

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

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER

ITA.Nos.2125 & 2122/Mum./2024  
Assessment Years 2017-2018 & 2018-2019

The Income Tax Officer, Room No.209, Aayakar Bhavan, M.K. Road, Mumbai – 400 020.	vs.	Shri Sai Shakshi Hotels Pvt. Ltd., 137, Megha Wadi, Dr. S.S. Road, Mumbai. Maharashtra. PIN – 400 012. PAN AAACN7512P
(Appellant)		(Respondent)

For Revenue :	Shri Prashant Mahajan, Sr. AR
For Assessee :	Shri Vimal Punmiya, C.A.

Date of Hearing :	22.07.2024
Date of Pronouncement :	26.07.2024

**ORDER**

**PER SATBEER SINGH GODARA, J.M.**

These Revenue's twin appeals ITA.Nos.2125 and 2122/Mum./2024, for assessment years 2017-2018 and 2018-2019, arise against the CIT(A)-National Faceless Appeal Centre, Delhi, Delhi's as many DIN & Order nos.ITBA/NFAC/S/250/2023-24/1061927316(1) and 1061927464(1), both dated 04.03.2024 in proceedings

u/s.144 and 143(3) of the Income Tax Act, 1961 (in short "the Act"); assessment year-wise; respectively.

Heard both the parties. Case files perused.

2. The Revenue's "lead" appeal ITA.No.2125/MUM./2024 for the former assessment year 2017-2018 pleads the following substantive grounds :

1. *"Whether on facts and in the circumstances of the case and in law, the learned CIT(A) erred in deletion the addition made on account of share premium received as unexplained cash credits u/s.68 of the Income tax Act, 1961 without appreciating the fact that the assessee had failed to prove and justify the premium charged vis-a-vis the fair market value of the share of company and not furnish satisfactory explanation with regard to the identity, creditworthiness of the parties, sources thereof and genuineness of the transactions."*
2. *"Whether on facts and in the circumstances of the case and in law, the learned CIT(A) erred in deletion the addition made on account of unsecured loan as*

*unexplained cash credits u/s.68 of the Income tax Act, 1961 without appreciating the fact that the assessee had failed to furnish satisfactory explanation with regard to the identity, creditworthiness of the parties with regard to the identity of the parties, sources thereof and genuineness of the transactions."*

3. *"Whether on facts and in the circumstances of the case and in law, the learned CIT(A) erred in deletion the addition made on account of unsecured loan and share premium as unexplained cash credits u/s 68 of the Income tax Act, 1961 without appreciating the fact that the Ld.CIT(A) has not send matter to JAO for further verification and remand in this case"*
4. *The revenue craves leave to add further grounds or amend or alter the existing grounds of appeal on or before the date of hearing.*

3. We next note that the Revenue's latter appeal ITA.No.2122/MUM./2024 also seeks to revive the Assessing Officer's action making sec.68 unexplained cash credits additions of Rs.7.50 crores made in the course of

assessment dated 21.04.2021 as deleted in CIT(A)-NFAC's lower appellate discussion.

4. Both the learned representatives reiterated their respective stands during the course of hearing wherein the Revenue's case before us is that the Assessing Officer had indeed framed his both assessments dated 12.12.2019 and 21.04.2021; u/sec.144 and 143(3) r.w.s.144B of the Act, respectively; once the assessee had not filed all the relevant details regarding the additions made therein.

5. Learned DR next invited our attention to the lower appellate discussion in both these assessment years to submit that the assessee had filed some additional details/evidence(s) which led to acceptance of its corresponding substantive grounds resulting in reversal of the assessment findings.

6. Faced with this situation, we sought to know from the learned authorized representative as to whether the assessee had filed additional details in respect of its substantive grounds raised in both the lower proceedings or

not ? Learned counsel submitted in response thereto that the assessee could not plead and prove all the relevant facts in both these assessments because of Covid-2019 pandemic outbreak and therefore, it duly made out its case for admission of all the relevant details in the lower appellate proceedings. Meaning thereby, that the CIT(A)-NFAC has indeed admitted assessee's evidence(s) filed in the corresponding lower appellate proceedings for the first time as it is borne out from rival submissions as well as the case records. Faced with this situation, we deem it appropriate in the larger interest of justice to restore the assessee's instant twin appeals canvassing corresponding substantive grounds back to the Assessing Officer for his afresh, appropriate adjudication/factual verification of the assessee's evidence(s) filed explaining the source of the investments and deposits; as the case may be in question. Needless to say, it is the taxpayer's risk and responsibility to plead and prove its' case in consequential proceedings before the Assessing Officer. Ordered accordingly.

No other ground or argument has been pressed before us during the course of hearing.

7. These Revenue's twin appeals ITA.Nos.2125 & 2122/Mum./2024 are allowed for statistical purposes in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open Court on 26.07.2024

Sd/-  
[OMKARESHWAR CHIDARA]  
ACCOUNTANT MEMBER

Sd/-  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

Mumbai, Dated 26<sup>th</sup> July, 2024

VBP/-

Copy to

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

//By Order//

//True Copy //

Assistant Registrar, ITAT, Mumbai Benches,  
Mumbai.