

**THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH, AHMEDABAD**

Before Ms. Suchitra Kamble, Judicial Member

**ITA No. 2559/Ahd/2025
Assessment Year 2015-16**

Rajiv Laxman Dalal HUF, Aagam, Behind Apang Manav Mandal, Ambawadi, Ahmedabad PAN: AACHD4821N (Appellant)	Vs	The Income Tax Officer, Ward-5(2)(3), Ahmedabad (Respondent)
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**Assessee by: Shri Bharat S. Shah, A.R.
Revenue by: Smt. Mamta Singh, Sr. D.R.**

Date of hearing : 12-03-2026
Date of pronouncement : 16-03-2026

आदेश/ORDER

This is an appeal filed against the order dated 29-10-2025 passed by Addl/JCIT(A), Udaipur for assessment year 2015-16

2. The grounds of appeal are as under:-

"1. On facts and in law, the ld. CIT(A) erred in confirming the addition of 10,02,085 u/s. 68 of the Act for LTCG claimed exempt by the appellant. The addition is vitiated by breach of natural justice and by reliance on generic investigations/third-party material not confronted to the appellant; the finding is perverse and deserves to be deleted.

2. On facts and in law, the ld. CIT(A) erred in confirming the addition of 3,20,000 being commission income by ignoring the revised computation of income submitted during the assessment proceedings. The addition is vitiated by breach of natural justice and by reliance on generic investigations/third-party material not confronted to the appellant; the finding is perverse and deserves to be deleted.

3. On facts and in law, the ld. CIT(A) erred in sustaining the addition of 5,72,990 as STCG without adjudicating the appellant's reconciliation, scrip-wise workings, demat extracts and contract notes.

4. The ld. CIT(A) erred in upholding interest u/ss 234A/B/C/D mechanically. Consequential relief be granted upon deletion/reduction of additions and interest be recomputed accordingly.

5. The Id. CIT(A) failed to adjudicate issues by a speaking, evidence-based order and thereby violated principles of natural justice. The entire order deserves to be set aside on this ground alone.

6. The appellant craves leave to add, alter, amend, substitute, rescind or withdraw any ground at the time of hearing.”

3. Brief facts of the case are that the e-Return of income was filed for A.Y. 2015-16 on 25/09/2015 declaring total income at Rs.4,16,100/-. The case was selected for "complete" scrutiny through CASS and accordingly notice u/s.143(2) of the IT Act was issued on 28/07/2016 which was, duly served upon the assessee. While finalizing the assessment order u/s 143(3) of the Income Tax Act dated 06.12.2017, the total income of the assessee was determined of Rs.23,11,180/-, after making addition of (i) LTCG, on the transacted in penny stock Kappac Pharma of Rs. 10,02,085/- was made treated it as undisclosed income of the appellant u/s 68 of the Income Tax Act. (ii) Undisclosed commission income of Rs.3,20,000/- being commission receipt reflected in 26AS. (iii) the addition of undisclosed short-term capital gains of Rs.5,72,990/-in ITR.

4. The assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. As regards ground no. 1 the ld. A.R. submitted that the assessee has given all the details related to the purchase of scrip of Kappac Pharma through registered broker and also has given purchase bills as well as sale bills along with complete details including demat account. The ld. A.R. submitted that the Assessing Officer at no point of time pointed that the assessee

involved in the price variation of the said shares. The ld. A.R. relied upon in case of Shivani Ashokbhai Shah.

6. The ld. D.R. relied upon the assessment order and the order of the CIT(A).

7. Heard both the parties and perused all the relevant material available on record. It is pertinent to note that the Assessing Officer in the assessment order has not doubted the purchase of the said scrip and in fact the assessee has given all the details related to the purchase as well as sale of the said purchase including bank statements for payment of the said scrip at the time of purchase along with demat account details. Thus, the assessee has established its onus and has rightly claimed long term capital gain. Ground no. 1 is allowed.

8. As relates to ground no. 2 relating to addition of Rs. 3,20,000/- being commission income, the ld. A.R. submitted that the assessee in fact before the Assessing Officer has admitted that the assessee earned commission income and had paid the taxes during assessment proceedings itself which is at page 119 of the paper book (chalan of Rs. 61,620/-).

9. The ld. D.R. relied upon the assessment order and the order of the CIT(A).

10. Heard both the parties and perused all the relevant material available on record. It is pertinent to note that the assessee is admitting the commission income and when the assessee during assessment year is paying the taxes on the said

earned commission income, the Assessing Officer cannot make the entire commission income as addition. The acknowledgement of the assessee of his mistake of not adding the commission income to his ITR was rectified during process of assessment proceedings and therefore the addition does not sustain at this juncture. Ground no. 2 is allowed.

11. As regards ground no. 3 relating to short term capital gain of Rs. 5,72,990/- without adjudicating the assessee's reconciliation, scrip wise working demat extracts and contract notes. The ld. A.R. submitted that the residual amount have been added and not the entire amount of short term capital gain. The ld. A.R. submitted that the assessee has furnished annexure D including that statement containing dates of purchase, name of scrip, cost, number of shares, sold date of sale and sale consideration which was totally overlooked by the Assessing Officer.

12. The ld. D.R. relied upon the assessment order and the order of the CIT(A).

13. Heard both the parties and perused all the relevant material available on record. Annexure D placed before the Assessing Officer

SR. NO.	NAME OF SCRIPT	QTY	AMOUNT OF SALES	DATE OF SALE	AMOPUNT OF PURCHASE	DATE OF PURCHASE	GAIN/LOSS
1	BHARTI AIRTEL LTD	55	21,028.70	05/11/2014	22,549.45	09/09/2014	-1,520.75
2	DATAMATICS GLOBAL SERVICES LTD	1000	79,726.70	15/01/2015	75,410.00	04/09/2014	4,316.70
3	DATAMATICS GLOBAL SERVICES LTD	2000	1,59,453.40	15/01/2015	1,60,880.00	24/09/2014	-1,426.60
4	HINDUSTAN PETROLEUM CORPO LTD.	50	25,392.00	09/10/2014	25,888.95	10/10/2014	-496.95
5	LARSON & TOUBRO LTD	12	18,569.28	18/09/2014	19,414.20	05/09/2014	-844.92
6	ONGC LTD	110	33,256.30	27/03/2015	47,228.50	28/08/2014	-13,972.20
7	ONGC LTD	250	75,582.50	27/03/2015	1,10,857.50	02/09/2014	-35,275.00
8	ONGC LTD	125	37,791.25	27/03/2015	50,054.80	07/10/2014	-12,263.55
9	ONGC LTD	175	52,907.75	27/03/2015	60,707.50	21/01/2015	-7,799.75
TOTAL SHORT TERM CAPITAL GAIN/(LOSS)			5,03,707.88		5,72,990.90		-69,283.02

is related to the list of shares and the short term capital gain, loss incurred by the assessee along with the details and the said re-conciliation was not considered by the Assessing Officer as well as by the CIT(A) . Therefore, we direct the Assessing Officer to consider re-conciliation and after verifying the same according to the short term capital gain as per Income Tax Law. The assessee be given opportunity of hearing by following principles of natural justice. Thus, ground no. 3 is partly allowed for statistical purpose.

14. In the result, the appeal of the assessee is partly allowed for statistical purpose.

Order pronounced in the open court on 16-03-2026

Sd/-
(Suchitra Kamble)
Judicial Member

a.k.

Ahmedabad : Dated 16/03/2026

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद