beneficiaries, wherein it was mentioned that the entire entry providing scam comprises of various levels of operators who either introduce the unaccounted cash of beneficiaries in their accounts through a layer of transactions and utilize the said cash for purchase of shares at manipulated high prices which ultimately results in payment of the amount back to the beneficiary in the guise of sale proceeds of shares ostensibly resulting in Long Term Capital Gain to the beneficiary and reverse modus operandi is adopted in order to provide entry of bogus Short Term Capital loss. Z INCOME TAX DEPARTMENT 8.7 The assessment was corripeted vide order under section 143(3) r. w. s. 153A of the Act dated 29.12.2017 making the following additions/disallowances:

Denial of exemption under section 10(38) of the Act with respect to LTCG of Rs. 16,95,04,810/- on sale of equity shares of GIFL:

Addition under section 69C of the Act on account of alleged commission of Rs. 84,75,241/- paid for facilitating the above transaction 8.8 In order to prove the nature and source of the transaction of sale of shares of GIFL, the appellant has submitted following documents/evidences:-

The assessee sold the shares of GIFL on the recognized stock exchange. On the said sale, the sale consideration, after deduction of STT and other charges, was recoverable from the broker India Infoline Ltd. In support of the same, the appellant

submitted copy of contract note on sale of equity shares through India Infoline Ltd on BSE platform. The contract notes show the quantity, rate, time stamp, value, taxes and charges viz. STT, brokerage, SEBI and exchange turnover charges, service tax and stamp duty incurred on all the transactions done on BSE platform (oldest stock exchange recognized by the market regulator, SEBI). The documents have been accepted by the AO. Further at the time of search on the assessee, a survey action was conducted on the broker India ITA 7699/Mum/2025 & Ors..

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Infoline Limited to verify the above transaction in shares of GIFL and nothing incriminating was found.

- The assessee submitted a copy of the ledger of India Infoline Ltd in support of the transaction.

The assessee also submitted a copy of the bank statement exhibiting the receipt of sale proceeds from the broker India Infoline Ltd.

The assessee submitted a copy of the demat account of the appellant showing shares debited/transferred to broker PAR The sale consideration is received by appellant from the India Infoline Ltd, a registered broker of SEBI/ BSE The sale has been done at prevailing price quoted on the BSE.

The shares are sold by appellant's broker on BSE platform and not off-market.

Even, the original purchase of shares made from KKJ Stock & Co. and K L Ventures Capital Pvt. Ltd. were on the basis of supporting invoice and through banking channels. Further such purchase of shares was verified by the AO by issuing notice under section 133(6) of the Income Tax Act, 1961 and the same was duly verified.

8.9 On perusal of the above documents, it established beyond doubt that the purchase was affected through proper banking channel and has duly been verified by the AO in the assessment. Further the sale was affected on stock exchange platform through a registered broker of repute and nothing wrong has been found in the same even after a survey was conducted on the broker. The delivery of shares remained Undisputed. The holding in demat remained undisputed and receipt of funds, payment of STT etc. all remained undisputed and stands proved.

8.10 From the gamut of facts brought out above, it appears that the AO is predominantly influenced by the penny stock related issue for treating the said transactions as sham, I find that the AO has not pointed out any deficiency in the documents or inherent weakness in the explanation or doubted genuineness of the transaction for want of any evidence. Further, for an amount to be treated as cash

credit, there should be absence of identity, genuineness of transaction and creditworthiness of the payer/creditor. Here in ITA 7699/Mum/2025 & Ors..

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this case, the shares were sold through a reputed broker on BSE on screen basis. It is a software driven sale on line. Broker will put up the shares for sale and the computer will match the buyer. Sale proceeds were received in an approved way as per guidelines set by the SEBI in the bank account through normal banking channels thus the identity, source of fund and genuineness of transaction stands established beyond reasonable doubt leaving no scope for making any additions. 68 of the IT Act, it is a settled legal position that a claim which is supported by proper evidences cannot be denied by an assessing authority unless contrary evidences establishing otherwise is brought on record and unless it is proved that the evidences filed by the assessee are false or fabricated or bogus to take an otherwise view. Such exercise has not been done by the AO.

8.11 Section 10(38) provides that exemption to long term capital gain earned on listed securities on which STT has been paid. The assessee has furnished explanation to prove that all the conditions of section 10(38) of the Act are complied. The AO has nowhere in the assessment order pointed out non-fulfillment or non-compliance of any conditions of section 10(38) of the Act to justify denial of exemption.

8.12 The AO has relied upon on the assessee's own statement recorded at the time of search wherein the assessee has admitted that he has converted unaccounted income of Rs. 56.52 crores of the Lafirani family through Mr. Jaswant Mehta. The appellant requested for the statements recorded during the search. However, the same were never provided to the appellant. Finally, the statements were provided on 19.09.2017. Soon, after receiving the statements, the assessee filed retraction affidavit on 26.09.2017.

8.13 The assessee in his retraction has submitted that he was coerced to admit that his dealing in the aforesaid scrip was done to convert unaccounted income of Rs. 56.52 crores. The appellant submitted that he does not know of any person called Mr. Jaswant Mehta and has not entered into any transaction with him.

8.14 The AO has only concluded that the retraction is an after-thought without any corroborative evidence to support his findings relating to conversion of unaccounted money or dealing with Mr. Jaswant Mehta. However, the AO neither could locate Mr. Jaswant Mehta, nor his statement was recorded.

8.15 I find that the main basis of the addition is the statement of the appellant confessing that he has earned bogus capital gain on sale of shares of GIFL brokered through Jaswant Mehta. The said statements have been retracted. Whether or not such retraction is admissible or not, it is well settled that additions should not be made solely on the basis ITA 7699/Mum/2025 & Ors..

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of confessions made in the course of search. The addition should be supported with corroborative evidence.

8.16 Here it is worthwhile to refer the CBDT Circular F. No. 286/2/2003-IT (Inv.). dated 10-3-2003; wherein the Board noted as under:

"Instances have come to the notice of the Board where assesseees have claimed that they have been forced to confess the undisclosed income during the course of the search & seizure and survey operations. Such confessions, if not based upon credible evidence, are later retracted by the concerned assesseees while filing returns of income. In these circumstances, such confessions during the course of search & seizure and survey operations do not serve any useful purpose. It is, therefore, advised that there should be focus and concentration on collection of evidence of income which leads to information on what has not been disclosed or is not likely to be disclosed before the Income-tax Department. Similarly, while recording statement during the course of search & seizure and survey operations no attempt should be made to obtain confession as to the undisclosed income. Any action on the contrary shall be viewed adversely."

8.17 From the above it is clear that the CBDT itself is aware that confessions extracted during search and seizure are under pressure, therefore, such statements are retracted afterwards and hence cannot be relied upon. The case of the appellant is squarely covered by the above circular. Merely on the basis of such forced confession without any other corroborative evidence, addition cannot be made. The AO ought to have found further incriminating material to impeach the evidences placed on record by the assessee. It is well settled that a statement recorded under Section 132(4) would constitute evidence, and a valuable one at that, it cannot be the sole basis upon which an addition can be made. Thus, the excessive reliance of AO on statements recorded during search and retracted subsequently is misplaced and such retracted statement cannot be the basis of addition in the absence of any other incriminating material. In this regard, I place reliance on the followings:

In the case of Dr. M. Malliga Vs. ACIT (173 taxmann.com 388), the Hon'ble Madras High Court held that a statement recorded under Section 132(4) would constitute evidence, and a valuable one; however, still it cannot be the sole basis upon which an addition may be made in the context of block assessment.

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In the case of DCIT VS NIBR Bullion Pvt. Ltd. (ITA 6320/Mum/2011) the Hon'ble Mumbai Tribunal held that addition merely on the basis of confession during the course of search operation without supporting evidence is unsustainable in law.

In the case of the DCIT Vs. Pramukh Builders (112 ITD 179) (Ahd.); it was held that there being no evidence regarding undisclosed income, addition made only on the basis of statement given in the state of confusion and later retracted could not be sustained.

8.18 The AO has alleged that various investigations done by the Investigation Wings prove that the entry operators had manipulated the share price. I note that in some cases, the AO reproduced abstracts of some recorded statements, however, in not a single case;

(1) copy of the statement is provided to the appellant; (2) opportunity to cross examination was provided; (3) Name of the appellant was mentioned in the statement; (4) the statements so recorded were general and not specific to the transaction carried out by the appellant; (5) The status of those statements whether retracted or not is not clear, (6) There was absolutely no evidence or discussions as to what is the source of such a huge cash available with the appellant, it is given to whom and how? (7) the huge reliance in the statement was placed on Mr. Jaswant Mehta, the AO could not even locate him; even the existence of Mr. Jaswant Mehta is not proved. Thus, the entire statement which was based on Mr. Jaswant Mehta theory cannot be solely relied upon.

8.19 Further the statements of Mr. Rajkumar Kedia, Mr. Anuj Agarwal (director of Korp Equity) and Pravin Agarwal (director of M/s. Gateway Financial Services Ltd) relied upon the appellant, does not establish:

That the appellant has paid any unaccounted money to these parties. None of the replies to the question posed indicate that they received any unaccounted money from the appellant.

That they received or utilized the unaccounted money from the appellant with reference to shares of GIFL

-Further, these statements have not been provided to the assessee for rebuttal and appear to be unconnected to the case of the assessee as none of the party has named the assessee or give any link with such alleged bogus LTCG.

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8.20 Further, I note that SEBI under its order no. WTM/MB/IVD/ID6/12613/2021-22 dated 16th July, 2021 has examined the role of the assessee and his family members in the price manipulation of the scrip Global Infratech and Finance Limited. The assessee and his family members are addressed as under in the said order 8.20.2 examination: I further note that the SEBI has formed the following issue for "40.1 Issue No. 1: Whether Notice No. 13 to 36 were/

are promoters of GIFL and Noticee No. 37 to 41 were/ are promoter related entities? Whether Noticee No. 13 to 41 are connected to entities allegedly involved in price manipulation i.e. LTP contributors (Notice No. 1 to 7) through GIFL (Noticee No. 8) and thereby involved in a fraudulent scheme, selling the shares of GIFL at artificially inflated prices and have thus violated the provisions of Regulation 3(a), (b), (c), (d) and Regulation 4(1) of PFUTP Regulations as alleged in the SCN?" (Page 28 of 84 of the order dated 16th July, 2021).

8.20.3 After detailed investigation, SEBI rules as under (page 50 of 84 of the order dated 16th July, 2021):

"59. Hence, in view of the above coupled with (a) the findings that Noticees No. 13 to 41 can not be said to be connected to GIFL or connected to entities involved in price manipulation ie. LTP Contributor-Noticee No. 1 to 7; and (b) no allegation against ITA 7699/Mum/2025 & Ors..

CO 375/Mum/2025 & Ors.;

Noticee No. 13 to 41 of LTP contribution, price manipulation, volume manipulation, circular trades, reversal trades, synchronized trades, etc. in SCN, I am of the view that Noticees No. 13 to 41 can not be said to be involved in the alleged fraudulent scheme. Hence, the allegation of violation of Regulation 3(a), (b), (c), (d) and 4(1) of PFUTP Regulations against Noticees No. 13 to 41 does not stand established."

8.20.4 Since in this particular case, SEBI has carried out specific investigation against the assessee and his family members and found nothing adverse; the addition made on account of LTCG in Global Infratech and Finance Limited has no leg to stand on. Thus, nothing adverse was found against the assessee by the Bombay Stock Exchange (BSE), SEBI or any other regulator in respect of transaction in the scrip of Global Infratech and Finance Limited.

8.21 Further, if the sale or purchase is alleged to be non-genuine, the AO must demonstrate that the entire money trail, from the purchase to the final realization of sale proceeds, was a facade used to introduce unaccounted income. It is settled principle of law that the primary onus lies on the assessee to substantiate the genuineness of the transaction by furnishing documentary evidence. If the fundamental aspects are satisfied, the burden then shifts to the AO to bring on record specific material evidence proving that the transactions were merely a colorable device aimed at tax evasion. The mere fact that a share has been subject to price manipulation does not automatically lead to addition under section 68 of the act unless it is conclusively demonstrated that the assessee was part of the scheme, and the transactions were structured to generate artificial gains or losses. In the present case, nothing of that sort could be observed or proved. It was further noted that there was no evidence whatsoever to allege that money changed hands between the assessee and the broker or any other person, or further that some person provided accommodation entry to assessee.

8.22 The Assessing Officer has applied the concept of human probabilities and held the above said scrips to be a penny stock without bringing on record how the assessee is involved in any of the scrupulous activities or directly linked to one of the persons who has involved in manipulation/rigging of share prices.

8.23 The presumption or suspicion, however, strong it may appear to be true, but needs to be corroborated by some evidence to establish a link that the assessee had brought back his unaccounted income in the form of LTCG. Reliance is also placed on decision of ITA 7699/Mum/2025 & Ors..

CO 375/Mum/2025 & Ors.;

Special Bench of Mumbai Tribunal in the case of GTC Industries Ltd. vs ACIT [2017] 164 ITD 1 (Mumbai Tribunal) (SB) The Tribunal observed as under:

"..... Ultimately the entire case of Revenue hinges upon the presumption that assessee is bound to have some large share in so called secret money in the form of premium and its circulation, However, this presumption or suspicion how strong it may appear to be true but needs to be corroborated by some evidence to establish a link that GTC actually had some kind of a share in such secret money. It is quite a fute fow that suspicion howsoever strong may be but cannot be the basis of addition except for some material evidence on record. The theory of preponderance of probability' is applied to weigh the evidences of either side and draw a conclusion in favour of a party which has more favorable factors in his side. The conclusions have to be drawn on the basis of certain admitted facts and materials and not on the basis of presumptions of facts that might go against the assessee. Once nothing has been proved against the assessee with aid of any direct material especially when various rounds of investigations have been carried out, then nothing can be implicated against the assessee."

8.24 I further note that Global Infratech and Finance Limited is a Non-Banking Finance Company engaged in Finance Activities, Trading in Equity Shares, and Infrastructure Development. The Company's segments include Finance and Investment Activities, and Infra-Projects Activities. The company was incorporated on 06.01.1995 and listed on Bombay Stock Exchange. During the period under consideration, the shares were listed and regularly traded. The company was regular in compliance and all Annual Reports were on the BSE web-site and filed.

8.25 I further note that the reason for suspension in trading during the period 05.02.2001 to 18.11.2011 was non-payment of listing fees. It was not because of regulatory action or manipulation. Further the suspension on 28.03.2016 is more than two years after the transactions carried out by the appellant, therefore, not relevant as such as rightly contended by the Appellant. Even otherwise that suspension was also revoked on 11.09.2017. Thus, no adverse inference can be called in respect of such suspension of trading.

8.26 The company had been making consistent turnover/profits as under:

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A reference to the above would show that during the year ended 31.03.2014, turnover, profits and tax payments have increased significantly in comparison to earlier years.

8.27 Since it is established that Purchase of the shares were through banking channel and has specifically examined by the AO during assessment proceedings and nothing adverse was found:

The shares were held in the demat account for more than a year, The sale of shares was affected on Bombay Stock Exchange Platform;

On such sale, Securities Transaction Tax (STT) was paid;

The Broker through whom shares were sold were surveyed by the Income Tax Department to verify the transaction of the assessee and nothing adverse was found;

The delivery of the shares was given from the demat account of the appellant in the pay- in of BSE:

The assessee has received the payment against sale of shares through banking channel from the broker who was examined in the survey and found to be in order;

Thus, effectively all the conditions stipulated for claim of exemption stands satisfied.

The statement recorded at the time of search was retracted subsequently within one week of having provided the copy. In the absence of any corroborative evidence, such retracted statement solely cannot be the basis of addition;

ITA 7699/Mum/2025 & Ors..

CO 375/Mum/2025 & Ors.;

In the statement of the assessee, time and again reference of Mr. Jaswant Mehta was given, the authorities could not locate him. Even his existence was in significant doubt. Thus, the statement of the assessee refers all dealing with a person whose existence is in doubt; therefore, the reliance of the Department on such statement and addition on the sole basis of such statement is misplaced.

The so called modus operandi and statement of other entry operators cannot be relied upon as; (1) all such statements are general and not specific to the transaction of the assessee; (2) In none of the statement, name of the appellant was specified; (3) Neither copies of such statements were provided nor cross examination was allowed; (4) The status of such statements are not known- as to whether retracted subsequently or status thereof as on date; and (5) Whether cash was given against cheque? What was the source? Nothing could be proved.

The addition was made based merely on the basis of suspicion and on a theory bereft of any evidence;

8.28 On the basis of the above, it can be concluded that the appellant has satisfied all the conditions stipulated under section 10(38) of the Income Tax Act, 1961; therefore, the LTCG earned cannot be treated as unexplained cash credit under section 68 of the Income Tax Act, 1961.

