

**आयकर अपीलीय अधिकरण "D" न्यायपीठ मुंबई में।**

**IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH, MUMBAI  
BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER AND  
SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No.3311/Mum/2012

(निर्धारण वर्ष / Assessment Year : 2007-08)

Reliance Cables and Conductors Pvt. Ltd., 12, Shanti Villa CHS, 3 <sup>rd</sup> floor, 45 Telle Park Road, Andheri (East), Mumbai - 400 069.	<b>बनाम/</b> v.	Income Tax Officer, 4(3)(2), Aayakar BhavaN, Mumbai - 400020.
स्थायी लेखा सं./PAN : AAACR 2900D		
(अपीलार्थी / <b>Appellant</b> )	..	(प्रत्यर्थी / <b>Respondent</b> )

Assessee by	Shri Haridas Bhat
Department by :	Shri Mukesh Jain (D.R.)

सुनवाई की तारीख / **Date of Hearing** : 09-05-2016

घोषणा की तारीख / **Date of Pronouncement** : 25-07-2016

**आदेश / ORDER**

**PER RAMIT KOCHAR, Accountant Member**

This appeal, filed by the assessee company, being ITA No. 3311/Mum/2012, is directed against the corrigendum order dated 29<sup>th</sup> March, 2012 passed by learned Commissioner of Income Tax (Appeals)- 8 Mumbai (hereinafter called "the CIT(A)"), for the assessment year 2007-08, the appellate proceedings before the learned CIT(A) arising from the assessment order dated 30<sup>th</sup> December, 2009 passed by the Assessing Officer (hereinafter called "the AO") u/s 143(3) of the Income Tax Act,1961 (Hereinafter called "the Act").On being asked by the Bench on earlier occasions, the ld DR during the course of hearing on 17-06-2015 had stated that there is no original order passed by the learned CIT(A) for the impugned

assessment year and this corrigendum order dated 29-03-2012 is the only appellate order passed by learned CIT(A) , which was confirmed by Id DR vide letter of the ITO 4(3)(2), Mumbai dated 15.06.2015 filed with the Bench during the course of hearing on 17-06-2015 which is placed in the file and also recording to that effect is made in order sheet entry dated 17-06-2015.

2. The grounds of appeal raised by the assessee company in the memo of appeal filed with the Income Tax Appellate Tribunal, Mumbai (hereinafter called "the Tribunal") read as under:-

"I. 1) The learned Commissioner of Income Tax (" the CIT (A) ") erred in making order dismissing the appellant's appeal without hearing the appellant and not giving adequate opportunity of being heard.

2. He failed to appreciate and ought to have held that the appellant was seeking adjournment for valid reasons beyond their control, particularly the facts that in respect of the similar issue, the for the sister concern, the matter was being heard by the other CIT(A)and all the details are submitted to him and his order is expected soon and accordingly, adjournment should have been given.

3. He further erred in not giving final notice to the Appellant stating that "If not attended to it, the order will be made ex parte".

4. The Appellant prays that the order of the CIT (A) be set aside and sent back to him for giving an opportunity to the Appellant and decide the matter based on the facts and submissions.

WITHOUT PREJUDICE TO THE ABOVE:

II. 1) The learned CIT (A) erred in Confirming the disallowance of Rs. 13,22,526/- U/ s 40A (3) of the Act.

2. He further erred in confirming the disallowance merely by saying that the addition made by the AO has been made after taking into all the facts and circumstances of the case, without appreciating the legal position mentioned by the appellant in the grounds of appeal.

3. He failed to appreciate and ought to have held that:

a) The appellant had purchased goods from the said party and the material was delivered directly by them to appellants' customers which

has been confirmed by them vide their letter which being on the records of the ITO and being conclusive evidence, should have been taken into account and should have accepted purchases as genuine.

b) The purchasers of goods have also confirmed in the statement recorded U/ s 131 of the Act that they have purchased goods from the appellant which has been delivered to them through Tempo, Lorry & hand Cart.

c) The appellant was not given adequate opportunity of cross examination of the said Mr. Pravin T. Agarwal and without doing that his statement was used against the appellant treating the entire purchases as cash purchases.

d. The appellant had submitted copies of account for the year under assessment as well as of the subsequent year showing the payments made to the concerned party by Account payee crossed cheques for which necessary bank statements are also submitted.

e) Addition/ disallowance cannot be made on the basis of one general statement of any individual without taking into consideration, the facts of the individual case, the subsequent letter confirming and retracting the original evidences of entering into transaction, in our case that goods were sold & material was delivered by them directly and the VAT collected by them is also paid.

4. The appellant prays that the disallowance of Rs 13,22,526/- u/s 40A (3) be deleted.

5. Without Prejudice, the appellant prays that the disallowance be appropriately reduced. “

3. The brief facts of the case are that assessee company is engaged in the business of manufacturing of cable and conductors of ferrous and non-ferrous metals & trading of ferrous and non-ferrous metals cables & conductors. There was a survey action conducted by the investigation Wing of the Revenue u/s 133A of the Act on 12<sup>th</sup> December, 2007 at the premises of the assessee company. During the course of survey, statement of the Director Shri Prakash Jayantilal Shah was recorded. As per answer to Q. No. 5, it was stated that the assessee company had purchased aluminium items from M/s

Shradha Saburi Merchants Ltd. of Rs. 66,12,630/-. The question and answer to question No. 6 & 7 are reproduced hereunder:-

“Q.6 Please produce the documentary evidence of delivery of goods from M/s. Shradha Saburi Merchants Limited and Sai Kripa Metalic Tradecom Ltd.

Ans. In respect of our trading activities with M/s. Shradha Saburi Merchants Limited and Sai Kripa Metalic Tradecom. Ltd. We are mainly acting as an indenting agents, where the material is directly dispatched from the parties from whom the material is purchased to the customer.

Q.7. I am. showing you the self declared statement dated 02-11-2007 of Shri Pravin T. Agarwal Proprietor/partner of Sai Kripa Metalic Tradecom Ltd. and Shradha Saburi Merchants Limited, the extract of which is as under:

“I withdraw the money from the A/c. M/s Chirag Construction & Perk Impex However, I issue bill from M/s Sai Kripa Metalic Tradecon Ltd. and Shradha Saburi Merchants Limited.

I again want to state that I am not done real business from tile parties; however I am providing fabricated challan & other supporting vouchers for purchase bill & sale bills”

Please comment.

Ans. The above statement of Mr. Pravin T. Agarwal is not true. Payments have been made by account payee cheques to M/ s Sai Kripa Metalic Tradecon Ltd. and Shradha Saburi Merchants Limited for the purchased goods. Subsequently, the said goods were sold to other parties, for which the payments were also received by account payee cheques. M/s Prakash Metals and M/s Reliance Cable and Conductors Pvt. Ltd. acted as an indenting agent in these transactions.”

The assessee company submitted that during the course of scrutiny assessment proceedings, summary of trading sales and purchase for the year 2006-07 were submitted. As per the summary, the alleged goods purchased of Rs.66,12,630/- from M/s Shradha Saburi Merchants Limited are sold to

M/s D.C. Metals of Rs. 49,61,129/- and to M/s Rajasthan Metal House of Rs. 16,72,089/-. To confirm the fact of the transaction as to whether the goods purchased by them were received through M/s Shradha Saburi Merchants Limited, the statements u/s 131 of the Act of Shri Vasant Mishrimal Bansali, partner of M/s DC Metals and Shri Dilipkumar Umedmal Bansali partner of M/s Rajasthan Metal House were recorded whereby both the partners denied of knowing M/s Shradha Saburi Merchants Limited and confirmed that the goods received were through M/s Reliance Cable and Conductors Pvt. Ltd. and not through M/s Shradha Saburi Merchants Limited . Thus, it was observed by the A.O. that the goods purchased by them are received by these parties to whom goods were sold i.e. M/s D C Metals and M/s Rajasthan Metal House only from M/s Reliance Cable and Conductors Pvt. Ltd. and not through M/s Shradha Saburi Merchants Limited, hence, it was concluded that M/s Shradha Saburi Merchants Ltd. is a bogus outfit and not having any existence nor having any legitimate business activities. Notice u/s 133(6) of the Act was issued to M/s Shradha Saburi Merchants Ltd. calling for the information/documents regarding the said transaction but the party was not available on the address and hence notice was served through affixture. Thereafter, summons u/s 131 of the Act were issued to Shri Pravin T. Agarwal, the proprietor/partner of the said firm M/s Shradha Saburi Merchants Ltd. which was again served through affixture , but neither information was received nor Shri Pravin T. Agarwal appeared before the Revenue authorities. The C.A. of the assessee company was confronted to give his submissions on the statement of Sh. Pravin T . Agarwal of Shradha Saburi Merchants Limited wherein he has stated that he is not doing any real business from the parties however, he is providing vouchers for the purchase bills and sale bills , against which query raised by the AO no compliance was made by the assessee company to prove the genuineness of the purchase from M/s Shradha Saburi Merchants Limited and since the assessment was getting barred by limitation on 31-12-2009, the A.O. passed the order based

on the facts available on record. The A.O. observed that as per the statement of Shri Vasant and Shri Dilipkumar Bansal it was proved that the goods purchased by them from M/s Reliance Cable and Conductors P. Ltd. were not received through M/s Shradha Saburi Merchants Ltd. It was also observed that the assessee company has not made single payment to M/s Shradha Saburi Merchants Ltd. but only at the end of the year the liability is reduced by an amount of Rs. 60 lacs by crediting M/s D.C. Metals. Thus, it was concluded by the A.O. that the assessee company has not purchased any goods from M/s Shradha Saburi Merchants Ltd. but only collected bills/vouchers for the alleged purchase of Rs. 66,12,630/- which may be goods purchased from other parties on payment of cash without any bills and to escape from disallowance of expenses u/s 40A(3) of the Act whereby the assessee company has obtained fabricated accommodation bills from M/s Shradha Saburi Merchants Ltd.. However, it was also observed by the A.O. that the said expenses posted was a bogus one but quantitative details have been provided by the assessee company whereby sales are tallying with purchases and, hence, addition was made u/s 40A(3) of the Act for cash purchase whereby disallowance of 20% of the said purchases of Rs. 66,12,630/- i.e. Rs. 13,22,526/- was made and added to the income of the assessee company by the AO vide assessment orders date 30-12-2009 passed u/s 143(3) of the Act.

4. Aggrieved by the assessment orders dated 30-12-2009 passed by the A.O. u/s 143(3) of the Act, the assessee company filed first appeal before the Id. CIT(A).

5. Before the Id. CIT(A) no submission was made by the assessee company on the ground that the Chartered Accountant of the assessee company was not keeping well whereby several adjournments were taken, and hence, the

addition made by the A.O. was confirmed by the ld. CIT(A) vide appellate order dated 29-03-2012.

6. Aggrieved by the appellate order of the learned CIT(A), the assessee company is in second appeal before the Tribunal.

7. At the very outset, the ld. Counsel for the assessee company submitted he is not pressing ground No. I. (1 to 4), hence, these grounds may be dismissed as not being pressed. The ld. D.R. has also not raised any objection. Accordingly, we dismiss ground No. I (1 to 4) as not being pressed.

8. With respect to the other grounds, the ld. Counsel for the assessee company submitted that on identical facts in the case of sister concern of the assessee company namely M/s Prakash Metals which was also covered by the same survey action u/s 133A of the Act conducted by the Revenue on 12<sup>th</sup> December, 2007 and the Tribunal on similar facts and circumstances decided the issue in ITA No. 6457/Mum/2012 and ITA No. 6611/Mum/2012 for the assessment year 2007-08 vide order dated 17<sup>th</sup> February, 2016 had held that end of justice will be met if commission @ 5% for clandestinely facilitating the bogus transaction of the parties to the purchases and sales will be brought to tax as commission income, which the learned counsel submitted is accepted by the said M/s Prakash Metals to end litigation and It was submitted that the said sister concern has also got material from M/s Shradha Saburi Merchants Ltd. and the said material was sold to the same D.C. Metals and to one other concern M/s. Rajasthan Aluminium and prayed that similar direction may be given in this case also which is conceded by the learned counsel for the assessee company to be acceptable and will also meet the end of the justice and shall be consistent with the stand of the Tribunal in its afore-stated orders in the case of sister concern of the assessee company

namely Prakash Metals which is concededly accepted by the said party M/s Prakash Metals to end litigation with the Revenue.

