

**IN THE INCOME TAX APPELLATE TRIBUNAL “H (SMC)” BENCH
MUMBAI**

**BEFORE SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER
AND
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No. 8226/MUM/2025
Assessment Year: 2011-12**

Jagruti Bharat Shah 83 30 Rekha Bldg, RAK Road, Wadala, Mumbai - 400031 [PAN: AAQPS1580D]	Vs.	Income tax Officer-19(3)(1), Mumbai
(Appellant)		(Respondent)

Present for:

Assessee : Mr. Dhaval Shah and
Ms. Tisha Bagh, Advocates
Revenue : Shri Pravin Salunkhe, Sr. DR.

Date of Hearing : 28.01.2026

Date of Pronouncement : 29.01.2026

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of ADDL/JCIT (A)-2, Lucknow, vide order no. ITBA/APL/S/250/2025-26/1081211974(1), dated 26.09.2025, passed against the assessment order by Income Tax Officer, Ward-19(2)(1), Mumbai, u/s. 147 r.w.s 143(3) of the Income-tax Act (hereinafter referred to as the “Act”), dated 26.12.2018 for Assessment Year 2011-12.

2. Grounds taken by assessee are reproduced as under:

“1. The Ld. CIT(A) has erred in law and in facts in passing the order u/s. 250 of the Act dated 26.09.2025 dismissing the appeal filed by the appellant and confirming the order passed by the Ld. AO u/s 143(3) r.w.s 147 of the Act which is bad and invalid in the eyes of law.

2. The Ld. CIT(A) has erred in law and in facts in not appreciating that the assessment order passed is in violation of principles of natural justice.

3. *The Ld. CIT(A) has erred in law and in facts in passing the appellate order in violation of principles of natural justice without granting sufficient opportunity to the appellant and without deciding the appeal on merits.*

4. *The Ld. CIT(A) has erred in law and in facts in not appreciating that the reopening of assessment by the Ld. AO is invalid and bad in the eyes of law.*

5. *The Ld. CIT(A) has erred in law and in facts in confirming the action of the Ld. AO in making addition of Rs. 3,53,649/- u/s. 68 of the Act on account of sale of shares of alleged penny stock company M/s. VAS Infrastructure Ltd. which is invalid and bad in the eyes of law.*

6. *The Ld. CIT(A) has erred in law and in facts in confirming the action of the Ld. AO in making addition of Rs. 7,073/- u/s. 69C of the Act on account of alleged commission on penny stock transactions which is invalid and bad in the eyes of law.*

7. *The Ld. CIT(A) has erred in law and in facts in confirming the action of Ld. AO in charging interest u/s. 234A, 234B and 234C of the Act which is invalid and bad in the eyes of law. 8. The Ld. CIT(A) has erred in law and in facts in confirming the action of Ld. AO in initiating penalty proceedings u/s. 271(1)(c) of the Act which is invalid and bad in the eyes of law.”*

3. At the outset it was pointed out by the ld. Counsel of the assessee that order passed by ld. CIT(A) is an *ex parte* order whereby the appeal has been dismissed by observing in para-6.1 *“In absence of any follow up and submission from the appellant, this office is not in a position to conclude the matter on merits. Therefore, the appeal is dismissed as not pressed”*. The issue involved in the present appeal is in respect of addition made towards long term capital gain earned by the assessee on scrip alleged to be a penny stock, i.e., VAS Infrastructure ltd. Ld. Assessing Officer made the addition of Rs.3,53,649/- involved in the sale of shares of this company by taking recourse to section 68 of the Act. He also made an addition of Rs.7,073/- towards commission at the rate of 2% of Rs.3,53,649/- alleging that it was paid to entry provider, by applying section 69C. The impugned reassessment order is passed u/s. 143(3) r.w.s. 147 after taking into consideration, submissions and details filed by the assessee and considered by the ld. Assessing Officer.

3.1. Before the ld. CIT(A), assessee could not make effective representation as notices fixing the date of hearing could not be received

by the assessee since assessee is not conversant with the technology being a senior citizen. In the course of hearing before us, assessee has furnished the details of the transaction carried out which is extracted below:

Name of Scrip	Quantity	Purchase details			Sale details			Profit (Rs)	Profit %	Annualised profit % (Approx)
		Date	Rate	Value (Rs.)	Date	Rate	Value (Rs.)			
VAS Infrastructure Ltd.	2,500	18.01.2007	111.89	2,79,736	10.11.2010	141.45	3,53,649	73,913	20.90%	5.57%

4. Considering the overall factual matrix and the orders of the authorities below, we find it appropriate, in the interest of justice and fair play to remit the matter back to the file of Id. CIT(A) for *de novo* meritorious adjudication on the grounds raised at the first appellant stage. Needless to say, assessee be given reasonable opportunity of being heard and to make all the relevant submissions as required to substantiate the claim made by her.

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

Order is pronounced in the open court on 29 January, 2026

Sd/-
(Sandeep Singh Karhail)
Judicial Member

Sd/-
(Girish Agrawal)
Accountant Member

Dated: 29 January, 2026

MP, Sr.P.S.

Copy to :

- 1 The Appellant
- 2 The Respondent
- 3 DR, ITAT, Mumbai
- 4 Guard File
- 5 CIT

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai