

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH “E”, MUMBAI
BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER
AND
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER**

ITA NO. 1804/MUM/2025 (A.Y. 2019-20)

&

ITA No. 1803/Mum/2025 (A.Y. 2020-21)

Hirachand Damji Dand

Vs. ACIT Circle 16(1)

A/704, Remi Biz Court, Plot No. 9,
Shah Industries Estate, Off Veera
Desai Road, Azad Nagar, Andheri
(West), Mumbai-400 053

Aayakar Bhavan,
Mumbai-400 020

PAN: AAAPD8985F

(Appellant)

(Respondent)

Assessee Represented by : Shri Mehul Shah, Ld. AR

**Department Represented by : Shri Hemanshu Joshi, Ld.
DR**

Date of conclusion of Hearing : 06.05.2025

Date of Pronouncement : 09.06.2025

ORDER

PER RAJ KUMAR CHAUHAN (J.M.):

1. Both the appeals are filed by the appellant/assessee against the orders of even date i.e. 06.02.2025 of National Faceless Appeal Centre (NFAC),



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Delhi [hereinafter referred to as the “CIT(A)”], wherein the Ld. CIT(A) has dismissed the appeals of the assessee who has challenged the order u/s 154 passed by the AO refusing to rectify the apparent mistake while making adjustment of Rs. 4,88,188/- and Rs. 1,72,931/- on account of Foreign Tax Credit (FTC) u/s 90/90A of the Act for the AY 2019-20 and 2020-21 respectively.

2. Since the facts and grounds of both the appeals filed by the assessee are exactly same and parties are same, hence both the appeals are taken up together in order to avoid the multiplicity of the decision. Firstly, we are taking ITA No. 1804/Mum/2025 for AY 2019-20 as a lead case.
3. The brief facts of the case as culled out from the orders of the lower authorities are that the assessee has claimed himself as a proprietor of Blue Lion Entertainment Company having registered at A/704, Andheri West, Mumbai. It is stated that the assessee had provided services to Kenya Resident Company by name Westgate Shopping Mall Limited. The said Company withheld tax at source in terms of India – Kenya DTAA amounting to Rs. 488,188/- and issued necessary withholding certificates. The assessee has filed his return of income for the year under consideration declaring total income of Rs. 87,92,220/-. The



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assessee while filing his Return of Income, claimed double taxation tax relief in terms of section 90/90A of the Income Tax Act 1961. Inadvertently, the tax consultant who filed Return of Income did not file form no. 67 which is one of the essentials while claiming double taxation relief. Therefore, CPC, Bangalore while processing the Return of Income did not allow tax relief as form no. 67 was not filed. Upon realizing the error, the assessee filed Form 67 on 25/03/2021 and then filed rectification application under section 154 of the Act that was rejected by CPC.

4. Against the said rejection order of CPC Bangalore, the assessee filed the appeal before the Ld. CIT(A)/NFAC Delhi who dismissed the appeal of the assessee on 2 grounds as under:-

- i) Form no. 67 was not filed by the assessee while filing the Return of Income
- ii) Withholding of tax certificates were in the name of Blue Lion Entertainment Company whereas the return of income was filed by the assessee in his own name and has not indicated that assessee was proprietor of Blue Lion Entertainment Company.



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5. Aggrieved by the order of Ld. CIT(A), the assessee has preferred the appeal before us on the following grounds of appeal in ITA No. 1804/Mum/2025 (AY 2019-20):-

(1) On the facts and in law, the CPC (Centralized Processing Centre), Bengaluru erred in not allowing credit for foreign Tax Credit (FTC) u/s. 90/90A of Rs.4,88,188/- in spite of the fact that it is claimed in the return of income filed u/s 139(1).

(2) The Appellant filed form 67 on 23-03-2021 for claiming credit of Foreign Tax Credit (FTC) for Rs.4,88,188/-. The Assessing officer has not considered the credit of Foreign Tax Credit in rectification order passed u/s. 154 of the IT Act, 1961.

(3) The commissioner of Income-tax (Appeal) has rejected the claim of Foreign Tax Credit (FTC) of Rs.4,88,188/- as the certificate of Foreign Tax Credit is in name of proprietary concern Blue Lion Entertainment Company, which is a trade name of the appellant Mr. Hirachand Damji Dand.

(4) The appellant craves, leave to add, alter, modify, revise or delete any ground(s) in the interest of justice.

