

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“F” BENCH MUMBAI**

**BEFORE HON’BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &  
HON’BLE SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No. 4109/Mum/2024  
(Assessment Year: 2022-23)**

Nalia Jagdishkumar Gupta House, CTS No. 448, 448/1, 449, Subhash Road, Vile Parle (E), Mumbai	Vs.	DCIT , CC -5(1) Room No. 426, 4 <sup>th</sup> Floor, Kautilya Bhavan, BKC, Bandra, Mumbai – 400051.
PAN/GIR No. AAEPG9920B		
(Applicant)		(Respondent)

Assessee by	Shri K Shivram Sr. Advocate & Shri Shashi Bekal
Revenue by	Ms. Neena Jeph, CIT DR

Date of Hearing	07.05.2025
Date of Pronouncement	03.07.2025

आदेश / ORDER

**PER SANDEEP GOSAIN, JM:**

**Nalin Jagdishkumar Gupta:**

The above titled appeal has been preferred against the order dated 24.06.2024 of the Commissioner of Income Tax (Appeals) – 53, Mumbai [hereinafter referred to as CIT(A)] relevant to assessment year 2022-23.

1. For this year, the Assessee has raised the following grounds of appeal:

*“1. On facts and circumstances of the case and law on the subject, the learned assessing officer erred in making addition of Rs.75,00,000/- considering unsecured loan as unexplained Income u/s 69A r.w.s 115BBE of the Income Tax*

*Act, 1961. The learned CIT(A) erred in upholding the action of the ld. AO by confirming the additions of Rs. 75,00,000/- without correct appreciation of the facts of the case and law on the subject. In view of the facts and circumstances of the case and law on the subject, the addition be deleted.*

2. *The appellant craves leave to add, amend, alter or delete any ground of appeal on or before the date of hearing.”*

2. Grounds of appeal no.1 of the Assessee relates to challenging the addition confirmed of Rs.75 lakhs u/s.69A of the Act.

3. The grounds of appeal and facts in respect of this ground is identical to that of the case of Shri Jagdishkumar Gupta for AY 2022-23 barring the amount added. In the present case of Assessee also, additional evidence is filed and since the issue is common in both the cases, the findings given in the case of Shri Jagdishkumar Gupta in ITA No.4110/Mum/2024 applies to this case also.

4. The finding given in the case of Shri Jagdishkumar Gupta is reproduced hereunder for the sake of brevity:

*“63. We shall first deal with the issue of admissibility of additional evidence. We have given due consideration to the oral arguments and written submission made by the Ld. DR and the contention of the Assessee for admission of additional evidence. The additional evidence filed by the Assessee are letters exchanged between Assessee and family members with Sumitradevi Chaudhary wherein earlier MOU entered between them dated 07.12.2021 is referred in respect of sale of land and advance amount paid aggregating to Rs.6 cr. to family members including Assessee. The letters exchanged are dated 06.01.2025 by Assessee and family members to Sumitradevi Chaudhary in respect of balance consideration of Rs.44 cr. to be paid and which was responded by Sumitradevi Chaudhary vide letter dated 10.01.2025 showing her inability to pay the same and requesting to not forfeit the advance amount paid of Rs.6 cr. Further letter from Assessee and family members dated 20.01.2025 to Sumitradevi Chaudhary for terminating the MOU entered dated 07.12.2021 and refund of advance amount in span of about 7 months and first amount paid of Rs.5 lakhs by Assessee and subsequent payments aggregating to Rs.70 lakhs highlighted*

*by filing bank statement separately. The contention of the Assessee is that all these events have taken place after the orders were passed by lower authorities and thus, these evidences could not be filed earlier. However, the copy of MOU dated 07.12.2021 and explanation of the Assessee that the amount was received as advance for sale of land was furnished before the lower authorities duly supported by Affidavit of Sumitradevi Chaudhary and thus, it cannot be said that these additional evidences are after thought or does not have any bearing on the issue at hand.*

64. *Upon considering the entire gamut of facts and circumstances of the case, we are of the considered view that the additional evidences filed have bearing on the issue at hand. These additional evidences could not be filed before lower authorities for the obvious reason that the letters exchanged and the repayment of advance happened only after the orders were passed by the lower authorities. It is not in dispute that MOU dated 07.12.2021 was filed before the lower authorities including Affidavit of Sumitradevi Chaudhary and explanation furnished. It is seen that the AO has not examined Sumitradevi Chaudhary inspite of Affidavit filed by her and the lower authorities have simply relied upon the seized document for making the addition. We see no harm in restoring the issue back to the file of the AO for fresh adjudication after considering the additional evidences now filed as also the other documentary evidences already on record and further documents that may be required or filed by the Assessee. The AO shall deal with the issue afresh after providing due opportunity to the Assessee and the AO is at liberty to call and examine any person that he may deem fit in the matter. We have refrained from making any observation on the merits of the case and the entire issue is kept open to be decided afresh by the AO.*

65. *As we have admitted the additional evidence filed and restored the issue before the AO for de novo adjudication in terms of directions given hereinabove, no decision is given on merits of the issue. The issue is thus set aside to the file of the AO and this ground of appeal of the Assessee is allowed for statistical purposes.”*

5. In view of the above, this grounds of appeal of the Assessee is restored to the file of the AO with the same direction to the AO as given in the appeal in case of Shri Jagdishkumar Gupta. Thus, this ground of appeal is allowed for statistical purposes.

6. In view of the above, for AY 2022-23, the Appeal of the Assessee is allowed for statistical purposes.

Order pronounced in the open court on 03.07.2025.

Sd/-

**(PRABHASH SHANKAR)  
ACCOUNTANT MEMBER**

Sd/-

**(SANDEEP GOSAIN)  
JUDICIAL MEMBER**

Mumbai, Dated 03/07/2025

KRK, Sr. 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, मुम्बई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार ( Asst. Registrar)  
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai