



IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCHES "B", PUNE

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER  
AND SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1273/PUN/2024  
Assessment Year : 2015-16

Sharad Shivnarayan Kasat, Kasat Bhavan, Station Road, Paldhi, Dist. Jalgaon-425103 Maharashtra PAN : AATPK1216B	Vs.	DCIT, Circle-1, Jalgaon
Appellant		Respondent

Appellant by	:	None
Revenue by	:	Shri Ganesh B Budruk
Date of hearing	:	30.04.2025
Date of pronouncement	:	13.05.2025

**आदेश / ORDER**

**PER DR. MANISH BORAD, ACCOUNTANT MEMBER :**

The captioned appeal at the instance of assessee pertaining to A.Y. 2015-16 is directed against the order dated 04.04.2024 passed by National Faceless Appeal Centre, Delhi u/s.250 of the Income-tax Act, 1961 (in short 'the Act') arising out of the Assessment order dated 30.03.2022 passed u/s.147 r.w.s.144B of the Act.

2. This appeal has come up for hearing on various occasions in the past but except once there has been no representation on behalf of the assessee for the dates of hearing fixed on 24.09.2024, 29.01.2025, 12.03.2025, 19.03.2025 and 30.04.2025. We also observe that valid notices of hearing have been issued and served upon the assessee and only on one occasion, i.e. on 11.11.2024 Mr. Vinay Kawadia appeared



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through virtual mode. After 11.11.2024, case has been fixed for hearing for three times in the past but finally today since the assessee has neither appeared in person nor an Authorised Representative on his behalf, it seems that assessee is not interested in pursuing this appeal. We therefore proceed to adjudicate the appeal on merits with the assistance of Id. Departmental Representative and the available records.

3. Brief facts of the case are that the assessee is an individual and filed his regular return of income on 25.09.2015 declaring income of Rs.29,66,450/- for A.Y. 2015-16. Assessee is mainly engaged in share trading Futures and Options and currency transactions. Subsequently, based on some incriminating information received from Bombay Stock Exchange forwarded to the Jurisdictional Assessing Officer, it was noticed that assessee has received bogus losses/fictitious losses in Equity/Derivative trading during F.Y. 2014-15 through broker namely *Skung Tradelink Ltd.* As per these transactions, assessee is alleged to have incurred loss of Rs.42,09,750/- fictitiously. Ld. AO further observed that in the profit and loss account assessee has debited loss of Rs.40,35,560/- on this count. Having proper reasons to believe and probable chance of escapement of income, ld. AO issued notice u/s.148 of the Act along with validly serving the reasons recorded for reopening. In response, assessee furnished the return of income on 24.02.2022 declaring same income of Rs.29,66,450/- as offered in the return u/s.139(1) of the Act. Thereafter, valid notices u/s.143(2) and 142(1) of the Act were issued and served upon the assessee. When the assessee was confronted with the reasons recorded and to explain the alleged fictitious losses, general submissions was made that Investments were made out of the funds available with him and



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out of the business receipts and the transactions are in relation to derivatives. Ld. AO thereafter made discussion about the Derivative Option Trading where there are two options, i.e. 'Call' and 'Put'. 'Call' option gives the right but not the obligation to buy a given quantity of the underlying asset at a given price on or before a given future date and 'Put' option is just inverse. Ld. AO has further examined the alleged fictitious loss transactions and then also referred to the proceedings carried out u/s.133A of the Act for the survey conducted on the business premises of the broker *Skung Tradelink Ltd.* located at Kanpur - Mr. Nimish Kumar Somani, Director of *Skung Tradelink Ltd.* has stated in the statement that he provided the fictitious/arranged profit/loss through the F&O trading. Assessee is one of the beneficiaries. Based on these observations and considering the submissions of the assessee, ld. AO concluded the re-assessment proceedings denying the claim of alleged loss of Rs.40,35,560/- and assessed income at Rs.70,02,010/-.

4. Aggrieved assessee preferred appeal before ld.CIT(A) challenging the validity of the reopening as well as on merits of the case but failed to succeed. Now the assessee is in appeal before this Tribunal raising following grounds of appeal :

*"1) Under the facts and circumstances of the case and in law the learned CIT(A), NFAC has erred in sustaining the assessment order passed by AO [NFAC] u/s 143(3) r.w.s. 147 r.w.s. 144B of the Act without providing reasons for issue of notice u/s 148 of the Act despite the specific written request of the assessee for the same. Accordingly, the assessment order is liable to be quashed.*

*2) Under the facts and circumstances of the case and in law the learned CIT(A), NFAC has erred in sustaining the assessment order passed by AO [NFAC] u/s 143(3) r.w.s. 147 r.w.s. 144B of the Act in complete violation of the 1st Proviso to S. 147 of the Act and therefore the same is liable to be quashed.*



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3) Under the facts and circumstances of the case and in law the learned CIT(A), NFAC has erred in confirming the disallowance of loss from trading in securities debited to Profit and Loss A/c at Rs. 40,35,560/- made by AO by treating the same as unexplained cash credit u/s 68 of the Act without appreciating the facts of the case and submissions on record.

4) The appellant craves the permission to add, amend, modify, alter, revise, substitute, delete any or all grounds of appeal, if deemed necessary at the time of hearing of the appeal.”

5. There is no representation on behalf of the assessee and only the grounds of appeal along with the impugned orders are available on record. Ld. Departmental Representative vehemently argued supporting the orders of the lower authorities.

6. We have heard the ld. Departmental Representative and perused the record placed before us. So far as the legal issues raised in Ground Nos. 1 and 2 challenging the validity of the reopening of the assessment proceedings, we observe that ld.CIT(A) has dismissed the legal grounds observing as follows :

*“In these grounds of appeal the appellant has challenged the initiation of proceedings u/s 147 of the Act.*

*The appellant has submitted that the Assessing Officer erred in initiating the proceedings u/s 147 on change of opinion. It has been submitted that assessment u/s 143(3) of the Act was completed in this case on 11.12.2017 and no addition on loss of security transaction was made by the Assessing Officer. I find that the initiation of proceedings are not on account of change of opinion of the Assessing Officer but on the basis of information received on insight portal of the department wherein it was informed that SEBI came across several instances/internal alerts wherein a set of entities were consistently making loss or profit by their trading in options on individual stock which were listed on the BSE. Trading of these entities found abnormal because they were consistently seen making significant loss or profit by their traders which were reversed with the same counter-parties either on the same day or the next day. On perusal of the details submitted. It has been found that the assessee has claimed non-genuine loss of Rs.32,98,750/- during the year under consideration. Further, in the reasons recorded the Assessing Officer has mentioned that the income escaped assessment because of failure on the part of*



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*the assessee to disclose fully and truly all material facts necessary for his assessment for the assessment under consideration.*

*In ground no.4 the appellant has raised the issue that the Assessing Officer has failed to follow the procedure laid down by Hon'ble Apex court and other courts that reasons for re-opening the assessment will be provided. However, I find that the appellant did not comply to the notice u/s 148 of the Act dated 30.03.2021 as the return u/s 148 of the Act was not filed within the prescribed time of 30 days from the date of service of the notice. Further, the appellant filed a return on 24.02.2022 i.e. at the fag end of the limitation period of assessment. The appellant has submitted that he requested for issuing certified copy of reasons for reopening of the case but no evidence of the same has been furnished.*

*In view of the above discussion the grounds of appeal are not tenable and are dismissed.”*

7. On going through the finding of ld.CIT(A) and there being no rebuttal from the assessee's side, we find that ld.CIT(A) has rightly held that it is not a case of change of opinion because the information was received on the insight portal of the department and based on the specific details of the assessee having indulged into such transaction. It is also not a case where the assessee had been re-visited for scrutiny proceedings on the very same issue. We also take note that SEBI have come across several instances/internal alerts where a set of entities are consistently making loss or profit by their trading in Options on individual stock and then reversing the same with the counter parties on the same day or the next day. Since the reasons recorded are specific and gives insight that the AO had proper reason to believe of the alleged escapement of income by the assessee by way of claiming bogus/fictitious losses to reduce the tax liability, we find that valid notice u/s.148 of the Act was issued and valid re-assessment proceedings have been carried out.

8. So far as the allegation of the assessee that reasons recorded were not provided to the assessee, we from going through the finding of ld.CIT(A) notice that the assessee did not



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comply to the notice u/s.148 of the Act on 30.04.2021 as the return was not filed within the prescribed time of 30 days from the date of service of notice. Further, the assessee finally filed return of income on 24.02.2022 which was almost near the fag end of the limitation period and the assessee has also not furnished any documentary evidence to prove that assessee has applied for copy of reasons for reopening of the case before ld.CIT(A). Under these given facts and circumstances, all the legal issues raised by the assessee in Grounds of appeal No.1 and 2 are hereby dismissed.

9. Coming to the merits of the case as to whether assessee made a genuine claim of loss on trading of securities at Rs.40,35,560/-, the claim of the assessee before the lower authorities is that the transactions/trading was done on BSE through banking channel and all charges/fees were paid to BSE and duly supported by contract notes. Further, the assessee was not aware of the other parties to whom transactions were made and he has not contacted with those parties. We however notice that transactions which were entered into by the assessee through broker *Skung Tradelink Ltd.* seems to be in the nature of accommodation entry because Nimish Kumar Somani, Director of *Skung Tradelink Ltd.* in his statement on 04.12.2019 has clearly stated that for various entities his portal has been used for generating bogus loss or gain in order to make adjustment in their accounts. We further notice that ld.CIT(A) has specifically dealt with SEBI report that the trading and reverse trading were done within few seconds to book fictitious loss being arranged by certain parties and therefore the finding of ld.CIT(A) confirming the action of the AO and the assessee having arranged bogus/fictitious loss of Rs.40,35,560/- needs



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no interference. In view of the above, Ground No.3 raised by the assessee is also dismissed.

10. In the result, appeal of the assessee is dismissed.

Order pronounced on this 13<sup>th</sup> day of May, 2025.

Sd/-  
**(VINAY BHAMORE)**  
**JUDICIAL MEMBER**

Sd/-  
**(MANISH BORAD)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 13<sup>th</sup> May, 2025.  
Satisb

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "B" बेंच,  
पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.