

IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, MUMBAI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER
ITA No. 2704/MUM/2025 (AY: 2015-16)
(Physical hearing)

Kareena Anil Rohera 11-439, Shiv Parvati Society, 14 th Road, Khar (West), Mumbai – 400052. [PAN: AFJJPR2529D]	Vs	ITO, Ward – 22(2)(1), Mumbai Piramal Chambers, Mumbai - 400012.
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Suresh N. Otwani, Advocate
Revenue by	Shri Sandeep Jumale, Addl. CIT
Date of Institution	21.04.2025
Date of hearing	11.09.2025
Date of pronouncement	26.09.2025

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER;

1. This appeal by assessee is directed against the order of Ld. CIT(A)/ADDL/JCIT(A)-1, Gurugram, dated 19.03.2025 for assessment year (AY) 2015-16. The assessee has raised following grounds of appeal:

"1. AO erred in computing the income under Short Term Capital Gain by deducting expenses and subsequently erred in not adjusting the brought forward losses which is represented in para no. 4.2 as well as the FAA (CIT-A) erred in confirming the same.

2. AO erred in not computing the income from speculation and future & option properly as well as the FAA (CIT-A) erred to appreciate the submission made before him.

3. AO erred in not allowing deduction under Chapter VI-A claimed and proof filed and the FAA (CIT-A) also has not considered the same.

4. The FAA failed to compute the income under the speculation income properly. Computation of income wherein brought forward losses is to be allowed and set off against the present income of current year under the head short term capital gain and income from speculation is to be taxed separately.

5. The appeal is filed in time and order.

6. The appellant craves leave to add, alter or amend any of the grounds on or before the final date of hearing."

2. Brief facts of the case are that the assessee is individual and filed her return of income for AY 2015-16 on 30.08.2015 declaring income of Rs.5,88,740/-. Initially, return was processed under section 143(1). Later on, it was selected for scrutiny. During the assessment, the assessing officer noted that for the year under consideration, the assessee has shown speculation income of Rs. 82,53,30/- and profit on sale of share of Rs. 52,57,040/- which consists of short term capital gain of Rs. 48,97,357/- and long term capital gain of Rs. 3,59,683/-. The assessing officer noted that in the return of income assessee has shown short term capital gain of Rs. 33,09,399/- only. The assessing officer arrived on such figure of short term capital gain on the basis of details shown in Schedule - 'CG' of return of income under the head 'capital gain'. The AO not allowed brought forward loss of Rs. 52,26,364/- against the
3. Aggrieved by the action of AO in not allowing brought forward losses, the assessee filed appeal before Id. CIT(A). Before Id. CIT(A), the assessee filed detailed statement of fact. The statement of facts is narrated at page no. 2 of impugned order. The assessee in response to notice under section 250 also filed further submission as recorded at page no. 11 & 12 of impugned order/order of Id. CIT(A). The Id. CIT(A) in his order also extracted copy of return of income and held that in A.Y. 2013-14 and 2014-15. The assessee has shown loss of Rs. 13,20,917/- but the loss during A.Y. 2013-14 was not reflected in the column pertaining to "loss from speculative business

including unabsorbed depreciation allowed under section 35(4)" in Schedule CF. However, in return of income for A.Y. 2014-15, this brought forward losses of Rs. 13,20,917/- is reflected differently without any justification. Further, assessee in her tax return for A.Y. 2014-15 has shown this loss in column, the short term capital gain which is evident from the relevant part of income tax return, extracted on page no. 27 and 28 of his order. On the basis of such retraction, the Id. CIT(A) held that action of assessing officer in not considering the loss for adjustment is correct and accordingly upheld the order of assessing officer. Further, aggrieved the assessee has filed present appeal before Tribunal.

4. I have heard the submission of learned Authorised Representative (Id. AR) of the assessee and learned Senior Departmental Representative (Id. Sr. DR) for the revenue. The Id AR of the assessee submits that while filing return of income the assessee committed mistake by while making entry in the Schedule of carry forward loss, the loss for the A.Y. 2012-12 which was brought forward by mistake was placed in A.Y. 2012-13 of Rs. 13,20,917/- incorrect column of loss from speculative business allowance. However, in the same schedule loss for the current year i.e. 2013-14 loss under capital loss was shown in the column provided in the same schedule amounting to Rs. 22,03,120/-. However, in the return for A.Y. 2015-16, the same mistake was corrected and figure of loss was shown at Rs. 13,20,917/- in next year as well as in the year under appeal which was accepted by assessing officer. However, in the computation of income, the Id. AO has again taxed short term gain. However, the assessing officer in para 5 of assessment order has

brought the short term capital gain of Rs. 48,97,357/- and allowed expenditure of Rs. 24,15,473/- and balance amount of Rs. 24,81,884/- is taxed in the income from business which is erroneously incorrect. It should have been adjusted against the brought forward business loss on the short term. Further, the Id. AR of the assessee submits that deduction under Chapter VIA was also not allowed to the assessee.

5. On the other hand, Id. Sr. DR for the revenue submits that there is no reference with regard to consideration of deduction under Chapter VIA, therefore, deduction may be verified by the assessing officer and specific direction may be given to the assessing officer to verify the claim and passed the order in accordance with law. So far as other grounds are reveals to not allowing short term capital loss, there is no clarity on the fact either in the assessment order or in the order of Id. CIT(A). The Id. CIT(A) gave his finding on the basis of details in return of income. Now, the Id. AR of the assessee has explained the fact, therefore, it may be verified by the assessing officer.
6. I have considered the rival submissions of both the parties and have gone through the orders of lower authorities carefully. I find that there is no clarity in the finding of AO while passing the assessment order. The Id CIT(A) affirmed the action of AO by referring the return of income for earlier years. Now before me, the Id AR of the assessee urged that there was mistake on the part of assessee while filing return of income and certain wrong entries were clicked. Further the AO has not allowed deductions of Chapter VIA. Thus, considering the peculiar facts of the case the matter is restored back to

the file of AO to pass the order afresh. The assessee is allowed liberty to explain the facts and the alleged mistake committed while filing return of income. The AO is also directed to consider the deduction of chapter VIA and pass order afresh and in accordance with law. The assessee is directed to provide complete details and evidence on all her claim. Needless to direct that before passing the order, the AO shall allow opportunity of hearing to the assessee. In the result, the grounds of appeal raised by the assessee are allowed for statistical purpose.

7. In the result, the appeal of assessee is allowed for statistical purpose.

Order was pronounced in the open Court on 26/09/2025.

Sd/-

**PAWAN SINGH
JUDICIAL MEMBER**

MUMBAI, Dated: 26/09/2025
Biswajit

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

By Order

Assistant Registrar
ITAT, Mumbai