

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, MUMBAI**

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

**I.T.A. No. 5395/Mum/2025 (A.Y: 2006-07)
I.T.A. No. 5396/Mum/2025 (A.Y: 2007-08)
I.T.A. No. 5397/Mum/2025 (A.Y: 2008-09)
I.T.A. No. 5398/Mum/2025 (A.Y: 2010-11)
I.T.A. No. 5399/Mum/2025 (A.Y: 2011-12)
I.T.A. No. 5400/Mum/2025 (A.Y: 2012-13)**

Arunkumar Jayantilal Muchhla 6 th Floor, Amar mahal, AD Road, Near Chandan Cinema, Juhu, Mumbai – 400049. PAN – AAHPM5369F	Vs	DCIT Aayakar Bhavan MK Road, Mumbai – 400020.
(Appellant)		(Respondent)

Assessee by	Shri Ketan Vajani
Revenue by	Shri Surendra Mohan, Sr. DR

Date of Hearing	23.12.2025
Date of Pronouncement	27.01.2026

ORDER

PER BENCH:

The present appeals have been filed by the assessee challenging the different impugned orders dt. 13.06.2025 passed under section 250 of the Income Tax Act, 1961 (‘the Act’), by the National Faceless Appeal Centre (NFAC) / CIT(A) for the assessment years 2006-07 to 2012-13.

Since all the issues involved in these all appeals are common and identical, therefore, they have been clubbed,

heard together and consolidated order is being passed for the sake of convenience and brevity. We shall take **ITA No. 5395/Mum/2025, A.Y 2006-07** as lead case and facts narrated therein.

ITA No. 5395/Mum/2025, A.Y 2006-07

2. The assessee has raised the following grounds of appeal:

1. On the facts and in the circumstances of the case, the Commissioner of Income-tax (Appeals) - NFAC, hereinafter referred to as the "CIT (A)", has erred in confirming the addition of Rs. 39,75,937/-on account of deemed dividend u/s. 2(22)(e) of the Act

2. The CIT (A) has failed to appreciate that the payer company does not possess "accumulated profits" at the beginning of the financial year 2005-06 and accordingly the provisions of section 2(22)(e) cannot be applied in absence of "accumulated profits"

3. Without prejudice to the above grounds, the CIT (A) has erred in confirming addition to the extent of Rs. 17,20,937/- on account of amounts alleged to have been received by the appellant from Muchhala Magic Land Pvt. Ltd. without appreciating the facts that the said amount represents the current account transactions of the appellant with the company and also the Director's Remuneration which has already been subjected to tax.

4. Without prejudice to the above grounds, the CIT (A) has erred in confirming addition to the extent of Rs. 22,55,000/- on account of amounts alleged to have been received by M/s. Shiv Sai Developers from Muchhala Magic Land Pvt. Ltd. without appreciating the correct facts of the case that the said amount is received on current account by the said concern from the company and further that in any case the said amount received by the concern was not for the benefit of the appellant.

5. In view of the above, the appellant respectfully submits that the impugned addition of Rs. 39,75,937/- is not justified and the same deserves to be deleted. The appellant, therefore, prays that the impugned addition may please be deleted or any other relief as deemed fit may please be allowed to the appellant.

3. All the grounds raised by the assessee are interrelated and interconnected and relates to challenging the order of Ld. CIT(A) in confirming the additions on account deemed dividend u/s 2(22)(e) of the Act. Therefore, we have to decide these grounds through the present consolidated order.

4. We have heard the counsels for both the parties, perused the material placed on record, judgements cited before us and also the orders passed by the revenue authorities. From the records we noticed that the assessee is an Individual. Assessment for the assessment year 2006-07 was completed u/s 143(3) r.w.s. 147 vide order dated 30.08.2011, determining total income at rs.48,61,170/- which included addition of Rs.35,79,937/- within the scope of section 2(22)(e). The assessee filed an appeal before the Ld. CIT(Appeals) but the same was dismissed.

5. Aggrieved, the assessee filed appeal before us, we noticed that in first round of litigation the Coordinate Bench of ITAT the, Mumbai, vide its order dated 12.04.2017 in ITA No. 5317/Mum/2015 had set aside the assessment proceedings to the file of the Assessing Officer for deciding afresh.

6 The assessment consequent to the order of the Hon'ble ITAT, Mumbai, had been passed on 28.09.2018 wherein the amount of Rs.35,79,937/- has been treated as deemed dividend, and

added within the scope of section 2(22)(e) of the Act which were also sustained by Ld. CIT(A) as the assessee could not file requisite documents or submissions and had sought adjournment on the ground of medical emergency but Ld. CIT(A) went on to decided the appeals ex-parte on the basis of material placed on record and consequently dismissed the same on merits.

7. Now before us Ld. AR has filed paper book wherein it has been categorically mentioned that all the documents were filed before the revenue authorities except document No. 6 & 8 which is being filed for the first time and had requested to admit these documents under Rule 29 of the ITAT Rules, 1963 as additional evidence and explained the reasons as to why these documents could not be filed at an appropriate stage. Thus hearing the parties and considering the request of the assessee, we found that these documents are vital and necessary to adjudicate the controversy and goes to the roots of the case, therefore we admit the documents under Rule 29 of the ITAT Rules, 1963.

8. Since, we have admitted the documents as additional evidence therefore without going into the merits of the claim, we of the view that matter needs to be restored back to the file of the Ld. CIT(A) for factual verification of the above documents and then to decide the said issue afresh after providing opportunity of hearing to the assessee. Thus, with these direction we order accordingly.

9. Before parting, we make it clear that our decision to restore the matter back to the file of the Ld. CIT(A) shall in no way be construed as having any reflection or expression on the merits of the dispute which shall be adjudicated by the Ld. CIT(A) independently in accordance with law.

10. In the result the appeal filed by the assessee is allowed for statistical purposes.

I.T.A. No. 5396/Mum/2025 (A.Y: 2007-08)
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11. As the facts and circumstances in these appeals are identical to ITA No 5395/Mum/2025 for the A.Y 2006-07 (except variance in days of delay) and the decision rendered in above paragraph would apply ***mutatis mutandis*** for these appeal also. Accordingly, the grounds of appeal of the present appeal also stands allowed for statistical purposes.

12. In the result, all the appeals filed by the assessee are stands allowed for statistical purposes.

Order pronounced in the open court on 27/01/2026

Sd/-
(PRABHASH SHANKAR)
(ACCOUNTANT MEMBER)

Sd/-
(SANDEEP GOSAIN)
(JUDICIAL MEMBER)

Mumbai:

Dated: 27/01/2026

KRK, Sr. PS.

Copy of the order forwarded to:

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

True Copy

By order

(Asstt. Registrar)
ITAT, Mumbai