

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, KOLKATA

**SHRI SONJOY SARMA, JUDICIAL MEMBER
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No. 563/Kol/2022
Assessment Year 2015-16**

LittleSky Dealtrade Pvt. Ltd.,

C/o Subash Agarwal & Associates,
Siddha Gibson, 1, Gibson Lane,
Suite 213, 2nd Floor,
Kolkata - 700069
[PAN: AACCL2299R]

..... **Appellant**

vs.

ITO, Ward 9(3), Kolkata,

Aayakar Bhawan, P-7,
Chowringhee Square,
Kolkata - 700069

..... **Respondent**

Appearances by:

Assessee represented by : Shri Subash Agarwal, Advocate

Department represented by : Saumitra Ghosh, JCIT

Date of concluding the hearing : 28.10.2025

Date of pronouncing the order : 30.10.2025

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. In this case, there is a delay of 369 days for which an application has been filed, requesting condonation of said delay as under:

"I Smt. Shashi Jain, daughter of Late, Tara chand jain age 49 years, by religion Hindu, residing at Tribani Bhawan Gokuldharm Society N.S Road Rishira Kolkata 1712248 do hereby solemnly affirm and state as follows -

1. That I am a director of M/s. LittleSky Dealtrade Pvt. Ltd. As such, I am competent to swear this affidavit on behalf of the said company.

2. That an appeal was filed before the Hon'ble Tribunal against the appellate order dated 27.07.2021 received on same day through email, numbered as ITA No. 563/Kol/22 and fixed for hearing before the Ld. 'SMC' Bench with a delay of around 369 days.

3. That I, met with an accident and fractured my left humerus in the month of July, 2021 and got operated on 26.07.2021. After getting, discharged from the hospital I was in rest for a long period as advised by the surgeon.

4. That I could not attend the office for a long time due to such physical condition and thus the said appellate order got overlooked inasmuch as no physical copy was received by any authorized person of the company.

5. That on or around 20.09.2022, I accessed the income-tax portal to ascertain the status of appeal and noticed that the order has already been passed 27.07.2021.

6. That I approached Advocate Sri Subash Agarwal through the accountant of the said company for preparation and filing of the appeal and handed over all the relevant papers to him on 23.09.2022.

7. That then appeal was prepared by him and the same was filed in ITAT on 29.09.2022 with such delay of around 369 days.

8. That the facts stated in para 1 and 7 are true to the best of my knowledge and belief.”

1.1 Considering the reasons given in the said application, the delay is hereby condoned and the appeal is admitted for adjudication.

2. This appeal arises from order u/s 250 of the Income Tax Act, 1961 (hereafter “the Act”) dated 27.07.2021, passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereafter “the Ld. CIT(A)”]. In this case, the Ld. AO made several additions on account of section 40(a)(iii) of the Act, disallowed a loss on account re-evaluation of closing stock of shares, and an addition on account of profits earned from trading in penny-stock. The assessee carried this matter in appeal, where the issues of profit on trading in shares and loss on re-evaluation of closing stock were confirmed, leading to a grievance which is now before the ITAT.

2.1 The following grounds of appeal have been taken for the consideration of this Bench:

“1. For that on the facts and in the circumstances of the case, the Ld.CIT(A) grossly erred in confirming the addition made by the A.O. on account of transactions relating to shares of M/s Cressanda Solutions Ltd. as under:

Disallowed Loss : Rs. 11,68,467/-

Profit earned : Rs. 13,77,704/-

2. *For that on the facts and circumstances of the case, the A.O. was not justified in applying the provisions of section 115BBE.*

3. *The appellant craves leave to add further grounds or alter the grounds at the time of hearing.”*

3. The Ld. AR argued that it was a settled principle of accounting that closing stock had to be evaluated at cost or market, whichever was lower. In light of this accounting principle the assessee had adopted the value of the scripts held as closing stock on the basis of the price of such shares on the last date of the financial year. The Ld. AR assailed the authorities below in casting a net of suspicion on the trading in shares on the basis that such trades had happened in the case of a penny stock. It was the submission of the Ld. AR that the assessee was not claiming any capital gains/loss as a result of trade in equity shares but was merely evaluating the closing stock on the basis of a settled accounting principle, which mandates that the lower of cost or market value should be taken as value of closing stock. It was a further submission by the Ld. AR that any profits arising from trading in such penny stock was duly accounted for in the value of closing stock and thus, it was beyond comprehension that additions would be made by disallowing the loss from re-evaluation of closing stock and also adding the profit arising from trading in equity shares, even when both the values are very much integrated in the final value of the closing stock. The Ld. AR relied on in the case of M/s Alosha Marketing Pvt. Ltd., ITAT/296/2024, IA No. GA/1/2024 (Cal), dated 16.06.2025. The Ld. AR pointed out the relevant portion on page 5 of this case law.

3.1 The Ld. DR relied on the orders of authorities below and stated that the penny stock in question was not free from doubt and the facts regarding that had been adequately brought out in the orders of authorities below.

4. We have carefully considered the rival submissions and have gone through the records before us, including the paper book filed by the Ld. AR and the case law (supra). It deserves to be held that as a matter of principle the closing stock in any business enterprise could be evaluated at the lower

of cost or market. In principle this is the correct situation with regard to accounting principles. The Ld. AO is seen to have added the profit during the year u/s 68 of the Act by casting doubt on the same. What we need to consider here is whether the resulting profit and the resulting figure arrived at after re-valuing the closing stock have been correctly arrived at so that the net figure of closing stock also includes the profit so arising from sale/purchase of equity shares. The case of M/s Alosha Marketing Pvt. Ltd. (supra) relied upon by Ld. AR has considerable persuasion value in deciding the principles governing this matter. Accordingly, we deem it fit to set aside the impugned order and remand this matter back to the file of Ld. AO for carefully examining the documents and facts concerning the profit or loss arising from sale/purchase of equity shares and thereafter, the Ld. AO would examine whether such resultant profit/loss has been duly incorporated in the net figure of closing stock, or not. The resultant figure would be clearly allowable to the assessee considering the principles governing preparation of accounts. At this stage, we may hasten to add, that the Ld. AO would be free to carry out any further enquiry to examine whether the figure of profit from sale of penny stock and the figure of loss arrived at after determining the price of share on the last date of the financial year, was not artificially managed. The Ld. AO would take a holistic view in the matter and assess the income of this assessee. Needless to say, adequate opportunity of being heard would be provided by the Ld. AO. In result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on 30.10.2025

Sd/-
(Sonjoy Sarma)
Judicial Member

Sd/-
(Sanjay Awasthi)
Accountant Member

Dated: 30.10.2025
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