IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH MUMBAI

BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

ITA No.1397/Mum/2026
(**Assessment Year :2023-24**)

Ira Maulik Shah 26, Maker Chamber VI Nariman Point Mumbai	Vs.	Income Tax Officer 19(2)(4), Mumbai (Assessment Unit Income Tax Department) Mumbai
PAN/GIR No.CHPPS3664C		
(Appellant)	..	**(Respondent)**

Assessee by	Shri K Shivram, Sr.Adv & Shri Rahul Hakani, Adv
Revenue by	Shri Virabhadra Mahajan, SR.DR
Date of Hearing	**18/03/2026**
Date of Pronouncement	**16/06/2026**

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

This appeal has been filed by the assessee against the impugned order dated 30.12.2025 passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, arising out of the assessment framed under section 143(3) read with section 144B of the Income Tax Act, 1961 for Assessment Year 2023-24.

2. The assessee has challenged the action of the lower authorities in sustaining an addition of ₹5,05,81,504/- under section 69 of the Act in respect of certain foreign investments disclosed in Schedule FA of the return of income. The principal grievance of the assessee is that the authorities below have proceeded on an erroneous assumption that the entire foreign portfolio investment belonged exclusively to the assessee, whereas according to the assessee, the overseas Portfolio Management Service (PMS) investment was jointly held and jointly funded by the assessee and her husband, Shri Maulik Shah. It has further been contended that substantial investments forming part of the foreign portfolio were acquired in earlier years and, therefore, the provisions of section 69 could not have been invoked in the year under consideration. The assessee has also disputed the quantum of foreign investment adopted by the Assessing Officer and has contended that the value of investment considered during assessment proceedings exceeded the actual cost of acquisition of the underlying foreign assets.

3. Briefly stated, the facts borne out from the assessment records are that the assessee filed her return of income on 25.07.2023 declaring total income of ₹49,86,750/-, which was processed under section 143(1) of the Act. Subsequently, the case was selected for scrutiny under CASS on the specific risk

parameter namely, “New foreign asset in nature of account(s) in which taxpayer is a signing authority (Non-business ITR)”. Pursuant thereto, notice under section 143(2) was issued on 19.06.2024 and thereafter notices under section 142(1) along with various questionnaires were issued from time to time calling upon the assessee to furnish details regarding foreign assets, foreign bank accounts, overseas investments, source of acquisition thereof and the disclosures made in Schedule FA of the return of income.

4. During the course of scrutiny proceedings, the Assessing Officer examined the information available on record relating to the assessee’s overseas holdings. On the basis of details gathered and furnished during assessment proceedings, the Assessing Officer noted that the assessee was associated with foreign investments consisting of equity shares of various overseas listed entities, fixed deposits maintained with Commerce Bank, Germany, and balances in foreign bank accounts. According to the Assessing Officer, the aggregate value of such foreign assets worked out to ₹6,87,29,850/-, comprising foreign equity investments of ₹4,48,46,351/-, foreign deposits of ₹2,29,50,563/- and foreign bank account balances aggregating to ₹9,32,936/-.

5. On comparing the aforesaid figures with the disclosures made in Schedule FA of the return of income, the Assessing

Officer observed that the assessee had disclosed foreign assets aggregating only to ₹1,81,48,346/- comprising foreign equity investments of ₹1,10,70,803/-, foreign deposits of ₹69,54,069/- and foreign bank balances of ₹1,23,474/-. According to the Assessing Officer, a difference of ₹5,05,81,504/- remained unexplained and unreconciled. The Assessing Officer was of the prima facie view that the assessee had failed to explain the source, ownership and disclosure of the balance foreign investment and, accordingly, a show cause notice was issued requiring the assessee to explain why the differential amount of ₹5,05,81,504/- should not be treated as unexplained investment under section 69 of the Act.

6. The Assessing Officer further observed that in the Schedule FA filed for Assessment Year 2023-24, the assessee had disclosed acquisition dates of certain foreign equity investments going back to earlier years, including investments stated to have been acquired as far back as March 2018. However, on examination of the return of income and Schedule FA for Assessment Year 2022-23, it was noticed by the Assessing Officer that no corresponding disclosure of such foreign assets had been made therein. According to the Assessing Officer, in the absence of supporting documentary evidence establishing the date of acquisition and continuity of ownership, the assessee's explanation regarding acquisition

in earlier years remained unsubstantiated and unverifiable. The Assessing Officer thus entertained doubts not only regarding the ownership and source of the investments but also regarding the correctness of the disclosures relating to the period of acquisition.

7. In response, the assessee submitted that the Assessing Officer had erroneously proceeded on the footing that the entire foreign portfolio belonged to the assessee. It was explained that the overseas PMS investment was jointly held by the assessee and her husband and that out of the total investment of ₹6,87,29,850/-, an amount of approximately ₹1,83,82,456/- represented the assessee's share whereas the balance amount of ₹4,59,71,947/- represented the ownership interest and investment contribution of her husband. The assessee further contended that the investments had been accumulated over earlier years and that the impugned amount did not represent any investment made during the relevant previous year. Various explanations and supporting statements were furnished to demonstrate the alleged bifurcation of investment between the assessee and her husband.

8. The Assessing Officer, however, was not convinced with the explanation so furnished. According to him, the details and records available during assessment proceedings reflected the

foreign assets in the name of the assessee and the subsequent claim regarding bifurcation of ownership between the assessee and her husband was not supported by independent and contemporaneous evidence. The Assessing Officer observed that the explanation attributing investment of ₹4,59,71,947/- to the husband appeared to be an afterthought and was not borne out from the primary records relating to the foreign investments. He further held that despite opportunities afforded during assessment proceedings, the assessee failed to furnish satisfactory reconciliation explaining the difference between the total foreign assets identified during scrutiny and the assets disclosed in Schedule FA. Accordingly, holding that the differential amount of ₹5,05,81,504/- represented unexplained investment within the meaning of section 69 of the Act, the Assessing Officer added the said amount to the income of the assessee and completed the assessment under section 143(3) read with section 144B at a total income of ₹5,55,68,250/- as against the returned income of ₹49,86,750/-.

9. Aggrieved, the assessee preferred an appeal before the learned CIT(A). Before the first appellate authority, the assessee reiterated that the foreign PMS investment was a joint investment and that the Assessing Officer had failed to appreciate the ownership structure and source of funds. It

was submitted that out of the total foreign portfolio, only a part belonged to the assessee while a substantial portion represented investments made by the husband from his disclosed sources. The assessee further contended that the impugned investments had not been made during the year under consideration but represented investments accumulated over preceding years. It was also argued that the Assessing Officer had adopted an incorrect value of ₹6.87 crore by considering year-end foreign exchange conversion values, whereas the actual cost of investment was approximately ₹6.43 crore. According to the assessee, the very foundation of the addition was therefore factually erroneous.

10. The learned CIT(A), however, after examining the assessment records, submissions of the assessee and the material placed on record, affirmed the addition. The appellate authority observed that although the assessee had claimed that approximately ₹4.59 crore out of the total foreign investment belonged to her husband, no satisfactory and independent evidence had been furnished to establish the actual flow of funds from the husband's resources into the foreign PMS investment. The learned CIT(A) noted that no contemporaneous banking records, remittance documents, confirmations from financial institutions, foreign inward remittance certificates, SWIFT transfer details or other third-party evidences were produced to conclusively demonstrate

that the disputed portion of investment had in fact been funded by the husband. The appellate authority was of the view that the explanation largely rested upon internal statements and self-generated documents which, in the absence of independent corroboration, were insufficient to establish the claim of joint funding.

11. The learned CIT(A) further observed that the foreign asset disclosures, foreign accounts and PMS arrangements were associated with the assessee and that the assessee had failed to discharge the burden cast upon her to satisfactorily explain the source and ownership of the disputed investment. The appellate authority was also not persuaded by the argument that the investments had been made in earlier years, observing that the claim regarding acquisition dates and earlier ownership was not supported by adequate documentary evidence. Likewise, the challenge to the valuation adopted by the Assessing Officer was rejected on the ground that even if certain variations in valuation methodology were assumed, the fundamental issue regarding the unexplained portion of the investment remained unanswered. The learned CIT(A), therefore, concurred with the conclusions drawn by the Assessing Officer and upheld the addition of ₹5,05,81,504/- made under section 69 of the Act.

12. We have carefully considered the rival submissions, perused the orders of the authorities below and examined the entire documentary material placed before us in the paper book. The issue which falls for our consideration is whether the addition of ₹5,05,81,504/- made under section 69 of the Act can be sustained in the facts of the present case. The addition has been made on the premise that foreign assets aggregating to ₹6,87,29,850/- were attributable to the assessee whereas foreign assets of only ₹1,81,48,346/- were disclosed by her in Schedule FA and, therefore, the balance amount represented unexplained investment. The authorities below have further proceeded on the assumption that the assessee had failed to establish that the substantial portion of the foreign investment belonged to and was funded by her husband, Shri Maulik Jasubhai Shah.

13. On a careful examination of the record, we find that the factual position emerging from the documentary evidence placed before us does not support the conclusion drawn by the lower authorities. The material available on record shows that the foreign investment under consideration was held through Commerzbank, Germany. The account was originally held by four joint holders, namely, Shri Jasubhai Shah, Smt. Shweta Shah, Shri Maulik Jasubhai Shah and the assessee. The remittance details placed in the paper book further demonstrate that the funds were remitted from India through

the Liberalised Remittance Scheme during Financial Years 2015-16 and 2017-18 through banking channels. The details of remittances identify the respective contributors, the remitting banks in India, the dates of remittance, the foreign currency amount remitted and the corresponding rupee value. Thus, the origin of the funds, the mode of remittance and the persons contributing to the foreign account stand specifically identified from contemporaneous records.

14. The documentary evidence further reveals that after the demise of Shri Jasubhai Shah and Smt. Shweta Shah, their respective interests in the foreign investment devolved upon Shri Maulik Jasubhai Shah. Consequently, the foreign bank account and the PMS investment thereafter remained jointly held by Shri Maulik Jasubhai Shah and the assessee. This position is not reflected merely in a subsequent explanation furnished during assessment proceedings. It emerges from the Commerzbank statements, PMS reports and the reconciliation statement tracing the investment from its inception. The records consistently depict the investment as a jointly held asset and nowhere has any material been brought on record by the Revenue to demonstrate that the investment stood exclusively in the ownership of the assessee.

15. We find that the assessee had placed before the Assessing Officer a detailed reconciliation statement tracing the foreign

investment from inception till 31.03.2023. The said reconciliation specifically records that the total PMS balance as on 31.03.2023 was ₹6,43,54,403/-, out of which ₹4,59,71,947/- pertained to Shri Maulik Jasubhai Shah and ₹1,83,82,456/- pertained to the assessee. The ownership ratio and corresponding values are not merely supported by the reconciliation statement but are also reflected in the balance sheets and financial records of both the co-holders. The paper book further contains the balance sheet of Shri Maulik Jasubhai Shah reflecting foreign investment of ₹4,59,71,947/- and the balance sheet of the assessee reflecting foreign investment of ₹1,83,82,456/-. Thus, the ownership interest claimed by the assessee is supported not by a solitary document but by a complete chain of contemporaneous records maintained independently by both the co-holders.

16. We further note that the Schedule FA disclosures made by both the assessee and Shri Maulik Jasubhai Shah are in conformity with the ownership pattern reflected in the PMS records. The paper book demonstrates that Shri Maulik Jasubhai Shah has disclosed his share of foreign investment in his own return of income, whereas the assessee has disclosed her respective share in her Schedule FA. Thus, the very premise adopted by the Assessing Officer that the entire foreign investment belonged to the assessee is contrary to the

disclosures made by both the taxpayers and contrary to the underlying PMS records. Significantly, neither the Assessing Officer nor the learned CIT(A) has pointed out any discrepancy in the figures disclosed by Shri Maulik Jasubhai Shah in his return of income.

17. We also find that the authorities below have not disputed the fact that the underlying investments originated several years prior to the year under consideration. The remittance records, bank statements and PMS statements clearly establish that the investments were made out of remittances effected during Financial Years 2015-16 and 2017-18. The reconciliation statement tracing the investment from inception further demonstrates that what existed during the relevant previous year was only the continuing balance of an already existing foreign portfolio. No material has been brought on record by the Revenue to identify any fresh investment made during the previous year relevant to Assessment Year 2023-24 which remained unexplained. The impugned addition has thus not been made with reference to any investment made during the year but has been computed by taking the value of an existing foreign portfolio and treating the portion attributable to Shri Maulik Jasubhai Shah as unexplained in the hands of the assessee.

18. The approach adopted by the Assessing Officer, in our considered opinion, suffers from a fundamental factual infirmity. Once the assessee had furnished the Commerzbank statements, PMS reports, LRS remittance details, reconciliation statement from inception, balance sheets of both the co-holders and the corresponding Schedule FA disclosures, the burden shifted to the Revenue to demonstrate, on the basis of some contrary material, that the ownership structure reflected in these documents was incorrect. However, neither the assessment order nor the appellate order refers to any enquiry having been conducted from Commerzbank, Germany, the PMS manager or any other independent source. No material has been brought on record to establish that the foreign assets belonged exclusively to the assessee or that the ownership reflected in the records was incorrect. The explanation furnished by the assessee has been rejected primarily on suspicion and conjecture without dislodging the documentary evidence placed on record.

19. We also find merit in the grievance of the assessee that the addition has ultimately been worked out by taking the aggregate value of the foreign investment and thereafter reducing the amount accepted as belonging to the assessee. In effect, what has been brought to tax is the portion of investment admittedly claimed to belong to Shri Maulik Jasubhai Shah. Once the documentary evidence establishes

that the said amount stood reflected in the records of Shri Maulik Jasubhai Shah and formed part of his disclosed foreign assets, there remained no justification for treating the same as unexplained investment in the hands of the assessee.

20. Having regard to the entirety of the facts placed before us, we are satisfied that the assessee has furnished a complete and cogent explanation regarding the origin, ownership and source of the foreign investment. The documentary evidence placed on record establishes that the investment originated from remittances made through banking channels in earlier years, that the PMS investment was jointly held, that the respective ownership interests of Shri Maulik Jasubhai Shah and the assessee stood duly quantified and recorded, and that the share attributable to Shri Maulik Jasubhai Shah was duly reflected in his own financial statements and tax disclosures. In these circumstances, the impugned addition of ₹5,05,81,504/- cannot be sustained.

21. We, accordingly, direct the Assessing Officer to delete the addition of ₹5,05,81,504/- made under section 69 of the Act. The grounds raised by the assessee are allowed.

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

Order pronounced on 16th June, 2026.

Sd/-	**Sd/-**
(ARUN KHODPIA)	**(AMIT SHUKLA)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Mumbai; Dated 16/06/2026
KARUNA, *sr.ps*

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai