

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "F" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)  
AND  
MS. KAVITHA RAJAGOPAL (JUDICIAL MEMBER)**

**ITA No. 659/MUM/2025  
Assessment Year: 2015-16**

Sangeeta Kalpesh Chawalla  
A 67, Darya mahal, Behind  
Walshigaham School, 12<sup>th</sup> floor,  
Napean Sea Road,  
Mumbai- 400006  
**PAN NO. ADGPC 0339 M**  
**Appellant**

**Vs.**

ITO (ward 19(3) (2), Mumbai)  
ITO (ward 19(3) (2), Matru  
Mandir, Income Tax Office,  
Mumbai - 400007

**Respondent**

Assessee by : Mr. Prakash Jhunjhunwala  
Revenue by : Mr. Vivek Perampurna, CIT-DR

Date of Hearing : 14/07/2025  
Date of pronouncement : 22/08/2025

**ORDER**

**PER OM PRAKASH KANT, AM**

This appeal by the assessee is directed against order dated 03.01.2025 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short ‘the Ld. CIT(A)’] for assessment year 2015-16, raising following grounds:

*“1) The Ld. AO erred in the fact that the income received by the appellant is already taken under the head income from capital gains and made impugned addition of Rs. 1,11,18,154/-*



2) *The Ld. AO erred in adding up full sale consideration of Rs. 18,154/- of scrip M/s Regency Trust Limited as income, despite the fact that the ledger and submission and computation of short term capital gain are submitted during assessment.*

3) *The LD AO erred in considering the entire transfer value (by way of compulsory discharge of loan of Shri Ram Credit company Ltd) ) of Rs. 1,11,00,000/- as income, despite the fact that the ledger and submission and computation of short term capital loss of Risa International Ltd scrip are submitted during assessment. The Ld AO erred in making impugned addition of Rs.1,11,00,000/-crores without any basis. This addition is contradictory to the fact and evidences admitted by Ld. AO. In the assessment order.*

4) *The Ld. CIT (A) grossly erred in confirming the impugned order of LD AO. The CIT (A) has failed to appreciate that the material relied upon for re opening u/s148 is not shared with the appellant*

5) *The Ld AO erred in appreciating the fact that the transaction was carried out from the recognised stock exchange through registered stock brokers on faceless electronic platform. The Ld AO did not understand that this is the case of loss thus the question of bringing the unaccounted income in the books does not arise.*

6) *The Ld. AO ought to have appreciated the fact that the loss offered for tax is incurred on the electronic platform where no human intervention is done Thus there is no question of giving any sort of commission charges to anyone. The Ld. AO also erroneously added the amount of Rs.2,22,370/- as commission charges.”*

2. The facts, in brief, are that information was received from the Investigation Wing of the Income Tax Department, Kolkata, that the shares of a so-called "penny stock" company, namely *Regency Trust Limited*, had been misused for the purpose of generating bogus Long Term Capital Gains (LTCG) and Short Term Capital Losses (STCL). It was further brought to the notice of the Assessing Officer (AO) that the assessee had purchased and sold shares of the said company during the relevant previous year.



2.1 Subsequently, information was also received from the Assistant Commissioner of Income Tax, Circle 6(1), Chennai, that the assessee had similarly dealt in shares of another penny stock company, *Risa International Limited*. The AO noted that in both scrips, the assessee had acted as an “exit provider” and had booked short-term capital losses. On the basis of this information, the AO recorded reasons to believe that income chargeable to tax had escaped assessment, and accordingly issued notice under Section 148 of the Income-tax Act, 1961 (hereinafter referred to as “the Act”) on 29.03.2018.

2.2 In response, the assessee filed her return of income declaring a total income of Rs. Nil and reporting current year losses of Rs. 2,97,19,420/-. Thereafter, statutory notices were issued and complied with. The assessment was completed under Section 147 read with Section 143(3) of the Act on 29.12.2018. In the said order, the AO set out the modus operandi adopted in penny stock transactions, whereby accommodation entries were arranged to provide beneficiaries with fictitious capital gains or losses.

2.3 After detailed discussion, the AO made an addition of Rs. 1,11,18,154/- as unexplained cash credits under Section 68 of the Act, being the credit entries from the sale of shares, and further made an addition of Rs. 2,22,370/- towards unexplained expenditure allegedly incurred for obtaining such accommodation entries.



2.4 On appeal, the learned Commissioner of Income Tax (Appeals) [CIT(A)] upheld the order of the AO. The CIT(A) recorded that the conclusions were not merely based on abnormal price fluctuations but were corroborated by statements of entry operators as well as financial analysis of the companies involved, which demonstrated that such shares could not command the prices at which they were transacted. The CIT(A) thus held that the purchase and sale of such shares represented accommodation entries and confirmed the additions, dismissing the appeal of the assessee. The relevant finding of Id CIT(A) is reproduced as under:

*“This appeal is filed against the order of the ITO-19(3)(2), Mumbai passed u/s 143(3) r.w.s.147 of the I T Act, 1961 dated. 29.12.2018.*

- 1. The grounds of appeal object to addition of Rs.1,1118154 u/s.68 being unexplained cash credit and charging of commission at Rs.222370/-. It is clear that the conclusion that the entire transaction was part of 15 accommodation entries, is not merely based on fact that these shares were sold at a very high price in a short period of time. Rather this conclusion is based on the statement of the accommodation entry providers which is corroborated by detailed analysis of the financials of the company suggesting that the shares could not have commanded such high price along with the abnormal price movements over the stock exchange. Hence, the earlier decisions of the ITAT on the issue are distinguishable on facts. In the case of these type of accommodation entries cash is received from the beneficiaries which after passing through a multiple layers of concerns controlled by him, was returned in the form of sale price of shares to the beneficiaries of the accommodation entry. Due to said facts, purchase and sale of the shares are concentrated/taken up for verifications within few persons/entities. M/s.Rina International Ltd and M/s. Regency Trust Ltd. (BSE CODE: 511585) being penny stocks as detailed above, Smt. Sangeeta K Chawalla has been identified as one of the assessees, she has traded in this script*



*during FY 2014-15 and incurred capital gain/ loss. The said transaction value of shares being capital gain/loss or adjustment against loan account are considered as unexplained credit in the hands of the assessee as per section 68 of the IT Act, 1961 and liable to be taxed as income from other sources and not the income in the nature of business or capital gain as claimed by the assessee. Thus, looking into the nature of bogus transaction through its broker/agents for generating capital gain to bring the un-accounted income in the books of account through trading in penny stock, sale consideration of (Regency Trust Limited) Rs. 18,154 +1,11,00,000/- (being amount credited to loan account of the assessee by sale of shares of Risa International Ltd.) 1,11,18,154/-, in this case is clearly taxable as un-explained cash credits under section 68 of the IT Act not as short-term capital gain/loss). The addition of Rs. 11340524 is confirmed.*

*2. The appeal filed by the assessee is dismissed.”*

3. Before us, learned counsel for the assessee contended that the CIT(A) had not afforded adequate opportunity of hearing. Reliance was placed on an affidavit filed by the assessee wherein she averred that the notice of hearing dated 03.12.2024 was not received on account of its being sent to her old and inactive e-mail address; that she was preoccupied with the serious illness of her mother-in-law during the relevant period; and that her earlier Chartered Accountant failed to communicate the date of hearing to her, due to which she could not effectively prosecute her appeal. Copies of medical records were also placed on record in support of her claim. The relevant part of her affidavit is reproduced as under:

*“2. THAT, I could not participate in the 1st appeal proceeding and could not furnish the submissions and documents on record under the bonafide reasons and compelling circumstances beyond my control stated as under:*



a) *The notice of hearing dated 03/12/2024 was not served to me since was sent at my earlier email address viz. kchawalla@yahoo.com, which was inactive. My e-mail address had been changed to chawallasangeeta@gmail.com and had recently been updated on Income tax record. Due to non-receipt of notice of hearing, the relevant details and documents could be filed before 1st Appellate Authority;*

b) *I was extremely disturbed and occupied in attending the serious medical illness of my mother-in-law named SMT. VEENA K CHAWALLA, aged 82 years, as she was suffering from severe heart ailment. The copies of her medical records are enclosed. Due to serious medical illness of my mother in law, I was not able to concentrate in the Income tax matters and thus, could not files the relevant details documents before the 1st Appellate Authority;*

c) *My earlier Chartered account was not handling the appeal matters and did not inform me about the date of hearing. Thereafter, I appointed a new Chartered Accountant M/s. PRAKASH JHUNJHUNWALA CO. LLP to represent the appeals, including the 2nd appeal before the Hon'ble ITAT;*

d) *I am a non-commerce and technical person and am not much conversant with the Income tax law. Also, I do not have any staffs to handle the tax matters and therefore, the 1st appeal could not be represented in tome.*

*I state and declare that there is no willful or deliberate attempt for non-furnishing the details/documents on the 1st appeal record, however my non-participation in the 1st appeal proceeding had occurred out to bonafide reasons and compelling circumstances stated hereinabove.”*

4. We have given our thoughtful consideration to the rival submissions and examined the record. It emerges therefrom that the learned CIT(A) issued only a solitary notice of hearing dated 03.12.2024, fixing the matter for 18.12.2024, and thereafter proceeded to pass the impugned order on 03.01.2025, without



affording any further opportunity to the assessee. The explanation tendered by the assessee for her non-appearance, supported by contemporaneous material, demonstrates existence of a reasonable cause which prevented her from complying with the said notice. In our considered view, the denial of adequate opportunity has resulted in violation of the principles of natural justice. Consequently, the order passed by the learned CIT(A) cannot be allowed to stand. We, therefore, set aside the impugned order and remit the matter to the file of the learned CIT(A) for fresh adjudication, in accordance with law, after affording due and effective opportunity of hearing to the assessee.

5. In view of the above, the grounds raised on merits are rendered academic at this stage and are not adjudicated upon.

6. In the result, appeal of the assessee is allowed for statistical purposes.

**Order pronounced in the open Court on 22/08/2025.**

**Sd/-**  
**(KAVITHA RAJAGOPAL)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(OM PRAKASH KANT)**  
**ACCOUNTANT MEMBER**

Mumbai;  
Dated: 22/08/2025  
Disha Raut, Stenographer



**Copy of the Order forwarded to :**

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

BY ORDER,

//True Copy//

(Assistant Registrar)  
**ITAT, Mumbai**