

**आयकर अपीलीय अधिकरण, हैदराबाद पीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad 'B' Bench, Hyderabad**

**BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT**  
**AND**  
**SHRI MANJUNATHA G. ACCOUNTANT MEMBER**

आ.अपी.सं / **ITA No.353/Hyd./2021**  
Assessment Year 2014-2015

Smt. Reema Agarwal, Hyderabad – 500 034. Telangana. PAN AELPA4179F (Appellant)	vs.	The ACIT, Central Circle-2(3), Hyderabad. (Respondent)
निर्धारिती द्वारा /Assessee by:		CA P Murali Mohan Rao
राजस्व द्वारा /Revenue by:		<b>Dr. Narendra Kumar Naik, CIT-DR</b>
सुनवाई की तारीख /Date of hearing:		22.01.2026
घोषणा की तारीख /Pronouncement:		26.02.2026

**आदेश /ORDER**

**PER VIJAY PAL RAO, V.P. :**

This appeal by the assessee is directed against the Order dated 29.06.2018 of the learned CIT(A)-6, Hyderabad, for the assessment year 2014-2015.

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

1. *“On the facts and in the circumstances of the case the appellate order passed by the CIT(A) is erroneous both on facts and in law to the extent the C order is prejudicial to the interest of the appellant.*
2. *The Ld. CIT(A) erred in upholding the order passed by the Ld.AO in making the disallowance of loss on sale of delivery based shares amounting to Rs.6,41,12,159/- which is not correct and bad in law.*
3. *The Ld. CIT(A) ought to have appreciated the fact that the above loss of Rs.6,41,12,159/- is incurred in course of regular business of the assessee, purely out of business exigency and the same is allowable.*
4. *The Ld. CIT(A) ought to have appreciated that the assessee, being a trader in scrips and shares has made all the purchases and sales on BSE which is regulated by SEBI through a registered broker only.*
5. *The Ld. CIT(A) ought to have considered the fact that the assessee has purchased and sold the shares accordingly through Recognised SEBI which confirms the validity and genuineness of the transactions made by the assessee.*
6. *The Ld. CIT(A) erred not considering the fact that the share sold were acquired in earlier years and the AO has not doubted the purchase of shares.*
7. *The Ld. CIT (A) ought to have considered the various evidences filed by the assessee in the form of Bank Statements, Details of shares purchased, Share Bills, Statement of Accounts, Ledger copies about the existence, genuineness of the sales and purchases made during the year under consideration.*
8. *The Ld. CIT(A) ought to have appreciated the fact that the transactions were done through recognised stock exchange in electronic platform and all transactions were routed through*

*DEMAT account and banking channels and Securities Transaction Tax on the above transactions were paid u/s 111A of the Income Tax Act, 1961.*

- 9. The Id CIT(A) ought to have appreciated the fact that the AO has not doubted the purchase of shares in D-MAT Form agency, hence sale cannot be bogus.*
- 10. The Id CIT(A) ought to have appreciated the fact that the sale transaction between the appellant and the other party was not a pre-arranged transaction, hence the AO cannot deny the same sale transaction.*
- 11. The Ld. CIT (A) erred in not considering the submissions made by appellant which is not correct, is against Natural Justice and is not justified.*
- 12. The Ld. CIT(A) ought to have appreciated that the book value of the shares does not reflect the market price and the assessee had to sell the shares at a very lower price in order to ensure no further loss is incurred.*
- 13. The Ld. CIT (A) ought to have appreciated the fact that there is no mention in the order that there is nexus between the assessee and the party who purchased the share through stock exchange.*
- 14. The Ld. CIT(A) ought to have followed the judgement of jurisdictional High Court in I.T.T.A.No. 490 of 2014 dated 30.07.2014 in the case of CIT-V, Hyderabad v. Smt. Aarti Mittal and ought to have held that the share transactions of the appellant are genuine.*
- 15. The CIT(A) ought to have appreciated the fact that the Ld. AO cannot sit in the arms chair of the assessee.*
- 16. The Ld. CIT(A) erred in enhancing the income of the assessee by an amount of Rs.1,45,00,001 which is beyond the powers of CIT(A).*

*17. The assessee may add, alter or modify any other points to the grounds of appeal at any time before or at the time of hearing of the appeal.”*

3. The assessee is an individual and earning income from business as well as other sources. The assessee filed her return of income u/sec.139(1) Income Tax Act [in short "the Act"], 1961 on 31.03.2016 declaring total income of Rs.47,75,170/-. The case of the assessee was selected for complete scrutiny under CASS. During the course of assessment proceedings, the Assessing Officer noted that the assessee has declared net purchases of Rs.8,03,16,136/- after adjusting loss on sale of two scrips i.e., Shree Shaleen Textiles Ltd., and SRK Industries Limited. The Assessing Officer asked the assessee to furnish details of the transactions relating to the sales of shares of these two companies. The assessee furnished the details of purchase and sales of shares of 03 scrips viz., (i) Amtek Auto Ltd., (ii) Shree Shaleen Textiles Ltd., and (iii) SRK Industries Limited. From the details filed by the assessee, the Assessing Officer noted that the assessee purchased 2 lakh shares of Shree Shaleen Textiles Ltd., @ Rs.69.63ps per share on 13.12.2013,

out of which, 1 lakhs share were sold on 22.03.2014 @ Rs.17.71per share and thereby, booked loss. Similarly, the assessee purchased 3,78,875 shares of SRK Industries Limited @ Rs.191.65ps per share on 26.12.2013 and the same were sold @ Rs.35.22ps per share on 27.03.2014 and thereby, booked loss. The Assessing Officer also noted that there was split of both the scrips and the trading by assessee was post-split of shares. The Assessing Officer has also considered the book value of the shares before split and after split and then, proposed to disallow the loss by issuing a show cause notice dated 05.12.2016. The assessee filed her submissions on 09.12.2016 and explained that the transaction of purchase and sale of shares were done on the Bombay Stock Exchange [in short “BSE”] which is regulated by Securities and Exchange Board of India [in short “SEBI”] and all transactions were done through a registered broker. It was further stated that book value of the shares does not reflect the price prevailing on the stock exchange on which they are traded. Thus, the assessee has explained that when there is a genuine transaction of purchase and shares, then,

the outcome of the transaction being 'profit or loss' cannot be disallowed. The Assessing Officer did not accept the reply of the assessee and disallowed the claim of loss arising from purchase and sale of shares of these two scrips @ Rs.6,41,12,159/-. The assessee challenged the action of the Assessing Officer before the learned CIT(A) but could not succeed.

4. Before the Tribunal, the learned Authorised Representative of the Assessee has submitted that when the transaction of purchase and sale of shares carried out at the recognized stock exchange are neither disputed nor found to be bogus, then, the loss arising from the transaction cannot be disallowed on the ground that the assessee has not acted prudently. The learned Authorised Representative of the Assessee has further submitted that the transactions are carried out in the normal course of trading on the recognized stock exchange through the registered broker and reflected in the Trading/DEMAT A/c of the assessee from where the assessee subsequently sold these shares. He has pointed out that the Assessing Officer has disallowed the loss incurred by

the assessee on these transactions only on the ground that the assessee has booked the loss without any business prudence which is not within the jurisdiction of the Assessing Officer as the Assessing Officer cannot pass a Judgment about the business prudence of the assessee and question the business decision of the assessee of purchase and sale of the shares. He has further submitted that the Assessing Officer has not brought any record or material to show that the assessee has booked artificial loss to avoid the tax. Thus, the learned Authorised Representative of the Assessee has submitted that the disallowance of loss incurred by the assessee in the actual and genuine transaction of purchase and sale of shares is not justified and liable to be deleted. He has referred to the annual report and financial statements of these two companies viz., (i) Shree Shaleen Textiles Ltd., and (ii) SRK Industries Limited and submitted that these two companies are active companies and doing their business. Therefore, the existence of these companies is not in dispute. He has also referred to the balance sheet and notes on accounts as part of the annual reports of the two companies

and submitted that the market price of these two scrips at the stock exchange are also reported in the annual report of these companies and therefore, the assessee has purchased the shares as per the prevailing market price on the stock exchange on the date of purchase and sold the shares at the prevailing market price on stock exchange on the date of sales. Therefore, the transaction of purchase and sales were carried out on the stock exchange and as per the prevailing market price of these two scrips, then the book value of the shares as referred by the Assessing Officer as on 31.03.2013 and 31.03.2014 are not at all relevant to question the market price prevailing on the relevant dates on the stock exchange. The learned Authorised Representative of the Assessee has relied upon the Judgment of Hon'ble Supreme Court in the case of **Pr. CIT vs. Renu Aggarwal [2023] 456 ITR 249 (SC)** and submitted that the **SLP filed by the Revenue was dismissed by the Hon'ble Supreme Court against the Judgment of Hon'ble Allahabad High Court reported in [2023] 153 taxmann.com 578 (Allahabad-HC)**. He has also relied upon the Judgment of Hon'ble Supreme Court in the

case of **Pr. CIT vs. Kishore Kumar Mohapatra [2024] 162 taxmann.com 5 (SC)** whereby the **SLP filed by the Revenue against the Judgment of Hon'ble Orissa High Court has been dismissed reported in [2024] 162 taxmann.com 4 (Orissa-HC)**. The learned Authorised Representative of the Assessee has also relied upon the following Judgments:

- i. PCIT vs. Anupama Mahopatra [2024] 161 taxmann.com 703 (SC) – SLP filed by the Revenue was dismissed against the Judgment of Hon'ble Orissa High Court reported in [2024] 161 taxmann.com 702 (Orissa-HC);
- ii. PCIT vs. Kuntala Mahopatra [2024] 160 taxmann.com 608 (SC) - SLP filed by the Revenue was dismissed against the Judgment of Hon'ble Orissa High Court reported in [2024] 160 taxmann.com 567 (Orissa-HC);
- iii. Order of ITAT, Kolkata Bench in the case of Chandra Prakash Jhunjhunwala, Kolkata vs. DCIT, CC-3(4), Kolkata in ITA.No.2351/Kol./2017, Dated 09.08.2019;
- iv. Order of ITAT, Kolkata Bench in the case of M/s. Nicholson Vanijya Pvt. Ltd., C/o. RSVPC & Company vs. vs. ITO, Ward-1(2), Kolkata in ITA.No.1856/Kol./2018, Dated 08.03.2019;

4.1. The learned Authorised Representative of the Assessee has then referred to the statement of account with the stockbroker and submitted that all the transactions are carried out in the normal course of trading on the stock exchange. The payment was made through the bank account of the assessee; the details of which are placed at page nos.60 to 65 of the paper book. Thus, the learned Authorised Representative of the Assessee has submitted that when the transaction of purchase and sale of shares are genuine transactions carried out on the stock exchange in the normal course of trading activity, then, the loss incurred by the assessee on the transactions of two scrips cannot be disallowed.

5. On the other hand, the learned DR has submitted that these two scrips were under the investigation of the SEBI regarding the abnormal fluctuation in the price on the stock exchange and the SEBI has imposed the penalty on the Promoters/Directors of these two companies for violation of the disclosure under Clause-35 of the listing agreement to BSE. Thus, these two scrips were tainted scrips, and assessee

has booked the huge loss which is not a genuine loss, but the timing of the transaction clearly shows that these losses are booked to adjust against the profits in respect of Future & Option [in short "F & O"] transactions during the year. Therefore, the assessee has booked these losses on the trading of these two scrips with the sole motive and view to avoid the tax on the profits on the F & O transactions of the assessee. The learned CIT(A) has analysed the facts relating to these issues in para nos.7.2 and 7.3 of the impugned order wherein it was observed that the penny stock transactions are being used for the purpose of money laundering activity wherein shares of no value or negligible value are purchased and held for more than 12 months and transferred thereafter at an exorbitant price to convert the same into tax exemption long term capital gains u/sec.10(38) of the Act. The shares of Shree Shaleen Textiles Ltd., and SRK Industries Limited were selected by the assessee for the purpose of creating bogus business loss and set off the same against the business income of the assessee derived from purchase and sale of Futures. This particular *modus operandi* adopted by the

assessee has been subject matter of the investigation by the Authorities including SEBI. Therefore, the concept of “*substance over form*” and “*lifting corporate veil*” should be pressed into action. The learned CIT(A) has also verified various parameters and even with the basic parameters of the stocks in question are negative and in normal course, such poor parameters would not inspire confidence in prospective investors to venture into the investment in such stock. The assessee carried out transactions in such stocks knowing very well that the same were worthless penny stocks but for availing the benefit of creating bogus business loss and set off the same against regular business income. He has relied upon the Orders of the authorities below and submitted that the sole motive of doing the transaction of purchase and sale in two scrips is nothing but to create bogus loss which could be set off against the profit of the assessee from F & O transactions and to avoid the income tax. The learned DR has relied upon the following decisions:

- (i) PCIT vs. Swati Bajaj [2022] 446 ITR 56 (Calcutta-HC);
- (ii) Order of ITAT, Chennai in the case of M/s. Pankaj Agarwal & Sons (HUF), Chennai & Others vs. ITO, Non-Corporate Ward-10(3), Chennai in ITA. No. 1413/CHNY./2018 etc. Dated 06.12.2018;

5.1. He has also referred to various other decisions wherein the transactions in the penny stocks were held to be artificial and non-genuine transactions.

6. We have considered the rival submissions as well as relevant material on record. The Assessing Officer has considered this issue in Para no.3 of the assessment order as under:

*“3. During the course of assessment proceedings, it was noticed that the assessee has declared net purchases of Rs 8,03,16,136/- after adjusting losses on sale of two scrips le Shree Shaleen & SRK Industries Ltd. The assessee was accordingly required to furnish details of the transactions related to sale of shares. The assessee furnished the details as under:*

Scrip Name	Purchases Qty/Date	Purchases Rs	Sales Qty/Date	Sales Rs	Profit/(loss)
Amtek Auto Ltd	1,00,000 20-3-2014	1,36,11,391	1,00,000	1,47,32,414 24-03-2014	11,21,023
Amtek Auto Ltd	75,000 26-03-2014	1,13,62,500	-	-	-
Shree Shaleen	1,00,000 26-12-2013	59,63,500	1,00,000	17,71,000 22-3-2014	(41,92,500)
Shree Shaleen	1,00,000 22-03-2014	59,62,500	-	-	-
SRK Industries Ltd	3,78,875 26-12-2013	7,26,11,909	3,78,875	1,26,92,250 27-03-2014	(599,19,659)
	7,53,875	10,95,11,800		291,95,664	(629,91,135)

It is noticed from the details furnished by the assessee that the book value of shares of Shree Shaleen was Rs 10.60 per share (before split) as on 31-03-2013 and Rs 0.21 per share(after split) as on 31-3-2014 whereas the assessee has purchased 200,000/- shares @ Rs 59.63 per share on 23- 12-2013 out of which 100,000/- shares were sold @Rs 17.71 thereby booking losses. Similarly book value of shares of SRK Industries Ltd was Rs 1.04 per share(face value Rs 10) as on 31-03-2013 and Rs 5.32 per share(face value Rs 5) as on 31-3- 2014 whereas the assessee has purchased 3,78,875 shares @ Rs 191.65 per share in Dec 2013 & Jan 2014. These shares were sold @ Rs 35.22 thereby booking losses. The assessee was therefore required to explain why these losses should not be disallowed. Copy of this office letter dated 5-12-2016 is reproduced as under:

F.No.ACIT CC-2(3)/Hyd/Scrutiny/2016-17

Date : 5-12-2016

To  
Mrs Reema Agarwal  
D-103, Trendset Valley View  
Road No 6, Banjara Hills  
Hyderabad 500 034

Sir,

Sub : Scrutiny Assessment Proceedings in the case of Mrs Reema Agarwal  
(PAN: AELPA4179F) – A.Y. 2014-15

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Further to the ongoing scrutiny proceedings in the above case , you are required to furnish the following details:

1. Furnish submissions as to why Interest paid on OD a/c Rs 10,16,571/- should be allowed to be adjusted against interest received from Banks & other entities.
2. Furnish Broker Note for purchase of shares of Amtek Auto Ltd Rs 75,000/-.
3. Furnish details of transactions of Rs 135,83,000/-, Rs 147,63,000/- and Rs 168,05,66,300/- which has resulted in STT of Rs 13583/-, Rs 14,763/- & Rs 168056.64 (Client code B14482 & Brokercode 07141).
4. It is noticed from the details furnished by you that book value of shares of Shree Shaleen was Rs 10.60 per share (before split) as on 31-03-2013 and Rs 0.21 per share(after split) as on 31-3-2014 whereas the assessee has purchased 200,000/- shares @ Rs 59.63 per share on 23- 12-2013 out of which 100,000/- shares were sold @ Rs 17.71 thereby booking losses. Similarly book value of shares of SRK Industries Ltd was Rs 1.04 per share(face value Rs 10) as on 31-03- 2013 and Rs 5.32 per share(face value Rs 5) as on 31-3-2014 whereas the assessee has purchased 3,78,875 shares @ Rs 191.65 per share in Dec 2013 & Jan 2014. These shares

were sold @ Rs 35.22 thereby booking losses. You are therefore required to furnish your submissions as to why these losses should not be disallowed.

5. Furnish submissions as to why the other expenses of Rs 10,00,923/- & salary Rs 6,20,000/- should be allowed. Produce evidences for such allowability.

6. Please furnish details of closing stock -whether the same has been sold in AY 2015-16.

You may either personally or through your Authorised Representative attend before the undersigned & furnish your submission alongwith evidences if any on the above issues. As this is a time barring matter, no further request for adjournment will be considered. Your submissions alongwith evidences should reach this office by **9-12-2016**. Copy of this letter has been emailed to your designated email ID: **prem\_bajaj@bsgroup.in** & **pmurali.co@gmail.com** as per IT Return & Email ID: **chandrababu.ca@gmail.com** of your Authorised Representative for immediate compliance.

The Authorised Representative attended on 9-12-2016 and vide his submissions dated 9-12-2016 stated that the purchase & sale of shares were done on BSE which is regulated by SEBI and all trades were done through a registered broker. The AR stated that all the transactions were through Exchange only. He further stated that book value of any particular share does not reflect the price prevailing on the stock exchanges at which they are traded and that the prices fall was much and there was no other alternative except to book losses in order to ensure that there are no further losses.

The financial details submitted by the assessee & the submissions of the assessee were carefully perused. The contention of the assessee is not acceptable. The holding period of the shares was very less. The buy rate & the sell rate of the scrips are given as under:

Scrip	Book Value 31-3-2013	Book Value 31-3-2014	Bought Rate Per share	Sell Rate Per share
Amtek Auto	557	628	142.70	147.32
Shree Shaleen	10.60	0.21 (after split at Rs 2 per share)	59.63	17.71
SRK Industries	1.04 (face value of Rs 10)	5.32 (face value of Rs 5)	191.65	35.22

As can be seen from the above, the assessee has bought the shares of Shree Shaleen & SRK Industries at an abnormally high price without having regard to the book value of the shares as detailed above and sold the same at a huge loss within a short span of time, thereby booking losses of Rs 6,41,12,159/- without any business prudence. In view of the above, the loss claimed by the assessee on account of these two scrips is disallowed and added to the total income of the assessee. Penalty proceedings u/s 271(1)(c) of the I.T. Act 1961 are initiated for concealment of income. **(Disallowance: Rs 6,41,12,159/-)**

6.1. Thus, it is clear that the Assessing Officer has proceeded by taking the book value of these two scrips as on 31.03.2013 and 31.03.2014 prior and post-split of shares. It is pertinent to note that the shares of these two companies viz., (i) Shree Shaleen Textiles Ltd., and (ii) SRK Industries Limited were split up from the face value of Rs.10/- to Rs.2/- and face value of Rs.10/- to Rs.5/-, respectively, as on 31.03.2013. The transaction in the case of the assessee as reflected from the details are carried out on 26.12.2013 as purchase and 22.03.2014/27.03.2014 as sales of shares of these two scrips. As a matter of fact, there was difference in purchase price and sale price which has resulted losses on trading of these two scrips. It is pertinent to note that the purchase transactions of these two scrips were taken place on 26.12.2013 and the sale transactions were after about 03 months on 22.03.2014 and 27.03.2014, respectively. Therefore, it is not a case of purchase and sale of shares within a day or two but there is a gap of about 03 months in purchase and sale of these transactions. The Assessing Officer has not disputed the prevailing market price of these



**S R K INDUSTRIES LIMITED**

ANNUAL REPORT 2013-2014

**B. GENERAL SHAREHOLDERS INFORMATION:****Annual General Meeting (AGM)**

The 23<sup>rd</sup> AGM of the Company will be held on:

Day, Date and Time: September 29 , 2014 at 9.30 a.m.

