

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, KOLKATA

SHRI RAJESH KUMAR, ACCOUNTANT MEMBER

**I.T.A. No.427/Kol/2025
(Assessment Year 2014-2015)**

Shresth Dealers Pvt. Ltd.,
101, Siddha Point, Park Street,
Ground Floor, Kolkata - 700016
[PAN: AANCS0680G].....**Appellant**

vs.

DCIT, CC-4(1), Kolkata,
Aaykar Bhawan Poorva, 110,
Shanti Pally, Kolkata - 700107..... **Respondent**

Appearances by:

Assessee represented by : Manish Tiwari, FCA

Department represented by : Shankar Naskar, Sr. DR

Date of concluding the hearing : 11.09.2025

Date of pronouncing the order : 27.10.2025

ORDER

1. This appeal arises from order dated 04.12.2024, passed u/s 250 of the Income Tax Act, 1961 (hereafter “the Act”) by the Ld. Commissioner of Income Tax (Appeals), Kolkata-27 [hereafter “the Ld. CIT(A)].

2. The issue is Ground No. 1 is against the invalid reassessment proceedings u/s 147 of the Act which are nullity and bad in law.

3. Brief facts are that the assessee filed return of income on 23.07.2014 declaring total income of Rs. 137,540/- which was processed u/s 143(1) of the Act. The case of the assessee was selected for scrutiny and assessment order was accordingly framed u/s 143(3) of the Act on 26.07.2016 at a total income of Rs. 2,06,640/-. Thereafter, the AO received information from DGIT (Investigation)-23, Kolkata that the assessee is one of the beneficiaries who traded in penny script Rutron International Limited through Ashika Stock Broking Limited as it has sold 210000 equity shares within the period three weeks from 04.03.2014 to

21.03.2014. Accordingly, notice u/s 148 of the Act was issued on 11.03.2021 which was complied with by the assessee filing return of income on 23.04.2021 declaring the same income as was declared under section 139(1) of the Act. Finally, in the reasons recorded, the AO further noted in para 5 that the assessee had submitted details/documents relating to equity transacted through Ashika Stock Broking in penny stocks during the course of assessment proceedings u/s 143(3) of the Act. It was further noted that the shares sold of Rs. 16,49,250/- was not shown in the P&L Account for AY 2014-15. Thus, the assessee has not disclosed income from sale of shares to the tune of Rs. 16,49,250/- during the AY 2014-15. Finally, the AO framed the assessment u/s 143(3)/147 of the Act vide order dated 05.03.2022 by making addition of bogus loss at Rs. 3,45,126/- which was a trading loss incurred from the transactions in penny stock of Rutron International Limited.

4. In the appellate proceedings, the Ld. CIT(A) dismissed the appeal of the assessee on the ground that the assessee booked bogus loss on the trade in equity shares of Rutron International Limited.

5. After hearing the rival submissions and perusing the material available on record, we observe that in the reasons recorded by the AO, it is mentioned that assessee has not declared the sales proceeds of Rs. 16,49,250/- in the profit and loss account and therefore income has escaped assessment. The reasons recorded are extracted below for the same of ready reference:-

“Vide the information, shared by the Office of the DDIT(inv.), Unit-2(3), Kolkata it has been found that M/s Shresth Dealers Pvt. Ltd is one of the beneficiaries who has traded in the penny scrip Rutron Int. Scrip Code 504335) during the AY 2014-15 From the trade ledger of the assessee it is seen that the assessee company has sold 210000 shares of Rutron International within a span of three weeks from 04.03.2014 to 21.03.2014 through Ashika Stock Broking Lis, for a total consideration value of Rs. 16,49,250/-.

5. During the course of assessment proceedings u/s 143(3), assessee had submitted purchase and sale of shares made during the year. However, the transaction of share through the broker Ashika Stock Broking Ltd. was

not submitted and was also not reflected in the P&L Account for the A.Y 2014-15.

While analysing the Return of Income for the AY 2014-15, filed by the assessee, it is seen that the above mentioned transaction is not explainable from the return of income filed by the assessee. The assessee has also not submitted any details or documents in respect of the above mentioned transaction during the course of assessment proceedings u/s 143(3) of the Act. Further the sale of Rs. 16,49,250/- in not part of Sale of Shares and Securities under the head "Revenue from Operation" of the P&L Account for the relevant A-Y 2014 15. Thus, it can be said that during the year under consideration, the assessee company has not disclosed income from sale of shares to the tune of Rs. 16,49,250/ during AY 2014-15 it is seen that the assessee company has filed copy of audited P&L a/c, Balance sheet, Tax Audit Report along with ROI where various information/material were disclosed. However, the requisite full and true disclosure of all material facts necessary for assessment has not been made as noted above. For aforesaid reasons, it is not a case of change of opinion by the AO."

6. It is clear from the above reasons recorded that according to the AO the assessee has done transactions in penny stock of Rutron International Limited by selling 210000 equity shares for Rs. 16,49,250/- which was not been shown in the P&L Account and thus income chargeable to tax of Rs. 16,49,250/- has escaped the assessment. However, as a matter of fact while making the assessment the AO has made addition of Rs. 3,45,126/- on account of bogus loss on sale of shares from Rutron International Limited through stock broker M/s Anand Rathi Shares & Stock Brokers Limited. We note that the assessee has in fact sold to 23000 equity shares for a consideration of Rs. 1,63,530/- while shares worth Rs. 5,07,610/- were purchased involving loss of Rs. 3,44,080/-. Therefore, there was no application of mind by the AO at the time of recording reasons. The reasons were recorded on wrong facts. In our opinion, reopening of assessment is bad in law and so is the assessment framed. Accordingly, we quash the notice u/s 148 as well as assessment framed u/s 143(3)/147 of the Act. Accordingly, Ground No. 1 is allowed.

7. Since we have allowed the appeal on legal issue, the other ground raised on merit are not adjudicated at this stage and left to be decided later if the need arises for the same in future.

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

Order pronounced on 27.10.2025

Sd/-
(Rajesh Kumar)
Accountant Member

Dated: 27.10.2025
AK,Sr. P.S.

Copy of the order forwarded to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches