

**आयकरअपीलीयअधिकरण,इंदौरन्यायपीठ,इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**

**INDORE BENCH, INDORE**

**BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER**  
**AND**  
**SHRI PARESH M JOSHI, JUDICIAL MEMBER**

ITA No.611 /Ind/2025

(AY: 2012-13)

Babita Chelawat 11/2, South Tukoganj, Indore <b>(PAN: ABKPC5877C)</b>	<b><u>बनाम/</u></b> Vs.	DCIT/ACIT 1(1), Indore
(Appellant)		(Respondent)
Assessee by	Shri Milind Wadhwani, CA & Ms. Shradha Piplodiya, Adv	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	19.03.2026	
Date of Pronouncement	27.03.2026	

**आदेश / O R D E R**

**Per Paresh M Joshi, J.M.:**

This is an Appeal filed by the Assessee under section 253 of the income tax Act 1961,[ herein after referred to as the Act for the sake of brevity] before this Tribunal as & by way of second appeal. The Assessee is aggrieved by the order bearing Number:- ITBA/APL/S/250/2024-25/1073334904(1) dated 17.02.2025 passed by the Ld. CIT(A) u/s 250 of the Act, which is herein after referred to as the "**Impugned order**". The relevant assessment

year is 2012-13 and the corresponding previous year period is from 01.04.2011 to 31.03.2012.

2.

**Factual Matrix**

2.1 That as and by way of an "**Assessment order**" made u/s **143(3) r.w.s. 147 of the Act**, the total income of the assessee was computed & **assessed at Rs. 17,68,161/-**. The total income as per the **return of income filed was at Rs. 15,37,355/-**. The addition of Rs. 2,30,806/- was made as unaccounted income by virtue of para 8,9 & 10 of the aforesaid assessment order. That the aforesaid "**Assessment order**" is dated 24.09.2019 which is herein after referred to as the "**Impugned Assessment Order**".

2.2 That the assessee being aggrieved by the aforesaid "**Impugned Assessment Order**" prefers the first appeal u/s **246A** of the Act before the Ld. CIT(A) who by the "**Impugned Order**" has dismissed the 1<sup>st</sup> appeal of the Assessee on the grounds & reasons stated therein. The core grounds & reasons for the dismissal of the 1<sup>st</sup> appeal were as under:-

*"8.0 Decision:-*

8.1 I have gone through the facts of the case, the grounds of appeal and the submissions made by the appellant in this case. Accordingly, the appellant has raised 10 grounds of appeal. It is seen that Ground no. 1 is general in nature and doesn't require a separate adjudication and will be taken care while deciding the issue of addition vide ground no-7 taken by the appellant. The other grounds of appeal are taken sequentially below.

8.2 Vide Ground No. 2 and 3 are related. Vide these grounds the appellant has challenged the re-opening of the assessment. The appellant contends that the reopening was based on mere suspicion rather than tangible material and that the transactions were already disclosed. However, the contention of the appellant is not found to be correct. The A.O has very clearly mentioned in the reason for re-opening that there was information available in the case of the appellant and the same was examined by the A.O and base on examination of the data, the A.O came to the conclusion that assessee has entered into sham transaction. There is detailed recording of reason and on perusal of the same, it is clear that A.O has tangible material

*and he has examined the material to arrive at prime facie conclusion to re-open the case. Furthermore, SEBI investigations flagged M/s Alpha Graphic as a penny stock used for accommodation entries. It is also pertinent to note that what is required before the re-opening the case is prime facie belief that income has escaped assessment. The Hon'ble Supreme Court in **Raymond Woollen Mills Ltd. v. ITO [(1999) 236 ITR 34 (SC)]** held that reopening is valid if the AO forms a prima facie belief of income escaping assessment. On examination of all the material in the case of the appellant, it is found that A.O has tangible and sufficient material to form the opinion that income has escaped assessment and hence he has issued the notice for re-opening. In light of this factual and legal position, the action of the A.O in re-opening the case is found to be valid. Hence, these grounds of the appellant are dismissed.*

**8.3 Vide ground no-4, the appellant has contended that Ld. AO before passing the assessment order did not provide an opportunity to the assessee to provide written or oral submissions even when the stipulated period for providing the response did not expire. Hence, the appellant contends that no**

*opportunity of being heard was provided before passing the order and hence is unjust. I have gone through the submission made by the appellant and assessment order framed in this case. It is seen from the assessment order that assessee has been given opportunity vide notice issued under section 143(2) of the Act, notice issued under section 142(1) of the Act. Further, the appellant representative has attended the assessment proceeding which is very much part of the assessment order. It is further seen that all the submission made by the appellant has been duly taken care of and placed on record and has been considered by the A.O before ha has arrived at the conclusion. The Hon'ble Supreme Court in **Magadh Sugar & Energy Ltd in civil appeal no-5728 of 2021 (SC)]** has ruled that minor procedural lapses do not invalidate an order if reasonable opportunity was provided. Since, the A.O has provided various opportunities to the appellant and has also considered the submission made by the appellant, the ground of the appellant is not valid and hence the same is **dismissed**.*

**8.4 Vide Ground No. 5 and 6, the appellant has submitted that written submission has been ignored by the A.O. The**

*primary contention of the appellant in this regard is that AO erred in not taking cognizance of detailed written submissions placed on record along with all the documentary evidences supporting in the course of impugned proceedings and giving sweeping observation on the case laws relied upon by the appellant without specifying how they are distinguished. The second contention is that the order was passed without cognizance of the stipulated period in which assessee could provide her submission. The appellant contends that the AO ignored detailed submissions and supporting documentary evidence. It is seen from the assessment order that all the submission given by the appellant has been taken on record and well considered. Since the appellant has not provided any new substantive evidence to contradict the AO's findings and conclusion, it cannot be said that A.O has not taken care of the written submission filed by the appellant. Hence, this ground is without any merit and same deserves to be **dismissed**.*

*8.5 **Vide ground no-7**, the appellant has submitted that on the facts and circumstances of the case and applicable law, Ld. AO erred in making an addition of Rs. 2,30,806 against the information available with the AO by tainting the appellant as*

*accommodation entry beneficiary and associating her with general terms like accommodation entry beneficiary penny stock without any cogent and positive material on record. The appellant asserts that the investment was genuine and recorded in the books and that the IDS disclosure validated the transaction. Since, the appellant has already considered this to be a accommodation entry and disclosed the same under Income Disclosure scheme, the non-genuineness of th transaction has already been accepted by the appellant. The A.O has only added the sour of purchase of those penny stock shares which was not offered in the IDS scheme. Hence there is no error in the addition so made by the A.O. The reliance is placed on Hon'ble Delhi High Court order in the case of **PCIT v. NDR Promoters Pvt. Ltd. [(2019) 410 ITR 3 (Del)]**, wherein it was held that tax authorities can disregard penny stock transactions and SLP was also dismissed by Hon'ble Supreme Court in the above matter. Hence, the ground of appeal is without any merit and hence the same is dismissed.*

**8.6 Vide Ground No. 8, the appellant has submitted that**  
*Ld. AO erred by not serving the order for rectification request made by the assessee for mistake apparent from record in the*

*order passed u/s 143(3) rws 147. The order was uploaded on the new income tax portal and no communication was made to the assessee about the same. I have gone through the ground and submission made by the appellant on this issue. The appellant claims that the AO failed to serve the rectification order under Section 154. However, the rectification request does not impact the correctness of the assessment order. Further, the department has launched a portal for easy, transparent and effective communication with the taxpayers and order and notices are bring served on that portal which is a legally complaint system. Hence, there is no merit in the ground raised by the appellant and hence the same is dismissed*

**8.7 Vide Ground no. 09**, the appellant has submitted that on the facts and circumstances of the case and applicable law, Ld. AO erred in initiating penalty proceedings under section 271(1)(c) of the Act. There was no undisclosed income as the same had been already declared under IDS, 2016 and all taxes on the same were paid by the assessee. Since no income was undisclosed, no penalty proceedings u/s 271(1)(c) shall be initiated. I have gone through the ground taken by the

*appellant. This ground pertains to initiating penalty proceedings under section 271(1)(c) of the Act, 1961, Since, the penalty is separate proceeding and penalty has not been levied in the case of the appellant, the ground taken by the appellant is pre-matured at this stage, therefore, need not to be adjudicated. Hence, this ground of appeal of the assessee is dismissed.*

*8.8 **Ground no. 10** pertains to levy of interest u/s. 234A, 2348 & 234C of the I.T. Act. The charging of interest in consequential to the income assessed/determined, the AO is directed to charge interest u/s, 234A. 2348 & 234C of the IT Act as per Act and decision so made in this case and after giving the credit of prepaid taxes.*

*9.0 In the end, the appeal of the appellant is **dismissed.**"*

2.3 That the assessee being aggrieved by the "**Impugned Order**" has preferred the instant second appeal before this Tribunal & has raised the following grounds of appeal in the Form No. 36 against the "**Impugned Order**" which are as under:-

- "1. That on the facts and in the circumstances of the case and in law, the reassessment order dated 24.09.2019 passed under Section 143(3) r.w.s. 147 is bad in law, without jurisdiction, and liable to be quashed.*
- 2. On the facts and circumstances of the case and in law, the 2 reassessment was completed without complying with the statutory requirements of law.*
- 3. On the facts and circumstances of the case and in law, the 3 Hon. CIT(A) erred in upholding the additions made by Ld. AO on mere conjectures, surmises and suspicions.*
- 4. On the facts and circumstances of the case and in law, the reassessment order dated 24.09.2019 is passed in contravention of the principles of equity, natural justice and fair play.*
- 5. On the facts and in the circumstances of the case and in law, 5 the Ld. CIT(A) erred in not holding that the notice issued u/s.148 dated 29.03.2019 was invalid and unsustainable in law.*
- 6. On the facts and circumstances of the case and in law, the Ld. CIT-A failed to appreciate that AO could not have*

*reasons to believe that the income chargeable to tax had escaped assessment.*

- 7. On the facts and circumstances of the case and in law, the Hon. CIT(A) erred in confirming the addition of Rs. 2,30,806/- made by the AO to the income of the appellant.*
- 8. For that the appellant craves leave to add, amend, alter vary and OR withdraw any OR all the above grounds of appeal.*
- 9. All the aofresaid grounds are without prejudice to each other*
- 10. HUMBLE PRAYERS For these grounds and such other grounds that may be urged before OR during the hearing of the appeal it is most humbly prayed that this respected authority may be pleased to: 1. DLEETE the addition of Rs. 2,30,806/- made to income of the appellant. 2. Quash the reassessment order dated 24.09.2019. 3. Accept the returned income as filed by the appellant. 4. Any other relief that may be deemed fit and proper by this Hon. Tribunal."*

3.

**Record of Hearing**

3.1 The hearing in the matter took place before this Tribunal on 19.03.2026 when the Ld. AR for & on behalf of the Assessee appeared before us & inter alia contended that the **“Impugned Order”** is bad in law, illegal & not Proper. It therefore deserves to be set aside. The Ld. AR has placed on record of this Tribunal a paper book containing pages 1 to 96. An affidavit dated 17.03.2026 is too placed on record in support of the condonation of delay. The Ld. AR then contended that the registry of this Tribunal has pointed out the delay of 93 days in presenting the instant second appeal under the Act; whereas according to the assessee delay is of 72 days. The date of the **“Impugned Order”** is **17.02.2025** whereas present appeal was filed on **11.07.2025**. With regard to the delay it was submitted that the assessee does not possess much knowledge or understanding of computers, internet technology & Income Tax Laws & Procedures. The assessee is aged 59 year. When the assessee’s tax consultant logged into her income tax e-filing account for purpose of filling her return in July, 2025, he came across the **“Impugned Order”**

u/s 250 of the Act in her case & informed the assessee. Thereafter the instant appeal was filed. The delay is due to lack of awareness regarding passing of the **"Impugned Order"** as same was served electronically. The delay is neither intentional nor due to any negligence or mala fide intention. Request for condonation of delay was accordingly made & reliance was placed on the assessee's condonation of delay dated 17.03.2026. Per Contra, Ld. DR for & on behalf of the Deptt. Of Income Tax has no objection on delay aspect. After hearing both the sides & upon perusing the **Affidavit dated 17.03.2026** of the assessee, we are of the considered view that the delay is bonafide & there was no negligence or malafide on part of the assessee. Hence, we condone the delay & the appeal is admitted for hearing.

3.2 The Ld. AR then submitted that his brief synopsis cum written statement containing three pages wherein proper correlation is made with the paper book filed be taken into consideration. The sheet anchor of the Ld. AR argument was that during the relevant period, the assessee had sold the shares of **M/s Alpha Graphics, a BSE listed company** & disclosed exempt

long term capital gain (LTCG) of Rs. 25,93,820/- u/s 10(38) of the Act. The case of the assessee was reopened by DCIT/ACIT 1(1), Indore & a notice u/s 148 was issued on 29.03.2019 basis information that the assessee had earned alleged bogus LTCG from the sales of shares of "M/s Alpha Graphic". However, entire transaction of Capital gains was already disclosed by the assessee under Income Declaration Scheme (IDS) 2016 on 29.03.2016 whereby higher income of Rs. 26,54,000/- was offered & due taxes were paid. Forms 1 to 4 are placed on record. Our attention was invited to page 53 of PB for IDS 2016 & pages 51-63 of PB for forms 1 to 4 under IDS. With regard to the addition of Rs. 2,30,806/- which was made on account of alleged unaccounted investment in the acquisition of said shares (para 6-10 of the impugned assessment order), it was submitted that shares of M/s Alpha Graphics were purchased on 02.07.2010 & our attention was invited to the page 44 of the PB Purchase cost- Rs. 96200+ 1,34,606= Rs. 2,30,806/-[Col pages 42 to 44 of PB]. It was then submitted that the relevant year under consideration for purchase transaction is 2011-12 & not 2012-13. Our attention was then invited to PB page 81 & 82 which is ledger

A/C of the assessee with Pragati Shares & Stock Services showing debit of Rs. 2,30,805/- against 5000 shares of Alpha Graphics Ltd. (BSE)[ 02.07.2010 to 25.07.2010]. Our attention was then invited to PB page 84 & 85 of PB which are " Contract-cum-Bill dt. 02.07.2010" in the name of the assessee showing purchase price of Rs. 2,30,805/- of Pragati Shares & Stock Services which evidences purchase of 5000 shares of Alpha Graphics Ltd. (BSE).

3.3 Next our attention was invited to PB pages 51,52 & 53 of PB wherein disclosure of IDS 2016 was made before PCIT, Indore. Specific attention was invited to page 51,52 & 53 of PB wherein there is mention of Rs. 26,54,000/- against LTCG on sale of shares of Alpha Graphics including incidental charges [ Nature of undisclosed income]. Save & except above no other submissions were made by the Ld.AR, although several grounds are raised in the Form No. 36. Per Contra, the Ld. DR appearing for & on behalf of the revenue submitted that he leaves the issue to be decided by this Tribunal basis it's wisdom. Reliance was placed on **ITAT order (Lucknow Bench) dated 17.03.2016 in case of**

**Shri Mahesh Chandra Chaurasia v/s DCIT (ITA No. 267/LKW/2015)** & the copy of the same was tendered across bar. Reliance was also placed on **ITAT, Kolkata order dated 10.02.2026 in case of ACIT v/s Rose Life Enclave LLP (ITA No. 1666/KOL/2025)** para 7.1, copy of order not tendered across bar. Hearing was closed then.

4. **Observations Findings & conclusions**

4.1 We have to decide the legality, validity and propriety of the **"impugned order"** basis records of the case & the rival submission canvassed before us.

4.2 We have carefully perused the records of the case and have heard the submissions.

4.3 We basis records of the case & after hearing & upon examining the rival contentions of the Ld. AR & the Ld. DR canvassed before us, are of the considered view that the **"Impugned Order"** deserve to be set aside as the assessee before us has demonstrated successfully that 5000 shares of Alpha Graphics (BSE) were indeed purchased on 02.07.2010 basis PB pages 84 & 85 which is contract-cum-bill dated 02.07.2010 of

Pragati Shares & Stock Services in favour of the assessee Babita Chelawat for Rs. 2,30,805/- which gets corroborated with ledger A/C of the assessee maintained by Pragati Shares & Stock Services pages 81 to 83 of PB which too evidences the date of purchase by the assessee as 02.07.2010. The further corroboration is found in Form No. 4 IDS page 63 of PB evidencing undisclosed income of Rs. 26,54,000/- for LTCG. We also find on page 44 of PB (Col) showing purchase date of Alpha Graphics Ltd. As 02.07.2010 [96200+134606=Rs.2,30,806/-]. We, therefore hold date of purchase as 02.07.2010 which falls in the AY2011-12 & not in 2012-13 the year under consideration. Consequently, addition of Rs. 2,30,806/- fails. Investment of Rs. 2,30,806/- cannot be treated as unaccounted investment in the year under consideration 2012-13. Consequently, **“Impugned Order”** is set aside following two authorities cited (supra) by Ld. AR.

4.4 Under the Income Tax Law there is a concept of a year & year of taxability since purchase were made in the 2011-12 same cannot be added in the year under consideration AY 2012-13. The lower authorities consequently have erred in law rendering the **Impugned Order** illegal and bad in law. Under the facts, we feel that the addition made is not justified. However, the

Assessing Officer is at liberty to examine the evidence and source of acquisition of these shares and if the assessee is not able to explain the source, the addition may be made in the year of purchase which may be assessment year 2011-12 by following due process of law but no addition can be made in the present year i.e. AY 2012-13.

4.5 In the premises drawn up by us, we set aside the impugned order & allow the appeal of the assessee.

5

**Order**

5.1 The appeal of the assessee is allowed & the impugned order is set aside.

Pronounced in open court on 27.03.2026.

Sd/-

Sd/-

**(BHAGIRATH MAL BIYANI)**  
**ACCOUNTANT MEMBER**

**(PARESH M JOSHI)**  
**JUDICIAL MEMBER**

**Indore**

Dated : 27/03 /2026

SN

Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File

By order

Senior Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore