

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'G': NEW DELHI  
(Through Video Conferencing)**

**BEFORE,  
SHRI R.K.PANDA, ACCOUNTANT MEMBER  
AND  
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

**I.T.A No.6081/Del/2017  
(ASSESSMENT YEAR-2012-13)**

SAS Hospitality Private Limited 14D, 14 <sup>th</sup> Floor Hansalaya Building Barakhamba Road New Delhi- 110 001. PAN-AAOCS 1815Q <b>(Appellant)</b>	Vs.	Income Tax Officer Ward-22(3), New Delhi  <b>(Respondent)</b>
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Appellant By	<b>Sh. Kapil Goel, Adv.</b>
Respondent by	<b>Shri Prakash Dubey, Sr. DR</b>
Date of Hearing	<b>25.03.2021</b>
Date of Pronouncement	<b>21.06.2021</b>

**ORDER**

**PER SUDHANSHU SRIVASTAVA, JM:**

This appeal is preferred by the assessee against order dated 05.12.2016 passed by the Learned Commissioner of Income Tax (Appeals)-17, New Delhi {CIT(A)} for Assessment Year: 2012-13.

2.0 The assessee has raised the following grounds of appeal:

“1. The learned Income Tax Officer has erred in law as well as on fact, in making an addition of Rs.7,50,00,000/- under section 68 of the I.T. Act, 1961, towards share application money.

2. The learned Income Tax Officer has erred in law as well as on fact, in making a disallowance of Rs.17,365/-, under section 14A of the I.T. Act, 1961.

3. The learned Income Tax Officer has erred in law as well as on fact, in making an addition of Rs.1,28,093/- under section 43B of the I.T. Act, 1961.

4. The appellant craves leave to add, alter, amend, raise or delete any or all grounds of appeal.”

2.1 The assessee has also subsequently filed the revised grounds of appeal which are as under:

“1. That on the facts and in the circumstances of the case, the Ld. CIT (Appeals)-17, New Delhi, has erred in not providing sufficient opportunity to the appellant-Company of being heard.

2. That on the facts and in the circumstances of the case, the Ld. CIT(Appeals)- 17, New Delhi, has erred in law as well as on

*fact, in confirming additions of Rs. 7,50,00,000/- made by AO u/s. 68 of the I.T. Act, 1961, towards share application money.*

*3. That on the facts and in the circumstances of the case, the Ld. CIT(Appeals), has erred in law as well as on fact, in confirming disallowance of Rs. 17,365/- made by AO u/s. 14A read with Rule 8D of the I.T. Rule, 1962.*

*4. That on the facts and in the circumstances of the case, the Ld. CIT(Appeals), has erred in law as well as on fact, in confirming additions of Rs. 1,28,093/- u/s. 43B of the I.T. Act, 1961.*

*5. That the respondent craves leave to add, alter, amend or adduce any ground/(s) at or before the date of hearing.”*

3.0 At the very outset, the Ld. Authorized Representative (AR) submitted that the impugned order has been passed by the Ld. First Appellate Authority without the assessee being represented before him. The Ld. Authorized Representative submitted that, thus, the principle of natural justice was not followed. The Ld. Authorized Representative prayed that the assessee may be offered another opportunity to explain its case before the tax authorities.

4.0 Per contra, the Ld. Sr. DR submitted that the assessee had failed to produce the required documentary evidences both before the Assessing Officer as well as the Ld. First Appellate Authority and, therefore, the assessee should not be granted a fresh opportunity.

5.0 We have heard the rival submissions and have also perused the material on record. A perusal of the records shows that the assessee has not co-operated with the Lower Authorities neither at the stage of assessment proceedings nor at the stage of first appellate proceedings, therefore, the Lower Authorities had no option but to pass their respective orders qua *ex-parte* the assessee. However, the fact remains that in view of the substantive justice, the assessee should be given an opportunity to present and explain its case. Therefore, without going into the merits of the case, we deem it appropriate to restore the file to the office of the Ld. CIT(A) for afresh adjudication of the issues before him after giving proper opportunity to the assessee to present its case. We also direct the

assessee to fully co-operate this time during the course of first appellate proceedings, failing which, the Ld. First Appellate Authority shall be at liberty to pass the order in accordance with law *ex-parte* qua the assessee.

6.0 In the final result, the appeal of the assessee stands allowed for statistical purposes.

Order pronounced on 21<sup>st</sup> June, 2021.

Sd/-

**(R.K.PANDA)**

**ACCOUNTANT MEMBER**

Dated: 21/06/2021

PK/PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

**(SUDHANSHU SRIVASTAVA)**

**JUDICIAL MEMBER**

ASSISTANT REGISTRAR  
ITAT DEHRADUN