IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH, JODHPUR

BEFORE SHRI SAKTIJIT DEY, HON'BLE VICE PRESIDENT AND
SHRI MAKARAND VASANT MAHADEOKAR, HON'BLE ACCOUNTANT MEMBER

ITA No. 182/Jodh/2024
(Assessment Year – 2015-16)

Ram Niwas Chouhan **C/o Rajendra Jain Advocate,** **106, Akshay Deep Complex, 5th B Road, Sardarpura,** **Jodhpur – 342001** **PAN No. AARPC 9398 J**		**Income Tax Officer** **Ward – 3(1)**
Assessee by	**Shri Rajendra Jain, Advocate and Smt. Raksha Birla, CA (Physical)**	
Revenue by	**Ms. Nidhi Nair, Addl. CIT-DR (Physical)**	
Date of Hearing	**03 / 08 / 2026.**	
Date of Pronouncement	**07 / 08 / 2026.**	

ORDER

PER: SHRI SAKTIJIT DEY, V.P.:

This is an appeal by the assessee against order dated 02.02.2024 of National Faceless Appeal Centre, NFAC, Delhi for the Assessment Year 2015-16.

2. The dispute in the present appeal is confined to addition of an amount of Rs. 28,52,412/- u/s 68 of the Income Tax Act, 1961.

3. Briefly the facts are, the assessee is a resident individual as stated by the Assessing Officer, the assessee was carrying on business of transportation of

goods through his proprietary concern ‘Shri Ram Roadline’ and was also a partner in ‘Durga Lime Industries’ engaged in manufacturing and trading of quick lime and hydrated lime. Be that as it may, for the Assessment Year under dispute, assessee had filed his return of income on 06.11.2015 declaring income of Rs. 2,50,480/-. The return of income so filed by the assessee was selected for scrutiny.

4. In course of assessment proceeding, while verifying the return of income filed by the assessee, the Assessing Officer noticed that the assessee though has offered long term capital gain of Rs. 28,54,412/-, however, at the same time, he had claimed exemption u/s 10(38) of the Act. After calling for the necessary details and examining them, he found that the long term capital gain was on account of sale of shares of M/s Maa Jagdambe Trade Links Ltd. earlier known as M/s Parasrampuria Credit and Investment Ltd. Referring to report of the investigation wing of the Department, the Assessing Officer observed that in course of search and seizure operation conducted at various places throughout the country, it came to light that many companies have been used as fronts for providing accommodation entries through bogus long term and short term capital gain, bogus long and short term capital loss through trading in shares of penny stocks. According to the report of the investigation wing, M/s Maa Jagdambe

Tradelinks Ltd. is one of those penny stock companies. Thus, based on the report of the investigation wing Kolkata, the Assessing Officer issued a show cause notice to the assessee to explain why the long term capital gain offered on account of sale and share should not be treated as non-genuine and claim of exemption should not be disallowed. Though, the assessee strongly objected to the proposed action of the Assessing Officer, however, rejecting the submissions of the assessee, the Assessing Officer proceeded to treat the long term capital gains as non-genuine and accordingly, treated the long term capital gain treated by the assessee as unexplained cash credit u/s 68 of the Act. Since he treated the share transaction to be in the nature of accommodation entry, he concluded that the assessee must have paid commission for availing the benefit of accommodation entries through bogus long term gain. Accordingly, he estimated the commission paid by the assessee at 5% of the profit value and added back an amount of Rs. 1,48,970/- u/s 69C of the Act. Though, the assessee contested the aforesaid additions before the First Appellate Authority. However, he was unsuccessful.

5. We have considered rival submissions and perused the materials on record. We have also applied our mind to the decisions cited before us at the time of hearing. Undisputedly, the assessee had purchased 6,250 equity shares of M/s

Maa Jagdambe Tradelinks earlier known as Parasrampuria Credit and Investment Ltd. from M/s Dolex Commercial Pvt. Ltd. on 26.02.2013 by paying an amount of Rs. 1,25,000/-. The shares were credited in the demat account of the assessee on 07.08.2013. Whereas, the assessee had sold the shares in the year under consideration for an amount of Rs. 29,79,412/- and after reducing the cost of acquisition has offered long term gains of Rs. 28,54,412/-.

6. On reading of the assessment order, it is quite clear that while making the addition, the Assessing Officer has entirely relied upon the report of the Investigation Wing, Kolkata. Undisputedly, the report is general in nature and speaks of certain facts found at the time of search undertaken at various places. There is nothing in report to suggest that assessee's name either had figured in the investigation wing report or the assessee was found to be indulging in any illegal or irregular activities.

7. From the materials on record, such as, balance sheet, it is evident that the assessee is carrying on investment activities in shares in regular manner. It is a fact that the shares of M/s Jagdambe Tradelinks Ltd. are regularly traded in stock exchange. Both the purchase and sale transactions have been made through banking channel. The Assessing Officer, except, relying upon the report of the

investigation wing has not conducted any independent inquiry either with the stock exchange or with purchaser and seller of shares of the assessee by issuing notice u/s 133(6) of the Act. Thus, in absence of any adverse material implicating the assessee of any wrong doing, addition cannot be made merely on presumption and surmises. Pertinently, Coordinate benches while dealing with identical issues arising out of sale of shares of very same scrips relating to same assessment year have concluded that the gain/loss derived from sale of shares of M/s Jagdambe Tradelinks Ltd. cannot be treated as non-genuine and bogus. In this context, we may refer to the following decisions:

- Shri Amit Sajjan Kumar Gupta Vs. DCIT, ITA No. 1378/MUM/2024, order dated 10.10.2024
- Shri Sanjay Singhal Vs. DCIT, ITA No. 655/CHD/2023, order dated 08.10.2024.

8. Thus, on analysis of the facts on record and applying the ratio laid down in the decisions referred to above, we hold that the addition made at the hands of the assessee are unsustainable. Accordingly, we direct the Assessing Officer to delete the addition.

9. In the result, appeal stands allowed.

Order pronounced in the open court on 07/08/2026.

Sd/-	**Sd/-**
(MAKARAND VASANT MAHADEOKAR)	**(SAKTIJIT DEY)**
ACCOUNTANT MEMBER	**VICE PRESIDENT**

Dated : 07/08/2026.

Nimisha, Sr. PS

True Copy

Copies to :

(1) The appellant.
(2) The respondent.
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

BY ORDER,