

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH, 'A' PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.130/PUN/2018

निर्धारण वर्ष / Assessment Year : 2013-14

ACIT, Circle-6, Pune	Vs.	M/s. Shirdi Country Inns Pvt. Ltd., 15-A, Koregaon Road, Pune 411 001 PAN : AAJCS1287R
Appellant		Respondent

Assessee by Shri Hari Krishan
Revenue by Shri Kalika Singh

Date of hearing 04-07-2022
Date of pronouncement 04-07-2022

आदेश / ORDER

PER R.S. SYAL, VP :

This appeal by the Revenue is directed against the order dated 29-09-2017 passed by the CIT(A)-4, Pune in relation to the assessment year 2013-14.

2. The only issue raised is against the deletion of addition of Rs.8,32,12,400/- made by the Assessing Officer u/s. 68 of the Income-tax Act, 1961 (hereinafter also called 'the Act').

3. Briefly stated, the facts of the case are that the assessee is engaged in the business of Hotels and Hospitality. The Assessing Officer (AO) observed during the course of assessment proceedings that the assessee had shown to have received unsecured loans amounting to Rs.8,32,12,400/- from 4 parties namely, (1) L.K. Corporation – Rs.3,63,12,400/-; (2) Saroj Holding – Rs.2,56,00,000/-; (3) K.R. Chem (Rajesh Srichand Jeswani) – Rs.1,06,50,000/-; and (4) St. Larn Hotels Pvt. Ltd. – Rs.80,00,000/-. The assessee was called upon to furnish confirmations, returns of income, balance sheet and statement of the lenders. The assessee could not furnish such details except confirmation of unsecured loans and submitted that the parties have denied to produce the computations and returns of their income. The AO discussed all these 4 unsecured loans one by one and observed that in two cases, the jurisdictional AOs of the concerned alleged lenders, reported that they had not filed the income-tax returns. Consequently, addition of Rs.8.32 crore was made. The assessee furnished additional evidence before the Id. CIT(A) in support of the genuineness of these four creditors.

Getting convinced, the Id. CIT(A) deleted the addition. Aggrieved thereby, the Revenue has come up in appeal before the Tribunal.

4. We have heard both the sides and gone through the relevant material on record. It is seen that the assessee, despite specific requisition by the AO, failed to furnish complete details to prove the genuineness of the transactions, Identity and Capacity of the four creditors under consideration. The assessee furnished relevant evidence before the Id. CIT(A) in order to prove the genuineness of the transactions, who, without calling for any remand report from the AO, simply deleted the addition. In our considered opinion, the present backdrop of the facts warranted the Id. CIT(A) to seek comments of the AO on the additional evidence filed by the assessee before deleting the addition. Without going into the merits of the genuineness of the creditors or otherwise individually, we are of the considered opinion that it would be in the fitness of things if the impugned order is set aside and the matter is restored to the file of the AO. We order accordingly and direct him to decide this issue afresh as per law after allowing reasonable opportunity of hearing to the assessee. The assessee in such proceedings will be at liberty to file any

fresh evidence in support of the genuineness of the creditors as it feels expedient.

5. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the Open Court on 04th July, 2022.

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 04th July, 2022
सतीश

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The CIT(A)-7, Pune
4. The Pr.CIT-6, Pune
5. DR, ITAT, 'A' Bench, Pune
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

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

		Date	
1.	Draft dictated on	04-07-2022	Sr.PS
2.	Draft placed before author	04-07-2022	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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