

आयकर अपीलीय अधिकरण " एच " न्यायपीठ मुंबई में।

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "H", MUMBAI**

**BEFORE SHRI C.N. PRASAD, JUDICIAL MEMBER AND
SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER**

ITA NO.1796/MUM/2011, (A.Y : 2007-08)

ACIT Cir.4(2)
Room No.642, 6th Floor
Aayakar Bhavan
M.K.Road
Mumbai – 400 020

Vs. M/s SHCIL Services Ltd.
Ground Floor, P.J.Towers
Dalal Street, Fort
Mumbai – 400 023
PAN : AAJCS5661H

ITA NO.1221/MUM/2011, (A.Y:2007-08)

M/s SHCIL Services Ltd.
Ground Floor, P.J.Towers
Dalal Street, Fort
Mumbai – 400 023
PAN : AAJCS5661H

Vs. ACIT Cir.4(2)
Room No.642, 6th Floor
Aayakar Bhavan
M.K.Road
Mumbai – 400 020

(अपीलार्थी / **Appellant**)

(प्रत्यर्थी / **Respondent**)

निर्धारिती की ओर से /Assessee by : **Shri Akram Khan &
Shri Raunak Vardhan**
राजस्व की ओर से /Revenue by : **Shri B.S.Bist**

सुनवाई की तारीख / **Date of Hearing** : **8.3.2017**
घोषणा की तारीख / **Date of Pronouncement** : **12.5.2017**

आदेश / O R D E R

PER C.N.PRASAD (JM)

This appeal is recalled for the purpose of disposing of the ground relating to disallowance of transaction charges paid to BSE u/s 40(a)(ia) of the Act.

2. This Tribunal by order dated 28.8.2014 in ITA No.1796/Mum/2011 decided this issue against the Assessee by following the jurisdictional High Court in the case of CIT Vs. Kotak Securities Ltd [340 ITR 333]. Subsequently, the Hon'ble Supreme Court reversed the decision of the jurisdictional High Court in the case of CIT Vs. Kotak Securities Ltd, wherein, it was held that the view taken by the Hon'ble Bombay High Court that the transaction charges paid to the Bombay Stock Exchange by its members are for technical services rendered is not an appropriate view. It was held that such charges are in the nature of payments made for facilities provided by the Stock Exchange and no TDS on such payments would therefore be deductible u/s 194J of the Act. In view of this decision of the Hon'ble Supreme Court, the appeal of the Revenue was recalled by this Tribunal in MA No.106/Mum/2010 dated 31.2.2017 to dispose off the ground in consonance with the decision of the Hon'ble Supreme Court in the case of CIT Vs. Kotak Services Ltd. Therefore, respectfully following the said decision, we decide this issue in favour of the Assessee and against the Revenue. Assessing Officer is directed to delete the disallowance made u/s 40(a)(ia) in respect of transaction charges paid by the Assessee to Stock Exchange.

3. In the result, appeal of the Revenue on this ground is dismissed.

Order pronounced in the open court on the 12th day of May 2017.

Sd/-
(RAMIT KOCHAR)
लेखा सदस्य /
ACCOUNTANT MEMBER

Sd/-
(C.N.PRASAD)
न्यायिक सदस्य /
JUDICIAL MEMBER

मुंबई / Mumbai; दिनांक / Dated 12.05.2017
LR, SPS

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), Mumbai.
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

**सहायक पंजीकार
(Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mum**