

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "F" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)  
AND  
SHRI RAJ KUMAR CHAUHAN (JUDICIAL MEMBER)**

**ITA No. 4050/MUM/2025  
Assessment Year: 2014-15**

ACIT Central Circle 8(3),  
Room No. 676, Aayakar Bhavan,  
Churchgate  
Mumbai-400020.

**Appellant**

**Vs.** Vivah Classique,  
Office No. 27 2<sup>nd</sup> floor, 109,  
Shaikh Memon Street Zaveri  
Bazar,  
Mumbai-400 002.  
**PAN NO. AAEFV 6382 J**  
**Respondent**

Assessee by : Ms. Riddhisha Jain (Virtually  
Appeared)  
Revenue by : Mr. Vivek Perampurna, CIT-DR  
(Virtually Present)

Date of Hearing : 17/09/2025  
Date of pronouncement : 26/11/2025

**ORDER**

**PER OM PRAKASH KANT, AM**

This appeal by the Revenue is directed against order dated 08/04/2025 passed by the Learned Commissioner of Income-tax (Appeals)-50, Mumbai [in short the 'Ld. CIT(A)'] for assessment year 2014-15, raising following grounds:

1. "Whether on the facts and circumstances of the case, the Ld. CIT(A) erred in deleting the addition of Rs. 9,99,91,948/- made by



*the Assessing Officer by holding that the loss incurred by the assessee in currency derivative trading on BSE is genuine, without appreciating the fact brought out by the Assessing Officer that the said loss arose out of pre-arranged and fictitious reversal transactions aimed solely to create artificial losses to evade taxes?"*

*2. "Whether on the facts and circumstances of the case, the Id. CIT(A) erred in deleting the addition of Rs. 8,50,66,837/- made by the Assessing Officer in respect of alleged losses in currency derivative trades on USE (United Stock Exchange), without properly considering the findings of the Project Falcon investigation, which identified such transactions as suspicious and indicative of tax evasion through circular and reversal trading?"*

*3. "Whether on the facts and circumstances of the case, the order of the Ld. CIT(A) erred in holding the trades as genuine solely on the basis that the transactions were routed through recognized exchanges and brokers, while failing to appreciate that genuineness of transactions under the Income Tax Act requires examination of surrounding circumstances and intent, particularly in light of the evidence from third-party statements and patterns of reversal trades highlighted by the Assessing Officer?"*

*4. "Whether on the facts and circumstances of the case, the order of the Ld. CIT(A) erred in law and in facts in deleting the addition of Rs. 37,01,176/- on account of estimated commission payments allegedly incurred for arranging fictitious trades, despite adequate circumstantial evidence indicating the involvement of entry operators and accommodation entry providers, and without conducting any proper verification of the commission flow.?"*

*5. "Whether on the facts and circumstances of the case, the order of the Ld. CIT(A) failed to appreciate that acceptance of profits in similar trades in earlier or same assessment years does not bar the revenue from disallowing losses in transactions that are clearly found to be and not arising from genuine trading activity?"*

*6. "Whether on the facts and circumstances of the case, the order of the L.d. CIT(A) erred in placing reliance on judicial precedents that are distinguishable on facts and merits applicable to the present case, which involves specific findings based on a systemic investigation (Project Falcon) and tangible evidence of fictitious transactions?"*



2. Briefly stated facts of the case are that assessee is a 'partnership firm' engaged in the business of manufacturing of gold medallions/jewellery, trading of cut and polished diamonds and diamond studded gold jewellery from its units located at Surat SEZ, Sachin, Surat, (Gujrat). During the year under consideration, the assessee, in addition to jewellery business also earned profit as well as incurred losses out of trading in currency derivatives.

2.1 For the year under consideration, the assessee filed return of income on 28/11/2014 declaring total income at ₹59,64,720/-. The return of income filed by the assessee was selected for scrutiny and scrutiny assessment was completed under section 143(3) of the Income-tax Act, 1961 (in short 'the Act') on 27/12/2016, accepting the returned income.

2.2 Subsequently, the Assessing Officer received information from the Investigation Wing of the Income-tax Department, Mumbai, which revealed that, pursuant to inquiries conducted by the Securities and Exchange Board of India (SEBI) and survey operations carried out under section 133A of the Act at approximately thirty-five premises in Mumbai, Kolkata, and other locations, it was found that several brokers were engaged in facilitating accommodation entries through the creation of artificial profits and losses in stock exchange transactions. Based on the findings of the said investigation, it was alleged that the assessee was one of the beneficiaries, having purportedly booked artificial



losses amounting to ₹17,51,14,258/- during the year under consideration. Relying upon this information, the Assessing Officer recorded reasons to believe that the assessee had obtained accommodation entries in respect of losses on currency derivatives aggregating to ₹17,51,14,258/-, thereby resulting in escapement of income chargeable to tax due to the assessee's failure to make a full and true disclosure of all material facts necessary for assessment. Consequently, after obtaining the requisite prior approval from the competent authority, the Learned Assessing Officer issued notice under section 148 of the Income-tax Act on 31.03.2021, thereby initiating reassessment proceedings.

2.3 In response, the assessee filed return of income on 16/02/2022 declaring total income at ₹ 59,64,720/- i.e. the total income which was declared in the original return of income. Thereafter, following due procedure under the law, the Assessing Officer completed the reassessment proceeding on 24/03/2022, thereby disallowing the loss incurred on account of the currency derivative amounting to be Rs.17,51,14,258/-. Further Assessing Officer also was of the view that assessee incurred commission expenses at the rate of the 2% for obtaining said accommodation entry, which was worked out ₹37,01,176/-. In this manner total addition of ₹18,50,59,961/- was made in reassessment order.

3. On further appeal by the assessee, the Ld. CIT(A) though upheld the validity of the reassessment proceeding, deleted the



disallowance of losses in currency derivative on merit. Aggrieved, the Revenue is in appeal before the Income-tax Appellate Tribunal (in short the 'Tribunal'), challenging the deletion of said disallowance on merit.

3.1 All the grounds raised by the Revenue pertain to the deletion of disallowance of currency derivative by the Ld. CIT(A). In the grounds it is mainly raised that the Ld. CIT(A) has not appreciated the facts brought on record by the Assessing Officer and the evidences obtained from the third-party, statements and patterns of reversal trades highlighted by the Assessing Officer including the finding of the "Project Falcon" investigation.

4. Briefly stated facts qua the issue in dispute are that the assessee reported details of currency derivative loss/profit in transactions carried out on the different exchanges, which are summarised as under:

<i>Sr. No.</i>	<i>Name of Exchange</i>	<i>Profits/ (Losses)</i>
1	<i>United stock exchanges of India</i>	<i>(8,50,66,837)</i>
2	<i>Bombay stock exchange</i>	<i>(9,99,91,949)</i>
3	<i>National Stock Exchange</i>	<i>7,86,41,897</i>
	<i>Total currency derivatives Profit (Loss)</i>	<i>(10,64,16,889)</i>

5. Before the Assessing Officer, the assessee submitted the following contentions:



(i) **That all currency derivative transactions undertaken by the assessee were genuine**, having been executed on the recognized stock exchange platforms where transactions occur through an anonymous order-matching system without any direct interface between the buyer and the seller, and that all payments and receipts were routed entirely through regular banking channels.

(ii) **That the transactions were carried out through duly registered brokers**, and complete particulars thereof, including documentary evidence in the form of contract notes, brokers' ledgers, demat statements, and bank statements, had been duly furnished before the Assessing Officer.

(iii) **That the assessee had not only incurred losses but had also earned profits** from trading in currency derivatives during the relevant period, thereby demonstrating the bona fide nature of the transactions.

(iv) **That the losses were incurred in the ordinary course of business**, trading in currency derivatives being an inherently volatile and high-risk segment, capable of yielding both substantial gains and corresponding losses. The assessee, acting under genuine commercial expectations of profit, unfortunately made certain erroneous trading decisions which resulted in losses.



(v) **That there was no collusion, connivance, or understanding between the assessee and any of its brokers** in respect of the impugned transactions.

(vi) **That neither the stock exchange nor the Securities and Exchange Board of India (SEBI)** had, at any point, found or reported any irregularity or impropriety on the part of the assessee or its brokers in relation to the said transactions.

5.1 The assessee further requested that the Assessing Officer furnish copies of the information, materials, and evidences relied upon for initiating the reassessment proceedings, including the details and findings gathered by the Investigation Wing, Mumbai. However, no such information or material was provided to the assessee despite specific requests.

5.2 The assessee also objected to what was described as a selective or partial consideration of facts by the Assessing Officer. It was submitted that, during the year under consideration, the assessee had undertaken numerous transactions in currency derivatives, some of which had resulted in profits and others in losses. However, the Assessing Officer, in forming his conclusions, chose to consider only those transactions which reflected losses, while disregarding the profit-making transactions, thereby engaging in impermissible “cherry-picking” of facts to suit the inference already drawn.



5.3 The Learned Assessing Officer, however, did not accept the contentions advanced by the assessee. He placed reliance upon the observations of the Whole-Time Member of the Securities and Exchange Board of India (SEBI), who had noted a recurring pattern of transactions wherein certain loss-making entities repeatedly sold liquid stock options to a specific set of counterparties at prices substantially lower than their theoretical or intrinsic value, followed by reversal trades with the same counterparties after a short interval, resulting in significant differences between the purchase and sale values of such stock options. The Assessing Officer further referred to the judgment of the Hon'ble Supreme Court dated 08.02.2018 in the case of *Rakhi Trading Pvt. Ltd.*, wherein similar reversal trade transactions were held to be manipulative and deceptive in nature, designed not for genuine trading purposes but with the intent to create artificial losses or gains.

5.4 The relevant finding of the learned Assessing Officer is reproduced as under:

*“6. Artificial Trading in Illiquid stock/Currency options*

*The existing system of trading on exchanges (BSE & NSE) is demutualised i.e. the buyers and sellers don't know each other's identity and transactions between same parties are a rarity. However, it was observed by SEBI that a large number of people were trading in BSE Stock Options during the period 01.04.2014 to 30.09.2015 in which one set of parties incurred huge losses and the other set earned huge profits and the transaction of purchase and sale were carried out between the same set of parties.*

*6.1 The SEBI undertook preliminary examination in the matter, inter alia, on the following parameters:*



- (a) Identifying top entities making significant loss/profit by buying and selling equal units of stock options of scrip.*
- (b) Identifying if trades happened at unreasonably low or high price / out of sync with the underlying price.*
- (c) Examining contribution of trades of the entities to total traded volume in the contract on those days.*
- (d) Identifying the quantum of such reversal transactions.*

*6.2 The entities who made a loss or profit of more than 5 crore (hereinafter referred to as "loss-making entities" / "profit-making entities", respectively) in the stock option segment on account of reversal transactions were shortlisted. The following was, inter alia, observed in the examination:*

- (a). The loss-making entities were trading mainly in options on individual stocks which were thinly traded. The trades by these loss-making entities, in many cases, contributed to 70% to 100% of total traded volume for the contracts on those days. -*
- (b). On majority of occasions, the quantity of stock options bought and sold by the loss-making entities for a contract was identical; however, there was a significant difference in the sell value and buy value of the transactions resulting into significant loss to the loss-making entities.*
- (c) Substantial number of transactions was squared up and a major percentage of transactions thereof were trade reversals i.e. if the stock options were sold first to an entity, they would be bought back in exact quantity from the same entity or vice versa.*
- (d) As the first leg of these reversal trades, these loss-making entities were mainly seen selling stock options without any corresponding offsetting position in the underlying scrip. In many cases, these options were sold at unreasonably low prices, even below the intrinsic value of the option. Theoretically, the price of an option is a combination of its intrinsic value and time value. The former is a function of difference between option strike price and the underlying price and the latter being a function of time remaining till expiry of the option contract. It is well understood that in normal conditions, the minimum price which the option seller would demand to take the risk of writing the option would be equivalent to the intrinsic value of the option, but here the loss-making entities were selling options much below their intrinsic value.*



*(e) In the second leg of the reversal trades, the options once sold by an entity at unreasonably low prices were subsequently bought back on the same day or on the next trading day at substantially higher prices when compared to the first leg sell price.*

*(1) In certain instances, variations to the above pattern were seen which interalia included loss-making entities incurring loss by buying the options first instead of selling them.*

*(g) Further, during the period when stock options position was kept open, there was no significant change in the price of the underlying scrip to justify the difference between the prices of the two legs of the reversal trade.*

*(h) The trading done by loss-making entities in stock options in the above manner, accounted for significant proportion of their overall trading on that segment.*

*(i). The loss-making entities as well as the profit-making entities were seen trading repeatedly in deep in-the-money options and deep out-of-the-money options on individual stocks, which were thinly traded.*

*6.3 It was held by the whole time member of SEBI in his order no. WTM/ RKA /ISD/ 106/2015 date 20.08.2015 that:*

*"(i). The repeated sell of illiquid stock options by the loss-making entities to a set of entities at a price far lower than the theoretical price / intrinsic value and subsequent reversal trades with the same set of entities within a short span of time with a significant difference in buy and sell value of stock options, in itself, exhibits abnormal market behaviour and defies economic rationality, especially when there is absolutely no corresponding change in the underlying price of the scrip. On the other hand, trading behaviour of profit-making entities exhibited through opening specific trading accounts and operating them exclusively to execute reversal trades in illiquid stock options with a set of entities clearly indicates their role in facilitating loss-making entities in executing their ulterior motive.*

*(ii). Considering the facts and circumstances discussed herein above, |, prima-facie, find that the loss-making entities were deliberately making repeated loss through their reversal trades in stock options which does not make any economic sense, and the profit-making entities were facilitating them by becoming their counterparties and were acting in concert with a common object of intended execution of these suspicious and non-genuine trades. The*



reasons for executing such trades by these entities could be showing artificial volume and trading interest in these instruments or tax evasion or portraying artificial increase in net worth of a private company/individual. Be as it may, it is amply clear to me that the rationale for such transactions is not genuine and legitimate as the behaviour exhibited by these entities defies the logic and basic economic sense. No reasonable and rational investor will keep making repeated toss and still continue its trading endeavours. On the other hand, an entity/scheme may not forever be able to make only profit and become equivalent to an assured profit maker / scheme. I am of the considered view that the scheme, plan, device and artifice employed in this case of executing reversal trades in illiquid stock options contracts at irrational, unrealistic and unreasonable prices, apart from being a possible case of tax evasion or portrayal of artificial net worth to certain entities, which could be seen, by the concerned law enforcement agencies separately, is prima facie, also a fraud on the securities market inasmuch as it involves non-genuine/ manipulative transactions in securities and misuse of the securities market.

(iii). In my view, the acts of the loss-making entities and the profit-making entities discussed hereinabove prima facie show a scheme, plan, device and artifice on their part for some ulterior motive. These entities have, prima-facie, used and employed a pre meditated manipulative device or contrivance while dealing in securities market and indulged in non-genuine and deceptive transactions. The non-genuine and deceptive transactions of these entities are, prima-facie, covered under the definition of 'fraud' and their dealings as discussed herein above were, fraudulent' as defined under regulation 2(1)(c) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 ("PFUTP Regulations") and prohibited under the provisions of section 12A(a), (b) and (c) of the SEBI Act, 1992 and regulations 3(a), (b), (c) and (d) and 4(1) and 4(2)(a) thereof."

6.4 The Hon'ble Apex Court in a historic judgment in the case of Rakhi Trading Pvt Ltd. on 08.02.2018 upheld the findings of SEBI holding as under: "Considering the reversal transactions, quantity, price and time and sale, parties being persistent in number of such trade transactions with huge price variations, it will be too naive to hold that the transactions are through screen-based trading and hence anonymous. Such conclusion would be over-looking the prior meeting of minds involving synchronization of buy and sell order and not negotiated deals as per the board's circular. The impugned transactions are manipulative/deceptive device to create a desired loss and/or profit. Such synchronized trading is violative of transparent norms of trading in securities. If the findings of SAT are



*to be sustained, it would have serious repercussions undermining the integrity of the market and the impugned order of SAT is liable to be set aside."*

*6.5 Thus, it is clear from the above discussion that such artificial and synchronized reversal trades in BSE Stock/Currency Options are non-genuine transactions which are carried out with a view to obtain accommodation entries of profits/losses. There is prior meeting of minds between the transacting parties which violates the principle of de- mutualisation of exchange trading system and are therefore non-genuine.*

*6.6 The chief characteristics of reversal trades that emerge from the orders of SEBI and later confirmed by the Hon'ble Apex Court are as under:*

- 1. Almost identical purchase and sale quantity.*
- 2. Huge Variation in purchase price and sale price of options without any significant change in the price of underlying asset.*
- 3. Trades carried out between same party and counter-party i.e. if A purchased X qty from B, then A sells X qty to B only.*
- 4. Time gap between purchase and sale transaction lasts few seconds and not more than an hour.*
- 5. Synchronised trading in the illiquid stock/currency option which are thinly traded*
- 6. The artificial trades, in many cases, contribute to 70% to 100% of total traded volume for the contracts on those days.*

*6.7 Another significant characteristics of the trades carried out by the assessee is that on the days when the assessee has traded, few people traded in that contract. This implies that the substantial volume of trade on the trade day is due to the transaction of the assessee with its counter-party. Such trading is not possible under normal circumstances as there are so many clients trading on the exchange platform at any given moment and under the de-mutualised system, nothing is known about the person on the opposite side unless, there is a prior meeting of minds. So, in view for foregoing discussion, it is clear that the trades carried out by the assessee exhibit all the traits of reversal trades which have been declared by the market. Regulator SEBI and the Hon'ble Apex Court as non- genuine trades and therefore any loss claimed on this account is disallowable.*



6.8 Upon analysis of the trades of the assessee as per the BSE master data, it is seen that all the trades are reversal trades which are those trades in which an entity reverses its buy or sell positions in a contract with subsequent sell or buy positions with the same counterparty in a rapid reversal of trades.

6.9 The whole time member, SEBI in his concluding remarks against the brokers has held as under

"(i). The magnitude in which these stock brokers have facilitated the trading to their clients and the facts and circumstances in the instant matter prima-facie suggest that it is not only a matter of negligence on the part of stock brokers but also of their connivance to be a part of the scheme to facilitate their clients to make loss or profit as per their desire. By the sheer number of reversal instances at each Trading Member level, am also not willing to accept that thousands of trades entered by trading members ended up becoming reversal trades 'by chance' or because of the 'illiquid nature of the contract'

(ii). In my view, the acts of the stock brokers to facilitate the loss-making entities and the profit-making entities discussed hereinabove prima-facie show a scheme, plan, device and artifice on their part for some ulterior motive. These brokers have, prima-facie, facilitated their clients to use and employ a pre-meditated manipulative device or contrivance while dealing in securities market and indulged in non-genuine and deceptive transactions. The act of the stock broker to be part of the scheme by facilitating execution of non-genuine and deceptive transactions for their clients is, prima-facie, covered under the definition of 'fraud' and their dealings as discussed herein above are fraudulent as defined under regulation 2(1)(c) of the 'prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulation,.."

6.10 In the case of Rakhi Trading Pvt Ltd delivered on 08/02/2018 in CA No. 1969 of 2011, the Hon'ble Apex Court has held that "Nobody intentionally trades for a loss. An intentional trading for loss per se, is not genuine dealing in securities. Trading is always with the aim to make profits. But if one party consistently makes loss and that too in pre-planned and rapid reverse trades, it is not genuine, it is an unfair trade practice. It is therefore clear from the above discussion that the losses incurred by the assessee at the fag end of the year under consideration was deliberately incurred in order to avoid tax as the assessee was having positive income in this assessment year.."



6.11 The orders of the market regulator SEBI on reversal trades declaring them as non- genuine, the order of SEBI against the brokers on their role in facilitating reversal trades, similarities in the trades of the assessee and reversal trades and finally the order of the Hon'ble Supreme Court in the case of Rakhi Trading stamping reversal trades as non- genuine trades leave no room for any doubt that the losses incurred by the assessee are non-genuine.

6.12 It is pertinent to mention that applying the above characteristics it is clearly inferred that the assessee M/s. Vivah Classique, has done manipulative trades in currency derivative segment. The assessee by carrying out these manipulative, synchronized and artificial trades has booked bogus loss of Rs. 9,99,91,949/- on BSE Currency Derivative segment and Rs. 8,50,66,837/- on USE Currency Derivative segment. The impugned trades done by the assessee are analysed as follows:

Reversal trades on BSE Currency Derivative Segment:

Brokers/Member Name	Instrument Name	Trade Date	Buy Qty	Sell Qty	Buy Rate	Sell Rate	Difference Rate	Difference Rate %	Counterparty Name	Counterparty Name	Net Premium/PAI
VIVAH CLASSIQUE LTD.	USDINR14AP000	18/03/2014	3000	3000	3193	1601.5	992.5	61.92	IA AUTO SALES PRIVATE LIMITED	VEDICA VANIYA PVT. LTD.	2977500
VIVAH CLASSIQUE LTD.	USDINR14AP006	18/03/2014	3000	3000	2780	1200	1500	135.00	YASHASHVI VYAPAR VITT PRIVATE LIMITED	VEDICA VANIYA PVT. LTD.	3750000
VIVAH CLASSIQUE LTD.	USDINR14AP066	18/03/2014	3000	3000	1797.5	785	692.5	68.21	KEVENTER AGRO LIMITED	VEDICA VANIYA PVT. LTD.	3077500
VIVAH CLASSIQUE LTD.	USDINR14AP064	18/03/2014	3000	3000	3247.5	1750	1497.5	65.57	KEVENTER AGRO LIMITED	VEDICA VANIYA PVT. LTD.	4492300
VIVAH CLASSIQUE LTD.	USDINR14AP000	18/03/2014	3000	3000	347.5	37.5	510	1360.00	IA AUTO SALES PRIVATE LIMITED	VEDICA VANIYA PVT. LTD.	1020000
VIVAH CLASSIQUE LTD.	USDINR14AP005	18/03/2014	3000	3000	650	13.5	636.5	1900.00	KEVENTER AGRO LIMITED	VEDICA VANIYA PVT. LTD.	2470000
VIVAH CLASSIQUE LTD.	USDINR14AP002	18/03/2014	3000	3000	547.5	37.5	510	1360.00	IA AUTO SALES PRIVATE LIMITED	VEDICA VANIYA PVT. LTD.	3068000
VIVAH CLASSIQUE LTD.	USDINR14AP005	18/03/2014	3000	3000	637.5	35	602.5	2025.00	IA AUTO SALES PRIVATE LIMITED	VEDICA VANIYA PVT. LTD.	2126350
VIVAH CLASSIQUE LTD.	USDINR14AP005	18/03/2014	3000	3000	4442.5	3547.5	3095	62.24	IA AUTO SALES PRIVATE LIMITED	VEDICA VANIYA PVT. LTD.	12360500
VIVAH CLASSIQUE LTD.	USDINR14AP007	18/03/2014	3500	3500	4437.5	3010	1427.5	67.43	SURVADAY ALLOY AND POWER PRIVATE LIMITED	VEDICA VANIYA PVT. LTD.	7851250
VIVAH CLASSIQUE LTD.	USDINR14AP017	18/03/2014	3500	3500	2297.5	2700	1297.5	48.06	SURVADAY ALLOY AND POWER PRIVATE LIMITED	VEDICA VANIYA PVT. LTD.	7720115
VIVAH CLASSIQUE LTD.	USDINR14AP017	18/03/2014	4000	4000	747.5	123.5	625	510.20	SURVADAY ALLOY AND POWER PRIVATE LIMITED	VEDICA VANIYA PVT. LTD.	5000000
VIVAH CLASSIQUE LTD.	USDINR14AP004	18/03/2014	3000	3000	2497.5	1402.5	1095	133.73	KEVENTER AGRO LIMITED	VEDICA VANIYA PVT. LTD.	7975000

Observations/Findings emerging from the sample trade charts above: -

It can be observed from the data available that assessee, Vivah Classique, bought and sold the same quantity to the counterparty. For instance, in above table, one can see that buy quantity is 2500 and the same 2500 quantity is reversed by selling it back to M/s. Yashashvi Vyapar Vitt Private Limited on 18.03.2014 wherein Counter party member was M/s. Vedica Vanijya Pvt. Ltd., an identified share broker involved in the accommodation entry of bogus profit/loss through options trade. Yashashvi Vyapar Vitt Private Limited is a client of M/s. Vedica Vanijya Pvt. Ltd., Kolkata based share broking entity. M/s. Vedica Vanijya Pvt. Ltd. is controlled and managed by Sanjay Kumar Periwal. Sanjay Kumar





VIVAH CLASSIQUE	TRINAY SECURITIES TRADING PVT L	USDMA14965	3/19/2014	1.489	1.489	₹ 1,350.00	₹ 1,000.00	2,550.00	78.83	SHIVSATHI MERCANTILE PRIVATE LIMITED	XPRO SECURITIES	₹ 34,91,350.00	Loss
VIVAH CLASSIQUE	TRINAY SECURITIES TRADING PVT L	USDMA145873	3/19/2014	13	13	₹ 1,207.46	₹ 1,200.00	97.30	1.13	GOODPOINT IMPEX PRIVATE LIMITED	TRINAY SECURITIES TRADING PVT L	₹ 487.00	Loss
VIVAH CLASSIQUE	TRINAY SECURITIES TRADING PVT L	USDMA145875	3/19/2014	1.487	1.487	₹ 4,970.00	₹ 1,100.00	1,870.00	68.35	SHIVSATHI MERCANTILE PRIVATE LIMITED	XPRO SECURITIES	₹ 17,86,890.00	Loss
VIVAH CLASSIQUE	TRINAY SECURITIES TRADING PVT L	USDMA145875	3/20/2014	13	13	₹ 1,200.00	₹ 1,225.00	-25.00	-8.75	GOODPOINT IMPEX PRIVATE LIMITED	TRINAY SECURITIES TRADING PVT L	₹ 125.00	Profit
VIVAH CLASSIQUE	TRINAY SECURITIES TRADING PVT L	USDMA145875	3/20/2014	1.487	1.487	₹ 1,050.00	₹ 1,100.00	1,950.00	61.9	MARUTI ISPAT AND ENERGY PVT LTD	XPRO SECURITIES	₹ 28,99,650.00	Loss
VIVAH CLASSIQUE	TRINAY SECURITIES TRADING PVT L	USDAP145863	3/20/2014	13	13	₹ 1,250.00	₹ 1,155.00	95.00	1.81	GOODPOINT IMPEX PRIVATE LIMITED	TRINAY SECURITIES TRADING PVT L	₹ 1,235.00	Loss
VIVAH CLASSIQUE	TRINAY SECURITIES TRADING PVT L	USDAP145863	3/20/2014	1.487	1.487	₹ 4,982.50	₹ 1,100.00	1,932.50	63.36	MARUTI ISPAT AND ENERGY PVT LTD	XPRO SECURITIES	₹ 28,79,627.00	Loss
VIVAH CLASSIQUE	TRINAY SECURITIES TRADING PVT L	USDAP14586	3/20/2014	12	12	₹ 1,650.00	₹ 1,650.00	0.00	0	GOODPOINT IMPEX PRIVATE LIMITED	TRINAY SECURITIES TRADING PVT L	₹ 0.00	
VIVAH CLASSIQUE	TRINAY SECURITIES TRADING PVT L	USDAP14586	3/20/2014	1.488	1.488	₹ 1,450.00	₹ 1,512.50	1,937.50	55.36	MARUTI ISPAT AND ENERGY PVT LTD	XPRO SECURITIES	₹ 28,81,000.00	Loss
VIVAH CLASSIQUE	TRINAY SECURITIES TRADING PVT L	USDMA14588	3/19/2014	11	11	₹ 1,995.00	₹ 4,082.45	-7.50	-4.19	GOODPOINT IMPEX PRIVATE LIMITED	TRINAY SECURITIES TRADING PVT L	₹ 82.00	Profit
VIVAH CLASSIQUE	TRINAY SECURITIES TRADING PVT L	USDMA14588	3/19/2014	1.489	1.489	₹ 5,610.00	₹ 3,990.00	1,760.00	45.24	SHIVSATHI MERCANTILE PRIVATE LIMITED	XPRO SECURITIES	₹ 26,20,640.00	Loss

Observations/Findings emerging from the sample trade charts above: -

It can be observed from the data available that assessee, Vivah Classique, bought and sold the same quantity to the counterparty. For instance, in above table, one can see that buy quantity is 1500 and the same 1500 quantity is reversed by selling it back to M/s. Maruti Ispat and Energy Pvt Ltd. on 20.03.2014 wherein wherein Counter party member was M/s. XPRO Securities, an identified share broker involved in the accommodation entry of bogus profit/loss through options trade. Maruti Ispat And Energy Pvt Ltd. is a client of M/s. XPRO Securities, Kolkata based share broking entity. XPRO Securities is controlled and managed by Sunil Kayan. Sunil Kayan's statement was recorded u/s 131 of the Income-tax Act- 1961, during Project Falcon action. He has admitted that he has facilitated the manipulation in share market, F&O segment for artificial generation of targeted profit loss to various entities. Also, the USD/INR contracts have been purchased on higher rates and sold immediately on lower rates. Like the trade emerging from the table above is bought on average rate of Rs. 2487.50/- and immediately sold back on average rate Rs. 245/-. However,, at that time USD was actually priced around Rs. 60/-."

5.5 The Assessing Officer, in view of the observations of the SEBI in reversal trade of the stock options and observations of the



Hon'ble Supreme Court in the case of Rakhi Trading Private Limited concluded that option trade in currency derivative by the assessee was manipulative. Then the Assessing Officer referred the sample of the option trading of currency derivative carried out by the assessee on Bombay stock exchange (BSE) and observed that assessee purchased and sold 2500 quantity to M/s Yashashvi vyapar Vitt Private Limited through a stockbroker M/s Vedica Vanijya P ltd, who according to the Assessing Officer was an identified share broker involved in the accommodation entry of bogus profit/loss through options trade. The Assessing Officer mentioned that M/s Vedica Vanijya P ltd is a entity controlled and managed by Sanjay Kumar Periwal whose statement was recorded under section 131 of the Act during 'Project Falcon' action wherein he had admitted that he facilitated the manipulation in share market, F &O segment for artificial generation of targeted profit loss to various entities.

