

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH: BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER  
AND  
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No.2318/Bang/2019
Assessment Year: 2012 – 13

M/s. Hotel Paraag Ltd. The Capitol, No.3 Raj Bhavan Road Bangalore 560 001  <b>PAN NO : AAACH4777J</b>	<b>Vs.</b>	ITO Ward-3(1)(3) Bangalore
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Shri Narendra Sharma, A.R.
<b>Respondent by</b>	:	Shri Srinivas Rao Bandaru, D.R.

<b>Date of Hearing</b>	:	14.07.2022
<b>Date of Pronouncement</b>	:	14.07.2022

**O R D E R**

**PER CHANDRA POOJARI, ACCOUNTANT MEMBER:**

This appeal by assessee is directed against order of CIT(A) dated 3.9.2019. The assessee has raised following grounds of appeal:-

- 1. The order of the CIT(A)-2, Bengaluru, (hereinafter referred to as CIT A), passed under section 250 of the Act in so far as it is against the appellant is opposed to law, equity, weight of evidence, probabilities and the facts and circumstances in the Appellant's case.*
- 2. The CIT A has erred in confirming the addition of Rs.2,18,61,150/- made by the AO on the facts and circumstances of the case.*
- 3. The appellant denies itself to be liable for the addition of Rs.1,38,11,147/- being Unsecured Loans received from the Directors of the Appellant Company, under the facts Et circumstances of the case.*
- 4. The appellant denies itself to be liable for the addition of Rs.80,50,000/- being Share Application Monies received from various applicants who*

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*are the family members of the Directors of the Appellant Company, under the facts Et circumstances of the case.*

5. *Without prejudice, the appellant denies itself to be liable for the addition of Rs.68,30,559/- u/s 68 of the Act, which addition though not made separately in the assessment order, stands telescoped into the total addition of Rs.2,18,61,150/-, being cash collections deposited into the appellant's bank account on several dates, under the facts Et circumstances of the case.*
6. *Without prejudice to the right to seek waiver as per the parity of reasoning of the decision of the Hon'ble Apex Court in the case of Karanvir Singh 349 ITR 692, the Appellant denies itself liable to be charged to interest under section 234 A, 234 B and 234 C of the Income Tax Act on the facts and circumstances of the case. Further the levy of interest under section 234 A, 234 B Et 234 C of the Act is also bad in law as the period, rate, quantum and method of calculation adopted on which interest is levied are all not discernible and are wrong on the facts of the case.*
7. *The Appellant craves leave of this Hon'ble Income Tax Appellate Tribunal to add, alter, delete or substitute any or all of the above grounds as may be necessary at the time of hearing.*
8. *For the above and other grounds that may be urged at the time of the hearing of the appeal, the Appellant prays that the appeal may be allowed in the interest of justice.*

1.1. There was a delay of 3 days in filing the appeal before us. The assessee explained the same by an affidavit. In our opinion, this is good and sufficient reason for filing the appeal belatedly, the delay is condoned and admitted for adjudication.

2. The first issue for our consideration is with regard to sustaining of addition of Rs.1,38,11,147/- said to be received from Directors as loan. The assessee said to be received the said amount as loan from the assessee company's directors. The assessee not produced the confirmation letter from the directors. Thus, assessee has not proved the identity of parties, creditworthiness and genuineness of the transaction. Hence, the addition was sustained by ld. CIT(A). Before us, assessee pleaded that an opportunity may

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be given to produce the necessary details before AO and pleaded for accordingly. After hearing both the parties, we are of the opinion that in the interest of justice, it is appropriate to remit the issue to the file of AO with a direction to assessee to file necessary details to prove the identity and capacity of the parties and genuineness of the transaction. Accordingly, this issue is remitted to the file of AO for fresh consideration.

3. Next ground is with regard to sustaining addition of Rs.80.5 lakhs towards share application received from various applicants who are the family members of the assessee company. At the time of hearing, the Ld. A.R. pleaded for an opportunity to prove the necessary details of share applicants so as to prove the identity and capacity and genuineness of the transaction. We accede to the request of the assessee's counsel. Accordingly, after hearing Ld. D.R., we remit this issue to the file of AO to prove the identity, capacity of the parties and genuineness of the transaction.

4. Ground No.5 before us become infructuous in view of the issues remitted to the AO for fresh consideration.

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

Order pronounced in the open court on 14<sup>th</sup> Jul, 2022

**Sd/-**  
**(Beena Pillai)**  
**Judicial Member**

**Sd/-**  
**(Chandra Poojari)**  
**Accountant Member**

Bangalore,  
Dated 14<sup>th</sup> Jul, 2022.  
VG/SPS

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Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

**Asst. Registrar,  
ITAT, Bangalore.**