6. Assessee has raised the following grounds of appeal in ITA No. 1803/Mum/2025 (AY 2020-21):-

(1) On the facts and in law, the CPC (Centralized Processing Centre), Bengaluru erred in not allowing credit for foreign Tax Credit (FTC) u/s. 90/90A of Rs. 1,72,931/- in spite of the fact that it is claimed in the return of income filed u/s 139(1).



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(2) The Appellant filed form 67 on 23-11-2023 for claiming credit of Foreign Tax Credit (FTC) for Rs. 1,72,931/-. The Assessing officer has not considered the credit of Foreign Tax Credit in rectification order passed u/s. 154 of the IT Act, 1961.

(3) The commissioner of Income-tax (Appeal) has rejected the claim of Foreign Tax Credit (FTC) of Rs. 1,72,931/- as the certificate of Foreign Tax Credit is in name of proprietary concern Blue Lion Entertainment Company, which is a trade name of the appellant Mr. Hirachand Damji Dand.

(4) The appellant craves, leave to add, alter, modify, revise or delete any ground(s) in the interest of justice.

7. We have heard Ld. AR and Ld. DR and examined the record. At the very outset, Ld. AR submitted that **firstly** the Ld. CIT(A) has not considered the assessee as proprietor of M/s Blue Lion Entertainment Company despite the facts that the GST registration certificate and import export code certificate were duly filed before the CPC Bangalore where the assessee has been shown as proprietor of M/s Blue Lion Entertainment Company. Ld. AR submitted that the GST certificate is placed at page no. 8 and 9 of the paper book and copy of import export certificate is placed at page no. 10 of the paper book which is in the name of M/s Blue Lion Entertainment Company in which the assessee is shown as a proprietor



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of this company. Ld. AR orally requested that these 2 documents may be considered by the Tribunal and inadvertently, the assessee was under impression that there was no requirement to file the same at the time of submitting the return and during the appeal, the Ld. CIT(A) did not ask for such requirement of these documents.

8. With regard to late filing of Form 67, it is submitted by Ld. AR that the case of the assessee is covered by the order of Ld. Coordinate Bench of ITAT in ITA No. 3647/Mu/2023 dated 15.02.2024 wherein the late filing of Form 67 was held not mandatory but directory and the matter was restored to the AO for consideration. Therefore, the Ld. AR submitted that the case of the assessee may be allowed or matter be restored to the file of AO for verification of the document which assessee relied in support of its claim to be proprietor of the entity as mentioned in the two certificates referred above.
9. Ld. DR has no objection in restoring the matter to the file of AO for verifying the eligibility of the assessee to the FTC on the basis of documents claimed by him and also considering the decision of the Jurisdictional Tribunal in ITA No. 3647/Mum/2023 (supra).



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10. We have considered the rival submissions and perused the material placed on record. We notice that the end of justice requires the documents GST registration and import export certificate submitted by the assessee before the Tribunal in support of his claim to be proprietor of M/s Blue Lion Entertainment Company needs to be considered by the revenue authorities after due verification of the genuineness of the same which may make the assessee eligible to claim FTC as per the provisions of law.
11. For the above reasons, the impugned order of the Ld. CIT(A) is not legally sustainable in the eyes of law and accordingly, we set aside the impugned orders passed by Ld. CIT(A) and restore the matter to the file of AO for considering the eligibility of the assessee for FTC as directed above alongwith the judgment of the Jurisdictional Tribunal in ITA No. 3647/Mum/2023 (supra). Hence, the impugned order is set aside with the direction to the Ld. AO to decide the matter afresh after considering the above submissions of the assessee and the AO shall give effective hearing to the assessee and the assessee shall present its case before the AO within 60 days of this order.



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12. Resultantly, the grounds of appeal filed in ITA No. 1804/Mum/2025 for AY 2019-20 are allowed for statistical purposes.

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13. Since we have already decided the similar grounds of appeal raised by the assessee in ITA No. 1804/Mum/2025 for AY 2019-20 and the grounds of this appeal are exactly similar, therefore the findings in ITA No. 1804/Mum/2025 shall mutatis mutandis apply to this appeal also. Hence, the grounds of appeal filed in ITA No. 1803/Mum/2025 for AY 2020-21 are also allowed for statistical purposes.

14. In the result, both the appeals filed by the assessee are **allowed for statistical purposes in above terms.**

Order pronounced in the open court on 09.06.2025

Sd/-
(VIKRAM SINGH YADAV)
(ACCOUNTANT MEMBER)
Mumbai / Dated 09.06.2025
Dhananjay (Sr. PS)

Sd/-
(RAJ KUMAR CHAUHAN)
(JUDICIAL MEMBER)

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.



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Hirachand Damji Dand

3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mumbai