Venue: 310, V, Star Plaza, Chandawarkar Road, Borivali (W), Mumbai- 400092

The next financial year of the Company is April 1, 2014 to March 31, 2015.

The tentative quarterly results will be adopted by the Board of Directors in accordance with the following schedule:

For the Quarter Ending	Time period
June 30, 2014	2 <sup>nd</sup> week of August, 2014
September 30, 2014 (Quarter as well as Half Year)	2 <sup>nd</sup> week of November, 2014
December 31, 2014	2 <sup>nd</sup> week of February, 2015
March 31, 2015	2 <sup>nd</sup> week of May, 2015

**Book closure:**

28<sup>th</sup> September 2014 to 29<sup>th</sup> September 2014 (both days inclusive)

**Dividend Payment Date:** Not Applicable as Interim Dividend has already been paid.

**Listing on Stock Exchange and the Stock Code allotted:**

The Equity Shares of the Company are listed on the Bombay Stock Exchange Limited.

Bombay Stock Exchange Limited (BSE), Phiroze Jeejee bhoy Towers, Dalal Street Mumbai – 400 001

The Stock Codes allotted by Stock Exchange and Depositories are as follows:

Name	Code
S R K Industries Limited	531307
Demat ISIN Numbers in NSDL and CDSL	INE951M01037

The listing fees for the financial year 2014-15 have been paid to Bombay Stock Exchange Limited. The Company has also paid annual custodian fee for the year under review to NSDL & CDSL.

**Market Price Data (Face Value of Rs. 10/- per share)**

Month	Bombay Stock Exchange Limited (In Rs. Per share)	
	High	Low
April 2013	25.00	25.00
May 2013*	341.35	225.00
June 2013	338.70	323.50
July 2013	353.60	312.00
August 2013	350.75	325.55
September 2013	352.10	335.20
October 2013**	350.75	171.30
November 2013	184.95	163.50
December 2013	199.90	154.65
January 2014	185.95	92.95
February 2014	95.30	55.55
March 2014	53.45	31.65

\* No. of shares were reduced from every 100 equity shares to 10 equity share, as per order of Hon'ble High Court of Madras.

\*\*Face value of shares was reduced by 50% and face value from Rs. 10/- to Rs. 5/- each.

**S R K INDUSTRIES LIMITED**

ANNUAL REPORT 2013-2014

**Shareholding Pattern as on March 31, 2014:**

Sr. No.	Category of Shareholders	Total Holdings	% of Shareholdings
1.	Promoter & Promoter Group	20647984	26.32
2.	Mutual Funds and UTI	Nil	Nil
3.	Banks, Financial Institutions, Insurance Companies and Venture Capital Fund	Nil	Nil
4.	FII/Foreign Bodies	Nil	Nil
5.	Private Corporate Bodies	42759755	54.50
6.	Indian Public	13131425	16.74
7.	NRIs/OCBs	12723	0.02
8.	Clearing Member	Nil	Nil
9.	Hindi Un-divided Family	1901493	2.42
	Total	78453380	100.00

**Distribution of Shareholding as on March 31, 2014 is as under:**

Category	Shareholders		Face Value of Rs. 10/- Per Share	
	Numbers	% of shareholders	Amount (Rs.)	% of Amount
1 - 5000	1048	75.07	1097040	0.28
5001 - 10000	45	3.22	321975	0.08
10001 - 20000	45	3.22	632410	0.16
20001 - 30000	13	0.93	333950	0.09
30001 - 40000	10	0.72	355820	0.09
40001 - 50000	10	0.72	449850	0.11
50001 - 100000	38	2.72	2759375	0.70
100001 - Above	187	13.40	386316480	98.49
Total	1396	100.00	392266900	100.00

**Registrar and Share Transfer Agent**

Purva Sharegistry (India) Pvt. Ltd, Unit No.9, Shiv Shakti Ind. Estate, opp. Kasturba hospital Lane, Lower Parel (East), Mumbai - 400 011.

Phone : 022-23016761, Fax : 022-23012517, E-mail : info.investors@srkindtd.co.in

**Share Transfer System**

Requests for share transfers, rematerialisation and transposition are approved by Stockholder Relationship Committee. The Share Certificate is returned/ issued within the time period as stipulated under The Companies Act, 1956, The Depositories Act, 1996, Listing Agreement and other applicable rules and regulations.

The Company has not issued any GDRs /ADRs /Warrants or any Convertible Instruments.

**For and On behalf of the Board of Directors  
S R K Industries Limited**

Sd/-

Rakeshchand M. Jain

Chairman &amp; Managing Director

Date: September 1, 2014

Place: Mumbai

**Registered Office:**

F-35, Shagun Arcade,  
Film City Road, Dindoshi,  
Malad (East),  
Mumbai - 400 097 (Maharashtra)

6.2. Therefore, the monthly prevailing high and low price at BSE of these two scrips is also reported in the annual reports of these companies, which is also not disputed by the Assessing Officer rather the Assessing Officer has given the reasons for disallowing the loss as the assessee booked the loss without any business prudence. The Assessing Officer cannot sit in the arm chair of the business person to take a decision and question the prudence of the assessee. It is also pertinent to note that to avoid tax at maximum marginal rate @ 30%, why one should book a bogus loss of Rs.6.41 crore. We further note that all the transactions were carried out in the regular course of trading at BSE through the registered broker. The Assessing Officer has not disputed the acquisition of these shares by the assessee and reflected in the Trading/DEMAT A/c of the assessee against the consideration paid through banking channel as evident from the bank account statement filed by the assessee placed at Page nos.60 to 65 of the paper book. The assessee has also produced the assessee's ledger A/c in the books of the broker as well as the account statement reflecting the holding of the

shares by the assessee after the acquisition in the month of December 2013 and sale of the same towards the end of March 2014. When the transactions carried out by the assessee are legal and permissible transaction on the stock exchange, then, the outcome of the transaction whether profit or loss cannot be questioned on the ground of business prudence. It is also matter of record that the assessee has carried out various other transactions of purchase and sale of shares including huge number of F & O transactions which have resulted in profits, therefore, these are not the isolated transaction carried out by the assessee to book the loss. Even otherwise when the transactions are valid and legally permissible transactions, then, the intentional booking of loss by the assessee falls in the ambit of tax planning and not tax avoidance. The assessee can very well manage its affairs and tax planning and if it is found that some of the scrips are going to yield loss, then, booking of the said loss at the fag end of the financial year is part of tax planning to reduce the tax liability. So long the transactions are within the legal parameters and permissible under law, then, the outcome of

the said transactions will be part of the business activity of the assessee and cannot be treated separately.

6.3. As regards the SEBI investigation and imposition of the penalty, it is a matter of record that the SEBI vide two separate Orders in the case of Shree Shaleen Textiles Ltd., and SRK Industries Limited has found the violation of disclosure on the part of the Promoters/Managing Directors of these two companies under Clause-35 of the listing agreement to BSE and consequently, the penalty was imposed on the Directors and Promoters who were also barred for trading at the stock exchange. The said Orders of the SEBI has no bearing on the transaction of purchase and sale of shares by the assessee on the stock exchange through a registered broker. The Assessing Officer has not brought any fact or material on record to show that the assessee has not carried out these transactions but artificially booked this loss. The decisions relied upon by the learned DR are all in respect of long term capital gains shown by the assessees from the transaction of purchase and sale of penny stock and claimed as exempt u/sec.10(38) of the Act which were found

to be bogus transactions or accommodation entries and consequently, the addition was made u/sec.68 of the Act, whereas in the case on hand, the assessee has not claimed any such exempt income rather the transactions are in the nature of trading of these scrips and assessee has booked the business loss. We further note that the learned CIT(A) has also given much emphasis on the decisions which were in respect of transactions carried out in the penny stock and declaration of the exempt income u/sec.10(38) of the Act as per Para nos.7.2 to 7.4 of the impugned order as under:

*“7.2. At the outset, it is a known fact that penny stock transactions are being used for the purpose of money laundering activities wherein shares of no value or negligible value are purchased and held for more than twelve months and transferred thereafter at an exorbitant price to convert the same into tax exempt LTCG u/s 10(38) of the Act. In certain cases, such shares are bought at an exorbitant price and held for less than twelve months and transferred thereafter at an abnormally low price so as to arrive at huge amount of business loss or STCL, as the case may be. Further, the said loss is adjusted against other taxable income of the assessee under the head business or capital gains, as the case may be.*

*7.3. In the instant case, the assessee has selected the shares of M/S, SRK Industries Limited and Mis. Shree Shaleen Textiles Limited, for the purpose of creating bogus business loss*

*and set off of the same against business income of the assessee derived from purchase and sale of Futures. This particular modus operandi adopted by the assessee has been subject matter of investigation by various authorities including Income Tax Dept, SEBI etc., In respect of Income Tax cases, various courts have held in favour of department observing that penny stock transactions should be judged by applying the "theory of preponderance of probabilities" in place of paper evidence furnished by the assessee. Also, the concepts of "substance over form" and "lifting corporate veil" should be pressed into action in order to understand the actual intention of the assessee behind entering into transactions through penny stock. All these issues and concepts are discussed with the help of case laws in the subsequent part of the order.*

7.4. *At the outset, as seen from the grounds of appeal and submissions made thereof, the assessee has tried to put across his view point by way of producing paper evidence which cannot be accepted on face of it without considering the exact nature of transactions and the purpose for which the assessee indulged in such transactions. In view of this, it is imperative to analyse whether the assessee has adduced adequate evidence to prove the genuineness of the transactions with regard to trading in penny stocks which resulted in generation of huge amount of loss which was set off against taxable business income derived from trading in Futures."*

6.3. In the case in hand when the shares were purchased by the assessee @ Rs.69.63ps and Rs.191.65ps per share respectively, it cannot be considered as penny stock. There is no such definition of penny stock. However,

the market price of a share below Rs.10/- is considered in the trader's parlance as penny stock. Therefore, the whole basis of confirming the disallowance while passing the impugned order by the learned CIT(A) is irrelevant for the facts of the case in hand where the genuineness of the transaction is not at all doubted by the Assessing Officer and further nothing has been brought either by the Assessing Officer or by the learned CIT(A) to show that the assessee has artificially booked the loss in question without doing the actual transaction of purchase and sale of shares. We find from the record that the assessee produced all the relevant records in support of the transaction of purchase and sales as well as the purchase/sales price and the prevailing price on the relevant dates of purchase and sale of shares on the stock exchange. It is not the case of the Revenue that the assessee is a party and played a role in manipulation of the market price on the stock exchange of these two scrips. Accordingly, the assessee has established her claim which is duly substantiated by the evidence brought on record that these transactions are real transactions carried out by the assessee

in the normal course of trading on the stock exchange at the prevailing price on the relevant dates of purchase and sales and therefore, the loss incurred by the assessee from these transactions cannot be held as artificial or bogus loss. Even if assessee has acted in an un-prudent manner the same cannot be a reason or ground to disallow the loss actually incurred by the assessee. Hence, we are of the considered opinion that the Assessing Officer has disallowed the loss incurred by the assessee without any basis and merely on conjectures and surmises lacking any substance. Accordingly, the addition made by the Assessing Officer on account of disallowance of the loss is deleted.

7. In the result, appeal of the Assessee is allowed.

Order pronounced in the open Court on 26.02.2026.

Sd/-  
[MANJUNATHA G.]  
ACCOUNTANT MEMBER

Sd/-  
[VIJAY PAL RAO]  
VICE PRESIDENT

Hyderabad, Dated 26<sup>th</sup> February, 2026.

VBP

Copy to :

1.	Smt. Reema Agarwal, Hyderabad – 500 034. C/o. P. Murali & Co. Chartered Accountants, 6-3-655/1/3, Somajiguda, Hyderabad - 500 082.
2.	The ACIT, Central Circle-2(3), Hyderabad.
3.	The CIT(A)-6, 6A, IT Towers, AC Guards, Hyderabad.
4.	The Pr. CIT-6, Hyderabad.
5.	The DR, ITAT, “B” Bench, Hyderabad.
6.	Guard file.

BY ORDER