

**IN THE INCOME TAX APPELLATE TRIBUNAL
“E” BENCH, MUMBAI**

**BEFORE SHRI S. RIFAUR RAHMAN, AM &
SHRI PAVAN KUMAR GADALE, JM**

आयकरअपीलसं./ I.T.A. No. 1461/Mum/2018
(निर्धारणवर्ष / Assessment Year: 2002-03)

Triumph International Finance India Ltd. Oxford Centre, 10, Shorff Lane, Colaba Causeway, Colaba, Mumbai-400 020	बनाम/ Vs.	ACIT CC – 40, Aayakar Bhavan, M. K. Road, Mumbai-400 020
स्थायीलेखासं ./जीआइआरसं ./PAN No. AAACE0308A		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Shri Rajiv Khandelwal, AR
प्रत्यर्थीकीओरसे/ Respondent by	:	Shri P. Daniel, DR

सुनवाईकीतारीख/ Date of Hearing	:	11.03.2021
घोषणाकीतारीख / Date of Pronouncement	:	26.03.2021

आदेश / ORDER

PER S. RIFAUR RAHMAN (ACCOUNTANT MEMBER):

The present appeal has been filed by the assessee against the order of Ld. Commissioner of Income Tax (Appeals)-49, in short ‘Ld. CIT(A)’, Mumbai, dated 19.12.2017 for AY 2002-03.

2. The brief facts of the case are, assessee is engaged in the business of shares and stock broking and investment and trading in shares & securities. The original assessment u/s 143(3) was completed for the year under considering on 30.03.2005 determining the total loss of Rs. 14,97,85,709/- as against the return income of Rs. NIL. In the above assessment, AO has not allowed the loss of Rs. 1,08,81,027/- by treating the above loss in share trading activity. Aggrieved with the above order, assessee preferred the appeal before Ld. CIT(A) and Ld. CIT(A) in the first round of appeal, sustained the addition made by AO. Aggrieved with the above order, assessee preferred the appeal before ITAT and ITAT after considering the submission of both the parties set aside the order to the file of AO with the following observations:-

"Coming to the issue of genuineness of the loss claimed, it was the assessee's submission that he has given all the details before the AO and the CIT (A). As seen from the written submissions filed before the CIT (A) also the assessee was referring to the various documents placed before the AO in proving the genuineness of the transactions. Neither the AO nor the CIT (A) examined or referred to these documents. Even

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though general comments were passed that the assessee failed to furnish evidences we fail to understand how these findings are given when the assessee has placed documents supporting the transactions before the AO and CIT (A). Be that as it may, the fact remains that neither the AO nor the CIT (A) examined these documents in its correct perspective but carried away more by the observations of the SEBI and JPC in the group cases which may or may not be relevant in the given set of facts. The learned counsel also referred to the special auditor's report which does not indicate any violation of transactions. In view of this, we are of the opinion that the AO has to examine the documents placed before him specifically and give a clear finding whether the transactions are delivery based transaction or not, whether the transactions have occurred in Stock Exchange or off-market transactions and finally whether the losses claimed are genuine or not keeping in view the fund flow and other aspects which the SEBI and JPC commented about transactions in the group cases. Since the facts of each case are different, one cannot take generalized opinion in disallowing the losses which might have occurred in the trades undertaken by the assessee company. Without given any conclusions about the various transactions undertaken by the assessee, we are of the opinion that

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the issue requires re-examination by the AO and for this matter the AO has to examine assessee's transactions to determine whether the loss claimed are genuine or not. Even the quantum of loss suffered by the assessee requires examination as stated above. For these reasons we set aside the orders of the AO and CIT (A) to that extent and restore the issue back to the file of the AO. The assessee should be given proper opportunity for explaining the transactions and the claim of loss. It is not out of place to mention that the losses are to be considered as speculative loss as the assessee itself has offered speculation loss in view of the Explanation to section 73. The issue is restored back to the file of the AO for fresh consideration after due examination of the facts. Assessee's grounds are considered allowed."

3. In the second proceedings u/s 143(3) r.w.s. 254 of the Act, AO issued the notice u/s 143(2) dated 27.09.11 and served on the assessee. In response, AR of the assessee attended the hearing. AO once again confirmed the addition made in the earlier assessment order with the observation that AR of the assessee attended only once and has not filed any further information to substantiate the claim of loss as genuine. Aggrieved with the above order, assessee preferred the appeal before Ld. CIT(A) and

Ld. CIT(A) observed that several opportunities were given to the assessee to represent his case. However, he proceeded to adjudicate the submissions made by assessee on 18.12.17. After considering the submission and information available on record, he sustained the additions with the following observations:-

Firstly, it is to be pointed out that the assessee has been totally non co-operative right from the original assessment proceedings. Even during the second round of appellate proceedings the case was posted for hearing on numerous occasions as detailed above, but the assessee kept on taking adjournments for flimsy reasons like "there are certain factual details required in the matter" . What are the factual details in which the assessee had taken time of more than one and a half years is still not known as in the submissions dated 18.12.2017, there is not a single factual detail which has been submitted by the assessee. As could be seen from the submissions, the assessee has merely objected that the disallowance has been made by the Assessing Officer for the reason that the assessee is one of the scam group cases of Shri Ketan V. Parekh and the loss claimed of sale of shares could not be substantiated by the assessee company with supporting evidences. The Learned counsel relied upon three case laws:

(d) Jayant Parekh vs DCIT in ITA No 3129/Mum/2017 (Appeal of Revenue dismissed by Bombay High Court)

(e) Panther Fincap & Management Services Ltd vs ACIT in ITA Nos 7278/Mum/2017, 193/Mum/2008 and 369/Mum/2008

(f) Saimangal Investrade Ltd vs DCIT in ITA No 4229/Mum/2007

The Learned Counsel further submitted that all the papers and documents filed with the CIT (A) are on the records of the Assessing Officer and requested to consider the same as per the directions of the Tribunal. He further requested that if considered necessary, the CIT (A) may once again call for remand report from the Assessing Officer. However, going by the track record of the assessee where he has not complied either before the Assessing Officer or before the CIT (A), it is not considered necessary to remand the matter once again to the Assessing Officer.

The directions of the Hon'ble ITAT, as could be seen from the order are that the Assessing Officer had to examine whether the transactions are delivered based or not, whether the transactions had occurred in SEBI or off-market transactions and finally whether the losses claimed are genuine or not keeping in view

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the fund flow and other aspects which the SEBI and JPC commented upon. In order to enable the Assessing Officer to examine the above issue the assessee had to provide the basic information. However, it is seen from the documents furnished by the assessee that it had furnished only some sale bills issued by Rupal Investments and some purchase bills issued by M.D. Doshi. The scrip wise contract notes are not available. The details of the purchase and sale of a particular scrip evidencing the loss is not available on record. In view of the incomplete details submitted by the assessee it is not possible either for the Assessing Officer or the CIT (A) to comment on the genuineness or otherwise of the loss declared by the assessee. The Hon'ble ITAT has also commented that neither the Assessing Officer nor the CIT (A) examined these documents in its correct perspective but got carried away by the observations of the SEBI and JPC in the group cases. In order to verify the correctness of the loss, it is imperative that the assessee produces the required documents and explanations, which the assessee has miserably failed to do. It is surprising that even after taking twelve adjournments, the assessee did not furnish any factual details. The Learned Counsel merely gave copies of the judgments which are not relevant as they can be distinguished on facts. In the case of Shri Jayant N Parekh, relied upon by the

assessee the Hon'ble Bombay High Court mentioned "the respondent assessee took the tribunal through the papers containing details of broker wise speculations, profit and loss statement and explained the entries. The representative of the Revenue before the tribunal was unable to controvert the documents and entries explaining the speculation loss." In the instant case the assessee has miserably failed to provide the details at all stages that are before the Assessing Officer, before the CIT (A) and even before the ITAT. If he had explained the entries before the ITAT, the ITAT would not have restored the matter to the Assessing Officer. Similarly, in the case of Panther Fincap & Management services Ltd, relied upon by the assessee the Hon'ble tribunal held that the assessee has successfully explained the transactions by bringing on scrip wise details of profit or loss and also broker wise details of profit and loss for transactions not booked by delivery. As already mentioned, in the instant case the assessee has not done any such effort. Further, the facts of the third case relied upon by the assessee that is Saimangal Investrade Ltd, are also different from that of the assessee. In that case all the transactions are routed through demat account and payments have been credited through proper banking channels. The department did not have any evidences to prove the loss as bogus but the claim of loss have denied merely

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on the ground that Mr. Ketan Parekh was involved in security scam and therefore, transactions were held as non genuine. In the present^ case in spite of numerous opportunities given to the assessee, the assessee has not substantiated the losses made with requisite evidences. In all the three cases relied upon by the assessee, the assessee's could prove the losses but in the instant case the appellant has miserably failed to prove the losses. Filing of a few sales invoices and a few purchase invoices will not amount to proving the genuineness of loss. All the efforts made by the department to examine and verify the losses claimed, have gone in vain in view of the non co-operative attitude of the assessee. In the light of the above facts and circumstances the disallowance of loss of Rs. 1,08,81,027/- made by the Assessing Officer is upheld. This ground of appeal is DISMISSED.

4. Aggrieved with the above order, assessee preferred the appeal before us by raising the following grounds of appeal as under:-

The Commissioner of Income-tax (Appeals) - 49, Mumbai (hereinafter referred to as the CIT(A)) erred in confirming the action of the Assistant Commissioner of Income-tax, Central Circle - 40, Mumbai, (hereinafter referred to as the Assessing Officer) in not

allowing loss of Rs 1,08,81,027, being loss in share trading activity on the ground that the appellants have not filed any documentary evidence to prove the genuineness of the transactions giving rise to the impugned loss.

The appellants contend that on the facts and in the circumstances of the case and in law, the CIT(A) ought not to have upheld the action of the Assessing Officer inasmuch as the details of scrip wise profit and loss along with copies of sale bill / intimation by bank for sale of shares pledged with them / bank statement have been filed with the Assessing Officer in the original assessment proceedings and he has, before making the said addition, not even referred to the said details furnished and hence, has not followed the directions of the Tribunal in their order dated 20th May, 2011; accordingly, the CIT(A) ought not to have upheld the action of the Assessing Officer.

The appellants crave leave to add to, alter or amend the aforestated ground of appeal.

5. Before us, Ld. AR brought to our notice the statement of facts filed before Ld. CIT(A) and brought to his knowledge the facts, which are as under:-

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"1. The Income-tax Appellate Tribunal, J Bench, Mumbai, by their order dated 20th May, 2011 in ITA No. 650/Mum/2008 has set aside the order of the CIT(A) to the files of the Assessing Officer to re-adjudicate according to law.

2. The Assessing Officer has issued a notice dated 27th Sept. 2011 under section 143(2) of the Act, the contents of which are ambiguous and inconsistent with the facts on record inasmuch as the notice is issued to "produce or cause there to produced at the said time any documents, accounts and any other evidence on which you may rely in support of the return filed by you." On enquiring, the Assessing Officer stated to ignore the notice.

3. No further notice has been issued by the Assessing Officer before framing the impugned order to give effect to the aforesaid order of the Tribunal."

This was the reason that the appellants could not appear before the Assessing Officer in the set aside proceedings (in 2nd round). The observation of the Assessing Officer that the appellants did not file any documentary evidence is thus, not correct.

6. He further brought to our notice letter dated 18th Dec. 2017 at page 45 and 46 of the paper book, which are as under:-

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"In this connection, we would like to inform you that we on behalf of our above named clients attended the office of the Assessing Officer on various occasions; however, due to lack of time or his non-availability, the proceedings could not be commenced and no order sheet was signed and hence, his observation that we did not attend. Further, as mentioned by the Assessing Officer himself in the first paragraph on page no 3 of the report, all details are there on his records filed during the course of first innings of the assessment proceedings, there is no reason for our clients to not attend the proceedings. "

"Further, we would like to inform you that all the papers and documents filed with you are on the records of the Assessing Officer which as mentioned above, he also admits in the first paragraph of the page no 3 of the remand report and hence, we request you to consider the same per the directions of the Tribunal, in their order dated 20.5.2011.

If you consider it necessary, under the circumstances, you may once again call for a remand report from the Assessing Officer and we assure you that we will attend and get the same concluded. "

7. He submitted that Ld. CIT(A) had noted the above submission and did not prefer to verify what was already

submitted before AO at the time of original assessment and also the information submitted before Hon'ble ITAT in the first round of appeal.

8. With regard to several opportunities given to assessee, he submitted that assessee has requested for another round of proceedings in order to submit all the relevant details before AO and also to explain that all the relevant information were also submitted at the time of first round of proceedings and also to file the detail factsheet before Ld. CIT(A) to explain the various facts relevant in this proceedings. However, Ld. CIT(A) dismissed the appeal with the observations that *“in spite of numerous opportunities given to the assessee, the assessee has not substantiated the losses made with requisite evidence”*.

9. With regard to merits of the case, he brought to our notice page no. 2 of the paper book and submitted that said loss of Rs 1,08,81,027/- is supported by various documents as referred to in the paper book. All these documents are on the records of the Assessing Officer and the CIT(A). He brought to our notice letter

dated March 22, 2005 of the assessee filed during the original assessment proceedings.

10. Further, he submitted that it can be seen that major losses incurred by the assessee *viz.* the transactions referred to at Sr nos 33, 24, 13 and 8 in the table on page no 2 of the paper book have been dealt with individually by the assessee. He brought to our notice fact sheet submitted under cover of letter dated 23rd November, 2020 of R.S Khandelwal & Associates, Chartered Accountants. He submitted, it is on facts, erroneous to state that the assessee has not filed any documentary evidences to prove the genuineness of the transactions.

11. He submitted that similar transactions under absolutely similar circumstances have been held to be genuine by the Hon'ble Tribunal, Mumbai in the case of following group companies of the assessee:-

*(a) Jayant Parekh vs DCIT in ITA No 3129/Mum/2017
- refer page nos 85 to 104 of letter dated 5th August,
2020 R.S Khandelwal & Associates, Chartered
Accountants filed before the Hon'ble Tribunal (the
letter of RSK); Appeal of Revenue dismissed by*

Bombay High Court - refer page nos 105 to 107 of the letter of RSK

(b) Panther Fincap & Management Services Ltd vs ACIT in ITA Nos 7278/Mum/2007, 193/Mum/2008 and 369/Mum/2008 - refer page nos 108 to 123 of the letter of RSK

(c) Saimangal Investrade Ltd vs DCIT in ITA No 4229/Mum/2007 - refer page nos 124 to 139 of the letter of RSK

12. He further submitted that the aforesaid orders of the Tribunal cannot be brushed aside and the impugned disallowance of loss in share trading activity cannot be sustained only for the reason that *"the assessee is one of the scam group cases of ShriKetanV.Parekh."*

13. He further submitted that all the papers and documents are on the records of the Assessing Officer which as mentioned above, he also admits in the first paragraph of the page no 3 of the remand report. He submitted that it is imperative to mention that the Assessing Officer or the CIT(A) did not point out any deficiency or defects in the various details and documents filed by the assessee. Therefore, he contended that it cannot be said

that assessee have not been able to substantiate the aforesaid loss of Rs 1,08,81,027/-.

14. Ld. AR rely on the order of the Tribunal dated 19.06.2019 in their own case for income-tax assessment year 2001-02 in ITA No. 590/Mum/2014. He submitted that similar disallowance of loss on share trading activity was made by the Assessing Officer in the assessment order for income-tax assessment year 2001-02 on similar grounds (that no documentary evidence is submitted, though a finding of fact is recorded by the Tribunal that all details were submitted). He submitted that the Hon'ble Tribunal took cognizance of the various documents filed by the assessee in support of the loss and allowed the loss as claimed by the assessee. He brought to our notice the relevant findings of the Tribunal are given below for ready reference:-

- *Para 6.4 to 6.4.5 of the order - The Hon'ble Tribunal has dealt with some of the individual transactions carried out by the assessee resulting in a loss.*
- *Para 6.5 - The Hon'ble Tribunal has directed the Assessing Officer to treat the loss as genuine loss and to allow the same to be carried forward.*

15. He submitted that it would not be out of place to mention that for the purchase of the respective scrips, the assessee have received the delivery of the shares in their demat account and that these shares have been pledged with the banks to obtain secured loans. On the assessee's inability to repay the loans, the banks have invoked the pledge in subsequent year and sold the shares in the open market on the Stock Exchange through their brokers, contract note-cum-bills are available in the paper book. He brought to our notice fact sheet. He submitted that the shares have been sold by the bankers, by invoking the pledge, these are clear evidence for genuineness of the transactions; bankers being third party evidence.

16. He further submitted that it would not be out of place to mention that the aforesaid loss of Rs 1,08,81,027 claimed by the assessee has not been set-off against any income till date - similar was the case for income-tax assessment year 2001-02 and he brought to our notice first para at page no 9 of the ITAT order. For the sake of clarity, it is reproduced below:-

"Hence in any case, the speculation loss claimed by the assessee, even if carried forward, is not set off with any

future income. Hence it could be safely concluded that there is absolutely no loss to the exchequer either in this year or in subsequent years because of the income tax behavioral conduct of the assessee "

17. Ld. AR submitted that the aforesaid loss of Rs 1,08,81,027/- is genuine and is supported by various details and documents and hence, the impugned disallowance made by the Assessing Officer and confirmed by the CIT(A) ought to be deleted.

18. On the other hand, Ld. DR submitted that Ld. AR heavily relied on the decision of Hon'ble ITAT in the previous assessment year and every assessment year is separate and has to be adjudicated based on the merits of each assessment year. He brought to our notice the impugned assessment order in which assessee has attended only once and assessee has also not appeared before Ld. CIT(A) even though Ld. CIT(A) has given several opportunities. He brought to our notice page 3 of the order of Ld. CIT(A) and submitted that even before AO, assessee has not submitted information required to prove the genuineness of loss claimed by the assessee. Since assessee has not filed any

information before lower authorities and now assessee claims that all the information were already submitted before the tax authorities should not be entertained. Further, he brought to our notice page-7 of Ld. CIT(A) order and submitted that assessee has not co-operated to prove the genuineness and further submitted that all the transactions involving only the group concerns. Therefore, the loss claimed by the assessee cannot be genuine and he prayed that the appeal filed by the assessee be dismissed or it may be remitted back to AO for further verification.

19. In the rejoinder, Ld. AR submitted that all the informations were already submitted by the assessee in the first round of assessment itself. He brought to our notice page 5 of the Ld. CIT(A) order and submitted that Ld. CIT(A) has already acknowledged all the details on record and Ld. CIT(A) could have verified at his own level considering the fact that Ld. CIT(A) has co-terminus power. Therefore, he prayed that the Hon'ble Bench should consider the facts in the assessee's own case for the Assessment Year 2001-02 and adjudicate in favour

of the assessee considering the fact on record which is similar to the facts in the present case.

20. Considered the rival submissions and material placed on record. We notice from the record that in the first round of appeal, Co-ordinate Bench had noted that “as seen from the written submission before the CIT(A) also the assessee was referring to various documents placed before AO in proving the genuineness of the transactions. Neither the AO nor the CIT(A) examined or referred to these documents. Be that as it may, the fact remains that neither the AO nor CIT(A) examined these documents in its correct perspective, but carried away mere by the observations of SEBI and JPC in the group cases.” With the above observation, the case was remitted back to AO. But in the second round also, we notice that AO has given notices to assessee and called for information once again. AO observe that assessee has not substantiated the genuineness of the transaction and accordingly, he sustained the disallowance of loss. The Co-ordinate Bench has clearly observed that all the relevant information was submitted by the assessee, AO should have referred those information which was already available on

record. If there is any short coming or any documents, which is not proper, AO should have discussed in his order before sustaining the disallowance. He has not discussed any merits of the case based on the information submitted by the assessee in the original assessment proceedings. AO simply completed the proceedings blaming the assessee without taking cognizance of the earlier direction from ITAT.

21. Even the Ld. CIT(A) dismissed the appeal filed by the assessee blaming the non-appearance of the assessee and its submission. The Ld. CIT(A) also not verified the genuineness of the documents filed by the assessee in the original assessment proceedings.

22. We notice from the record that in the similar situation and facts, the Coordinate Bench has considered and adjudicated as below:-

6.2. We find that what is required to be examined is the genuinity of such net speculation loss of Rs 4,84,12,423/-. We find that the ld AO was directed by this tribunal to examine the various documentary evidences submitted by the assessee justifying the loss

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on sale of shares of various scrips, which had been summarily ignored by the ld AO in the second round. We find that the ld AO had made only general observations and remarks about the assessee being impleaded by other regulatory bodies ignoring the various documentary evidences available before him. As this is an old appeal, there is no point in giving another chance to the ld AO by sending it back to him, with the consent of both the parties before us, we decided to adjudicate the genuinity of the loss by examining the various documentary evidences available on record. At the outset, there is no dispute that the assessee had accepted the net loss of Rs 4,84,12,423/- to be speculation loss in consonance with the provisions of Explanation to Section 73 of the Act. It is not in dispute that the entire documents numbering from pages 1 to 91 of the paper book filed before this tribunal in the first round were also placed before the lower authorities vide authorized representative letter dated 31.10.2011 filed on 1.11.2011 (enclosed in page 1 of paper book). We also find from the sequence of events mentioned in page 94 of the paper book that the ld AO on 24.11.2011 discussed the matter with the authorized representative of the assessee by referring to the letter dated 31.10.2011 and adjourned the hearing to 30.11.2011. On 30.11.2011, the ld AO had informed that he had written a letter to BSE to get the

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trades confirmed to adjudicate on the genuineness of the transactions. However , as the BSE had not responded till that date, the ld AO adjourned the hearing to 16.12.2011. On 16.12.2011, the ld AO informed the authorized representative that no response was received from the BSE to the queries raised by the ld AO. After this, no further hearing was granted to the assessee and finally the assessment was framed on 28.12.2011 by the ld AO.

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6.4. We find that the assessee had also submitted the statement giving details of purchase and sale of shares of Nirma Ltd (enclosed in page 37 of paper book) along with copies of correspondence for purchase of warrants from Nirav Trust and copies of ledger account showing payment to Nirav Trust (pages 38 to 42 of paper book) together with copies of bills and contract notes (pages 43 to 55 of paper book) ; copies of demat statement (page 56 of paper book) ; confirmation from Classic Credit Ltd (person to whom shares were sold in off market) (enclosed in pages 57 to 58 of paper book) ; copies of trade files of NSE (pages 59 to 61 of paper book) and copy of price list from the stock exchange (page 62 of paper book). In this regard, it would be pertinent to refer to the Circular issued by the CBDT vide Circular No. 704

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dated 28.4.1995 wherein it was clarified that the share transactions carried on by the parties , if followed by delivery of shares and transfer deeds, then the same would have to be accepted. Though this circular was issued in the context of determination of 'date of transfer' and holding period for the purpose of computing the period for capital gains, the analogy drawn thereon could be utilized to the facts of the instant case. It is not in dispute that the assessee had traded in shares of Nirma Ltd in off-market but the same was subsequently followed by delivery of shares and transfer deeds. The sale of shares is made following First In First Out (FIFO) basis and it is pertinent to note herein that the opening balance of shares held by the assessee were never doubted by the revenue. No deficiencies whatsoever were brought out by the ld DR before us with regard to these documentary evidences. Hence the share transactions in respect of Nirma Ltd is to be considered as genuine and assessee had made profit in respect of this off-market transaction.

6.4.1. We find that the assessee had also submitted the statement giving details of purchase and sale of shares of Visual Soft Ltd (enclosed in page 63 of paper book) along with copies of bills and contract notes (pages 64 to 67 of paper book) ; copies of demat statement (page

68 of paper book) and copy of price list from the stock exchange (page 69 of paper book). No deficiencies whatsoever were brought out by the ld DR before us with regard to these documentary evidences. All these documents conclusively prove that the transaction carried out by the assessee is genuine.

6.4.2. We find that the assessee had also submitted the statement giving details of purchase and sale of shares of Elque Polyster Ltd (enclosed in page 70 of paper book) along with copy of price list from the stock exchange (enclosed in page 71 of paper book). No deficiencies whatsoever were brought out by the ld DR before us with regard to these documentary evidences. All these documents conclusively prove that the transaction carried out by the assessee is genuine.

6.4.3. We find that the assessee had also submitted the statement giving details of purchase and sale of shares of Global Tele Ltd (enclosed in page 72 of paper book) along with copies of bills and contract notes (page 73 of paper book) and copy of price list from the stock exchange (page 74 of paper book). No deficiencies whatsoever were brought out by the ld DR before us with regard to these documentary evidences. All these documents conclusively prove that the transaction carried out by the assessee is genuine.

6.4.4. We find that the assessee had also submitted the statement giving details of purchase and sale of shares of Penta Four Soft Ltd (enclosed in page 75 of paper book) along with copies of bills and contract notes (pages 76 to 80 of paper book) ; copies of demat statement (pages 81 to 84 of paper book) ; copy of trade file of NSE (page 85 of paper book) and copy of price list from the stock exchange (page 86 of paper book). No deficiencies whatsoever were brought out by the ld DR before us with regard to these documentary evidences. All these documents conclusively prove that the transaction carried out by the assessee is genuine.

6.4.5. We find that the assessee had also submitted the statement giving details of purchase and sale of shares of Ramco Systems Ltd (enclosed in page 87 of paper book) along with copies of bills and contract notes (pages 88 to 91 of paper book). No deficiencies whatsoever were brought out by the ld DR before us with regard to these documentary evidences. All these documents conclusively prove that the transaction carried out by the assessee is genuine.

6.5. In view of the aforesaid observations in the facts and circumstances of the case, we direct the ld AO to treat the net speculation loss of Rs 4,84,12,423/- as genuine loss and allow the same to be carried forward

*to subsequent years. Accordingly, the grounds raised
by the assessee are allowed.*

23. Therefore, respectfully following the above decision which is mutatis mutandis to the present case, we are inclined to accept the submission of Ld. AR. Accordingly, the grounds raised by the assessee are **allowed**.

24. In the net result, the appeal filed by the assessee stands **allowed**.

Order pronounced in the open court on 26.03.2021.

<i>Sd/-</i> (Pavan Kumar Gadale) न्यायिकसदस्य / Judicial Member मुंबई Mumbai; दिनांक Dated : <i>Sr.PS. Dhananjay</i>	<i>Sd/-</i> (S. Rifaur Rahman) लेखासदस्य / Accountant Member 26/03 /2021
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आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Assessee
 2. प्रत्यर्थी/ The Respondent
 3. आयकरआयुक्त(अपील) / The CIT(A)
 4. आयकरआयुक्त/ CIT- concerned
 5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
 6. गार्डफाईल / Guard File
- आदेशानुसार/ BY ORDER,**

उप/सहायकपंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई/ ITAT, Mumbai