8.28 I further note that the case of the appellant is covered by the following judicial precedents: L 8.29 Pr. CIT Vs. Ziauddin A Siddique [Income-tax Appeal No. 2012 of 2017, dated 4-3-

2022); In this case, the Hon'ble jurisdictional Bombay High Court ruled as under:

"1. The following question of law is proposed:

"Whether on the facts and in the circumstances of the case and in law, the Hon'ble Tribunal was justified in deleting the addition of Rs. 1,03,33,925/- made by AO u/s 68 of the I.T. Act, 1961, ignoring the fact that the shares were bought/acquired from off market sources and thereafter the same was demated and registered in stock exchange and increase in share price of Ramkrishna Fincap Ltd. is not supported by the financials and, therefore, the amount of LTCG of Rs. 1,03,33,925/- claimed by the assessee is nothing but unaccounted income which was rightly added u/s 68 of the I. T. Act, 1961"

ITA 7699/Mum/2025 & Ors..

CO 375/Mum/2025 & Ors.;

2. We have considered the impugned order with the assistance of the learned Counsels and we have no reason to interfere. There is a finding of fact by the Tribunal that the transaction of purchase and sale of the shares of the alleged penny stock of shares of Ramkrishna Fincap Ltd. ("RFL") is done through stock exchange and through the registered Stock Brokers. The payments have been made through banking channels and even Security Transaction Tax ("STT") has also been paid. The Assessing Officer also has not criticized the documentation involving the sale and purchase of shares. The Tribunal has also come to a finding that there is no allegation against assessee that it has

participated in any price rigging in the market on the shares of RFL.

3. Therefore we find nothing perverse in the order of the Tribunal.

The case of the appellant is squarely to not find any infirmity in the transaction documents, Both the purchase and sales of the shares were specifically verified. The shares were purchased through banking channel and purchase party is verified and nothing adverse was noted. The sale of shares was verified. Broker was surveyed, nothing adverse was found. Shares were held in demat accounts. On sale, STT was paid. Delivery was effect from demat account. Payment on sale of share was received through banking channel. Thus, nothing adverse was observed in any of the transaction documents.

8.30 The Hon'ble Bombay High Court in Shyam R. Pawar [54 taxmann.com 108] held that when details of share transactions are substantiated by DEMAT account statements and contract notes, and the Assessing Officer fails to prove such transactions as bogus, the capital gains cannot be treated as unaccounted income under Section 68 of the Act.

8.31 The Hon'ble Bombay High Court in the case of CIT Vs. Smt. Jamnadevi Agrawal (328 ITR 656) has held that where the assessee has provided sufficient documentary evidence confirming the purchase and sale of the transaction as well as its conformity with prevailing market prices, the transactions of sale earning long term capital gain cannot be treated to be as a sham.

8.32 in the case of Rehana Anwar Shaikh Vs. Assessing Authority Delhi (ITA No. 1606/Mum/2022), the Mumbai Tribunal upheld similar view. The relevant extract of the judgment reads as under: -

"10. We heard the parties and perused the record. We notice that the assessing officer has placed reliance on the report given by the Investigation wing of the Income tax department, Kolkata and SEBI's interim report for arriving at the conclusion that the ITA 7699/Mum/2025 & Ors..

CO 375/Mum/2025 & Ors.;

long-term capital gains reported by the assessee is bogus in nature. With regard to the SEBI report, the Ld. A.R brought to our notice the final report of SEBI, wherein it has been held that it did not find any adverse evidence/adverse findings in respect of violation of provisions of SEBI Regulations. With regard to the investigation report of Investigation wing, we notice that the AO has relied upon the said generalized report with regard to the modus operandi adopted in manipulation of prices and generation of bogus capital gains. It is not the case of the AO that the transactions entered by the assessee were found to be a part of manipulated transactions.

11. With regard to purchase of shares from a concern named M/s Atherton Glass Works Ltd, it is the case of the AO that the said concern did not respond to the notice issued by him u/s 133(6) of the Act. In this regard, a specific query was put to the

counsel as to how the assessee purchased shares of M/s Radford Global Ltd from the above said concern. The Ld A.R submitted that M/s Atherton Glass works Ltd has given advertisement in the newspaper stating that it is dealing in physical odd lot shares of all companies. He submitted that the assessee has approached the above said company for purchasing shares of M/s Radford Global Ltd and categorically submitted that the assessee is not related to the above said concern. There is no dispute that the assessee has paid the purchase consideration by way of cheque issued in November, 2011. Copies of physical share certificates duly transferred in the name of the assessee in November, 2011 are placed in the paper book. The entire shares were dematerialized in April 2012 and they were sold in May, 2013. Hence, we are of the view that there is no scope for suspecting the purchase of shares.

12. The AO has identified the purchasers of shares, which have been sold by the assessee and he issued notices under section 133(6) of the Act to two persons. Since the said notices were returned back/not responded, the AO has doubted the sale transactions of shares. However, it is pertinent to note that the assessee has sold the shares on the recognized stock exchange. It is not shown by the AO that the assessee was aware of the exit providers or part of the group involved in rigging the prices. Hence, mere fact of return of notices issued to two of the exit providers cannot be a ground to suspect the record.....

15. Accordingly, in the facts and circumstances of the case, we are of the view that the decision rendered by the jurisdictional Hon'ble Bombay High Court in the above said case of Shyam R Pawar (supra) and Ziauddin A Siddique (supra) shall apply in the ITA 7699/Mum/2025 & Ors..

CO 375/Mum/2025 & Ors.;

present case, since the AO has not established that the assessee was involved in price rigging and further the AO did not find fault with any of the documents furnished by the assessee Since in the present case, specific investigation was carried out SEBI in this scrip and also against the assessee and nothing adverse was found, the case of the assessee is not only covered with the above ruling, but also on the better footing.

8.33 In the case of PCIT Vs. Smt. Renu Agarwal (153 taxmann.com 578), In this case, the AO disallowed exemption claimed by assessee under section 10(38) and made additions, alleging involvement in penny stock which were being misused for providing bogus accommodation of LTCG, however, there was lack of adverse comments from stock exchange and officials of company involved in these transactions and no material relating to assessee was found in investigation wing report, additions made by AO had rightly been deleted. SLP against the said decision has been dismissed (153 taxmann.com

579). Thus, the case of the assessee is squarely covered with the above ruling as the specific SEBI Investigation against the assessee found nothing wrong.

