

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

**BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER  
AND  
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER**

**ITA No.1203/M/2023  
Assessment Year: 2016-17**

M/s. Entrak International Trading Pvt. Ltd., 414, Star Plaza, Jasani Road, Rajkot, Gujarat- 360 001 <b>PAN: AAACE2476K</b>	Vs.	Commissioner of Income Tax (Appeals), Income Tax, Marine Lines, Mumbai-400 020
(Appellant)		(Respondent)

**Present for:**

Assessee by : None  
Revenue by : Shri. Biswanath Das, CIT DR

Date of Hearing : 22 . 08 . 2023  
Date of Pronouncement : 31 . 10 . 2023

**O R D E R**

**Per : Kuldip Singh, Judicial Member:**

The appellant M/s. Entrak International Trading Pvt. Ltd. (hereinafter referred to as ‘the assessee’) by filing present appeal sought to set aside the impugned order dated 03.03.2023 passed by the National Faceless Appeal Centre(NFAC) [Commissioner of Income Tax (Appeals), Delhi] (hereinafter referred to as CIT(A)) qua the assessment year 2016-17 on the ground that:

*“Loss booked against capital total loss and forex fund fluctuation is justified as per submission.*

*i. Forex Fluctuation Loss-Rs.2,53,33,200/-*

ii. Capital total loss-Rs.17,13,27,881/-”

2. Briefly stated facts necessary for consideration and adjudication of the issues at hand are : from the P & L account Assessing Officer (AO) has noticed that the assessee company has debited an amount of Rs.2,71,15,836/- to the P&L account as per note 24, on account of foreign exchange loss. As per detail furnished by the assessee during the assessment proceedings exchange fluctuation loss has occurred in case of three creditors as under:

Sr. No.	Name of the Creditor	Opening Balance	Purchases During the Year	Payment during the Year	Closing Balance	Loss /increase in liability due to Forex Fluctuation
		As on 01.04.2015			As on 31.03.2016	
1.	Mont Blanc, Germany	16,08,79,225	-----	-----	15,97,45,576 (after considering credit note)	2,01,33,138
2.	Mont Blanc- Montre-Swiss A/c	4,11,01,049	-----	-----	4,10,56,764 (after considering credit note)	52,00,062
3.	Leica Camera AG, Germany	-----	4,84,85,898	8,90,752	4,75,95,146	19,40,020

3. AO further noticed that, out of aforesaid three entities, first two entities, were not having any purchase transaction nor any payment with the assessee company during the year under consideration, in respect of whom assessee company has claimed loss to the tune of Rs.25333200/- (20133138 + 5200062) so declining the contentions raised by the assessee company, AO

proceeded to disallow the assessee's claim of loss in respect of aforesaid two entities amounting to Rs.2,53,33,200/-. AO further noticed that, qua the remaining loss of Rs.1,94,020/- shown by the assessee on account of forex fluctuation rate in case of M/s. Leica Camera A.G. Germany, it has come on record that assessee has made payment of Rs.8,90,752/- during the year under consideration. Whereas it has claimed forex Rs.19,40,020/-. AO by following the CBDT circular No. 3/2010 dated 23.03.2010 disallowed the assessee's claim of forex loss to the tune of Rs.19,40,020/- and thereby made the total disallowance of Rs.2,72,73,220/-.

4. Assessing Officer also made disallowance of claim of loss of capital nature to the tune of Rs.17,13,27,881/- debited to the P&L account made by the assessee by declining the contention raised by the assessee company that it is revenue loss. Assessing Officer accordingly, framed the assessment u/s143 (3), at the total income loss of Rs. (-) 19,16,63,106/-.

5. Assessee carried the matter before the Ld.CIT(A) by way of filing appeal who has confirmed the addition by dismissing the appeal. Feeling aggrieved with the impugned order passed by the Ld.CIT(A) the assessee company has come up before the Tribunal by way of filing present appeal.

6. Numerous notices were issued to the assessee out of which two notices were received back undelivered with the remarks that assessee is not residing at the given address. It appears that the assessee company is not interested in prosecuting the present appeal and bench has decided to dispose of the appeal on the basis of

material available on record with the assistance of Ld.DR for the revenue.

7. We have heard the Ld.AR of the revenue, perused the material available on record in the light of the facts of the case.

8. So far as, claim of the assessee for loss of Rs. 27273220/- on account of foreign exchange fluctuation loss, debited to the profit and loss account is concerned the Ld.CIT(A) has confirmed the addition by thrashing the facts by returning following findings.

*“From the documents available before me it is seen that during the year the appellant has shown foreign exchange fluctuation loss of Rs. 2,72,73,220/- debited in profit and loss account. As can be seen from the assessment order that there are no purchases in the current year: When there are no purchases that means no payment with respect to purchases has been made in this particular year and the loss belongs to some earlier year. Whenever the purchases are made then the payment to the foreign entity is done either during the same year or as per contract for purchases The appellant has not given any such contract to justify his claim. As per the mercantile accounting system loss if any occurred during the year should have been allowed in the same year when the payment is due From the record available it appears that in this case this fluctuation loss does not pertain to current assessment year As per the provisions of Income tax laws, the exchange fluctuations arises on transactions relating to Revenue Account shall be allowed as deduction (in case of loss) or taxed (in case of gain) in the year in which such gain/loss arise. The Hon'ble Supreme Court in the case of Commissioner of Income Tax, Delhi vs. M/s Woodward Governor India Private Limited had clearly explained this question. In the instant case, exchange loss does not arise in the present assessment year as it is to be matched with the payment due/made entry made in the books of accounts of the assessee Further to clarify that the unrealized exchange fluctuation gain/loss are also allowed as deduction in the year in which the same has been accounted for.*

*4.4 No such accounting or deferred payment account or contract has been produced during the appellate proceeding. In view of the above I am in agreement with the action of the assessing officer that this exchange fluctuation loss is not allowable in the present year. For allowance of such loss it is to be matched with the year in which such stock was purchased and payment liability arose The ground is dismissed accordingly.”*

9. The aforesaid findings returned by the Ld.CIT(A) are on the basis of facts pleaded and material brought on record by the assessee. When there is no purchase during the year under consideration, no payment with respect to said purchases has been made. Assessee has failed to bring on record any documentary evidence to prove this ground that payment was made to them. Ld.CIT(A) has rightly observed that, such forex exchange loss is allowable only if it is matched with the year in which such stock was purchased and payment liability was arisen. Assessee has not preferred to come up before the Tribunal to controvert the findings returned by Ld.CIT(A). So, we find no ground to interference into the findings confirming disallowance of Rs.272,73,220/- on account of foreign exchange fluctuation of loss by Ld.CIT(A).

10. So far as disallowance of claim loss of capital nature to the tune of Rs.17,13,27,881/- debited to the P&L account by the assessee is concern, again the Ld.CIT(A) duly thrashed the facts by examining the submissions made by the assessee company by returning the following findings:

*“5.1 The main issue in this ground relates to loss claimed by the appellant amounting to rupees 171327881/- due to write off of furniture and fixture of a part of its business. The finding of the assessing office is written above in the assessment order that the assessee the Assessee Company has stopped doing franchisee business with Mont Blanc-Germany and Mont Blanc-Montre-Swiss A/c, due to which it has written-off all the fixed assets.*

*5.2 I have gone through the facts of the case and found that the appellant has written off the value of furniture and fixtures of its part business. It is very clear in the income tax that the furniture and fixtures are part of block of assets. The loss and gain on block of assets is to be arrived at by proper calculation in case of sale or in case of transfer or write off. By merely writing off the assets would not allow the assessee to debit the loss in the profit and loss account. Loss arrived at by*

*writing off the assets needs to be carried forward for future absorption against future income if any. The loss so arrived at on account of furniture and fixtures could not be treated as revenue loss and hence could not be debited in the profit and loss account. The assessing officer has correctly treated such loss as capital loss as per provision of section 50 of the Income Tax Act. In view of the above this ground is also dismissed.”*

11. Undisputedly, assessee claimed the loss of Rs.17,13,27,881/- due to write off the furniture and fixture of a part of its business. When, furniture and fixture are part of the block of assets the loss, and gain on block of assets is to be computed by proper calculation in case of the sale or in case of transfer of write off assets no such evidence has been brought on record by the assessee and as such the AO as well as the Ld.CIT(A) have rightly treated the same as capital loss. The assessee has not come up before the Tribunal to controvert these findings returned by Ld.CIT(A). So finding no perversity in the impugned findings disallowance of Rs.17,13,27,881/- is hereby confirmed.

12. In view of what has been discussed to up the present appeal filed by the assessee company is hereby dismissed.

**Order pronounced in the open court on 31.10.2023.**

**Sd/-**

**(GAGAN GOYAL)  
ACCOUNTANT MEMBER**

**Sd/-**

**(KULDIP SINGH)  
JUDICIAL MEMBER**

Mumbai, Dated: 31.10.2023.

\* Mrs. Urmila

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai

The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.