5.6 Similarly, the Assessing Officer referred to sample data of currency derivative trading carried out by the assessee on United stock exchange (USE) and mentioned that the assessee purchased and sold 1500 quantity to M/s Maruti Ispat and Energy Pvt. Limited through a stockbroker M/s XPRO Securities, who according to the Assessing Officer was an identified share broker involved in the accommodation entry of bogus profit/loss through options trade. The Assessing Officer mentioned that M/s XPRO Securities is a entity controlled and managed by Snil Kayan whose statement



was recorded under section 131 of the Act during 'Project Falcon' action wherein he had admitted that he facilitated the manipulation in share market, F &O segment for artificial generation of targeted profit loss to various entities.

5.7 In view of the above observations, the Assessing Officer held the losses on the currency derivative transactions amounting to Rs.17,51,14,258/- on the BSE and USE as accommodation entries obtained by the assessee and disallowed the same. The Assessing Officer also presumed that assessee had paid commission at the rate of the 2% for obtaining such accommodation entries which was worked out to ₹37,01,176/-.

6. Before the Ld. CIT(A), the assessee relied on the submission made before the Assessing Officer. Regarding the SEBI report on reversal trading stock options, it was submitted that period of examination by the SEBI pertains to 01/04/2014 to 30/09/2015, whereas the transactions carried out by the assessee pertain to financial year 2013-14 and therefore said investigation report was not applicable to the facts of the assessee. Further it was submitted that said report was in respect of the stock options trading and not in relation to currency options trading. He further submitted that there was no finding in the 'Project Falcon' report that either the assessee or its brokers was directly or indirectly involved in manipulation activities. There was no finding of the SEBI or any other regulatory authority against the assessee. Merely for the



reason that the assessee incurred losses in the currency derivative carried out in the expectation of profit but due to judgmental mistake resulted into losses, the Assessing Officer cannot disallow mainly on the basis that reversal trade manipulation was carried out by some other persons. The Ld. CIT(A) after considering submission of the assessee, in his detailed finding rejected the conclusion of the Assessing Officer. The relevant finding of the Ld. CIT(A) is reproduced as under:

*“22. I have considered the assessment order, submission of appellant and facts available on record. The assessee is engaged in the business of manufacturing gold jewelry and also engaged in the import and export of polished diamonds and diamond-studded gold jewelry from its SEZ unit. The appellant has also carried out trading in currency derivative segments in the A.Y under consideration. In the earlier years the appellant has also carried out hedging of dollars. In the A.Y under consideration, the appellant has shown total loss of Rs. 10,64,16,889/- from this currency derivative transaction. The details of which are as under:*

Sr.No	Name of Exchange	Profits/(Losses)
1	United stock exchange of India	(8,50,66,837)
2	Bombay Stock Exchange	(9,99,91,949)
3	National Stock Exchange	7,86,41,897
	Total currency derivatives Profit(Loss)	10,64,16,889

*23. From the above, it is seen that the appellant has earned a profit of Rs. 7,86,41,897/- from the transactions carried out at the National Stock Exchange and also suffered loss of Rs. 18,50,58,786/- on transactions carried out at the United Stock Exchange and Bombay Stock Exchange. From this fact, it is evident that the appellant has earned a profit as well as suffered loss from the currency derivative transaction. However, the AO has accepted the profit whereas doubted the loss derived from the currency derivative transaction.*



24. From the assessment order, it is evident that the AO has relied on the findings of the investigation unit carried out under Project Falcon to hold the alleged transactions as fictitious. The AO has not carried out any independent inquiries during the assessment proceedings. The AO, after analyzing the derivative transactions, pointed out certain transactions to shows that equal quantities have been purchased and sold to the same party, and hence the alleged transactions are nothing but manipulated transactions of reversal of trade. The AO also noted that one of the parties involved is M/s Vedhika Vanijya Pvt Ltd, which is controlled by Shri Sanjay Kumar Periwal, who has admitted in the statement recorded under section 131 that he has facilitated the manipulation in the share market and derivatives segment. Therefore, the AO held that all the derivative transactions carried out by the appellant on USE and BSE showing loss are fictitious transactions due to the reversal of trade.

25. In this regard, the appellant has furnished that while trading on the stock exchange, the purchaser or seller is not aware about the counter parties; therefore, the allegation of reversal of trade with the same party is factually incorrect. Regarding the observations/conclusions of the AO that the appellant has carried out identical purchase and sale quantities and there is a huge variation in purchase and sale prices, the appellant has furnished detailed submissions, which is reproduced as under:

Sr No	Chief Characteristic defined by learned AO	Appellant Company Reply
1.	Almost identical purchase and sale quantity	<p>The Appellant company has dealt in equity / Currency / commodities derivative. The /AO's observations that all the transactions are of identical purchase and sale quantity is not correct.</p> <p>We enclose herewith the contract note / M2M bills of the currency derivative transactions which were not squared up on the same day but settled on other days as per <b>Ex A</b> (e.g. EURINR 26 Mar 2014 contract of 12<sup>th</sup> March 2014 was settled on 14<sup>th</sup> March 2014,</p> <p>EURINR 28 Jan 2015 Contract of 12<sup>th</sup> March 2014 was settled on 14 1 March 2014</p> <p>JPYINR 26 Jun 2014 Contract of 12<sup>th</sup> March 2014 was settled on 13<sup>th</sup> March 2014.</p> <p>JPYINR 28 Jan 2015 Contract of 12<sup>th</sup> March 2014 was settled on 73 ,h March 2014)</p>



2.	Huge variation purchase price and sale price o options without any scan changes in the price of underlying asset.	Contentions of huge variation in the purchase price of options of majority^ transactions is not correct and purely based on conjecture & surmises. We give herein below the summary of alleged bogus loss for which the learned] AO has made the addition giving % of change in price -			
		% change	USE	BSE	Total
		Less than 0.50%	(69)	(191.636)	(191,705)
		0.50% to 1.00%	Nil	(891,348)	(891,348)
		1.00% to 10.00%	NIL	(24,761,493)	(24,761,493)
		\1 0.00% to 50.00%	(49,427,668)	(61,967,648)	(111,395,316)
		50.00% to 100.00%	(48,179,577)	(12,968,654)	(61,148,231)
		100.00 & above			-
		Total	(97.607,314)	(100.780,778)	(198,388,093)
		less profit in trade	12,540,478	788,829	13,329,307
		Net Loss Disallowed	(85,066,836)	(99,991,949)	(185,058,786)
		<p>From the above chart it can be seen that Loss of Rs.24,761,493/- (13.38% of total Loss) is incurred in the transactions where the variation in purchase price and sale price of option is less than 10.0%</p> <p>Hence the characteristic that there are huge variations in purchase price and sale price of option is not tenable in the case of Appellant Company.</p> <p>Further it will not be out of place to submit here that in case of Option, the price of the Option can change drastically or in some circumstances can even reduce to "Zero" on expiry.</p>			



3	<p>Trader carried out between same party and counter party i.e if A Purchased X qty From B then Sells X qty. to only</p>	<p>First of all, while placing the trades on the Exchange Platform, we do not know the Counter party. We fail to understand how the same are derived by the Learned AO.</p> <p>Further the total trade / loss value of transactions through broker namely Trinay Securities Trading Limited and GRD securities limited is of Rs.8.50 crores and 9.99 crore respectively out of which the learned AO has alleged loss transactions having value of Rs. 7.04 crore and 6.28 crore respectively. Hence the remaining transactions having sale value of Rs. 1.46 crore and Rs. 3.71 crore respectively are the transactions where the counter parties are not the same party.</p> <p>Hence this observation of Ld AO is also squarely not apply to the transactions carried out by the appellant company.</p>																				
4	<p>Time gap between purchase and sale transaction lasts few seconds and not more an one hour.</p>	<p>This Characteristic is also grossly not applicable to the Appellant Company as there are transactions where in the time gap is more but those transactions are ignored/ not looked upon by the learned AO.</p>																				
5	<p>Synchronized trading in illiquid stock/currency options which are thinly traded</p>	<p>The Appellant Company has traded in the Future and options of /currencies derivatives too i.e. USD, EURO,JPY which are the prime currencies of the Derivatives and cannot be said to be illiquid currencies for the purpose of trading. The Currency wise breakup of the Alleged Disallowed Loss of Rs. 18,50,58, 785/- is as under-</p> <table border="1" data-bbox="598 1093 1189 1429"> <thead> <tr> <th>Currency</th> <th>USE</th> <th>BSE</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>USD</td> <td>(93,402,983)</td> <td>(91,222,454)</td> <td>(184,625,437)</td> </tr> <tr> <td>EURO</td> <td></td> <td>163,202</td> <td>163,202</td> </tr> <tr> <td>JPY</td> <td>8,336,146</td> <td>(8,932,697)</td> <td>(596,551)</td> </tr> <tr> <td>Total</td> <td>(85,066,837)</td> <td>(99,991,948)</td> <td>(185,058,785)</td> </tr> </tbody> </table> <p>The Appellant Company has dealt in all the aforesaid currencies and accordingly it cannot be said that it has dealt in illiquid currency options.</p> <p>Hence this observation of the Ld AO is without any valid reason.</p>	Currency	USE	BSE	Total	USD	(93,402,983)	(91,222,454)	(184,625,437)	EURO		163,202	163,202	JPY	8,336,146	(8,932,697)	(596,551)	Total	(85,066,837)	(99,991,948)	(185,058,785)
Currency	USE	BSE	Total																			
USD	(93,402,983)	(91,222,454)	(184,625,437)																			
EURO		163,202	163,202																			
JPY	8,336,146	(8,932,697)	(596,551)																			
Total	(85,066,837)	(99,991,948)	(185,058,785)																			

26. I have gone through the various bills furnished by the appellant and ledger account of the brokers and the details of derivative transactions. On verification of the same, it is observed that the findings of the AO that all the quantity of purchase and sale to the parties are identical, is factually incorrect. The AO only considered the quantity of trades with M/s Yashasvi Vyapar Pvt Ltd, Maruti Ispat and Energy Pvt ltd etc, but ignored other transactions wherein the facts are different. Merely on the basis of few transactions, the A.O concluded that entire transactions are reversal of trade. Further,



on perusal of these transactions, it is observed that most of the transactions were not squared off on the same day but were settled after 1 to 2 days. Thus, the conclusion of A.O that the time gap between purchase and sales is less than a day is also factually incorrect for all the transactions. Regarding the variation in purchase and sale prices, the AO cherry-picked certain transactions to demonstrate that there is a huge variation in purchase and sale prices. It is observed from the details furnished by the appellant that loss of Rs. 2,47,61,493/- is incurred in the transactions where the variation in purchase and sale price of the options is less than 10%. Therefore, this contention is also found to be factually incorrect.

27. Regarding the allegation of the AO that the trades are carried out between the same party (i.e., the purchase and sale transaction is carried out with the same party, which is predetermined), the AO also stated that M/s Vedika Vanijya Pvt Ltd, which is a share broker, is involved in providing such accommodation entries. In this regard, the appellant submitted that while placing the trade on the exchange platform, it is not possible to know the counterparty. I find substantial force in the appellant's submission that on the exchange platform, it is not possible to know the counterparties with whom the person is trading. There is no such finding stated by the A.O that the appellant or the stock broker of the appellant was involved in such organized activity and the transactions carried out by the appellant were pre-determined. Therefore, without any concrete evidence against the appellant of having direct nexus with such organized trading, it cannot be held that the appellant was aware of the counterparties of trade and hence such transactions are fictitious.

28. From the above, it is evident that the appellant has traded in the derivative segment and has earned profits as well as incurred losses. It is also a fact that the profit derived from such transactions has been accepted by the A.O. Therefore, the losses incurred from the same cannot be held to be fictitious transactions merely on certain assumptions. Being a trader inherently carries the risk of significant losses sometimes in particular scrips, which are typical in a trader's normal course of business. These losses are a direct outcome of market volatility and are part of the trading process.

29. Further, all the transactions are carried out through the brokers on the exchange platform and through the banking channels. The appellant has furnished all the documentary evidence to substantiate the derivative transactions. The AO



*has not found any fault with these documentary evidences. Further, during the assessment proceedings, the AO has not conducted any independent inquiry and relied mainly on the findings of the investigation unit's report titled as Project Falcon. The A.O cherry-picked certain transactions and concluded that these transactions are covered by the decision of the Hon'ble Supreme Court in the case of Rakhi Trading. As discussed above this conclusion of the A.O is incorrect as the findings of the AO are based on only a few transactions. Majority of the transactions shows that the observations are factually incorrect. Therefore, in the facts of the case, the decision of the Hon'ble Supreme Court in the case of Rakhi Trading is not applicable. Further, the reliance on the order of SEBI is also incorrect, as the period of investigation before SEBI was from 01.04.2014 to 30.09.2014, whereas in the appellant's case, the transactions pertain to the period 01.04.2013 to 31.03.2014.”*

6.1 Thereafter the Ld. CIT(A) relied on the decision of the coordinate bench of the Tribunal in following cases:

- ***Aban Realty and Infrastructure vs. ACIT (ITA No. 3647 and 3648/Mum/2024)***
- ***M/s Kundan Rice Mills vs. ACIT (ITA No. 853/Del/2020)***
- ***ACIT 19(1) vs. Adihemshree Financial, ITAT, Mumbai (ITA no. 933, to 936/ Mum/2024)***
- ***Raigarh Jute & Textile Mills Ltd vs. ACIT CC-8(2), ITAT, Kolkata (ITA no. 2286/Kol/2019)***
- ***Samrat Finvestors Private Limited vs. ITO, Ward-10(2), ITAT, Kolkata (ITA no. 840/Kol/2023)***

7. We have carefully heard the rival submissions advanced by the respective parties and have also perused the material available on record. The issue arising for our adjudication is whether the deletion of disallowance of currency derivative trading loss by the learned Commissioner of Income Tax (Appeals) [CIT(A)] is justified in law and on facts.



7.1 Before us, the learned Departmental Representative supported the findings and reasoning of the learned Assessing Officer, whereas the learned counsel for the assessee placed reliance upon the order of the learned CIT(A) and the material considered therein.

Upon a meticulous examination of the record, it emerges that the Assessing Officer based the disallowance primarily on the observations of the Securities and Exchange Board of India (SEBI) pertaining to trading in **stock options** for the period **01.04.2014 to 30.09.2014**, wherein SEBI had found certain **reversal trades** to be of a manipulative nature. However, in the present case, the transactions undertaken by the assessee relate to **currency derivative options** and not to stock options, and further, the period under consideration does not coincide with the period of SEBI's investigation. Consequently, the mere reliance on SEBI's findings concerning an entirely different class of instruments and time frame cannot, in law, justify the conclusion that the assessee's transactions were manipulative or fictitious.

7.2 The Assessing Officer has further referred to the report of the Investigation Wing, Mumbai, arising from surveys conducted under Project Falcon, wherein certain parties were found to be engaged in the business of providing accommodation entries in the form of artificial profits or losses. The Assessing Officer, however, neither supplied to the assessee the detailed statements of such parties nor afforded any opportunity of cross-examination, even though those



statements were the sole foundation for drawing an adverse inference against the assessee. It is well settled that any addition based on third-party statements, without confronting the assessee or granting an opportunity of cross-examination, is contrary to the principles of natural justice, as enunciated by the Hon'ble Supreme Court in *Andaman Timber Industries v. CCE* (supra).

7.3 We further find that the Assessing Officer has merely observed that the assessee executed certain reversal trades in currency derivatives with counterparties who happened to be clients of brokers found involved in accommodation entry activities. However, in transactions carried out through the recognised stock exchanges, all trades are executed on an anonymous electronic platform without any direct interface between the buyer and the seller. In such a regulated and faceless environment, the possibility of any concerted meeting of minds between counterparties is remote unless there exists cogent evidence to establish a nexus or prior understanding. No such evidence has been brought on record by the Assessing Officer or the Investigation Wing to show that the assessee had any contact or collusion with the counterparty traders.

7.4 It is also not the case of the Department that the brokers through whom the assessee executed the impugned trades were themselves found to be tainted or involved in any accommodation entry racket. This factual assertion made by the learned counsel for



the assessee has not been controverted by the learned Departmental Representative before us.

7.5 In our considered opinion, the findings of SEBI in respect of reversal trades in stock options for a distinct period cannot be mechanically extrapolated to the assessee's case involving currency derivative transactions in a different assessment year, without any contemporaneous or corroborative evidence. Such extrapolation amounts to conjecture and cannot form the legal basis for disallowance of a genuine trading loss. The observations of the Assessing Officer are, at best, in the nature of unsubstantiated allegations, unsupported by any documentary evidence demonstrating that the assessee was a participant or beneficiary in any accommodation entry arrangement.

7.6 The Assessing Officer has also failed to investigate the crucial aspect as to how, if at all, any funds allegedly circulated between the so-called "profit seeker" and "loss giver" entities. No inquiry into fund flow or bank trail has been made to substantiate the hypothesis of fictitious loss. The reasoning adopted in the assessment order, being speculative in nature and bereft of evidentiary foundation, resembles more a report or commentary than a judicial finding. Such an order, based on suspicion, cannot stand the test of law.



7.7 In view of the foregoing discussion, we find ourselves in agreement with the well-reasoned conclusion of the learned CIT(A) in deleting the disallowance of the currency derivative trading loss. The action of the Assessing Officer, founded on presumptions and general observations drawn from unrelated investigations, cannot be sustained. Accordingly, the order of the learned CIT(A) calls for no interference.

7.8 The grounds of the appeal of the Revenue accordingly dismissed.

9. In the result, the appeal of the Revenue is dismissed.

**Order pronounced in the open Court on 26/11/2025.**

**Sd/-  
(RAJ KUMAR CHAUHAN)  
JUDICIAL MEMBER**

**Sd/-  
(OM PRAKASH KANT)  
ACCOUNTANT MEMBER**

Mumbai;  
Dated: 26/11/2025  
Rahul Sharma, Sr. P.S.

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,  
(Assistant Registrar)  
**ITAT, Mumbai**