8.34 The Hon'ble Mumbai Tribunal in the case of Vikram N. Chandan Vs. ITO (ITA 70/Mum/2024) held as under

10. From the perusal of the statement of assessee recorded by the id. Assessing Officer during the course of assessment, part of which is reproduced in the impugned order, demonstrates that he is a long-term investor and is aware of his DMAT account, brokers through whom transactions were undertaken, shares in which he had invested and stock market operations. He produced all the relevant documentary evidences in the assessment proceedings before the Id. Assessing Officer in support of his deposition in the statement recorded. From all of this, we notice that assessee has-

- a purchased the shares under accepted off-line mode by making payment through banking channel.
- b. dematerialized the shares purchased by credit to the DMAT account and part of it were later sold out TAX DEPARTME
- c. sold the shares on the platform of recognized stock exchange on the then prevailing prices.
- d. received the sale proceeds through stock market process in his bank account. 10.1.

ITA 7699/Mum/2025 & Ors..

CO 375/Mum/2025 & Ors.;

10.1. From the above, we note that id. Assessing Officer has not brought on record any material to show that assessee was part of any group which was involved in the manipulation of share prices. Suspicion by the Id. Officer on the purchase and sale of shares is baseless.

10.2. Ld. Assessing Officer, while drawing the adverse conclusion noted about the cash trail in the accounts of entry providers. He based his conclusion on the finding of investigations done by the Investigation Wing rather than bringing on record any direct and cogent material to establish existence of such a cash trail where the assessee has transacted in cash. In this respect, in the absence of any corroborative material brought on record by the authorities below, we hold against drawing such inference or presumption.

11. We also note that id. Assessing Officer did not allow the assessee to cross examination the parties whose statements were relied upon by him for drawing the adverse conclusion. Such an approach adopted by Id. Assessing Officer is not in compliance with the provisions of section 142(3) of the Act which is a statutory mandatory procedural requirement for making a valid assessment We note that the required compliance with section 142(3) has not been met

12. As already noted above, Id. Assessing Officer has referred to the theory of preponderance of probability which according to us is applied to weigh the evidence of either side and draw a conclusion in favour of a party which has more favorable factor in his side. The conclusions have to be drawn on the basis of certain admitted facts and materials and not on the basis of presumption of fact that might go against the assessee, Once nothing has been proved against the assessee with the aid of any direct material, nothing can be implicated against the assessee on the presumption or suspicion, howsoever, strong it might appear to be true.

8.35 Similar view has been upheld by the Hon'ble Mumbai Tribunal in the case of Shri Mukesh B Sharma Vs. ITO (ITA No. 6249/Mum/2018) wherein the AO had treated the LTCG on sale of Global Infratech and Finance Limited ("GIFL") (i.e. same Scrip) as bogus however, the Hon'ble Tribunal was pleased to delete such addition and consequently also deleting the addition towards commission on such alleged accommodation entry. The relevant extract is as under:

"6.12. In view of the aforesaid findings in the facts and circumstances of the case and respectfully following the various judicial precedents relied upon hereinabove, we hold ITA 7699/Mum/2025 & Ors..

CO 375/Mum/2025 & Ors.;

that the id CITA was not justified in upholding the action of the Id AO in bringing the sale proceeds of shares of GIFL in the sum of Rs 7,88,77,854/- as unexplained income of the assessee treating the same as just an accommodation entry. Consequentially, the addition made towards commission on such accommodation entry at the rate of 5% in the sum of Rs 39,43,898/- is also hereby directed to be deleted. Accordingly, the grounds raised by the assessee are allowed."

8.36 In the case of DCIT Vs. Rajnikant Prahubas Mandavia (ITA 4018402/Ahd/2019) wherein the AO had similarly treated the LTCG on sale of Global Infratech and Finance Limited (GIFL) (i.e. same Scrip) as bogus, the Hon'ble Ahmedabad Tribunal was pleased to deleted such addition, holding as under:

"13. In the case before us, the Assessing Officer has not doubted the purchase of shares were through banking channels. The assessee has placed on record copies of contract memos in connection with purchase and sale of shares. Besides the above shares, the assessee has also held shares of 84 other companies as well in the present case, no material has been brought on record to suggest that assessee was involved in any price rigging and not has the case of assessee mentioned in the list of beneficiaries, by the persons whose statements were recorded. In the statements recorded, the name of the assessee as a beneficiary was not specifically mentioned this fact was also specifically taken noted by Hon'ble Supreme Court in the case of Renu Aggarwal (supra) The Ld. Assessing Officer has not brought any material to support his finding that there has been collusion or connivance between the broker and the assessee for the introduction of his own unaccounted money. In the present

case, despite the assessee's specific request, no opportunity of cross examination was provided to the assessee on the basis of whose statements reliance has been placed to hold that the sale of shares was sham /bogus. Further, the ITAT Kolkata and ITAT Mumbai with respect to the very same stock ie. M/s Global Infratech and Finance Ltd. in three separate judgments (Mukesh Sharma in ITA Number 6249/Mum/2018, Kaushalya Agarwal 194/Kol/2018 and Mangilal Jain 729/Kol/2018) have decided the issue in favour of the assessee by holding that the assessee was not engaged in bogus purchase and sale of shares."

8.36.1 The Hon'ble ITAT, Mumbai in the case of ACIT-19(1) Vs Munish Financial (ITA NOS. 2637 & 2638/MUM/2022- (A.Ys: 2014-15 & 2015-16), has also examined a similar case wherein LTCG earned on sale of Global Infratech and Finance Limited (GIFL) (ie. same Scrip) was treated as bogus. The Hon'ble jurisdictional ITAT held as under:

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CO 375/Mum/2025 & Ors.;

"11. Considered the rival submissions and material placed on record, we observe that assessee has dealt with various scrips particularly. Global Infratech Limited (GBL), Luminaire Technologies Limited, UNNO Industries Limited and Shree Shalin Textiles Ltd which are suspected to be penny stock and it is also fact on record that these scrips are categorized as penny stock as per the investigation wing. Kolkata reports and Assessing Officer has heavily relied on these reports and report of SEBI to come to the conclusion that the various scrips dealt with by the assessee are penny stock and he discussed various analysis made by the investigation wing of Kolkata and other agencies and relied on various submissions of various dealers in these scrips and proceeded to disallow the claim made by the assessee on the long term capital loss. We also notice from the record that assessee has submitted all the relevant documents of purchase and sale of these scrips in the recognized stock exchange and all the details were submitted before the Assessing Officer including the payments were made through banking channels only. The Assessing Officer completely overlooked the various documents and supporting evidences submitted by the assessee and he has not analysed these documents and he merely proceeded to make the addition based on the investigation carried on by the investigation agencies and he did not eventually make any investigation on the various documents submitted before him, merely because assessee has dealt with suspected scrips, therefore he has proceeded to make the disallowance. We observe from the record that assessee has purchased and sold these shares through recognized stock exchange and authorised brokers and nowhere it is brought on record that assessee is one of the party involved in the entry provider or involved in manipulating the prices or it is proved that assessee is one of the exit provider. It is fact on record that all the scrips in which assessee has dealt with were already proved to be a non penny stock based on the various decisions of the various Hon'ble High Courts and Tribunal benches.

Apart from that, we observe that assessee is a regular trader in various scrips and particularly in this year assessee has dealt with more than 150 scrips and the transactions of the assessee in trading of shares having turnover of more than 1.528.9 crores and also having substantial dividend and speculation income during this year. This proves to show that assessee is a regular investor and may be assessee has dealt with suspected scrip merely on the basis of movement of share prices and there is nothing on record to prove that assessee has anywhere involved in any types of irregularities. Therefore, we do not find any reason to interfere with the findings of the Ld.CIT(A), Accordingly, ground raised by the revenue is dismissed."

The case of the appellant is squarely covered by the above rulings.

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CO 375/Mum/2025 & Ors.;

8.37 In the case of Kaushalya Agarwal Vs. ITO (ITA No. 194/Kol/2018), the Assessing Officer treated the long term capital gain from sale of shares of Global Infratech and Finance Limited (GIFL) (i.e. the same scrip) as bogus. The Hon'ble Kolkata Tribunal held that (i) the purchase and sale transactions are supported and evidenced by bills, contract notes, demat statements and bank statements etc., and when the transactions of purchase of shares were accepted by the Id. AO in earlier years, the same could not be treated as bogus simply on the basis of some reports of the Investigation Wing and/or the orders of SEBI and/or the statements of third parties and (ii) there is no allegation in orders of SEBI and/or the enquiry report of the Investigation Wing to the effect that the assessee, the companies dealt in and/or his broker was a party to the price rigging or manipulation of price in CSE. The Hon'ble Kolkata Tribunal was pleased to delete the addition.

8.38 In view of above and after considering of submission of the assessee, decisions of jurisdiction High Courts and various ITATS, it is established that the appellant has submitted all transaction documents; which proves the LTCG earned by the appellant is genuine. The AO could not point out any single deficiency in such transaction documents. The only basis of addition was statement of the appellant recorded during the search which stands retracted within one week of having provided the copy. Further this statement is not supported with any corroborative evidence, hence, cannot be relied upon. Further the case of the appellant is squarely covered by the various rulings of jurisdictional High Courts and various Income Tax "Appellate Tribunals wherein the courts have ruled in favor of the appellant in the same scrip i.e. Global Infratech and finance limited on the basis of similar set of facts. Further in three cases discussed above, the Hon'ble ITAT has deleted the addition wherein the same scrip was involved. Thus, the appellant has rightly claimed exemption under section 10(38) of the Income Tax Act, 1961; the same cannot be denied.

8.39 The assessee's appeal is allowed on the above ground and the addition is directed to be deleted.

9 Ground 4 challenges the addition on alleged commission under section 69C of Rs. 85,75,241/-

The AO has concluded that as the assessee has entered into earning of bogus LTCG on sale of shares of Global Infratech and Finance Limited (GIFL) to convert unaccounted ITA 7699/Mum/2025 & Ors..

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money, he would have paid a commission which is remained unexplained; hence, liable to be added under section 69C of the Income Tax Act, 1961.

9.2 In view of my findings under para 8, it is concluded that there is no evidence to prove that the appellant has paid commission of Rs: 85.75,241/-. In the absence of such evidence, no amount can be added under section 69C of the Income Tax Act, 1961.

9.3 Even otherwise, the addition in respect of Long-Term Capital Gain (LTCG) is deleted, therefore, alleged commission on such LTCG cannot be sustained.

9.4 In view of the above, the addition of commission/accommodation charges of 5% of the LTCG under section 69C of the Act without evidence is directed to be deleted.

9.5 The assessee's ground no. 4 is allowed.

9. After having gone through the order passed by the Ld. CIT(A), we found that during the year under consideration, the assessee had earned LTCG of Rs. 16,95,04,810/- on sale of equity shares of Global Infratech and Finance Ltd. (GIFL), a company listed on BSE. The said gain was claimed as exempt under Section 10(38) of the Act. However, the AO denied the said exemption and treated the transaction relating to GIFL as bogus, observing that:

(i) GIFL was a penny stock based on the Investigation Report and analysis of the scrip;

(ii) the assessee himself admitted during the course of search that the entire gain earned by him was non-genuine and that the said gain was earned with the help of one Mr. Jaswant Mehta, who allegedly charged commission at the rate of 5% for the entire arrangement;

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CO 375/Mum/2025 & Ors.;

(iii) through this arrangement, the assessee converted unaccounted cash into accounted money by availing bogus LTCG; and

(iv) the assessee failed to discharge the onus cast upon him to prove the genuineness of the transactions in GIFL.

10. However, on the contrary, from the records we found that, in order to substantiate the genuineness of the transactions, the assessee had placed on record following documentary evidences:

The assessee purchased 1,00,000 shares, off market, from M/s KKJ Stocks & Co for a sum of Rs. 10,00,000/-. Copy of the relevant invoice was submitted and is at Page 13 of FPB. The assessee also submitted a copy of the bank statement showing payment of a sum of Rs. 10,00,000/- to the M/s KKJ Stocks & Co through banking channel (Page 15 of FPB). Thereafter, the assessee purchased another 1,00,000 shares, off market, from M/s K L Ventures Capital Pvt Ltd for a sum of Rs. 10,00,000/-.

The shares were transferred in the name of the assessee and subsequently dematerialized. The assessee submitted a copy of the share certificate (Page 17 to 18 of FPB) and demat account for the period 01.04.2000 to 29.04.2016 (Page 12 of FPB)

The assessee sold the shares through an independent broker M/s India Infoline Ltd. A copy of the contract notes were submitted and are enclosed at Page 28 to 59 of FPB. The monies received on sale of shares were credited to the assessee's bank account which is at Page 68 to 88 of FPB.

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CO 375/Mum/2025 & Ors.;

Further the assessee also submitted ledger account of the broker in the books of the assessee for the period 01.04.2013 to 31.03.2014 (Page 27 of FPB), ledger account of the assessee in the books of the broker for the period 01.04.2013 to 31.03.2014 (Page 64 to 67 of FPB), global report of the broker (Page 62 of FPB) and STT certificate (Page 63 of FPB)

11. Thus the perusal of all the documents clearly shows that the assessee had purchased and sold the aforesaid scrip on the recognized stock exchange through registered brokers at the prevailing market price, and the AO has not been able to pinpoint any defect therein. The AO failed to bring any material on record to show that the assessee was involved in the alleged price manipulation. In this regard, reliance is being placed upon the decision of the Hon'ble Bombay High Court in the case of PCIT vs. Ziauddin A. Siddiqui in ITXA No. 2012 of 2017, appearing at page 1-3 of the Paper Book, wherein it was held that additions under Section 68 of the Act in respect of LTCG earned on purchase/sale of shares of Ramakrishna Fincap were rightly deleted as the AO had not criticized documents evidencing purchase and sale nor alleged that the assessee was involved in price rigging.

12. Apart from this, there is no finding recorded by SEBI with regard to any price manipulation/rigging by the assessee. SEBI had conducted an investigation against 46 parties regarding their role in price manipulation of GIFL shares, and the assessee along with his family members was one amongst them. However, after thorough investigation, SEBI vide order dated

16.07.2021 exonerated the assessee and his family members. The said SEBI order has been placed on record at pages 39 to 50 of the ITA 7699/Mum/2025 & Ors..

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Paper Book, which clearly shows that the assessee was not involved in any price manipulation/rigging. In this regard, reliance is also placed upon the decision of the Coordinate Bench of the ITAT in the case of PCIT vs. Manoj Nagainlal Jain [180 taxmann.com 309], appearing at pages 75 to 87 of the Paper Book, wherein it was held that, in the absence of any incriminating material or evidence showing that the assessee was involved in price rigging or payment of commission, the addition treating the capital gains earned on sale of shares as bogus was liable to be deleted.

13. Apart from this, the AO had primarily based the addition on the alleged admission made by the assessee during the course of search that the entire gain was non-genuine and earned with the help of one Jaswant Mehta of Rajasthan, who allegedly charged commission at the rate of 5% in the entire arrangement. In this regard, we noticed that the statement of the assessee recorded during the course of search had already been retracted by the assessee vide letter dated 26.09.2017, placed at pages 254 to 271 of the Paper Book, wherein the assessee had submitted that:

The statement was recorded under coercion. The search team forced the assessee to wrongfully confess that the Long Term Capital Gains was non-genuine.

The assessee was forced to sign pre-typed statement. The assessee did not know any person named Jaswant Mehta who was a fictitious person planted by the search team.

It is not humanly possible to ask and answer 64 questions in two hours.

The assessee was not allowed to sleep at night.

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14. The assessee categorically stated that he did not know any person named Jaswant Mehta and that the said person was fictitious and planted by the search team in order to frame the assessee. During the assessment proceedings, the assessee requested the AO to provide the statement of Jaswant Mehta and grant an opportunity of cross-examination. However, the AO neither furnished the statement of Jaswant Mehta nor granted any opportunity for cross-examination. Thus, in these circumstances, we are of the view that the additions cannot be made solely on the basis of a statement/confession made during the course of search. It is also a well settled legal proposition and in this regard reliance is being placed on the following judicial pronouncements:

M/s Avishkar Infrastructure Pvt. Ltd Vs. DCIT (ITA No. 7165/Mum/2011) (Mum. Tri) (Page 23 to 36, Para 6.1 of LPB) M/s Shree Ganesh Trading Co. Vs. CIT (Tax Case 8 of 1999P) (Jhar.) (Page 37 to 41, Para 6 of LPB) ACIT Vs. Ghatge Patil Industries Limited (ITA No. 1281 to 1284/Pun/2016) (Pun. Tri) (Page 42 to 61, Para 10.1 of LPB) DCIT Vs. NIBR Bullion Pvt. Ltd. (ITA No 6320/Mum/2011) (Mum. Tri) (Page 62 to 74, Para 8, 9 and 11 of LPB)

15. Moreover, the AO had referred to the findings of the general study report of the Investigation Wing, Kolkata and Mumbai, and the statements of Raj Kumar Kedia, Anuj Agarwal (Director of Korp Equity) and Praveen Agarwal (Director of M/s Gateway Financial Services Ltd), recorded in another investigation. The said report/statements merely explained the general modus operandi of converting unaccounted money into exempt ITA 7699/Mum/2025 & Ors..