9. The ld DR on the other hand relied on the orders of the authorities below.

10. We have considered the rival contentions and perused the material placed on record including the Tribunal orders in ITA No. 6457/Mum/2012 & ITA 6611/Mum/2012 dated 17<sup>th</sup> February, 2016 in the case of sister concern of the assessee namely M/s Prakash Metals which was also covered by survey action on 12-12-2007. The Tribunal in ITA No. 6457/Mum/2012 & ITA 6611/Mum/2012 dated 17<sup>th</sup> February, 2016 in assessee company's sister concern namely Prakash Metals decided the case whereby the findings are as under:-

*“These are cross appeals by the assessee and Revenue directed against the order of the CIT(Appeals)-31, Mumbai dated 17/08/2012 for assessment year 2007-08.*

*2. The facts of the case, briefly, are as under:-*

*2.1 The assessee firm, engaged in the business as manufactures, traders of conductors and ferrous and non-ferrous metals, filed its return for assessment year 2007-08 on 29/10/2007 declaring NIL income. A revised return was filed on 1/9/2008 declaring total income of Rs.5,91,912/-. The return was processed under section 143(1) of the Income Tax Act, 1961 ( in short ‘the Act’) and the case was subsequently taken up for scrutiny.*

2.2 A survey under section 133A of the Act was conducted in this case by the ADIT (Inv), Unit IV(i), Mumbai on 12/12/2007 on the basis of information/verification of bank data under the Banking Cash Transaction Act that M/s. Shraddha Saburi Merchants Ltd. and M/s. Sai Kripa Metallic Tradecom Ltd. and other concern promoted by Shri Pravin Agarwal had indulged in suspicious transactions but admitted that no actual business of sale and purchase was carried out by them and that these transactions were all accommodation entries in respect of which the assessee and others were beneficiaries. In this survey it was found that in the period relevant to assessment year 2007-08, the assessee had purchased materials worth Rs.2,27,60,254/- from M/s. Shraddha Saburi Merchants Ltd. and Rs.1,55,09,505/- from M/s. Sai Kripa Metallic Tradecom Ltd., for which payments made by the assessee were credited in the aforesaid two parties bank accounts and the same was withdrawn in cash on the very next dates after its deposits; the assessee being the main beneficiary of these activities. The survey action revealed that the assessee had taken accommodation bills showing bogus purchase during the period relevant to assessment year 2006-07 and 2007-08 from M/s. Shraddha Saburi Merchants Ltd., and M/s. Sai Kripa Metallic Tradecom Ltd. The above modus operandi and the fact that the assessee was a beneficiary of such activities was confirmed by Shri Pravin T. Agarwal in a statement filed before ADIT (Inv), Unit IV(i), Mumbai on 2/11/2007. The ADIT (Inv) also reportedly informed the Assessing Officer that the partner of the

*assessee firm Shri Prakash J. Shah was afforded an opportunity to cross-examine Shri Pravin T. Agarwal, which he did not avail.*

*2.3 In the light of the above material on record, the Assessing Officer afforded the assessee an opportunity of being heard in the matter to explain the purchase transactions carried out with these parties in the relevant period (supra). In this regard, the statement of Shri Prakash J. Shah, partner of the assessee firm was recorded on 12/12/2007 wherein, inter-alia, he has stated that he is only acting as an indenting agent wherein the materials purchased by it is directly dispatched through the parties from whom the material was purchased to the customers to whom it is sold i.e. M/s. Rajasthan Aluminium & M/s. D.C.Metals, payments/receipts in this regard being both by way of account payee cheque. Alternatively, it was submitted by the assessee that in case the said purchases from the aforesaid two parties are treated as bogus, then the corresponding sales shown by the assessee should also be considered bogus and the difference between purchases and sales being the G.P, only this amount should be considered as its income. The Assessing Officer did not accept the explanations put forth by the assessee observing that except for making the aforesaid claims, the assessee could not furnish material to prove the mode of delivery of goods purchased/sold, names and addresses and other related particulars and details of the parties to whom goods were allegedly sold, or to explain with documentary evidence the transactions entered into for purchase from the aforesaid two parties.*

2.4 *The aforesaid submissions of the assessee did not find favour with the Assessing Officer who observed that these averments of the assessee were already dealt with in the course of survey, post survey investigations. The Assessing Officer was of the view that as per the facts on record the transactions entered into by the assessee with M/s. Shraddha Saburi Merchants Ltd., M/s. Sai Kripa Metallic Tradecom Ltd. (purchase parties), M/s. Rajasthan Aluminium and M/s. D.C. Metals (sale parties) were only accommodation entries rendered by Shri Pravin T. Agarwal and accepted by Shri Prakash J. Shah of the assessee firm and not real sale/purchase transactions as presently claimed by the assessee. In this view of the matter, the Assessing Officer at para 10 to 12 of the order of assessment held that since the assessee could not substantiate the purchases made from the aforesaid two concerns, the entire alleged purchases of Rs.3,82,69,759/- shown by the assessee from M/s. Shraddha Saburi Merchants Ltd. and M/s. Sai Kripa Metallic Tradecom Ltd. as bogus and brought the entire amount to tax in the assessee's hands. The assessment was accordingly completed under section 143(3) of the Act vide order dated 31/12/2009 wherein, the income of the assessee was determined at Rs.3,87,89,670/-.*

3.1 *Aggrieved by the order of assessment for assessment year 2007-08 dated 31/12/2009, the assessee preferred an appeal before the CIT(Appeals)-31, Mumbai. The CIT(Appeals) disposed off the assessee's appeal vide the impugned order dated 17/8/2012 allowing the assessee partial relief. In the course of appellate proceedings,*

*the CIT(Appeals) remanded to the file of the Assessing Officer for enquiries to be made for the purpose of corroborating the Assessing Officer's finding that the entire investment in purchases by the assessee from M/s. Shraddha Saburi Merchants Ltd. and M/s. Sai Kripa Metallic Tradecom Ltd. amounting to Rs.3,82,69,759/- constituted unaccounted income of the assessee. In this context the Assessing Officer was also required to make available to the assessee copies of statements of Shri Pravin T. Agarwal dated 12/12/2007, primarily relied on by the Assessing Officer to make the addition of undisclosed income of Rs.3,82,69,759/- and to afford the assessee opportunity of cross examination of Shri Pravin T. Agarwal. The matter was remanded to the Assessing Officer on more than one occasion to address the rebuttals put forth by the assessee. Report in the matter was also called for from the DDIT (Inv) Unit IV(i), Mumbai.*

*3.2 After taking into account all the facts before him, the CIT(Appeals) observed that the assessee had only facilitated the concerned purchase and sale parties, as an indenting agent for commission, in their transactions of bogus sale and purchases. The CIT(Appeals) observed that no evidence was brought on record by the Assessing Officer /DDIT to establish that the assessee purchased the goods from third parties in cash, as all the transactions of the assessee with both the concerned sale and purchase parties was admittedly through banking channels. In this view of the matter, the CIT(Appeals) held that the Assessing Officer was not justified in holding that the entire purchases by the assessee are its undisclosed*

*income and that the corresponding sales only are genuine; particularly when the quantity purchased and sold are identical. The CIT(Appeals) was of the view that the assessee facilitated these bogus transactions for the pecuniary benefit of commission. The CIT(Appeals) was of the view that since the entire transaction was clandestine, the assessee would have earned more than the 0.17% commission declared by it; (which was the difference between the concerned sales and purchase transactions) or which is normally declared in this business at 1 to 2% according to the assessee. Following the ratio of the decision of the ITAT, Ahmedabad bench, in the case of Vijay Proteins Ltd. (15 ITD 428), the CIT(Appeals) estimated the commission earned by the assessee at 5% of the said purchase of Rs.3,82,69,759/- in the peculiar facts and circumstances of the case on hand.*

*4. Aggrieved by the order of the CIT(Appeals) -31, Mumbai dated 17/8/2012 for assessment year 2007-08, both Revenue and the assessee have preferred appeals before the Tribunal in respect of the issues held against them.*

*4.1.1 The grounds raised in the assessee's appeal are as under:-*

*I            1.The Commissioner of Income Tax ("CIT(A)") erred in making confirming addition of Rs. 18,48,429/-, being estimating the additional commission income on the accommodation bills of bogus purchases made from M/s. Sai Kripa Mettalic Tradecom Pvt. Ltd., and M/s Shardhha Saburi Merchants Ltd @ 5% of the total purchase amount from the above two parties, after deducting the net commission income of Rs. 65,0591- shown in the books of account.*

*2. The learned CIT(A) was already satisfied and has verified all the purchases and sales bills with the net income out of these transactions which were fully supported by the account payee cheques and was accepted that no cash transactions were involved.*

3. *The transactions proved the modus operandi of direct purchases and sales by the parties where your appellant was only delcredere agent supported by various documentary confirmations under the circumstances.*

4. *The learned CIT(A) failed to appreciate that the Appellant had acted as an indenting agent and accordingly, earned the commission income as shown in the form of profit which is in the nature of commission and shown in the Profit & Loss Account. Hence no addition is called for.*

3. *The appellant prays that the addition of Rs.18,48,429/- be deleted as unwarranted and unjustified.*

4. *Without prejudice to the above the appellant prays that the addition be reduced to reasonable appropriate rate depending upon the circumstances of the Appellant's case.*

II.      1. *The appellant craves leave to add to , amend and/or alter the above grounds of appeal."*

4.1.2 *At the outset, the Ld. Representative for the assessee for the assessee submitted that in its appeal, the assessee will be pressing only Ground No.I (supra) and that all other grounds I (2 to 4) and (2 to 4) as well as II(1) are not being pressed. Since the grounds at S.Nos.I (2 to 4) and (2 to4) and II(1) are not pressed in this appeal, the same are rendered infructuous and accordingly dismissed.*

4.2      *The grounds raised in Revenue's appeal are as under:-*

1. *" The Learned CIT(A) has erred on facts and circumstances of the case and in law in directing AO to delete Rs. 3,64,21,330/- held as bogus purchases by the Assessing Officer.*
2. *The Learned CIT(A) has erred on the facts and circumstances of the case and in law in assuming the assessee as merely an agent receiving prefixed commission in respect of the transaction of alleged bogus purchases.*
3. *The appellant prays that the order of the CIT (Appeals) on the above grounds be set aside and that of the AO be restored.*
4. *4. The appellant craves leave to amend or alter any ground or to submit additional new ground which may be necessary."*

5.1      *In Ground No.1 of Assessee's appeal, it is contended that the CIT(Appeals) erred in estimating the commission income earned by the*

*assessee on accommodation bills of bogus purchases made from M/s. Shraddha Saburi Merchants Ltd. and M/s. Sai Kripa Metallic Tradecom Ltd. @5% of the total purchases of Rs.3,82,69,759/- from these two parties.*

*5.2 In Grounds No.1 to 4 of Revenue's appeal, it is contended that CIT(Appeals) erred in directing the Assessing Officer to delete the addition of Rs.3,82,89,579/- held by the Assessing Officer as income of the assessee arising out of bogus purchases from the aforesaid two parties and in assuming that the assessee has merely earned commission in respect of the aforesaid purchases.*

*5.3 The assessee's Grounds I(1) and Revenue's Grounds (1 to 4)(supra) being both in respect of the contrary findings of the Assessing Officer and the CIT(Appeals) on the same issue of determination of the income earned by the assessee from out of the transactions of bogus purchases amounting to Rs.3,82,69,759/- made by the assessee from the two parties M/s. Shraddha Saburi Merchants Ltd. and M/s. Sai Kripa Metallic Tradecom Ltd., these issues being inter connected and arising from the grounds raised by both sides in respect of the same set of transactions, they are being considered and disposed off together hereunder.*

*5.4.1 The Ld. Representative for the assessee, on the issue raised in Revenue's appeal, vehemently supported the impugned order of the CIT(Appeals) in respect of its finding holding that the Assessing Officer was not justified in holding that the entire purchases of Rs.3,82,69,759/- made by the assessee from the two purchase parties i.e. M/s. Shraddha Saburi Merchants Ltd. and M/s. Sai Kripa Metallic Tradecom Ltd. was the assessee's undisclosed income; particularly when there were immediate*

*and identical quantities sold to M/s.D.C.Metals and M/s. Rajasthan Aluminium through banking channels. It is submitted that the CIT(Appeals) had, after due consideration of the factual material on record, found that the assessee had only facilitated the concerned purchase and sale parties as an indenting agent for remuneration in commission in their transaction of bogus sales and purchases.*

*5.4.2 In respect of Ground No.I(1) in the assessee's appeal, the Ld. Representative for the assessee contended that the CIT(Appeals), after observing that the assessee was only an indenting agent or facilitator for the aforesaid sellers and purchasers in their transactions of bogus sales and purchases in return for remuneration of commission, erred in not accepting the commission of 0.17% as admitted by the assessee. It is contended that the estimation of commission income earned by the assessee on the aforesaid transactions as a facilitator @5% thereon was too high and the same could not be more than 1 to 2% thereof in such business.*

*5.5.1 In respect of the grounds raised at S.No. 1 to 4 of Revenue's appeal, the Ld. Departmental Representative placing strong reliance on the findings of the Assessing Officer in the order of assessment, contended that the CIT(Appeals) had erred in holding that the assessee was merely an indenting agent receiving commission in respect of transactions of bogus purchases and in consequently deleting the addition made by the Assessing Officer on account of bogus purchases from the aforesaid two parties; i.e. M/s. Shraddha Saburi Merchants Ltd. and M/s. Sai Kripa Metallic Tradecom Ltd.. It was prayed that the finding in the Assessing Officer's order be restored.*

5.5.2 *In respect of the averments of the Ld. Representative for the assessee on the assessee's grounds claiming that the assessee's income from commission @ 0.17% of purchases should be accepted as such and not at 5% determined by the CIT(Appeals), the Ld. Departmental Representative submitted that, without prejudice to Revenue's stand that the entire bogus purchases amounting to Rs.3,82,69,759/- made by the assessee from the aforesaid two parties ought to be brought to tax in the assessee's hands as held by the Assessing Officer, the claim of the Ld. Representative for the assessee is contradictory as before the CIT(Appeals) the claim was that commission in such type of business would be 1 to 2% thereof. In these circumstances, since the averments of the assessee are bereft of any corroborative material evidence, the assessee's appeal ought to be dismissed.*

5.6.1 *We have heard the rival contentions, in respect of both the assessee's as well as Revenue's cross appeals, and perused and carefully considered the material on record. The facts of the matter, from the assessment to the first appellate proceedings, leading to the present appeal have been briefly narrated at para 2.1 to 3.2 of this order (supra). On a perusal of the impugned order, we find that the CIT(Appeals) has made a detailed consideration of the order of assessment, the averments of the Ld. Representative for the assessee for the assessee, the various remand reports submitted by the Assessing Officer, the assessee's rebuttals, details filed in the report of DDIT(Inv) Unit IV, Mumbai. We also find that, after consideration of all these material on record, the CIT(Appeals) observed that no material evidence was brought on record by the Assessing Officer /DDIT (Inv) to establish that the assessee purchased the goods*

*from third parties in cash, as all the transactions of the assessee with both the sale and purchase parties were through banking channels. The CIT(Appeals) noticed from the material before him, that the assessee had only facilitated the concerned purchase and sale parties in their transactions of bogus sales and purchases as an indenting agent for commission. It was in this factual matrix that the CIT(Appeals) held that the Assessing Officer was not justified in holding that the entire purchases by the assessee from M/s. Shraddha Saburi Merchants Ltd. and M/s. Sai Kripa Metallic Tradecom Ltd. are the assessee's undisclosed income and that only the corresponding sales to M/s. Rajasthan Aluminium and M/s. D.C Metals are genuine, particularly when the items/quantity purchased and sold are identical.*

*5.6.2 It is seen that the CIT(Appeals) from the material on record, was of the view that the assessee facilitated these bogus transactions of sale and purchase for the aforesaid sale and purchase parties as an indenting agent and received commission thereon. We find that CIT(Appeals) was of the opinion that since the aforesaid bogus transactions of sales and purchases were clandestinely carried out, the assessee would have certainly earned more than the 0.17% declared by the assessee or 1 to 2% earned in such type of business as admitted by the Ld. Representative for the assessee. The CIT(Appeals) following the ratio of the decision of the ITAT Ahmedabad Bench in Vijay Protein Ltd. (supra) proceeded to estimate the commission earned by the assessee @5% on the said purchase transactions amounting to Rs.3,82,69,759/- in the peculiar facts and circumstances of the case.*

*5.6.3 The findings of the ld. CIT(A) at paras 2.4 to 2.4.3 of the impugned order, in respect of the issues before us is extracted hereunder :-*

*“2.4 I have carefully considered the assessment order and the submissions of the AR. I have also gone through the various remand reports and its rebuttals including the various details filed by the AR and the report of DDIT(Inv)Unit-V, Mumbai as discussed above. I have also gone through the various statements recorded by the AO during the remand proceedings i.e. statements of Shri Prakash J. Shah dated 21.07.2011 and statements of Shri Raju Bhansali & Shri Chanduprakash Bhansali dated 19.07.2011 and the affidavit of Shri Prakash J. Shah dated 06.01.2012 as well as the affidavits of Shri Raju Bhansali & Shri Chanduprakash Bhansali dated 14.05.2010 and the affidavit of Shri Pravin T. Agarwal dated 19.05.2010 as discussed above. Besides, I have also gone through the statement of Shri Prakash J. Shah partner of the appellant firm recorded during the course of survey u/s 133A of the Act as well as the statement of Shri Pravin T. Agarwal recorded u/s 131 of the Act dated 24.03.2008 and his written confession submitted vide letter dated 02.11.2007 before the ADIT (Inv). On perusal thereof I find the appellant has shown purchases of aluminium and copper rods of Rs.3,82,69,759/- from M/s Shradha Saburi Merchants Ltd and M/s Sai Kripa Metallic Tradecom Limited and its corresponding sales to M/s D.C. Metals and M/s Rajasthan Aluminum during the relevant accounting year. However, based on the various enquiries made and evidences gathered in the case of the appellant by the ADIT (Inv.), Unit - IV (1), Mumbai it was found that no such goods were purchased from M/s Shradha Saburi Merchants Ltd and M/s Sai Kripa Metallic Tradecom Ltd inasmuch as these sales bills issued by M/s Shradha Saburi Merchants Ltd. and M/s. Sai Kripa Metallic Tradecom Ltd. were bogus accommodation bills issued without supply of actual material as disclosed therein. Or in other words, the appellant has not made any such purchases from M/s. Shradha Saburi Merchants Ltd. and M/s. Sai Kripa Metallic Tradecom Ltd. and therefore, the entire purchases shown was considered as bogus or unexplained purchases and accordingly the same was added to its total income. However, the appellant has submitted that it is only engaged in the indenting agency business; whereby, the goods purchased were directly dispatched by M/s. Shradha Saburi Merchants Ltd and M/s. Sai Kripa Metallic Tradecom Ltd. to the godowns of M/s. D.C.Metal and M/s. Rajasthan Alluminium without any involvement of the appellant. It was further submitted that the appellant for its indenting agency services was duly compensated by way of commission which is the difference between the sale price and the purchase price as shown in its books of account. At the same time the AR has vehemently argued that neither a copy of the statement recorded of Shri Pravin T. Agarwal as discussed in the assessment order was provided nor the appellant was allowed to cross examine Shri Pravin T. Agarwal either by the AO or by the ADIT. It was vehemently argued that the denial of the cross examination by the appellant of Shri Pravin T. Agarwal as discussed in the assessment order is false and incorrect. Accordingly, the appellant has filed an affidavit dated 19.05.2010 of Shri Pravin T. Agarwal; wherein, he has admitted having made sale of material*

