

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI "D" BENCH : MUMBAI

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER

ITA.Nos.1809 & 1810/Mum./2024
Assessment Years 2015-2016 & 2016-2017

Deejay Stocks Private Limited, 401, Shangrilla Apt. L.T. Road, Borivali (West), Mumbai -400 092. Maharashtra. PAN AADCD6404H	vs.	The DCIT-4(2)(1), Erstwhile DCIT-12(2)(2), Aayakar Bhavan, Maharshi Karve Road, Mumbai. PIN – 400 020. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	-None-
For Revenue :	Smt. Sanyogita Nagpal CIT-DR On behalf of Smt. Mahita Nair, Sr. DR

Date of Hearing :	08.07.2024
Date of Pronouncement :	18.07.2024

ORDER

PER SATBEER SINGH GODARA, J.M.

These assessee's twin appeals, for assessment years 2015-2016 and 2016-2017, arise against the National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No. ITBA/NFAC/S/250/2023-24/1060783941(1) and 1060784359(1) dated

12.02.2024, in proceedings u/s.147 r.w.s.144 of the Income Tax Act, 1961 (in short “the Act”).

None for the assessee. Heard the department. Case files perused.

2. It emerges at the outset from a perusal of the assessee’s pleadings as well as with the able assistance coming from the Revenue side that both the learned lower authorities have held the assessee a beneficiary in derivative transactions of Rs.6,49,45,163/- and Rs.3,75,97,175/- assessment year-wise; respectively; which stands upheld in the CIT(A)-NFAC’s ex-parte lower appellate discussion(s).

3. Mrs. Nair vehemently argued in support of the learned lower authorities findings that there existed sufficient cogent material indicating the assessee to have been a beneficiary in non-genuine derivative transactions. She further invited our attention to SEBI’s order dated 27.01.2021 in it’s detailed investigation as relied upon in the CIT(A)-NFAC’s discussion in para-4.5 pages-7 to 9. We note in this factual backdrop that the Assessing Officer’s assessment herein had also quoted assessee’s non-cooperation/non

appearance during the course of scrutiny which continued in the lower appellate proceedings as well since we do not see any material to the contrary in the case files. The fact also remains that possibility of communication gaps at various levels in such instance could not be altogether ruled out. We deem it appropriate in these peculiar facts and circumstances as well as in the larger interests of justice, the assessee's twin appeals deserves to be restored back to the CIT(A)-NFAC for it's afresh appropriate adjudication, preferably within three effective opportunities of hearing, subject to the rider that it shall be the taxpayer's onus and responsibility only to plead and prove all the relevant facts in consequential proceedings. Ordered accordingly.

3. These assessee's twin appeals ITA.Nos.1809 & 1810/Mum./2024 are allowed for statistical purposes in above terms.

Order pronounced in the open Court on 18.07.2024

Sd/-
[GIRISH AGRAWAL]
ACCOUNTANT MEMBER
Mumbai, Dated 18th July, 2024
VBP/-

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Copy to

1.	The applicant
2.	The respondent
3.	The Pr. CIT, Mumbai concerned
4.	D.R. ITAT, "D" Bench, Pune.
5.	Guard File.

//By Order//

//True Copy //

Asst. Registrar, ITAT, Mumbai Benches,
Mumbai.