

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
DELHI BENCH: 'G' NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

ITA No.2360/Del/2023  
Assessment Year: 2011-12

M/s. Shalimar Corp Ltd., A 2/3, Safdarjung Enclave, New Delhi	<b>Vs.</b>	DCIT, Central Circle-30, New Delhi
<b>PAN: AADCS9234L</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

With  
ITA Nos.2764 to 2768/Del/2022  
Assessment Years: 2012-13 to 2016-17

M/s. Shalimar Corp Ltd., 11 <sup>th</sup> Floor, Shalimar Titanium, Vibhuti Khand, Gomti Nagar, Lucknow	<b>Vs.</b>	DCIT, Central circle-30, New Delhi
<b>PAN: AADCS9234L</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

With  
ITA Nos.2502/Del/2023; 2853 & 2854/Del/2022  
Assessment Years: 2011-12, 2013-14 & 2015-16

DCIT, Central Circle-30, New Delhi	<b>Vs.</b>	M/s. Shalimar Corp Ltd., 308, Tulsiani Chamber, Nariman Point, Mumbai
<b>PAN: AADCS9234L</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Sh. Subhash Agarwal, Adv.
Department by	Sh. Mahesh Kumar, CIT(DR)

Date of hearing	17.07.2025
Date of pronouncement	31.07.2025

## **ORDER**

### **PER BENCH:**

The instant batch of nine appeals pertain to the same assessee, namely, M/s. Shalimar Corp Ltd. All other relevant details stand tabulated as under:

<b>Sl. No.</b>	<b>Appeal No.</b>	<b>Appellant</b>	<b>Respondent</b>	<b>Order Appealed against</b>
1-2	2360/Del/2023 for AY 2011-12	M/s. Shalimar Corp Ltd.	DCIT, Central Circle-30, New Delhi	CIT(A)-31, New Delhi's order dated 28.06.2023 passed in case no.1148/22-23, involving proceedings under Section 153A of the Act.
	2502/Del/2023 for AY 2011-12	DCIT, Central Circle-30, New Delhi	M/s. Shalimar Corp Ltd.	
3.	2764/Del/2022 for AY 2012-13	M/s. Shalimar Corp Ltd.	DCIT, Central Circle-30, New Delhi	CIT(A)-31, New Delhi's order dated 27.09.2022 passed in case no.1149/22-23, involving proceedings under Section 153A of the Act.
4-5	2765/Del/2022 for AY 2013-14	M/s. Shalimar Corp Ltd.	DCIT, Central Circle-30, New Delhi	CIT(A)-31, New Delhi's order dated 27.09.2022 passed in case no.1150/22-23, involving proceedings under Section 153A of the Act.
	2853/Del/2022 for AY 2013-14	DCIT, Central Circle-30, New Delhi	M/s. Shalimar Corp Ltd.	
6.	2766/Del/2022 for AY 2014-15	M/s. Shalimar Corp Ltd.	DCIT, Central Circle-30, New Delhi	CIT(A)-31, New Delhi's order dated 27.09.2022 passed in case no.1151/22-23, involving proceedings under Section 153A of the Act.
7-8	2767/Del/2022 for AY 2015-16	M/s. Shalimar Corp Ltd.	DCIT, Central Circle-30, New Delhi	CIT(A)-31, New Delhi's order dated 27.09.2022 passed in case no.1152/22-23, involving proceedings under Section 153A of the Act.
	2854/Del/2022 for AY 2015-16	DCIT, Central Circle-30, New Delhi	M/s. Shalimar Corp Ltd.	
9.	2768/Del/2022 for AY 2016-17	M/s. Shalimar Corp Ltd.	DCIT, Central Circle-30, New Delhi	CIT(A)-31, New Delhi's order dated 27.09.2022 passed in case no.1153/22-23, involving proceedings under Section 153A of the Act.

Heard both the parties at length. Case file perused.

2. Mr. Aggarwal states very fairly at the outset that the assessee does not wish to press for its twin legal grounds/arguments challenging validity of all these assessments for want of any incriminating material found/seized during the course of search nor the latter issue of section 153D approval, as the case may be, as the same have been duly complied with herein by the learned departmental authorities. Rejected accordingly.

3. We next come to the remaining issues between the parties on merits. A combined perusal of these case files indicates that the assessee/appellant M/s. Shalimar Group Ltd. is a company engaged in real estate development business having executed various projects in the impugned assessment years. There is again no dispute between the parties that it had indeed filed section 139(1) returns; wherever applicable. And that the learned departmental authorities carried out the search in question in its case(s) on 18.06.2015 wherein they found/seized various incriminating documents/evidence indicating on-money payments in real estate development transactions. All this led to initiation of Section 153A proceedings vide notice dated 14.06.2017. The assessee filed its return on 13.07.2017 in response thereto

declaring income of Rs.9,54,20,423/- in the “lead” assessment year 2011-12. It would indeed be relevant to clarify here that the assessee/its authorized person had got recorded section 132(4) search statement admitting on-money of Rs.101 crores before the learned departmental authorities.

4. We now advert to the relevant section 153A r.w.s. 143(3) proceedings finalized on 17.11.2021. Learned Assessing Officer did not agree with the assessee’s computation of income herein; and, therefore, he appointed a special auditor under section 142(2A) of the Act who went on to quantify it’s year-wise on-money of Rs.197,82,04,420/-. The Assessing Officer was of the view that this quantification had not considered the above admission/declared on-money of Rs.101 crores (supra) in AY 2015-16. He accordingly arrived at the total on-money figure of Rs.278,96,16,875/- for the entire block period. We further note from a perusal of the assessment findings in this “lead” assessment year 2011-12 at page 29 (para-4) that the learned Assessing Officer formerly estimated the assessee’s on-money followed by his further estimated profit computation @ 37.72% yet again; coming to Rs.6,27,76,692/- and also added unsecured loans of

Rs.4,05,00,000/- treated as unexplained cash credits under section 68, unexplained receipts, non-deduction of TDS, cash payments disallowances; involving varying sums, respectively. The Assessing Officer thus enhanced the assessee's returned income of Rs.9,53,20,420/- to Rs.22,81,63,332/- (rounded off to Rs.22,81,63,330/-), including all the above five additions totaling to Rs.13,28,42,912/- in issue.

5. The assessee preferred its appeal before the learned CIT(A) which stands partly accepted to the extent that the above section 68 unexplained cash credit addition of Rs.2,90,00,000/- has been deleted and all other assessment findings have been confirmed. It is in this factual backdrop that both the assessee's and the department's cross appeals ITA Nos. 2366 to 2505/Del/2022 raising their respective substantive grounds that the former seeks to reverse both the learned lower authorities' action hereinabove in entirety as against the department's sole substantive grievance seeking to revive the unexplained cash credit addition of Rs.2,90,00,000/-; respectively.

6. We have given our thoughtful consideration to the assessee's and the department's vehement submissions reiterating their

respective stands all along. The first and foremost issue which arises for our apt adjudication herein is that of correctness of the learned Assessing Officer's action enhancing the assessee's as well as the special auditor's on-money component computation by a further sum of Rs.101 crores (supra) representing the former authorized representative's declaration during the course of search in section 132(4) statement as mentioned earlier. Learned CIT(DR)'s vehement contention is that the same could not have formed part of the special auditor's quantification; and, therefore, it has been rightly assessed in the taxpayer's hands. We find no reason to sustain the learned lower authorities' action to the effect. We wish to reiterate here that all what the learned lower authorities have done in principle is to first estimate the assessee's on-money at the alleged rate of 35% of all its declared revenue receipts followed by its enhancement based on search statement to the extent of Rs.101 crores ending in further GP estimation thereupon once again @ 37.72%; as indicated in the preceding paragraphs.

7. That being the case, we are of the considered view that once the Special Auditor has already quantified the assessee's on-money as Rs.197,82,04,420/- (supra), it could be safely assessed that the

same also included the admitted/declared sum of Rs.101 crores during search, so as to avoid any double addition. In this factual backdrop we hereby conclude that both the learned lower authorities have erred in law and on facts in further enhancing the assessee's on-money component of Rs.101 crores over and above the special auditor's quantification based on its alleged search statement which is directed to be deleted in very terms. The assessee succeeds on this first and foremost issue therefore.

8. Next comes second substantive issue between the parties wherein both the learned lower authorities have estimated the assessee's profit element in on-money collection @ 37.72% in all these impugned assessment years. Learned CIT(DR) vehemently supports the same on the ground that it is based on the assessee's admitted book result of AY 2012-13. A perusal of the case records at page 173 indicates that the assessee had declared average GP of 16.92% in assessment years 2011-12 to 2016-17 i.e. 6.9%, 37.72%, 17.60%, 13.07%, 13.07%, and 14.03%; respectively. It is thus abundantly clear that the learned departmental authorities herein have enhanced the assessee's profit rate in all these assessment years except in assessment year 2012-13 without

either pinpointing the corresponding specific defects in book result or based on any other material in these assessment years. The fact also remains that the assessee has not been able to plead and prove its above differential profit rates in all these assessment years. We thus deem it appropriate in these peculiar facts that a lumpsum profit rate of 20% or that already declared in the assessee's book results, whichever is higher, as just and proper with a rider that the same shall not be treated as a precedent. Necessary computation to follow in very terms.

9. We are next informed that the third substantive issue between the parties is that of various section 68 unexplained cash credits and similar other additions (supra) made by the Assessing Officer and partly reversed in the CIT(A)'s lower appellate discussion being assessment year 2011-12, wherein the assessee is aggrieved against both the learned lower authorities' action treating its share capital and premium of Rs.4.05 crores as unexplained cash credits, section 40(a)(ia) disallowance of Rs.5,05,671/- on account of non-deduction of TDS and section 40A(3) cash payment disallowance of Rs.60,549/-, as against the Revenue's sole substantive ground of section 68 addition of Rs.2,90,00,000/-; respectively. We are of the

considered view that so far as the assessee's first and foremost issue of section 68 addition has been held by the learned lower authorities as representing on-money routed as share capital and premium which deserves to be treated as on-money component only liable to be assessed at the above rate of 20% since forming part of the business turnover. Its remaining twin substantive grounds of section 40(a)(ia) and 40A(3) have no legs to stand as we have already estimated its profits @ 20% (after rejecting book results) going by Indwell Construction Vs. CIT (1998) 232 ITR 776 (AP). Both these latter disallowances are deleted in very terms therefore. The assessee's instant "lead" appeal ITA No. 2360/Del/2023 partly succeeds in very terms.

10. Coming to the Revenue's "lead" cross appeal ITA No.2502/Del/2023, it emerges from a perusal of the CIT(A)'s lower appellate discussion in para 6 (page -66) onwards that the above section 68 addition amount already stands explained in the hands of M/s. BCPL who has already succeeded on the very issue as discussed in para 6.5 and 6.6 under challenge. We thus see no merit in the Revenue's instant sole substantive ground as well as in ITA No. 2502/Del/2023. Rejected accordingly.

11. The second assessment year i.e. AY 2012-13 herein involves the assessee's case ITA No.2764/Del/2022 raising its four substantive grounds challenging validity of section 153A r.w.s. 143(3) assessments (not pressed) followed by on-money addition of Rs.14,39,15,020/-, unexplained cash credits representing loans received from M/s. Priyanka Vincom (P) Ltd. and section 40A(3) disallowance of Rs.3,80,420/-; respectively. We make it clear that we have already directed the learned Assessing Officer to go by the special auditor's quantification of the on-money addition which shall take care of the assessee's second substantive ground herein as in the preceding assessment year 2011-12. We further direct him to treat the assessee's unexplained cash credits of Rs.17 lakhs as on-money component over and above that quantified by the special auditor followed by its assessment as business turnover @ 20% (supra). The last substantive ground of section 40A(3) disallowance of Rs.3,80,420/- stands accepted in light of Indwell Construction (supra). The assessee's instant second appeal ITA No.2764/Del/2022 partly succeeds therefore.

12. The third assessment year herein assessment year 2013-14 involves the assessee's and the Revenues cross appeals ITA Nos.

2765/Del/2022 and 2853/Del/2022, respectively. The assessee raises its twin substantive grounds seeking to quash the impugned assessment itself (not pressed) followed by on-money addition of Rs.8,58,81,845/- as in the preceding twin assessment years which is hereby restored back to the Assessing Officer for his afresh computation and quantification in very terms. This appeal ITA No.2765/Del/2022 is partly accepted for statistical purposes therefore.

13. The Revenue's cross appeal ITA No. 2853/Del/2022 pleads its sole substantive ground raised against the CIT(A)'s action directing telescoping benefit to assessee to the extent of its loan transactions of Rs.4 crores treated as unexplained by the Assessing Officer. Leaned CIT(DR) could hardly dispute that the assessee's above on-money addition made and sustained hereinabove in principle takes care of the impugned sum which could not be added twice both as business turnover as well as a portion thereof taken as unsecured loan accommodation entry. We thus find no reason to interfere with the learned CIT(A)'s directions under challenge which stand upheld therefore. This Revenue's cross appeal ITA No. 2853/Del/2022 fails accordingly.

14. The assessee has filed its appeal ITA No.2766/Del/2022 in the fourth assessment year 2014-15 raising its four substantive grounds inter alia challenging validity of section 153A r.w.s. 143(3) assessment (not pressed) followed by on-money addition of Rs.31,88,22,539/-, unsecured loans treated as unexplained cash credits amounting to Rs.65 lakhs and section 69 addition of Rs.23,50,86,135/- in the nature of peak balance of the alleged cash loan receipts under section 69 of the Act; respectively. Both the learned representatives are very much *ad idem* during the course hearing that we have already restored the on-money addition issue herein back to the Assessing Officer for his afresh computation and quantification going by the special auditor's report (supra). We accordingly adopt judicial consistency to reiterate the very directions hereinabove since involving identical set of facts.

15. So far as the assessee's third and fourth substantive grounds herein are concerned, we wish to clarify here that we have already directed the learned Assessing Officer to treat the similar addition as representing the assessee's business turnover in addition to the special auditor's report followed by assessment thereof @ 20% GP (supra). We hereby reiterate that the very directions herein to be

followed by consequential computation. These assessee's latter twin substantive grounds are partly allowed for statistical purposes. Its appeal ITA No. 2766/Del/2022 is partly allowed for statistical purposes.

16. The fifth assessment year before us AY 2015-16 involves the assessee's and the Revenue's cross appeals ITA Nos.2767/Del/2022 and 2854/Del/2022. The assessee's first and foremost substantive ground challenging the validity of section 153A r.w.s. 143(3) assessment is not pressed (supra). So far as its latter substantive grounds representing on-money addition, unsecured loans of Rs.4,16,48,455/- treated as unexplained cash credits and share forfeiture sum of Rs.19.50 lakhs are concerned, we are of the considered view that the same represent its on-money component only routed in the guise of loan and other transactions. We thus reiterate our detailed discussion in the first and foremost assessment year 2011-12 hereinabove and direct the learned Assessing Officer to first go by a special auditor's computation of on-money to be followed by assessment of its loan and share forfeiture sums as regular business turnover assessable @20%; respectively.

17. The assessee's last substantive ground raising section 40A(3) disallowance of Rs.50,570/- succeeds in light of Indwell Construction (supra). Its instant appeal ITA No.2767/Del/2022 is partly allowed.

18. Coming to the Revenue's cross appeal ITA No. 2854/Del/2022, its former substantive ground challenges the learned CIT(A)'s action restricting on-money addition of Rs.38,09,00,000/- to Rs.7,49,07,222/- by applying GP ratio as per on-money quantified by the special auditor to Rs.19,85,87,545/- in stead of on-money of Rs. 101 crores (supra). Suffice to say, we make it clear that we have already decided the instant issue in assessment year 2011-12 that the learned Assessing Officer had wrongly added on-money of Rs.101 crores over and above the special auditor's quantification. We thus find no merit in the Revenue's instant former substantive ground which hereby fails accordingly.

19. The Revenue's next substantive grievance herein is directed against the CIT(A)'s above findings allowing telescopic benefit to the assessee of Rs.4,16,48,455/- which hardly carries any merit in

light of our preceding detailed discussion in assessment year 2013-14 onwards upholding the very action. Rejected accordingly.

20. Lastly comes unaccounted expenditure addition of Rs.31,500/- which stands deleted in the CIT(A)'s order for the precise reason that the Assessing Officer had himself allowed expenditure deduction of 62.3% after assessing the assessee's GP rate of 37.7% (supra). We thus conclude that the same also takes care of the impugned alleged unaccounted expenses as well. The Revenue's instant last substantive ground as well as the cross-appeal ITA No. 2854/Del/2022 fails therefore.

21. We are now left with assessee's last appeal ITA No. 2768/Del/2022 in assessment year 2016-17 *inter alia* seeking to quash section 153A r.w.s. 143(3) assessment (not pressed) followed by its other remaining grounds on merits directed against on-money addition of Rs.1,79,27,316/-, unexplained cash credits of unsecured loan of Rs.2.17 crores and also confirming the same to the extent of Rs. 74,98,038/-, unaccounted investment in gold and bullion etc. of Rs.1,97,60,000/- and unexplained expenses of Rs.36,46,500/-; respectively. We first of all observe that the impugned on-money addition deserves to be restored back to the

learned Assessing Officer for his afresh computation and quantification going by the special auditor's report followed by its assessment @ 20%. We further reiterate our directions of assessment of these impugned unsecured loans and unexplained investments as derived from its on-money component and liable to be assessed @ 20% once forming a part of the business turnover in addition to the special auditor's quantification. The assessee's last substantive ground of unexplained expenditure of Rs.36,46,500/- is found to be carrying identical footing as in the preceding assessment year wherein we have already concluded that the same is duly covered within 62.7% expenditure (supra). The impugned last addition of Rs.36,46,500/- is hereby deleted therefore. Its appeal ITA No.2768/Del/2022 is partly allowed.

22. We conclude once again that the learned Assessing Officer shall assess the assessee's on-money as quantified by the special auditor @ 20% or whatever declared in its books, whichever is higher, he shall next assess the assessee's section 68 and 69 additions of unexplained cash credits/unsecured loans, investments etc. which have been upheld in the CIT(A)'s respective orders, as part of business turnover @ 20%, in the foregoing terms.

No other ground or arguments has been pressed before us.

23. To sum up, these assessee's appeals ITA Nos.2360/Del/2023; 2764/Del/2022; 2767/Del/2022 & 2768/Del/2022 are partly allowed; ITA Nos. 2765/Del/2022 & 2766/Del/2022 are partly allowed for statistical purposes and the Revenue's appeals ITA Nos.2502/Del/2023, 2853/Del/2022 and 2854/Del/2022 are dismissed, in above terms. A copy of this common order be placed in the respective case files.

***Order pronounced in the open court on 31<sup>st</sup> July, 2025***

***Sd/-***  
**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

***Sd/-***  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

Dated: 31<sup>st</sup> July, 2025.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi