

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "G", MUMBAI**

**BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER AND  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA NOS. 693 & 694/MUM/2023 : A.Ys : 2015-16 & 2017-18**

M/s. Soham Estates  
7<sup>th</sup> floor, Sun Plaza, Hariom  
Nagar, Off Eastern Express  
Highway, Mulund (E),  
Mumbai 400 081.

Vs. DCIT, Circle – 3, Thane.  
(Respondent)

**PAN : ABKFS1710J (Appellant)**

**Appellant by : Dr. K. Shivaram &  
Shri Shashi Bekal**

**Respondent by : Dr. Kishor Dhule**

**Date of Hearing : 22/06/2023**

**Date of Pronouncement : 26/06/2023**

**ORDER**

**PER B.R. BASKARAN, ACCOUNTANT MEMBER :**

Both the appeals filed by the assessee are directed against the orders dated 10.01.2023 passed by the learned Commissioner of Income Tax (Appeals)-11, Pune (in short 'Ld. CIT(A)') and they relate to Assessment Years 2015-16 & 2017-18.

2. The Id. AR submitted that the Ld. CIT(A) has dismissed both the appeals on the reasoning that assessee has not paid the admitted tax prior

to filing of appeals before him. The Id. AR submitted a chart for Assessment Year 2015-16 and submitted that the admitted tax has been paid by assessee from September 2015 to October 2018, i.e., well before the completion of the assessment itself. The Id. AR also submitted that admitted tax pertaining to Assessment Year 2017-18 has also been paid prior to completion of the assessment.

3. He submitted that the Ld. CIT(A) has taken a view that assessee has not paid the admitted tax prior to filing of appeals before him on the basis of information provided in Form No.35. He submitted that there was some typographical error in filling-up column of Form 35 and hence the Ld CIT(A) was not justified in arriving at erroneous conclusion without verifying the correct facts. Since the observations made by the Ld. CIT(A) were factually incorrect, the Id. AR contended that the Ld. CIT(A) was not justified in dismissing the appeals of the assessee.

4. We heard the Ld. DR and perused the record. The details of tax paid by the assessee were examined by Ld DR also. Having regard to the fact that assessee has paid the admitted tax in both the years prior to filing of the appeals before the Ld. CIT(A), we are of the view that the First Appellate Authority was not justified in dismissing the appeals of the assessee without appreciating the facts correctly. Accordingly, we set-aside the orders passed by the Ld. CIT(A) in both the years. Since the Ld. CIT(A) has not adjudicated the appeals on merit, we restore all the issues contested by the assessee in both the years to the file of the Ld. CIT(A) for adjudicating them afresh, after adequate opportunity of hearing to the assessee.

5. In the result, both the appeals filed by the assessee are treated as allowed for statistical purposes.

Order pronounced in the open court on 26<sup>th</sup> June, 2023.

Sd/-  
(RAHUL CHAUDHARY)  
JUDICIAL MEMBER

Sd/-  
(B.R. BASKARAN)  
ACCOUNTANT MEMBER

Mumbai, Date : 26<sup>th</sup> June, 2023

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Copy to :

- 1) The Applicant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, "G" Bench, Mumbai
- 5) Guard file

By Order

Dy./Asstt. Registrar  
I.T.A.T, Mumbai