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LTCG through GIFL shares. However, the findings of the Department are general in nature and merely constitute a study report, from which it is not discernible as to which cases were specifically investigated, as is evident from the assessment order itself. Further, the AO could not establish any link between the report and the transactions undertaken by the assessee.

16. We also noticed that similar issues in relation to the GIFL scrip have already been considered in various judicial pronouncements wherein the additions were deleted. In this regard, reliance has been placed upon the decisions in Dilip B. Jiwrajka vs. DCIT in ITA No. 2326/Mum/2021, DCIT vs. Surendra B. Jiwrajka in ITA Nos. 2431-2434/Mum/2021, Kaushalya Aggarwal vs. ITO in ITA No. 194/Kol/2018, and Mukesh B. Sharma vs. ITO in ITA No. 6249/Mum/2018. In all the aforesaid cases, the additions were deleted.

17. In the case of DCIT vs. Surendra B. Jiwrajka (supra), although the assessee had conceded that the gains earned on sale of GIFL shares by him and his brother were bogus despite incriminating evidence, the assessee did not withdraw the LTCG on sale of shares. The AO proceeded tax the sale consideration on sale of shares of GIFL, the Ld. CIT(A) deleted the additions and the Coordinate Bench of the ITAT upheld the same, and held as under:

Additions cannot be solely based on statements made in the course of search;

The documents filed before the lower authorities to substantiate the sale of shares of GIFL have not been found to be false, fabricated or fictitious;

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The financials of the company and its growth clearly reflected its bright future prospects which would entice investors to invest into the company's shares;

The AO blindly relied on bald statements of brokers/entry providers without bringing out any link to connect them with the assessee;

These statements were recorded behind the back of the assessee and therefore could not be used;

SEBI has specifically exonerated the assessee of any wrong doing or manipulation of shares prices;

18. It was also brought to our notice that the decision in Dilip B. Jiwrajka (supra) has now been upheld by the Hon'ble Jurisdictional High Court in ITXA No. 563 of 2024, which was placed on record during the course of hearing, wherein the Revenue's appeal came to be dismissed.

19. Apart from this, so far as the addition made under Section 69C of the Act relating to alleged commission paid for facilitating the aforesaid transactions is concerned, there is no evidence whatsoever on record to prove that any such commission was ever paid by the assessee.

20. Thus, considering the totality of the facts and circumstances of the case, the decisions of the Coordinate Benches of the ITAT, as well as the judgment of the Jurisdictional High Court, and keeping in view the doctrine of binding precedent and judicial consistency, we find no infirmity in the order of the Ld. CIT(A). Accordingly, the grounds raised by the Revenue are dismissed and the order of the Ld. CIT(A) is upheld.

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CO. No. 375/Mum/2025 (Arising out of ITA No. 7699/Mum/2025) A.Y: 2014-15

21. Since we have already rejected the grounds raised by the Revenue and dismissed the said appeal, consequently the grounds raised by the assessee becomes therefore require no separate adjudication.

22. In the result appeal filed by the Revenue and the cross appeal filed by the assessee stands dismissed.

ITA 6615/Mum/2025-CO 299/Mum/2025; ITA 6616/Mum/2025-CO 300/Mum/2025; ITA 6617/Mum/2025-CO 301/Mum/2025; ITA 6618/Mum/2025-CO 293/Mum/2025; ITA 6619/Mum/2025-CO 294/Mum/2025; ITA 6620/Mum/2025-CO 296/Mum/2025; ITA 6621/Mum/2025-CO 295/Mum/2025; ITA 6623/Mum/2025-CO 297/Mum/2025; ITA 6622/Mum/2025-CO 298/Mum/2025

23. As the facts and circumstances involved in the connected matters, i.e., ITA No. 7669/Mum/2025 and C.O. No. 375/Mum/2025 (A.Y. 2014-15), are common and identical, except for the name of the

scrip, namely Pine Animation Ltd., we find that similar issues involving the said scrip have already been considered by the Coordinate Benches of the ITAT in various judicial pronouncements, particularly in the following cases:

1. Vijayrattan Balkrishan Mittal vs. DCIT [(121 taxmann.com 100) (Mum. Trib.)]
(Pages 454 to 475 of LPB)

2. Gopal Nihchaldas Pariani vs. ITO [ITA Nos. 7761 & 7762/Mum/2019 (Mum. Trib.)] (Pages 04 to 22 of LPB) ITA 7699/Mum/2025 & Ors..

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3. ITO vs. Alpa Rajendra Shah [ITA No. 1922/Mum/2023 (Mum. Trib.)] (enclosed at Pages 68 to 78 of the written submissions)

4. ACIT vs. Priyanka Ankit Miglani [ITA No. 2531/Mum/2021 (Mum. Trib.)] (enclosed at Pages 79 to 120 of the written submissions) In the aforesaid decisions, the respective additions were deleted by the Coordinate Benches of the Tribunal. Therefore, considering the decisions of the Coordinate Benches of the ITAT, and keeping in view the doctrine of binding precedent, judicial discipline, and consistency, we hold that the findings rendered in the preceding paragraphs shall apply mutatis mutandis to the connected appeals as well.

Accordingly, the grounds of appeal raised by the Revenue as well as the assessee stand dismissed.

Order pronounced in the open court on 13.05.2026

Sd/-
(GIRISH AGRAWAL)
ACCOUNTANT MEMBER

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai:

Dated:13.05.2026

RY, Sr. PS

Copy of the order forwarded to:

- (1)The Appellant
- (2) The Respondent

ITA 7699/Mum/2025 & Ors..
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- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy

By order

(Asstt.Registrar)
ITAT, Mumbai