*as per the sale bills issued to the appellant. The AR has also filed corresponding affidavits dated 14.05.2010 of Shri Raju Bhansali partner of M/s Rajasthan Alluminium and Shri Chandra Prakash Bhansali partner of M/s D.C. Metals confirming the contention of the appellant, as discussed above. Therefore, on account of these facts placed on record the matter was remanded to the AO on various occasions as discussed above. The matter was also referred to the concerned DDIT(Inv) for making further enquiries and investigations as discussed above. However, in spite thereof no fruitful or logical details and evidences are brought on record so as to hold that the entire purchases shown by the appellant from M/s Shraddha Saburi Merchants Ltd and M/s Sai Kripa Metallic Tradecom Ltd are to be considered as its unaccounted or unexplained income. The AO herself vide para-4 of her remand report dated 19.09.2011 has confirmed the submissions of the appellant that the source of payments made to M/s Shraddha Saburi Merchants Ltd and M/s Sai Kripa Metallic Tradecom Ltd through banking channels are originating out of the payments received from M/s D.C. Metal and M/s Rajasthan Aluminum by the appellant. From the same as well as from the details and evidences brought on record it is seen that the appellant has been acting only as a conduit or an agent to facilitate the bogus transactions of purchases and sale of aluminum sheets and copper wires & rods taken place between M/s Shraddha Saburi Merchants Ltd and M/s Sai Kripa Metallic Tradecom Ltd (sale parties) and M/s D.C. Metal and M/s Rajasthan Aluminum (purchase parties) merely as a middleman or an indenting agent; whereby, the appellant has in turn issued bogus or accommodation sale bills in favour of M/s D.C. Metal and M/s Rajasthan Aluminum against the receipt of similar bogus or accommodation sale bills issued by M/s. Shraddha Saburi Merchants Ltd and M/s. Sai Kripa Metallic Tradecom Ltd. Or in other words, it has acted merely as an indenting agent or as a facilitator to legalise such bogus transactions; whereas, the real beneficiaries of these bogus transactions are M/s. D.C. Metal and M/s Rajasthan Aluminum, as no evidences except for the movement of funds no other corresponding or corroborative evidences to establish the actual purchase and sale of goods mentioned in these sale /purchase bills are produced neither by M/s Shraddha Saburi Merchants and M/s Sai Kripa Metallic Tradecom Ltd, nor by the appellant or by M/s D.C. Metal and M/s Rajasthan Aluminum. Nothing is brought on record to prove the movement, transportation as well as the names and particulars of the parties from whom these goods were either purchased M/s Shraddha Saburi Merchants Ltd and M/s Sai Kripa Metallic Tradecom Ltd or by the Appellant or by the M/s D.C. Metal and M/s Rajasthan Aluminum; except for the issue of bogus sales bills by M/s. Shraddha Saburi Merchants Ltd and M/s. Sai Kripa Metallic Tradecom Ltd and by the appellant which as discussed above are already confirmed to be bogus bills without sale of actual material by M/s. Shraddha Saburi Merchants Ltd. and M/s. Kripa Metallic Tradecom Ltd. (statement of Shri Pravin T. Agarwal dated 24.03.2008) and by the appellant (affidavit of Shri Prakash J. Shah dated 06.01.2012). No other evidences are brought on record by the AO or by the DDIT so as to prove that the appellant has purchased these*

*goods from third parties in cash. Nothing is produced to prove that such material purchased is sold to M/s. D.C. Metal and M/s Rajasthan Aluminum by the appellant as no such evidences to prove the movement of goods is either produced by the AO or by the DDIT or by the concerned purchase parties. The AO has not brought any such details and evidences (in remand) even though statements of Sri Prakash J. Shah and Shri Raju Bhansali & Shri Chanduprakash Bhansali were recorded during remand proceedings. It is not proved that the cash withdrawn from the bank accounts of M/s. Shradha Saburi Merchants Ltd and M/s Sai Kripa Metallic Tradecom Ltd were given to the appellant. Therefore, it is seen that no such material is sold by the appellant to M/s. D.C. Metals and M/s Rajasthan Aluminum except for the issue of bogus bills in consonance with the movement of funds as discussed above. No material or evidence is produced by the AO or by the DDIT that these goods were procured by the appellant from grey market in cash and thereafter sold to M/s D.C. Metals and M/s Rajasthan Aluminum. On the other hand from the affidavits of the Shri Chandra Prakash Bhansali and Raju Bhansali dated 14.05.2010, the material purchased is directly delivered by the concerned manufacturers or suppliers to their godowns without any involvement of the appellant. It was also stated that these suppliers I manufacturers are having their godowns situated outside Mumbai, Check Naka, where M/s D C Metals and Rajasthan Alluminium are also having their godowns I warehouses. On account of these facts and evidences placed on record, I find sufficient merits in the submissions of the AR that the appellant has only facilitated the concerned purchase and sale parties, being a conduit in the process of legalization of the transaction of bogus purchases and sales against payment of pre-fixed commission. These submissions of the appellant are duly corroborated by the affidavits of Shri Pravin T Agarwal, promoter of M/s. Shradha Saburi Merchants Ltd and M/s. Sai Kripa Metallic Tradecom Ltd and Shri Chandra Prakash Bansali and Shri Raju Bhansali, partners of M/s. D C Metals and M/s. Rajasthan Alluminium respectively. The AO has confirmed that the funds originating from M/s. D.e. Metals and M/s. Rajasthan Aluminum are immediately transferred to the bank accounts of M/s Shradha Saburi Merchants Ltd and M/s. Sai Kripa Metallic Tradecom Ltd through the bank accounts of the appellant. Thereafter, the same are withdrawn in cash from the bank accounts of M/s. Shradha Saburi Merchants Ltd and M/s. Sai Kripa Metallic Tradecom Ltd but ultimately to whom the same is paid is not investigated either by the AO or by the ADIT/DDIT either during the course of the assessment order or during the remand proceedings. Both these authorities as discussed above have failed to examine Shri Pravin T. Agarwal on this issue nor they could succeed in recording the statement of Shri Pravin #T. Agarwal and further to be cross examined by the appellant as discussed above. The AO as well as the DDIT have expressed their in this regard. Similarly, no cross examination of Shri Chandra Prakash Bhansali and Shri Raju Bhansali is granted to the appellant in spite of the contents of their affidavits dated 14.05.2010 as discussed above vis-a-vis their independent statements recorded by the AO during the remand proceedings on*

19.07.2011. *On account of these facts brought on record, I find sufficient merits in the submissions of the AR that the statements recorded by the AO at the back of the appellant cannot be considered as valid piece of evidence.*

2.4.1. *Besides, it may be noticed that in spite of granting sufficient opportunity by way of remanding the proceedings to the AO as well as referring the matter to the DDIT (Inv), as discussed above, they have failed to substantiate or corroborate the findings of the AO as discussed in the assessment order by bringing any cogent material so as to establish that the entire purchases shown by the appellant are its unexplained income. Both the AO and the DDIT(Inv) have failed to record the statement of Shri Pravin T Agarwal and allowing him to be cross-examined by the appellant, so as to ascertain the correct facts of the case in hand. In the absence of such a statement and further corroborative documentary evidences brought on record, to my considered opinion, it is unjustified on the part of the AO to hold that the entire purchases shown by the appellant are to be considered as its unexplained income. It is patently incorrect conclusion on the part of the AO that the purchases are not genuine but at the same time the corresponding sales shown are genuine sales. If the purchases are bogus without proving that the appellant has purchased the same items in grey market in cash it cannot be held that the corresponding sales are genuine. However, nothing is brought on record either by the AO or by the DDIT even though the matter was specifically remanded for this purpose. Therefore, I find sufficient merits in the submissions of the AR that if the purchases are found bogus, the corresponding sales of the same item as shown by the appellant in its books of accounts cannot be considered as genuine sales. Nevertheless, no details of whatsoever nature about the parties from whom, the material is purchased, its movement or transportation to the godown of M/s. D C Metals and M/s. Rajasthan Alluminium is brought on record by the AO or by the DDIT(Inv), in spite of conducting survey u/s 133A of the Act. Further, there is no evidence to prove that the cash withdrawn by Shri Pravin T Agarwal is returned to the appellant and not to M/s. D C Metals or M/s. Rajasthan Alluminium, particularly considering to the contents of the affidavit of Shri Prakash J Shah, partner of the appellant firm dated 06.01.2012. Therefore, it is seen that in spite of remanding the matter on several occasions, no new facts and evidences are brought on record by the AO or by the DDIT(Inv), so as to justify the bogus purchases made by the appellant out of its unaccounted income. On the other hand, as discussed above, the AO herself has admitted on verification of the relevant bank accounts that the source of the entire payments made to M/s Shradha Saburi Merchants Ltd and M/s. Sai Kripa Metallic Tradecom Ltd by the appellant through banking channels is out of the payments received from M/s. D C Metals and M/s. Rajasthan Alluminium. This proves that no unaccounted investment is made by the appellant for this purpose during the relevant accounting year.*

2.4.2 Besides, Shri Prakash J Shah in his statement dated 06.01.2012 has stated the detailed modus-operandi of the entire transactions arranged by the appellant, which proves that the appellant has merely rendered or facilitated these two parties i.e. M/s. Shraddha Saburi Merchants Ltd. and M/s. Sai Kripa Metallic Tradecom Ltd.(purchase parties) and M/s. D C Metals and M/s. Rajasthan Aluminium (sales Parties) by way of issue of bogus sales bills against pre-fixed commission received. The contents of the affidavit filed are further corroborated by way of the evidences furnished i.e. from the copies of bank account opening forms filed, it is seen that the appellant has opened a new account particularly for this purpose in the same bank and branch (Ratnakar Bank) in which, the bank accounts of M/s. D C Metals and M/s. Rajasthan Aluminium were maintained and the new account opening form of the appellant is introduced by the director/partner of M/s.D C Metals and M/s Rajasthan Aluminium. Secondly, it is also noticed a the appellant has never dealt in the business of aluminium sheets and rods, which are found mentioned in these accommodation bills issued. Further, the appellant has no facility or warehousing to store the material purchased, which is admitted by the partners of M/s.Rajasthan Aluminium and M/s. D.C. Metals in their affidavits dated 14-05-2012, contending that the material purchased was directly delivered by manufacturers / suppliers in their own delivery vans / handcarts from their godowns situated outside Mumbai Check Naka, where M/s. D.C. Metals/ M/s. Rajasthan Aluminium were also having their godowns /warehousing facilities. Further, it is also noticed that the entire amount of Maharashtra-VAT on these transactions is paid by M/s DC Metals / M/s. Rajasthan Aluminium.

2.4.3. Therefore, on account of these facts available in the case of the appellant, as discussed above and further in the absence of any new facts and evidences brought on record by the AO as well as in the absence of any corroborative evidences placed on record in spite of remanding the matter on various occasions, I find it cannot be held that the entire purchases made by the appellant are out of its unaccounted sources or the same is to be considered as its unexplained income. Even otherwise, even if the purchases are held as bogus, to my considered opinion, it cannot be held that the corresponding sales are genuine; particularly when the quantity purchased and sold are same. Obviously, in such a circumstance if the purchases are considered the corresponding sales also has to be bogus. Therefore, on account of the same, it is evident that under the given facts and circumstances the appellant has merely issued accommodation sales bills against the payment of pre-fixed commission as discussed above. However, since the entire transaction is carried out in a clandestine manner, it cannot be held that the rate of commission is as per the normal practice followed in this line of business. Naturally, it has to be more than the normal rate of commission paid in this line of business. In the case of Vijay Proteins Ltd vs. ACIT reported in 15 ITD 428, the Hon'ble ITAT Ahmedabad "C" Bench under similar circumstances, where the AO disallowed the entire expenditure on account of purchases made from certain parties

trating the same as bogus, has held that "it is an elementary rule of accountancy as well as of taxation laws that profit from business cannot be ascertained without deducting cost of purchase from sales/ otherwise It could amount to levy of income tax on gross receipts or on sales. Such recourse is not permissible unless it is specifically authorized to do so under any particular provisions contained in the Act." It has been held by the Hon'ble Tribunal that in such circumstances, a certain percentage of expenditure has to be disallowed on account of inflation of purchase price. The ITAT has held that if purchases are made from the open market without insisting for the genuine bills, the suppliers may be willing to sell those products at a much lower rate compared to the rate at which they may charge in case the dealer has to give a genuine sale invoice in respect of that sale and supply of goods. There may be various factors due to which there is bound to be a substantial difference between the party purchase price of unaccounted material and rate of purchase of unaccounted for goods. There may be a saving on account of sales-tax and other taxes and duties which may be leviable in respect of manufacture of sale of goods in question. The suppliers or manufacturers make a substantial saving in the income tax in respect of income from sale of unaccounted goods produced and sold by them. This may also be one of the factors due to which the seller may be willing to charge lower rates for unaccounted goods as compared to accounted for goods. The AR has not filed the details of commission earned on this bogus transaction separately. However, from the P&L account it is seen that it has shown total commission of Rs.85,948.70 on total purchases of Rs.5,01,02,850/- which is inclusive of the bogus sales made to M/s. Rajasthan Aluminium and M/s. D.C. Metals. The same works out to 0.17% of the total purchases. The bogus purchases made from M/s. Shradha Saburi Merchants Ltd. and M/s. Sai Kripa Metallic Tradecom Ltd is of Rs.3,82,69,759/- for the relevant accounting year. The AR has consistently argued that the rate of commission allowed in this line of business normally does not exceed more than 1% to 2% of the sale value. However, to my considered opinion the same cannot be taken on its face value, particularly in view of the lack of evidences and the clandestine nature of business carried out by the appellant. And also considering to the fact that the appellant itself has shown such commission of 0.17% (as discussed above) which is much lesser than the rate of commission admitted by the AR in the similar line of business or practice. Therefore, on account of the same, I find it would meet the end of justice, in case, the rate of commission charged by the appellant is taken @ 5% of the total purchase value of the appellant during the relevant accounting year. The same on total such purchases of Rs.3,82,69,759/- works out to Rs.19,13,488/- for the relevant assessment year. Since, the appellant has shown net difference between the sale and purchase of Rs.85,948.70 in its trading account pertaining to the bogus purchases as well as genuine trading carried out, therefore, the proportionate profit or commission pertaining to bogus transaction is worked out at Rs.65,059/- (i.e. 0.17% of Rs.3,82,69,759/-) which is already assessed to tax, therefore, considering to the same, the balance amount of RS.18,48,429/- (i.e. Rs.19,13,488/- (-) Rs.65,059/-) of addition made on this account is sustained

*and the remaining addition made is directed to be deleted. This ground raised by the appellant is therefore partly allowed.”*

*5.6.4 Before us, both revenue and the assessee have merely reiterated their respective claims (i) of revenue that the entire purchase to M/s. Shraddha Saburi Merchants Ltd. and M/s. Sai Kripa Metallic Tradecom Ltd. amounting to Rs.3,82,69,759/- be brought to tax as the assessee’s income and; (ii) of the assessee that the commission income be assessed at 0.17% as purchases as declared by it. We find that apart from putting forth these averments, both parties have failed to bring on record any material evidence to controvert the findings rendered by the ld. CIT(A) in the impugned order on these two issues in cross appeals. In this view of the matter, and after careful consideration of the material on record, we find no reason for interference in the order of the ld. CIT(A) on both these issues before us raised respectively by revenue and the assessee. We, therefore, confirm the order of the ld. CIT(A) in holding that –*

- (i) the AO was not justified in holding that the entire bogus purchases by the assessee from the aforesaid two parties amounting to Rs.3,82,69,759/- in the assessee’s undisclosed income and*
- (ii) that the assessee had earned commission @ 5% for clandestinely facilitating the bogus transactions of the parties to purchases and sales. Consequently, revenue’s grounds at sr. nos. 1 to 4 and the assessee’s ground at sr. no. I(1) are dismissed.*

*6. In the result, both the assessee’s appeal for Asst. Year 2007-08 and revenue’s cross appeal are dismissed.”*

We have observed that the facts and circumstances of the instant case before us are similar to the facts in the case of sister concern of the assessee

company namely Prakash Metals vide afore-stated orders in ITA No.6457/Mum/2012 and ITA no. 6611/Mum/2012 vide orders dated 17-02-2016, Respectfully following the orders of the co-ordinate Bench of this Tribunal in ITA No.6457/Mum/2012 and ITA no. 6611/Mum/2012 vide orders dated 17-02-2016 in the case of assessee company's sister concern M/s Prakash Metals, we partly allow the appeal filed by the assessee company by holding that the assessee company's income from these transactions be computed as 5% of commission for clandestinely facilitating the bogus transaction of the parties to the purchase and sale as held by the Tribunal in its orders in the case of the sister concern of the assessee company namely M/s Prakash Metals in ITA No.6457/Mum/2012 and ITA no. 6611/Mum/2012 vide orders dated 17-02-2016, which will meet the end of the justice which is also conceded by the assessee company's counsel to be acceptable to the assessee company to end litigation with the Revenue , keeping also in view of the afore-stated decision of the Tribunal in the case of the assessee's sister concern M/s Prakash Metals on similar facts which was stated by the learned counsel for the assessee company was also accepted by the said concern M/s Prakash Metals to end litigation with Revenue. We order accordingly.

11. In the result, the appeal filed by the assessee company in ITA NO. 3311/Mum/2012 for the assessment year 2007-08 is partly allowed.

Order pronounced in the open court on 25<sup>th</sup> July , 2016.

आदेश की घोषणा खुले न्यायालय में दिनांक: 25-07-2016 को की गई ।

Sd/-  
(SAKTIJIT DEY)  
JUDICIAL MEMBER

sd/-  
(RAMIT KOCHAR)  
ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated 25-07-2016

व.नि.स./ R.K., Ex. Sr. PS

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)- concerned, Mumbai
4. आयकर आयुक्त / CIT- Concerned, Mumbai
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai "D" Bench
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई/ ITAT, Mumbai