

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI
BEFORE SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER &
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No. 1520/Mum/2021
(A.Y: 2009-10)

M/s Multiventure Hotels Pvt Ltd Shop No. 15, Anuradh Society, Next to fire Brigade, SV Road, IRLA Bridge, Andheri (W), Mumbai – 400058.	Vs.	ITO – 10(2)(4) Room No. 213, 2 nd Floor, Aayakar Bhavan, MK Road, Mumbai-400020
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAFCM4179E		
Appellant	..	Respondent

Appellant by :	Mr.Vishnu Agarwal.AR
Respondent by :	Ms.Kavita Kaushik.DR

Date of Hearing	08.06.2022
Date of Pronouncement	17.06.2022

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

The assessee has filed the appeal against the order of the CIT(A)- National Faceless Appeal Centre (NFAC), Delhi passed u/s 144 r.w.s.147 and 250 of the Act. The assessee has raised the following grounds of appeal:

1. *On the facts and circumstances of the case and in law, the reopening of the assessment u/s 147 of the Income Tax Act, 1961 is incorrect and bad in law.*

2. *2. On the facts and circumstances of the case and in law, the Ld. CIT (A) has erred in confirming the additions made by the Ld. Assessing Officer on account of unexplained cash credits, being unsecured loans of Rs. 25,00,000/- without considering the submissions made and facts of the case.*

3. *On the facts and circumstances of the case and in law, the Ld. CIT (A) has erred in confirming the additions made by the Ld. Assessing Officer on account unexplained investments of Rs. 1,27,900/- without considering the submissions made and facts of the case.*

4. *On the facts and circumstances of the case and in law, the Ld. CIT (A) has erred in not providing the Cross Examination during the course of Assessment.*

5. *The appellant craves leave to add, alter or delete any ground(s) either before or in the course of the hearing of the appeal.*

2. The brief facts of the case are that the assessee company is engaged in the business of Hotels & Short stay accommodation. The assessee has filed the return of income on 10-03-2010 with a total loss of

Rs.20,170/-. The Assessing officer (A.O.) received the information from the DDIT (Inv), Mumbai that the assessee has purchased the land at Raigad District for a consideration of RS.1,27,900/- and obtained unsecured loan of Rs. 25 lakhs and the identity, creditworthiness and genuineness of the transaction was not explained. Therefore the A.O. has reason to believe that the income has been escaped assessment and after recording the reasons has issued notice u/s 148 of the Act. Subsequently, the notice u/s 143(2) and 142(1) of the Act were issued and calling for the loan confirmation and to substantiate the identity, creditworthiness and genuineness of transaction and investment details. In spite of sending the notices, referred at Para 3 of the order, there is no compliance from the assessee. The A.O. considering the facts that the assessee is not coming for the record and applied the best judgment assessment on two disputed issues and assessed the total income of Rs.26,07,440/- and passed the order u/s 144 r.w.s 147 of the Act dated 20.10.2016.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A). In the appellate proceedings

the CIT(A) has considered the grounds of appeal and findings of the AO and observed that there is no compliance to the notices issued for the hearing and confirm the action of the A.O. and dismissed the assessee appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the CIT(A).

4. At the time of hearing, the Ld. AR submitted that the CIT(A) has erred in confirming the addition of the A.O in respect of unexplained cash credits and purchase of immovable property. The Ld. AR submitted that no proper opportunity was provided and the assessee has good case on merits and shall substantiate with the evidences and prayed for allowing the appeal. Contra, the Ld.DR supported the order of the CIT(A).

5. We heard the rival submissions and perused the material on record. The sole crux of the disputed issue as envisaged by the Ld. AR that the CIT(A) erred in confirming the additions made by the A.O. in respect of unexplained cash credit of Rs. 25 lakhs of unsecured loan obtained where the identity, creditworthiness and genuineness of the transactions

are available and the investment of Rs. 1,27,900/- can be substantiated. On perusal of the assessment order, we found that the AO has issued notice of hearing and there was no compliance from the assessee referred at page 3 of the A.O. order. Similarly before the CIT(A), the assessee has not complied with the notices of hearing and the CIT(A) has passed an ex-parte order confirming the action of the AO. The bench asked the Ld.AR to explain the genuine reasons for non appearance before the A.O. and CIT(A) and the explanations are not satisfactory. We are of the opinion that the assessee should not suffer for the lapses and there could be various reasons for non appearance which cannot be ruled out. The Ld. AR submitted that the assessee is now ready to substantiate with the evidences. We considering the principles of natural justice shall provide one more opportunity of hearing to the assessee to substantiate the case along with evidences and information subject to payment of cost of Rs.5000/- to Prime Ministers Relief Fund (P M Relief Fund) within in 60 days of receipt of the order and shall provide proof of payment to the Assessing Officer. Accordingly, we set

aside the order of the CIT(A) and restore the entire disputed issues to the file of the CIT(A) to adjudicate afresh and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information for early disposal of appeal and allow the grounds of appeal of the assessee for statistical purposes.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 17.06.2022.

Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated 17.06.2022

KRK, PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त(अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, Mumbai / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

ITA No. 1520/Mum/2021
M/s Multiventure Hotels Pvt Ltd, Mumbai
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आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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(Asst. Registrar)
ITAT, Mumbai