

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI**

श्री एबी टी वर्की, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER AND
SHRI S. R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.:2131/Chny/2025

निर्धारण वर्ष / Assessment Year: 2014-15

DCIT, Corporate Circle, No.2, V.P. Rathinasamy Nadar Road, Bibikulam, Madurai – 625 002.	vs.	Sri Jayajothi and Company Private Limited, No.70, Alagai Nagar, Rajapalayam, Virudhuagar District, Rajapalayam – 626 117.
(अपीलार्थी/Appellant)		[PAN: AACCS-0542-E] (प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Ms. R. Anitha, Addl. CIT
प्रत्यर्थी की ओर से/Respondent by : Shri. V. Srikrishnan, CA.

सुनवाई की तारीख/Date of Hearing : 02.12.2025
घोषणा की तारीख/Date of Pronouncement : 08.01.2026

आदेश / O R D E R

PER S. R. RAGHUNATHA, AM:

This appeal by the revenue is filed against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, for the assessment year 2014-15, dated 09.06.2025.

2. The revenue has raised the following grounds of appeal:

(1) *The order of the Ld.CIT(A) is opposed to law on the facts and in the circumstances of the case.*

(2) The Ld.CIT(A) erred in allowing the capital loss as an allowable expenditure in the Profit and Loss Account of the assessee.

(3) The Ld.CIT(A) erred in deciding that the alleged capital loss was brought forward correctly in the subsequent assessment year and was accepted in the summary assessment u/s.143(1)(a) and hence it is not an inadmissible expenditure for the relevant assessment year.

(4) For these and such other grounds that may be adduced at the time of hearing and it is prayed that the order of the Ld.CIT(A) may be reversed and that of the Assessing Officer be restored.

3. The brief facts of the case emanating from the records that the assessee is a domestic company engaged in the manufacture and sale of cotton yarn. The assessee filed its return of income for the A.Y.2014-15 on 22.09.2014, declaring a loss of Rs.16,95,20,002/-. The case was selected for scrutiny under CASS and concluded the assessment u/s.143(3) r.w.s 92CA(3) of the Act on 28.02.2018 after incorporating an addition recommended by the TPO resulting in the net loss assessed at Rs.16,79,19,439/-. The Id.PCIT passed an order u/s.263 of the Act on 17.08.2020 revising the assessment calling into question in amount of Rs.6,81,04,103/- being loss and sale of share which was erroneously adjusted by the assessee against the business loss for the year ended assessment, which was not considered during the scrutiny proceedings. As per the directions of the Id.PCIT, the NFAC issued a show cause notice as to why addition of Rs.6,81,04,103/- should not having made.

4. The assessee submitted its reply on 26.03.2021 wherein assessee furnish computed its revised income factoring the treatment of capital loss treated as expenditure in P&L account and accordingly reduced its claimed expenditure by an amount of Rs.6,81,04,103/-. Considering the submissions of the assessee the AO passed an order by reducing the loss to Rs.9,98,15,336/- by disallowing the entire expenses of Rs.6,81,04,103/- by passing an order u/s.143(3) r.w.s 263 of the Act dated 29.09.2024.

5. Aggrieved by the order of the AO, the assessee preferred an appeal before the Id.CIT(A). The assessee submitted that the AO has erred in making

disallowance of expenditure of Rs.6,81,04,103/- without allowing as a loss to be carry forward under the head long term capital loss. It was submitted by the assessee that the error in computation resulted in a change in the carryforward of business loss and unabsorbed depreciation only. Further, the assessee submitted that the entire loss for the impugned year had been erroneously shown under the head income from business instead of carry forward the loss as detailed below:

1. Depreciation loss	Rs.10,14,15,896/-
2. Long term capital loss (after adjustment of Rs.68,14,437/- i.e. long-term capital gain)	Rs. 6,12,89,666/-

6. On perusal of the submissions made by the assessee the Id. CIT(A) allowed the appeal of the assessee by passing an order dated 09.06.2025 stating that the amount of Rs.6,81,04,103/- is held to be treated as Long Term Capital Loss and not as inadmissible expenditure. The relevant portion of the order is extracted below:

"The above appeal is filed by the appellant against the treating the Long term capital loss of Rs.6,81,04,103/- as disallowable expense. In support of above grounds, the appellant also furnished additional evidences such as P&L statement, revised computation for AY 2014-15 and AY 2015-16 and schedule carry forward loss. The same was remanded to the AO for his comments. The AO submitted its remand report on 13.12.2024. On perusal of above remand report, it is observed that the AO acknowledges the fact that ITR for A.Y.2015-16 was accepted in summary assessment u/s143(1)(a) after giving credit of brough forward long term capital loss of Rs.6,12,86,666/-. Relevant part of the remand report is reiterated as under.

"Moreover, the assessee has filed return of income for the subsequent year i.e. A. Y. 2015-16, originally on 30.9.2015. In the original return of income for the AY 2015-16, the assessee has claimed entire depreciation loss of Rs. 16,95,19,999/- (which included the long term capital loss) admitted in AY 2014-15 as unabsorbed depreciation in AY 2015-16. Subsequently, the assessee has filed revised return of income on 12.12.2016 showing the correct long term capital loss brought forward (Rs.6,12,86,666/-) in the relevant schedule after making necessary correction. Hence, the return of income for the AY 2015-16 was accepted in the summary assessment u/s 143(1)(a) of the Income tax Act

In the assessment order and in the remand report, AO has not denied that the amount of Rs.6,81,04,103/- is not Long Term Capital Loss. However, in the computation of Income, in the assessment order, this amount has been treated as expenses disallowed. The assessee in the appeal filed has requested for treating this amount as Long term capital loss

Considering the Assessment order, Grounds of the appeal, submissions of the assessee and remand report of the AO, the amount of Rs.6,81,04,103/-is held to be treated as Long Term Capital Loss and not as inadmissible expenditure.

In results, the appeal is allowed.”

7. Aggrieved by the order of the Id. CIT(A), the revenue is in appeal before us.

8. The Id. DR for the revenue submitted that the Id. CIT(A) while allowing the appeal of the assessee has held that the loss on sale of shares which has been debited to P&L account by the company as an admissible expenditure. Therefore, the Id. CIT(A) has erroneously treated as long-term capital loss and not as inadmissible expenditure. Hence, the Id.AR prayed the order of the Id.CIT(A).

9. Per contra, the Id.AR for the assessee relied on the order of the Id. CIT(A) and submitted that the loss on sale of shares has been rightly held as long term capital loss of the assessee.

10. We have heard the rival submissions and perused the materials available on record and gone through the orders of lower authorities. The short controversy before us is confined to the correct treatment of loss on sale of shares amounting to Rs.6,81,04,103/-.

11. At the outset, it is pertinent to note that the factum of loss on sale of shares is not in dispute. It is also undisputed that the shares constitute capital assets and that the loss has arisen on their transfer. The dispute essentially revolves around whether such loss, which was initially debited by the assessee in its Profit and Loss Account and adjusted against business loss, should be treated as an inadmissible expenditure or as a long-term capital loss eligible for carry forward under the Act.

12. The original assessment completed u/s.143(3) r.w.s.92CA(3) did not examine this issue. The Id. PCIT, exercising jurisdiction u/s.263 of the Act, found that the assessment order was erroneous and prejudicial to the interests of the revenue insofar as the loss on sale of shares had been adjusted against business loss without proper examination. Accordingly, the assessment was set aside with a direction to the Assessing Officer to reframe the assessment after due verification.

13. During the proceedings pursuant to section 263 of the Act, the assessee accepted that the loss on sale of shares was incorrectly routed through the Profit and Loss Account as business expenditure. The assessee accordingly revised its computation of income by reducing the business expenditure to the extent of Rs.6,81,04,103/- and claimed that the said amount represents long-term capital loss, which ought to be carried forward under the provisions of the Act.

14. However, the AO, while giving effect to the directions u/s.263 of the Act, proceeded to disallow the entire amount of Rs.6,81,04,103/- as inadmissible expenditure, thereby reducing the assessed loss to Rs.9,98,15,336/-, without granting the consequential benefit of treating the said loss under the head "Capital Gains".

15. The Id.CIT(A), after examining the facts and submissions, held that the AO was not justified in treating the loss as inadmissible expenditure. The Id.CIT(A) recorded a categorical finding that the amount of Rs.6,81,04,103/- represents loss on sale of shares and therefore has to be assessed under the head "Capital Gains" as long-term capital loss and not as inadmissible expenditure. The Id.CIT(A) further observed that the mistake committed by the assessee was merely a computational and classification error, which cannot alter the inherent nature of the loss.

16. We find ourselves in agreement with the conclusions drawn by the Id.CIT(A). It is a settled position of law that the nature and character of an income or loss has to be determined on the basis of the transaction giving rise to it and not on the basis of its presentation in the books of account. An incorrect accounting entry or erroneous classification in the return of income cannot convert a capital loss into an inadmissible expenditure.

17. The approach adopted by the AO in disallowing the amount as expenditure without considering its correct head of income is legally unsustainable. Once it is accepted that the amount does not constitute allowable business expenditure, the AO was duty-bound to examine whether the loss is allowable under any other head of income. The Act does not contemplate denial of a legitimate loss merely because it was initially claimed under an incorrect head.

18. The contention of the revenue that the Id.CIT(A) has allowed the capital loss as an expenditure is misplaced. A plain reading of the impugned appellate order shows that the Id.CIT(A) has specifically held that the amount is not an inadmissible expenditure but is a long-term capital loss. The allowance granted by the Id.CIT(A) is only in respect of its correct characterization and carry forward in accordance with law.

19. However, we find that the Id.CIT(A) while deciding the issue of long term capital loss has mentioned the loss on sale of shares as an admissible business expenditure, which is not correct.

20. In view of the foregoing discussion, we hold that the Id.CIT(A) has correctly appreciated the facts and law in directing that the loss on sale of shares amounting to Rs.6,81,04,103/- be treated as long-term capital loss.

21. Further, we also hold that the Id.CIT(A) has erred in treating the loss on sale of shares debited to Profit and loss account as 'not as inadmissible expenditure' and hence we direct the AO to treat the same as 'inadmissible business expenditure'. Accordingly, the corresponding grounds raised by the revenue are partly allowed.

22. In the result, the appeal of the revenue is partly allowed.

Order pronounced in the open court on 08th January, 2026 at Chennai.

Sd/-
(एबी टी वर्की)
(ABY T VARKEY)
न्यायिक सदस्य/Judicial Member

Sd/-
(एस. आर. रघुनाथा)
(S. R. RAGHUNATHA)
लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 08th January, 2026

SP

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT– Chennai/Coimbatore/Madurai/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF