

**IN THE INCOME TAX APPELLATE TRIBUNAL
"G" BENCH, MUMBAI
BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT AND
SHRI JAGADISH, ACCOUNTANT MEMBER**

I.T.A. No. 6685/Mum/2025

Assessment Year: 2017-18

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I.T.A. No. 6686/Mum/2025

Assessment Year: 2018-19

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I.T.A. No. 6687/Mum/2025

Assessment Year: 2019-20

(Physical Hearing)

DCIT Central Circle – 7(1), Mumbai Room No. 653, 6 th Floor, Aayakar Bhawan, Maharshi Karve Road, Mumbai – 400020	Vs.	Sajjid Amir Khan 18/20B, Seervai Building, Sleater Road, Grant Road, Mumbai - 400007 PAN: AFLPK9773N
(Appellant)		(Respondent)

I.T.A. No. 6552/Mum/2025

Assessment Year: 2018-19

&

I.T.A. No. 6546/Mum/2025

Assessment Year: 2019-20

Sajjid Amir Khan	Vs.	DCIT Central Circle – 7(1), Mumbai
(Appellant)		(Respondent)

Department by	Shri. Arun Kanti Datta- CIT DR
Assessee by	Shri Prakash K Jotwani

Date of Hearing	18.12.2025
Date of Pronouncement	22.01.2026

ORDER

Per: SHRI JAGADISH, A.M.:

1. These appeals arise out of the orders passed by the Ld. Commissioner of Income Tax (Appeals) [hereinafter Ld. CIT (A)]. The Revenue has filed appeals for AY 2017-18 to 2019-20 being ITA No.6685 to

:- 2 -:

6687/Mum/2025. The assessee has filed cross-appeals for AY 2018-19 and 2019-20 being ITA No. 6546 and 6552/Mum/2025.

2. The Ld. CIT (A) has passed a common order for AY 2018-19 and AY 2019-20 which in turn are based on order passed in AY 2017-18. Since the issues involved are common of the appeals, these are heard together and disposed by the consolidated order.

3. The assessee is a proprietor of M/s SAKS INDIA and engaged in the business of exporting hand-embroidery garments. A survey u/s 133A was conducted on 30.06.2018 in the case of assessee and re-assessment proceedings were undertaken for assessment year 2014-15 to 2016-17 and assessment proceeding were undertaken for 2017-18 to 2019-20. The assessments for A.Y 2017-18 to 2019-20 were made in the line of the assessments made in assessment year 2014-15 to 2016-17 and the Hon'ble ITAT has adjudicated the appeals for A.Y 2014-15 to 2016-17. The Ld. CIT (A) has adjudicated appeal for assessment year 2017-18 and subsequent assessment years broadly following the orders of Hon'ble ITAT in earlier orders.

4. We will take up the Revenue appeal in assessment year 2017-18 first. The revenue has raised following grounds challenging the relief granted by Ld. CIT (A):-

"1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the disallowance of Rs. 96,60,000/- towards consultancy services paid to Shri Upendra Rai without appreciating that the assessee failed to substantiate with evidence the rendering of any genuine business services and the survey proceedings under section 133A clearly established that such payments were not connected with the assessee's embroidery export business.

: - 3 - :

2. *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition of Rs. 13,48,19,395/- made under section 68 of the Act on account of unexplained unsecured loans without appreciating that the assessee failed to discharge the primary onus of proving the identity, genuineness and creditworthiness of creditors before the AO and the evidences filed during appellate proceedings were neither sufficient nor reliable.*

3. *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the disallowance of Rs. 1,49,68,256/- on account of sales promotion expenses without appreciating that the assessee had incurred luxury hotel and credit card expenses in India whereas the sales were almost entirely routed through a single overseas commission agent, thereby establishing lack of business nexus and possibility of personal expenditure.*

4. *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the disallowance of Rs. 3,31,78,638/- made under section 40(a)(i) in respect of commission paid to a non-resident without deduction of tax at source ignoring that the assessee had not obtained any certificate u/s 195(2) and had failed to establish that the income was not chargeable to tax in India.*

5. *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the disallowance of Rs. 20,48,1167- out of travelling expenses without appreciating that the assessee had not furnished supporting vouchers or evidence thereby justifying reasonable disallowance by the AO.*

6. *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the disallowance of Rs. 2,80,92,346/- out of labour expenses without appreciating that the assessee had not provided muster rolls, payment details or identity of labour and hence the AO was justified in making disallowance on account of unverifiable and inflated claims.*

7. *The appellant craves leave to add, amend, alter or withdraw any of the above grounds of appeal at or before the time of hearing."*

5. The Ld. AR at the outset has submitted that majority of the issues are covered by the order of Hon'ble ITAT in assessee's own case for A.Y. 2014-

:- 4 -:

15 to 2016-17 in ITA Nos.1465-1468/Mum/2025 and ITA Nos.1551-1553/Mum/2025 in which additions were made in similar line and Ld. CIT(A) has passed orders following the order of Hon'ble Tribunal on those grounds.

6. The Ld. DR in the case of revenue appeals, relied on the assessment order and supported the grounds of appeal. Grounds of appeal are adjudicated as under :

7. Ground No.1 relates to deletion of disallowances of Rs.96,60,000/- towards consultancy solution paid to Shri Upendra Rai. The Ld. CIT(A) following the decision of Hon'ble ITAT for A.Y. 2014-15 to 2017-18 has deleted the addition. The Hon'ble ITAT has deleted the addition observing as under :

"13. We have given a thoughtful consideration to the orders of the authorities below. Insofar as payment of consultancy charges to Shri Upendra Rai is concerned, we find that the assessee has explained the nature of services availed during the course of business from Shri Upendra Rai. Merely because some of the projects were shelved or could not take place, the consultancy fee paid by the assessee cannot be added on the unsuccessful projects.

14. We find that Shri Upendra Rai has advised the assessee to setup EoU in Zari work industry for which he had arranged meetings and dealt with persons engaged in zari work. Shri Upendra Rai also advised for setting up cotton spinning unit at Bhiwandi and introduced the assessee to various people who could help in development of his business. He also helped in setting up of integrated textile unit in Faridabad and in getting new clients for existing business of the assessee.

15. The entire arrangement with Shri Upendra Rai is documented in the form of consultancy agreement dated 01/05/2013. The details of payments made to Shri Upendra Rai are supported by the confirmation letter of Shri Upendra Rai. In light of this documentative evidence, we do not find any reason to interfere with the findings of the Id. CIT(A). this ground of the revenue is dismissed.

:- 5 -:

8. As the issue has already been decided by the Hon'ble ITAT and Ld CIT(A) has followed the order of Hon'ble ITAT, we find no infirmity in the order of Ld. CIT(A), therefore ground of appeal of revenue is dismissed.

9. Ground No.2 is related to deletion of addition of Rs.13,48,19,395/- made u/s. 68 on account of unexplained unsecured loan. The Assessing Officer has made the addition of Rs.13,48,19,395/- u/s 68 on account of unsecured loan. The Ld CIT(A) has deleted the addition after considering the fact that the unsecured loan is basically trade credits which was wrongly categorised as unsecured loan. The assessee has submitted the CA certificate to this effect and ledger account of the parties, relevant invoices raised by the parties in support of trade credits. The outstanding trade credits are as under:-

Parties	Amount
Alfee Sina	16,42,221
Elsa Schaparelli Sas (FR)	30,50,894
Eskay Garments	65,03,575
La Creative Wear(1) Pvt. Ltd	64,58,943
L.K. Industries Pvt. Ltd	2,00,08,295
Mohammed Mahmoud A Asht	1,20,37,094
Ifzamuddin Khan	24,50,000
Ricami General Trading LLC	2,89,31,825
RicamiGiuma SNC Di Giulia(IT)	2,25,45,021
Roberto Cavalli SPA	1,82,93,285

: - 6 - :

Sai Industry	1,17,68,426
Yves Saint Laurent SAS	11,29,813
	13,48,19,395

10. We have considered rival submissions and perused material available on the record. The Assessing Officer has made the addition of outstanding balance of 12 parties which was wrongly categorised as unsecured loan. The assessee has submitted ledger account of the parties, relevant invoices raised by the parties and the CA certificates certifying that assessee has by mistake categorised them unsecured loan. The assessee has submitted the summary of account evidencing the trading nature of account. The Ld. CIT (A) after considering the remand report and discussing the account of Ricami Giuma SNC Di Giulia(IT) has deleted the addition. It is evident from the account that the assessee has opening balance of Rs.11,40,46,033/- in respect of these parties and the closing balance is 13,48,19,395/-. All these parties are trading creditors and assessee has submitted ledger account and evidence of transaction during the year in support of his contention. The Ld. CIT (A) after considering the facts that these are not unsecured loan, has deleted the addition. We do not find any infirmity in the order of Ld. CIT (A) as all parties are old creditors with whom assessee has regular business and therefore uphold the same.

11. Ground No.3 is relating to ad hoc disallowances of sale promotion expenses for non furnishing of documentary evidences to substantiate sale promotion expenses. The Ld. CIT(A) has deleted the addition relying on the ITAT order dated 25/04/2025. The Hon'ble ITAT has deleted the addition observing as under:-

: - 7 - :

"14. Insofar as ad hoc disallowance on account of travelling expenses, motor car expenses and labour charges are concerned, we find that for want of documentary evidence, the AO had disallowance 25% of the expenses and the Id. First Appellate Authority was of the opinion that 25% is excessive and reduced the same to 10% so far as the motor car expenses and travelling expenses are concerned and to 5% for labour charges.

15. After giving a thoughtful consideration to the ad hoc disallowance made by the AO and partly sustained by the Id. CIT(A), we are of the considered view that when the books of account maintained by the assessee having been duly audited have not been rejected by the AO, the ad hoc disallowance made based on the surmises is not sustainable. We draw support from the decision of the Hon'ble Supreme Court in the case of PCIT vs. R.G. Buildwell Engineers Ltd. [2018] 99 taxmann.com 284 (SC). Similar view was taken by the Co-ordinate Bench in the case of CIT vs. Merchant Agri Global Private Limited in ITA No. 1493/Mum/2023. Considering the nature and disallowance being on ad hoc basis, we do not find any merit in such disallowance and even the findings of the Id. CIT(A) partly sustaining the addition is faulty. We accordingly direct the AO to delete the entire disallowance made by him."

12. As the Ld. CIT (A) has deleted the addition relying on the order of Hon'ble ITAT in order dated 25.04.2025, and the revenue has not brought any new facts, therefore, we find no reason to defer from the order of Hon'ble ITAT. Accordingly, the order of Ld. CIT (A) is upheld.

13. Ground No.4 is relating to disallowances made u/s. 40(a)(i) for non-deduction of TDS on commission to M/s Ricami Giuma SNC Di Giulia (IT). The Ld. CIT (A) has deleted the addition after considering the fact that M/s Ricami Giuma is a resident of Italy with no permanent establishment in India. The payment has been made to the said concern for the services rendered outside India and the said payments are not in nature of fee for technical services. The Ld. CIT (A) therefore held that TDS provision u/s 40(a)(i) is not attracted in the case of assessee and deleted the addition of Rs.3,31,71,638/-.

: - 8 - :

14. We have heard the rival submissions and perused the material available on record. The Assessee has entered into agreement on 01.03.2012 with M/s Ricami Giuma as commission agent for sale to be made to M/s Valentino SPA. The assessee has been regularly paying commission and has submitted copy of Form 15CA and Form 15CB on remittances. The Assessing Officer has made disallowances u/s 40(a)(i) only for the reason that M/s Ricami Giuma is non-resident. The Ld. CIT (A) after considering the entire facts has held that the M/s Ricami Giuma is resident of Italy, with no permanent establishments in India and the payment made is for the services rendered outside India, which is not in the nature of technical fee and therefore, TDS provision is not applicable. On perusal of the documents submitted in the paper book, we agree with the finding of Ld. CIT (A) that assessee is not liable to deduct TDS on the commission paid to M/s Ricami Giuma and therefore uphold the same.

15. Ground No.5 is relating to disallowances of travelling expenses. The Assessing Officer has made ad hoc disallowances of 20% of the travelling expenses which has been allowed by the Ld. CIT(A) following the decision of Hon'ble ITAT order dated 25/04/2025. The Hon'ble ITAT has deleted the addition observing as under:-

"14. Insofar as ad hoc disallowance on account of travelling expenses, motor car expenses and labour charges are concerned, we find that for want of documentary evidence, the AO had disallowance 25% of the expenses and the Id. First Appellate Authority was of the opinion that 25% is excessive and reduced the same to 10% so far as the motor car expenses and travelling expenses are concerned and to 5% for labour charges.

15. After giving a thoughtful consideration to the ad hoc disallowance made by the AO and partly sustained by the Id. CIT(A), we are of the considered view that when the books of account maintained by the

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assessee having been duly audited have not been rejected by the AO, the ad hoc disallowance made based on the surmises is not sustainable. We draw support from the decision of the Hon'ble Supreme Court in the case of PCIT vs. R.G. Buildwell Engineers Ltd. [2018] 99 taxmann.com 284 (SC). Similar view was taken by the Co-ordinate Bench in the case of CIT vs. Merchant Agri Global Private Limited in ITA No. 1493/Mum/2023. Considering the nature and disallowance being on ad hoc basis, we do not find any merit in such disallowance and even the findings of the Id. CIT(A) partly sustaining the addition is faulty. We accordingly direct the AO to delete the entire disallowance made by him."

As the Ld. CIT (A) has decided the case following the order of Hon'ble ITAT in the preceding year. We do not find any infirmity in the order of Ld. CIT (A) and therefore uphold the same.

16. Ground No. 6 is relating to disallowances of labour expenses. The Ld.AO has deleted 20% of the labour expenses on ad hoc basis. The Ld. CIT(A) following the order of ITAT dated 25.04.2025 has deleted the addition. The Hon'ble ITAT has deleted the addition, as under:-

"14. Insofar as ad hoc disallowance on account of travelling expenses, motor car expenses and labour charges are concerned, we find that for want of documentary evidence, the AO had disallowance 25% of the expenses and the Id. First Appellate Authority was of the opinion that 25% is excessive and reduced the same to 10% so far as the motor car expenses and travelling expenses are concerned and to 5% for labour charges."

As the Ld. CIT (A) has decided the case following the order of Hon'ble ITAT in the preceding year. We do not find any infirmity in the order of Ld. CIT (A) and therefore uphold the same.

:- 10 -:

Revenue Appeal :ITA No. 6686/Mum/2025 (A.Y. 2018-19)

17. Ground No.1 is relating to disallowances of consultancy services paid to Shri Upendra Rai, Ground No.2 is relating to disallowances of sales promotion expenses, Ground No.3 is relating to disallowances u/s 40(a)(i) in respect of commission paid to non-resident, Ground No.4 is relating to ad hoc disallowances of travelling expenses, Ground No.5 is relating to ad hoc disallowances of labour expenses and Ground No.7 is relating to ad hoc disallowances of motor car expenses of Rs.33,72,867/-. Our decision in AY 2017-18 will be applicable mutatis mutandis.

18. Ground No.6 is relating to deleting the disallowances of Rs.2,89,458/- on PNB Housing Loan. The assessee has shown expenses of Rs.1,39,458/- and Rs.1,50,000/- relating to PNB Housing Loan. The Assessing Officer has disallowed the expenses as there is no investment in house property shown in the balance sheet and assessee has not replied to show cause notice issued. The Ld. CIT (A) has deleted the addition after considering the documents submitted by the assessee that assessee has taken a business loan for the purpose of business by mortgaging office premises No.3 located at third floor of Shreeji Plaza, Khar(W), Mumbai from PNB Housing Finance Ltd. The Ld. CIT (A) has deleted the addition as Rs.1,39,456/- is the interest payment, and Rs.1,50,000/- is insurance charges paid for the purpose of business. The Ld CIT(A) has deleted the addition after correctly appreciating the documents submitted by the assessee, therefore we find no infirmity in the order of Ld. CIT(A) and therefore the same is upheld.

19. Ground No.8 is relating to deleting the disallowances of property tax of Rs.3,12,046/-. The assessee has claimed expenses of Rs.23,35,649/- to MCGM and Property taxes. The Assessing Officer disallowed the expenditure

:- 11 -:

as the assessee has not shown any house property in the balance sheet and has not replied to the show cause notice. The assessee before Ld. CIT (A) has submitted that the assessee has been using the property belonging to spouse and his companies for his embroidery and garments business, against the payment of property tax and the same have been allowed in preceding year. The Ld. CIT (A) allowed the expenses of Rs.3,12,046/- in respect of property in the name of the late Firdaus Khan, wife of the assessee and confirmed the balance addition.

20. We have considered the rival submissions and perused the material available on record. The assessee has claimed expenses of rent, rates and taxes in respect of property located at Plot No.507, TPS III 33rd.RD, CTS No.F/160, 1st Floor, Shreeji Plaza, Bandra(W), Mumbai in the name of Mrs. Firdaus Khan and in the name of Sajjid Properties and Trading Pvt. Ltd., Shreeji Plaza 5th Floor, 507 TPSIII, 33rd Khar(W), Mumbai and Shehla Properties and Trading Pvt. Ltd., Shreeji Plaza, 2ndFloor, 507TPSIII, 33rd, Khar(W), Mumbai. The assessee has submitted that the assessee has claimed the expenditure as there was no business in the companies of assessee and entire five floors of premises were used by assessee for its embroidery business and therefore claimed as expenditure. The assessee has submitted that he has been claiming these expenditure in past years also, but no such disallowances has been. The Ld CIT(A), however has only allowed the expenses related to his wife and confirmed the disallowances in respect of properties used by assessee but in the name of his companies. We do not agree with AO/Ld. CIT(A) that ownerships necessary to claim the expenditure. As long as assessee has been using the properties and has incurred expenses for the purpose of his business, assessee is entitled to

:- 12 -:

claim the expenditure. We accordingly, uphold the relief given by the Ld. CIT (A).

Revenue Appeal: ITA No.6687/Mum/2025 (A.Y. 2019-20)

21. Ground No.1 is relating to disallowances of professional fee paid to Shri Upendra Rai, Ground No.2 is relating to disallowances of sale promotion expenses, Ground No.3 is relating to ad hoc disallowances of travelling expenses, Ground No.4 is relating to disallowances of labour expenses, Ground No.5 is relating to disallowances of expenditure relating to PNB Housing Loan, Ground No.6 is relating to ad hoc disallowances of motor car expenses, Ground No.7 is relating to repair and maintenance expenses and Ground No.8 is relating to property taxes. Our decision, on these grounds in AY 2018-19 will be applicable this year too, mutatis mutandis.

Assessee Appeal :ITA No.6552 (AY 2018-19)

22. The assessee has filed this appeal on following grounds:-

"1. a) The Ld.CIT(A) erred in confirming disallowance of commission to the extent of Rs.1,00,88,579/- on the ground that the balance sum was not paid to M/s. Ricami Giama, but was outstanding at the end of the year.

b) The Ld.CIT(A) failed to consider that the disallowance was made u/s.37 and the bonafides and genuineness of the claim was not in dispute.

2. a) The Ld.CIT(A) erred in confirming disallowance to the extent of Rs.20,23,603/- made by the A.O. on account of property taxes and related expenses paid towards properties, not owned, but used by the Appellant.

b) The Ld.CIT(A) failed to consider that expenses incurred towards the said properties borne by the Appellant were on properties used

:- 13 -:

temporarily for business purposes, the bonafides of which were not in doubt.

3. The Appellant craves leave to add, alter or amend the grounds of appeal at or before the hearing of the Appellant."

23. Ground No.1 in assessee's appeal is relating to confirming the disallowances of commission to the extent of Rs.1,00,88,579/-for the reason that the commission payment to M/s Ricami Giuma is still outstanding .The assessee has debited export commission to M/s Ricami Giuma of Rs.3,54,64,802/-. The AO allowed deduction to the extent of Rs.1,81,26,905/- as assessee has submitted copy of Form 15CA and Form 15CB. The balance commission of Rs.1,73,00,897/- was disallowed as the assessee did not submit Form 15CA and Form 15CB for .On appeal, the Ld CIT (A) has the held that assessee is not liable to deduct TDS on the commission payment, however he confirmed the commission expense to the extent of Rs1,00,88,597/- on the ground that the assessee has subsequently made payment of Rs.72,49,318/-, but the balance commission of Rs1,00,88,597/- is still outstanding. The Ld CIT(A) held the commission excessive as it is still outstanding.

24. The Ld. AR has submitted that Form 15CA and Form 15CB are submitted only at the time of remittance, whereas the assessee has debited the expenditure on the basis of agreement, sale made and as per bill of M/s Ricami Giuma. The Ld. AR in support has submitted the copy of agreement and bills relating to the services rendered. The Ld. AR argued that disallowances cannot be held excessive merely because certain expenses remains unpaid by the end of the year. The Ld AR submitted that there are other provisions in the Act to take care of cessation of liability, but disallowances can not be made u/s 37 of the Act.

:- 14 -:

25. The Ld. DR argued that the above payment has not been made even now, therefore, Ld. CIT (A) has correctly confirmed the disallowances.

26. We have heard the rival submissions and perused the material available on record. M/s Ricami Giuma is a commission engaged with the assessee from 2012 and the commission expenses has been allowed by the Ld CIT(A). The assessee has submitted copy of agreement with Ricami Giuma dated 01.03.2012 and assessee has been debiting commission expenses @ 10% of the sale made to Valentino SPA as per the agreement. As the expenses are regular in nature and as per agreement merely because commission expenses have not been paid, the same cannot be held as excessive. We are in agreement with Ld. AR, that there are other provisions in the Act to take care of the situation where amount has been claimed as expenditure but subsequently not paid or liability ceases to exist. There is no reason to confirm the disallowances on the basis of non-payment u/s 37 of the Act. We, accordingly reverse the order of Ld CIT(A) on this account and direct A.O to delete the addition.

27. Ground No.2 is relating to confirming the property taxes and related expenses paid towards property not owned by the assessee. The Ld. CIT (A) has allowed the property taxes paid in respect of property held in the name of wife but have not allowed the taxes paid in respect of property in the name of sister concerned. The assessee has claimed these expenditures as the premises in the name of wife and his companies were used by him for his business purposes. We have adjudicated this ground in Revenue's appeal and held that assessee is eligible to claim the expenses as they are related to his business. We, accordingly delete the disallowances confirmed by the Ld. CIT (A).

:- 15 -:

ITA No.6546/Mum/2025 (AY 2019-20)

28. As the grounds of appeal in assessee's appeal are same as in A.Y 2018-19, our decision in ITA No.6552/Mum/2025 in AY 2018-19 shall be applicable as mutatis mutandis.

29. In the result, the three appeals of revenue are dismissed and two appeals of assessee are allowed.

Order pronounced on 22nd day of January, 2026 at Mumbai.

Sd/-

**(SAKTIJIT DEY)
Vice President**

Sd/-

**(JAGADISH)
Accountant Member**

Mumbai, Dated: 22nd January, 2026.

*Ashwani Rao
Sr. Private Secretary*

Copy of the order forwarded to:

1. Appellant
2. Respondent
3. The CIT
4. The CIT (Appeals)
5. The DR, I.T.A.T.

By order

(Assistant Registrar)
ITAT, Mumbai