

IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, MUMBAI

**BEFORE SHRI OM PRAKASH KANT, AM
AND
MS. KAVITHA RAJAGOPAL, JM**

ITA Nos.3631 & 3632/Mum/2025
(Assessment Years: 2012-13 & 2013-14)

Mr. Nishit Praful Gogri, Shop No. 3, Saraswati Darshan, Panchpakhadi, Naupada, Thane - 400602.	Vs.	DCIT, Circle 3, 6 th Floor, Ashar IT Park, Road No.16Z, Wagle Estate, Thane -400604.
PAN: AJBPG6307L		
(Appellant)	:	(Respondent)

Assessee by	:	None
Respondent by	:	Shri Swapnil Choudhari, Sr. AR

Date of Hearing	:	18.02.2026
Date of Pronouncement	:	27.02.2026

ORDER

Per Kavitha Rajagopal, JM:

The captioned appeals are filed by the assessee, challenging the order of the Learned Commissioner of Income Tax [‘Ld. CIT(A)’ for short], National Faceless Appeal Centre (‘NFAC’ for short) passed u/s. 250 of the Income Tax Act, 1961 (‘the Act’) pertaining to the Assessment Year (‘A.Y.’ for short) 2012-13 & 2013-14. As the facts are identical, we hereby pass a consolidated order by taking ITA No.3631/M/2025 pertaining to A.Y. 2012-13 as the lead case.

2. During the appellate proceeding it was observed that the assessee was given several opportunities by the Bench, specifically as per the order sheet dated 03.12.2025 and subsequently on 05.02.2026, as none appeared on behalf of the assessee, the Bench had granted final opportunity for the assessee to appear before us. The assessee has not



complied with the same inspite of specific direction and today when the matter came up for hearing before us, it was decided that the appeal will be heard after hearing the Learned Departmental Representative ('Ld. DR' for short). We, therefore, proceed to decide the present appeal by hearing the Ld. DR and on perusal of the materials available on record.

3. The assessee has raised the following grounds of appeal:

"1. The Ld. AO as well as CIT(A) erred of law as well as of fact that the Reasons recorded and notice u/s 148 had been issued by the Income Tax Officer Ward 1(2), Thane whereas Assessment had been completed by the another officer i.e. DCIT, Circle-3, Thane. The Officer recording the reason for re-opening is different from the Officer passing the assessment order. The appellant had specifically raised this issue in the assessment proceedings as well as CIT(A) proceedings. Hence, the assessment order is without jurisdiction, void-ab-intio, invalid, bad in law and liable to be quash. Judicial Pronouncements relied upon;

a. JGS Finvest Services Private Limited vs Income Tax Officer 8(2)(1) (ITA No. 976/Mum/2016) (ITAT Mumbai) dated 17/09/2019

b. Pankajbhai Jaysukhlal Shah vs Asst. Commissioner of Income Tax (Special Civil Application No. 230 of 2019) (2019) 110 taxmann.com 51 (Gujarat) (Gujarat High Court) dated 09/04/2019 further affirmed by the Hon'ble Supreme Court of India in SLP (Civil) Diary No. 2013/2020 ACIT vs Pankajbhai Jaysukhlal Shah dated 14/02/2020 (2020) 120 taxmann.com. 318 (SC).

c. Adarsh Rice Mill vs ITO Ward 1(1) (ITA No. 84/RPR/2022) (ITAT Raipur) dated 29/11/2022

2. The Ld. AO as well as Ld. CIT(A) had ignored the fact as well as of law that, the re-opening of the assessment has been done with an intention to verify the genuineness of sale and purchase transaction in relation to the script of Vandana Knitwear Ltd (formerly known as Trendy Knitware Ltd) as mentioned in the Para 3 of the assessment Order "In order to verify the genuineness of the purchase and sale of shares of M/s Vandana Knitwear Limited made by the assessee, the details of transactions were called for and the said details filed by the assessee were perused.". These further supports, to the fact that No Quantification of the escaped income has been done in the reason recorded for the re-opening of assessment and also based on incorrect facts.

3. The Ld. AO as well Ld. CIT(A) erred of law as well as of fact in confirming the assessment order by not considering that the reason recorded for the re-opening of the assessment is solely based on the borrowed satisfaction on the basis of information received from the



Investigation Wing, incorrect facts, without quantification, without application of mind. Hence, the assessment order is void-ab-intio, invalid, bad in law and liable to be quash. The correct facts are;

<i>Sr. No.</i>	<i>Name of Script</i>	<i>Trade value during the Financial Year 2011-12</i>	<i>Actual as per the return of income.</i>
<i>1</i>	<i>M/s Vandana Knitwear Ltd (BSE: 532090) (Formerly known as Trendy Knitware Ltd)</i>	<i>SELL: 57,62,850/-</i>	<i>SELL: 28,74,250</i>
<i>2</i>	<i>Defect in Nature of Capital Gain</i>	<i>The reason recorded of shown that the assessee has claimed long term capital gain u/s 10(38) of Income Tax Act, 1961</i>	<i>The assessee had actually earned Short Term Capital Gain of Rs 26,74,250/- on which appropriate Income Tax has been duly paid.</i>

4. The Ld. AO as well as Ld. CIT(A) erred of law as well as of fact that the Notice u/s 148 had been issued for making fishing enquiry. Hence, the Notice is void-ab-Intio, invalid, illegal, bad in law and liable to be quash.

5. The Ld. AO as well as Ld. CIT(A) erred of law as well as of fact that the assessment order had been passed without providing a documentary evidence and cross-examination of the persons whose statement had been relied upon for recording the reason that the Income had escaped the assessment. The appellant had specifically requested to provide so that appellant can raise the objections to the re-opening of the assessment. Hence, the appellant had been denied of principle of natural justice.

6. The Ld. AO as well as Ld. CIT(A) had deliberately ignored the fact that the appellant had earned short term capital gain as against the long term capital gain recorded in the reason recorded for the re-opening of the assessment. Further, the contract notes, shares certificate, Demat Account Statement, Bank Statement, and also stated that qualification of appellant being MBA and is a regular investor, submitted by the appellant in the course of appellate as well as assessment proceedings has been conveniently ignored.

7. The Ld. AO as well as Ld. CIT(A) had erred of fact as well as of Law by sustaining the addition made by the Ld. AO u/s 68 of Rs 28,74,250/- by treating entire sales consideration received by the appellant on sale of shares of Vandana Knitwear Limited as an unexplained credit without considering the explanations and documents submitted by the appellant during the course of assessment proceedings.

8. The appellant prays that the addition made by the Ld. AO and confirmed by the Ld. CIT(A) be deleted.

9. The order appealed against is bad in Law and against the principles of natural justices and tax jurisprudence.



10. The order appealed against is based on surmises and conjectures.

11. The appellant craves leave to add, amend, alter and vary any of the grounds of appeal either before or at the time of hearing of the appeal.

12. Each ground of appeal is distinct and separate.”

4. Brief facts of the case are that the assessee is an individual and had filed his return of income dated 24.06.2012 declaring total income at Rs.12,41,000/- and the same was processed u/s 143(1) of the Act. The assessee's case was reopened u/s 147 vide notice u/s 148 of the Act dated 31.03.2018 for the reason that the assessee had transacted in alleged penny scrip namely M/s. Vandana Knitwear Ltd. amounting to Rs.28,74,250/-, which details were sought for by the Learned Assessing Officer ('Ld. AO' for short). The assessee filed his return of income in response to notice u/s 148 of the Act on 12.04.2018. The Ld. AO passed the assessment order u/s 143(3) r.w.s. 147 of the Act determining the total income at Rs.28,96,340/- after making an addition u/s 68 of the Act amounting to Rs.28,74,250/- on the ground that the assessee has failed to prove the genuineness of the impugned transaction.

5. Aggrieved, the assessee was in appeal before the first appellate authority who vide order dated 10.08.2025 upheld the addition made by the Ld. AO on same ground as that of the Ld. AO.

6. The assessee is in appeal before us, challenging the order of the Ld. CIT(A) on the aforementioned grounds.

7. We have heard the Ld. DR and perused the materials available on record. It is observed that the assessee has purchased 70,000 shares of M/s. Vandana Knitwear Ltd. on



21.09.2011 for a consideration of Rs.7,00,000/-, subsequent to which the shares were dematerialized and sold between 02.01.2012 and 06.01.2012 at Rs.140 to Rs.149 through registered brokers M/s. Anupam Stock Broking Pvt. Ltd. The Ld. AO observed that the assessee had purchased the shares in physical form @ Rs.10 per share and within a short span of time has sold it for almost more than 130 times the rate at which he had purchased. The Ld. AO further observed that the financials of M/s. Vandana Knitwear Ltd. did not justify the huge increase in the price and the same are also not as a result of the business operation of the company. Further, it was also observed that the Regulatory Authority namely SEBI had levied penalty on M/s. Vandana Knitwear Ltd. (earlier known as Trendy Knitwear) vide its order dated 31.08.2018 on alleged irregularities on alleged irregularities in trading of the scrip during the period 01.03.2012 to 31.12.2012. The Ld. AO made a comparison of the financial status of the company which did not commensurate with the price fluctuation of its shares. Upon receipt of information from DDIT (Inv.), Unit-(4)1, Thane stating that M/s. Vandana Knitwear Ltd. is a penny scrip listed on BSE for the purpose of facilitating bogus accommodation entries to various beneficiaries, the Ld. AO made a detailed analysis of the sharp rise in the price without any justifiable reason for the purpose of benefiting those who are the beneficiaries including the assessee. The Ld. AO also explained the modus operandi of such transaction and had also placed reliance on the statement of the key person Shri Pramod Gadia and Shri Pradeep Saremal Jain who was one of the directors of M/s. Vandana Knitwear Ltd. recorded by the investigation wing, Hyderabad which discloses that there was no real business activity carried out by this company and was merely an accommodation entry provider. The Ld. AO made an addition on the consideration received by the assessee on sale of the alleged penny scrip on the



ground that the assessee had failed to establish the genuineness of the transaction. The Ld. CIT(A) placed reliance on the order of the Ld. AO as well as the SEBI order and upheld the addition made by the Ld. AO on the ground that the assessee has failed to furnish any documentary evidences to substantiate the genuineness of the transaction. The Ld. CIT(A) also dismissed the grounds of appeal challenging the reassessment proceeding.

8. Before us neither the assessee nor his authorized representative appeared to substantiate the claim of the assessee that the impugned transaction was not a sham transaction merely for the purpose of availing benefit out of accommodation entries. There was no documentary evidence furnished by the assessee with regard to the preferential allotment of shares, which according to us is the onus of the assessee to explain the same. In the absence of any corroborative evidence, we deem it fit to dismiss the grounds of appeal raised by the assessee and thereby upholding the order of the lower authorities.

9. In the result, the appeal filed by the assessee is hereby dismissed.

10. The finding given in this appeal will apply *mutatis mutandis* to other appeal i.e. ITA No.3632/M/2025 as well and hence the same is also hereby dismissed.

11. In the result, both the appeals filed by the assessee are dismissed.

Order pronounced in the open court on 27.02.2026

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Sd/-
(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER

Mumbai; Dated: 27.02.2026

* Kishore, Sr. P.S.



Copy of the Order forwarded to:

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

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai