

**IN THE INCOME TAX APPELLATE TRIBUNAL 'G' BENCH, MUMBAI
BEFORE SHRI G.S. PANNU, AM AND SHRI RAVISH SOOD, JM**

आयकर अपील सं./ I.T.A. No. 1800/Mum/2013
(निर्धारण वर्ष / Assessment Year: 2004-05)

DCIT-2(1), Room No. 561, 5 th Floor, Aayakar Bhavan M.K.Road, Mumbai- 400 020	बनाम/ Vs.	M/s. Somaiya Properties & Investment Pvt. Ltd. (formerly known as M/s Godawari Sugar Mills Ltd.) Somaiya Bldg, 45-47, M.G. Road, Mumbai-400001
स्थायीलेखासं./जीआइआरसं./	PAN/GIR No.	AAACT5004A
(अपीलार्थी/Revenue)	:	(प्रत्यर्थी / Assessee)

अपीलार्थी की ओर से/ Revenue by	:	Mrs. Vidisha Katra, D.R.
प्रत्यर्थी की ओर से/ Assessee by	:	Shri Vipul Joshi, A.R.

सुनवाई की तारीख/ Date of Hearing	:	03/07/2017
घोषणा की तारीख / Date of Pronouncement	:	25/09/2017

आदेश / O R D E R

PER RAVISH SOOD, JUDICIAL MEMBER

The present appeal filed by the revenue is directed against the order passed by the **Commissioner of Income tax (Appeals)-4, Mumbai (for short 'CIT(A)')**, dated 06.12.2012, which in itself arises from the assessment order passed by the A.O u/s 271(1)(c) of the **Income Tax Act, 1961 (in short 'the Act')**, dated 18.12.2006. The revenue assailing the order of the CIT(A), had raised the following grounds of appeal before us:-

“On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in allowing relief to the assessee to the extent impugned in the grounds enumerated below:

1. *The order of the CIT(A) is opposed to law and facts of the case.*
2. *On facts and circumstances of the case and in law, the Ld. CIT(A) has erred in deleting penalty for furnishing of inaccurate particulars of overlooking the crucial fact that the assessee had made on improper claim of higher of depreciation on the co-generation plant.*
3. *On facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting penalty which was correctly levied by the A.O, as the assessee had knowingly claimed higher deduction relating to 100% depreciation when the assessee had services of trained accountants and legal professional and cannot ignoring of law as a defense.*
4. *For these and other grounds that may be urged at the time of hearing, the decision of the CIT(A) may be set aside and that of the A.O restored.”*

2. Briefly stated, the facts of the case are that the assessee company which is engaged in the business of manufacturing of sugar and organic chemicals since last several years and also into cogeneration and distribution of power had filed its return of income on 01.11.2004, declaring total loss of Rs.50,25,88,693/-, and the book profit u/s

115JB at Rs. Nil. The case of the assessee was taken up for scrutiny assessment under Sec. 143(2).

3. That during the course of the assessment proceedings it was observed by the A.O that the assessee had put up a co-generation plant for producing power in District Mudhol (Karnataka), which had commenced operation in the period relevant to AY: 2003-04. It was observed by the A.O that though the depreciation @ 100% of the cost of the co-generation plant and mill rollers was allowed up to AY: 2002-03, however, with effect from AY: 2003-04 the rate was reduced to 80%. The A.O observed that despite the scaling down of the depreciation rate to 80% w.e.f A.Y. 2003-04, the assessee while filing its return of income for the immediately preceding year, viz. AY: 2003-04 had claimed depreciation at 100%. It was observed by the A.O that the assessee during the course of the assessment proceedings for AY: 2003-04 had vide its letter dated 22.03.2006 filed with the A.O, revised its claim of depreciation on the co-generation plant and mill rollers and had restricted its entitlement towards depreciation on the same @ 80% of their respective cost. The A.O observed that the assessee during the year under consideration, viz. AY: 2004-05, had also in its return of income filed on 31.10.2005 claimed depreciation on the co-generation plant and mill rollers at the rate of 100%. The A.O during the course of the assessment proceedings for the year under consideration, viz. A.Y. 2004-05, vide its letter dated. 09.11.2006 called upon the assessee to furnish the details of the machinery in respect of which depreciation was claimed @100%. The A.O observed that the assessee in its reply to the aforesaid information called for by the A.O, had thus vide its letter dated 11.11.2006 filed a revised claim of depreciation and restricted its claim of deprecation in respect of the co-generation plant and mill rollers to 80% as against the claim of 100% depreciation raised in the

return of income. The A.O thereafter proceeded with and concluded the assessment vide his order passed u/s 143(3) on 18.12.2006, determining the total loss of the assessee at Rs.42,33,66,467/- and 'book loss' at Rs.2,17,32,056/-.

4. The A.O while passing the assessment order had initiated penalty proceedings u/s 271(1)(c) for furnishing of inaccurate particulars of income by the assessee in respect of its excess claim for depreciation on co-generation plant and mill rollers which was raised at the rate of 100%, as against the allowable rate of 80%. The A.O issued a show cause notice u/s 274 r.w.s. 271(1)(c) to the assessee on 18.12.2006, calling upon it to explain as to why penalty u/s 271(1)(c) may not be imposed upon it for excess claim of depreciation. The assessee in the course of the penalty proceedings tried to impress upon the A.O that the raising of depreciation at the rate of 100%, i.e. as per the pre-amended rates which were applicable till AY: 2002-03 as against the allowable rate of 80% for the year under consideration was on account of an inadvertent bonafide mistake. However, the A.O not being persuaded to accept the aforesaid contention of the assessee and being of the view that it was beyond comprehension that though the change of the depreciation rate was effective from A.Y: 2003-04, the assessee had remained unaware of the amended rate of depreciation for the year under consideration, therefore, rejected the explanation of the assessee. The A.O in order to fortify his aforesaid conviction, further observed, that the assessee despite being aware of the said wrong claim of depreciation so raised by him, had however neither filed a revised return of income nor a correct statement of depreciation with the A.O, before the initiation of scrutiny assessment proceedings for the year under consideration. The A.O on the basis of his aforesaid observations imposed a penalty of Rs.3,23,89,211/- on the assessee u/s 271(1)(c).

However, as the figure of depreciation for calculation of penalty was wrongly taken by the A.O while passing the penalty order, therefore, the A.O vide his order passed under Sec. 154, dated 26.12.2011 reduced the same to Rs.1,45,96,094/-.

5. The assessee being aggrieved with the imposition of penalty u/s 271(1)(c), carried the matter in appeal before the CIT(A). The CIT(A) after deliberating on the contentions of the assessee in the backdrop of the facts of the case concluded that though the raising of a higher claim of depreciation by applying an excessive rate would lead to characterization of the same as a wrong claim by the assessee, but the assessee could not be penalized under Sec. 271(1)(c) on the ground that it had furnished inaccurate particulars of income. The CIT(A) while arriving at the aforesaid conclusion took cognizance of the fact that under similar circumstances where the assessee had claimed a higher rate of depreciation on the co-generation plant and mill rollers at the rate of 100%, as against the allowable rate of 80% in its return of income for AY: 2003-04, no penalty was levied by the A.O. The CIT(A) while concluding that the disallowance of depreciation in the hands of the assessee could safely be held to be a genuine mistake, relied on the judgment of the **Hon'ble Supreme Court** in the case of **CIT Vs. Reliance Petro Product Pvt. Ltd. (2010) 322 ITR 158 (SC)**. The CIT(A) while exonerating the assessee from the levy of penalty u/s 271(1)(c), observed as under:-

"4. I have considered the facts of the case and submissions of the assessee. The assessee claimed depreciation @ 100% on co-generation plant instead of 80% allowable to the assessee in the year under consideration. The assessee has claimed that earlier rate of depreciation was 100%, whereas, it is reduced to 80% from A.Y. 03-04, but it lost sight off at the time of filing of return and, therefore by mistake a claim of 100% was made. Whereas, A.O. has held that even after passing of one year a wrong claim by the assessee cannot be treated a mere mistake and even the claim has not been voluntarily revised, but revised after initiation of

scrutiny proceedings and, therefore, assessee concealed income by furnishing inaccurate particulars. Hence, the penalty is levied. But what are the particulars furnished by the assessee, which can be said to be wrong particulars. The detail of assets and their written down value have been correctly furnished. It is merely the claim which has been wrongly calculated at 100% instead of 80% and, therefore, it is only a wrong claim made and not that the wrong or inaccurate particulars are furnished. Therefore, there is no case of furnishing of wrong particulars. Even A.O. has not pointed out as to what is the particular which has been furnished wrong or inaccurate. Making a higher claim or wrong claim by applying higher rate of depreciation does not amount to furnishing of wrong particulars, but it amounts to making a wrong claim only. A.O. is duty bound to allow depreciation as per law, even in those cases where no depreciation has been claimed and, therefore, it is the duty of the A.O. to allow correct depreciation even when higher depreciation has been claimed—and, therefore, claiming higher or lower depreciation does not amount to furnishing of inaccurate particulars as long as the detail of assets and written down value etc. have been correctly furnished. Therefore, there is no case of penalty u/s. 271(1)(c) and there is no case of concealment involved in the case of the assessee. As claimed by the assessee in similar circumstances, no penalty has been levied by A.O. himself in A.Y. 03-04. The assessee has claimed that mistake was noticed at the time of assessment for A.Y. 03-04 for which order was passed on 28/3/06, whereas, the return of income for A.Y. 04-05 was filed on 31/10/05, but the claim was revised by the assessee before the assessment for A.Y. 04-05 was completed and, therefore, even claiming higher rate of depreciation appears to be a genuine mistake for which penalty cannot be levied. The facts of the case are directly covered by the decision of Hon'ble Supreme Court in the case of CIT vs. Reliance Petro Products Pvt. Ltd. 322 ITR 158 (SC), because it is only a claim which has been reduced by the A.O. in the case of the assessee also. On the issue of rate of depreciation, the case of the assessee is directly covered by the decision of Honble ITAT in the case of DCIT vs. Shahabad Co-operative Sugar Mills 129 TTJ 92, as claimed by the assessee. Therefore, respectfully following the above mentioned two decisions the penalty is deleted. In result, the ground of appeal is allowed.”

6. The revenue being aggrieved with the order of the CIT(A) had carried the matter in appeal before us. The **ld. Departmental Representative (for short 'D.R.')** submitted that the assessee in the course of the assessment proceedings for the immediately preceding year, viz. AY: 2003-04, had acknowledged its mistake of claiming the depreciation on the co-generation plant at the rate of 100% as against the allowable rate of 80%. The ld. D.R submitted that the assessee during the course of the assessment proceedings for A.Y. 2003-04, had vide its letter dated 22.03.2006 filed with the A.O, revised its claim of

depreciation in respect of the co-generation plant and thus restricted the same to 80% as against that raised in the return of income at the rate of 100%. In the backdrop of the aforesaid facts, it was submitted by the ld. D.R that unlike the preceding year, viz. AY: 2003-04, the assessee despite being aware of the fact that it had filed a wrong claim of depreciation in its return of income for the year under consideration, viz. AY: 2004-05, which was filed on 01.11.2004, had however neither filed a revised return of income, nor revised its claim of depreciation for the year under consideration, viz. assessment year 200-05. It was thus averred by the ld D.R. that the CIT(A) failing to appreciate the facts of the case in the right perspective had thus erred in setting aside the penalty which was imposed on the assessee under Sec. 271(1)(c). The ld. D.R. submitted that the assessee had intentionally raised a 'False claim' in respect of depreciation on the co-generation plant. It was submitted by the ld. D.R that the contention of the assessee that excessive rate of depreciation was claimed on account of a *bonafide* mistake could not be accepted primarily for two reasons, viz. (i) the assessee being a public limited company was supported by a battery of lawyers, pursuant where to it could not be accepted that it was unaware of its entitlement towards the claim of depreciation on the aforesaid asset; and (ii) that few months back the assessee in the course of the assessment proceedings for the immediately preceding year, viz. AY: 2003-04, had acknowledged its mistake of claiming depreciation on the co-generation plant at the rate of 100% as against the allowable rate of 80% and had revised its claim. The ld. D.R in support of his contention that pursuant to the 'false claim' of depreciation raised by the assessee the penalty was rightly imposed by the A.O, placed reliance on the judgments of the **Hon'ble High court of Delhi** in the case of **Zoom Communication (P) Ltd. (2010) 327 ITR 510 (Del)** and **CIT-4, Vs. Escorts Finance ltd. (2010) 328 ITR 44**

(Del). Per contra, it was submitted by the ld. A.R that the assessee had by way of a *bonafide* mistake wrongly claimed depreciation on the co-generation plant at the rate of 100% as was available upto A.Y. 2002-03, as against the amended rate of 80% which was applicable to the year under consideration, viz. A.Y. 2004-05. The ld. A.R submitted that merely for the reason that the assessee had on account of a *bonafide* mistake claimed excess depreciation by applying a wrong rate, it could not be subjected to penalty u/s 271(1)(c). The ld. A.R in support of his aforesaid contention relied on the judgment of the **Hon'ble Supreme Court** in the case of **CIT Vs. Reliance Petro product (P) Ltd. (2010) 322 ITR 158 (SC)**. The ld. A.R in order to drive home his aforesaid contention that in the backdrop of the facts involved it was not exigible to levy of penalty u/s. 271(1)(c), relied on a host of judicial pronouncements, as under:

- (i) Price Waterhouse Cooper (P) Ltd. Vs. CIT-(2012) 348 ITR 306 (SC)
- (ii) DIT Vs. Asia Attractive Dividend Stock Fund (2013) 35 taxmann.com 265 (Bom).
- (iii) CIT Vs. Somany Evergreen Knits Ltd. (2013) 352 ITR 592 (Bom)
- (iv) CIT Vs. Shri Hiralal Doshi (2016) 383 ITR 19 (Bom).
- (v) CIT Vs. Stoll India (P.) Ltd. (2013) 35 taxmann.com 263 (Bom).
- (vi) CIT Vs. Brahmaputra Consortium Ltd. (2012) 348 ITR 339 (Del).
- (vii) CIT Vs. Royale Manor Hotels & Ind. Ltd. (2014) 41 taxmann.com 491
- (viii) DCIT Vs. Khanna Industrial Pipes (P.) Ltd. (2014) 35 ITR (T) 314 (Mum)
- (ix) ACIT Vs. Raj Multiplex (P.) Ltd. (2010) 6 ITR (T) 76 (Ahd.)
- (x) DCIT Vs. Shahabad Co-Op. Sugar Mills (2010) 129 TTJ 92 (Chandigarh- Trib.)
- (xi) DCIT Vs. Apollo Hospitals Enterprise Ltd. (2013) 23 ITR (T) 49 (Chennai- tribunal)

(xii) Simran Singh Gambhir Vs. DCIT (2015) 42 ITR (T) 624 (Del-Trib.)

Alternatively, it was submitted by the ld. A.R that as the 'default' for which the *impugned* penalty proceedings had been initiated were not borne from the show cause notice, therefore, the A.O had wrongly assumed jurisdiction and imposed penalty in the hands of the assessee. It was further submitted by the ld. A.R that though the A.O had initiated the penalty proceeding by referring to '*Explanation 1*' of Section 271(1)(c), however, as the same was not applicable in respect of the second limb of the default contemplated in section 271(1)(c), viz. for furnishing of inaccurate particulars of income, therefore, on the said count also the penalty imposed by the A.O u/s. 271(1)(c) could not be sustained. The ld. D.R strongly objected to the raising of the preliminary objection by the assessee in respect of the validity of the penalty proceedings, for the reason that the default for which the penalty proceedings had been initiated in the case of the assessee were not borne from the show cause notice issued to the assessee under Sec. 274 r.w.s. 271(1)(c). It was submitted by the ld. D.R that as the aforesaid issue was neither raised before the lower authorities, nor the assessee had filed a cross objection before the Tribunal, therefore, it was not permissible on the part of the assessee to raise the same during the course of the hearing of the appeal. The ld. A.R in his rejoinder to the aforesaid contentions of the revenue submitted that the judgments of the **Hon'ble High Court of Delhi** in the case of **Zoom Communication Ltd.(supra)** had been distinguished by the **Hon'ble High Court of Bombay** in the case of **CIT-12 Vs. S.M. Contruction (2015) 60 taxmann.com 135 (Bom)** and **CIT Vs. Dalmia Dyechem Industries (2015) 234 Taxmann 9 (Bom)**.

7. We have heard the authorized Representatives for both the parties, perused the orders of the lower authorities, case laws relied upon by both the parties and the material available on record. We have given a thoughtful consideration to the facts of the case and are of the considered view that our indulgence in the present appeal is sought for adjudicating as to whether in the backdrop of the facts involved in the present case, the claim of the assessee in respect of depreciation on co-generation plant at the rate of 100% as against the rate of 80% to which it was eligible, would thus render the assessee liable to levy of penalty u/s 271(1) (c), or not. We find that it remains as a matter of fact that up to AY: 2002-03 the depreciation on co-generation plant was allowable at the rate of 100%. However, with effect from A.Y: 2003-04 the rate of depreciation was scaled down by the legislature in all its wisdom to 80%. It remains as a matter of fact that the assessee while filing its return of income for the immediately preceding year, viz. AY: 2003-04 had in the said year also wrongly claimed depreciation on the co-generation plant at the rate of 100%, as against the allowable rate of 80%. That it was only during the course of the assessment proceedings for A.Y. 2003-04, when the assessee was confronted by the A.O as regards the excessive claim of depreciation raised by it in the return of income, that it had vide its letter dated 22.03.2006 revised its claim and restricted the claim of depreciation on the co-generation plant to 80%. We find that the A.O while framing the assessment in the hands of the assessee for AY: 2003-04 had not initiated penalty proceedings u/s 271(1)(c) in respect of the wrong claim of depreciation that was raised by the assessee at the rate of 100%, as against the allowable rate of 80%. The aforesaid fact stands substantiated from a perusal of the letter dated 25.11.2010 (available on record) which was filed by the assessee with the A.O in the course of the penalty proceedings for the preceding year, viz. AY: 2003-04.

8. We have given a thoughtful consideration to the issue before us, and are of the considered view that it remains as a matter of fact that for the very same default on the part of the assessee, viz. claim of depreciation @100%, as against the allowable rate of 80% on co-generation plant, the A.O in all his wisdom while framing the assessment in the case of the assessee for the immediate preceding year, viz. AY: 2003-04, being of the view that the same was not in the nature of a default which would call for levy of penalty u/s 271(1)(c) in the hands of the assessee, had thus on the basis of his said conviction not even initiated penalty proceedings under Sec. 271(1)(c) on the said issue in the hands of the assessee. We find that the assessee alike the preceding year, viz. A.Y 2003-04, had during the year under consideration also wrongly claimed depreciation in respect of co-generation plant at the rate of 100%, as against its statutory entitlement of 80%. We though are not oblivious of the fact that though the assessee during the course of the assessment proceeding for AY: 2003-04, vide its letter dated 22.03.2006 duly acknowledged its mistake of having claimed depreciation at an excessive rate, but however, allowed its mistake for the year under consideration, i.e AY: 2004-05, to perpetuate till 11.11.2006. We however find that the assessee on being called upon by the A.O during the course of the assessment proceedings for the year under consideration to furnish the details of the machinery in respect of which 100% depreciation was claimed by it, had thus vide its letter dated 11.11.2006, realizing its mistake, revised its claim of depreciation in respect of co-generation plant and restricted the same to the allowable rate of 80%, as against that claimed by it @ 100% in the return of income. We find that the assessee had vide its letter dated 11.11.2006 filed with the A.O during the course of the assessment proceedings revised its claim of

depreciation on the co-generation plant and restricted its entitlement towards depreciation to 80% as against the rate of 100% claimed in the return of income. We though are of the considered view that in the backdrop of the fact that now when the assessee had learnt about its mistake of having wrongly claimed depreciation at an excessive rate for A.Y 2003-04, then it should have been extra vigilant and should have without waste of any further time came forth with a revision of such a claim, which too was wrongly raised at an excessive rate of 100% during the year under consideration, i.e AY: 2004-05. Be that as it may, we are of the considered view that it remains as a matter of fact that the assessee had furnished the complete details in respect of the co-generation plant on which the depreciation was claimed by it at the rate of 100%, as against the allowable rate of 80%. We are of the considered view that in the backdrop of the fact that in the past the depreciation at the rate of 100% was allowed on the co-generation plant, therefore, it can safely be concluded that the assessee on account of a *bonafide* mistake had claimed the depreciation as per the pre-amended rate in the succeeding years, viz. AY: 2003-04 and AY: 2004-05. We are unable to persuade ourselves to accept the contention of the Id. D.R that merely because the depreciation at an excessive rate was claimed by the assessee in its return of income, therefore, for the said stand alone reason the assessee would be liable to levy of penalty u/s 271(1)(c). We though find ourselves to be in agreement with the A.O that the claim of the assessee in respect of its entitlement towards depreciation was undoubtedly a wrong claim, but in the backdrop of the fact and circumstances attending thereto, the said claim cannot be summarily characterized as a 'False claim'. We have deliberated on the facts of the case and are of the considered view that now when the complete details of the asset in respect of which the assessee had claimed depreciation at the rate of 100% were furnished along with the return of income,

therefore, merely because the said rate of depreciation was not found to be correct, would though justify disallowance of the excess 'depreciation' while framing of the assessment in the hands of the assessee, but the same merely on the said count cannot justify imposition of penalty on the assessee u/s 271(1)(c). We find that our aforesaid view stands fortified by the judgment of the **Hon'ble Supreme Court** in the case of **CIT Vs. Reliance Petro product (P) Ltd. (2010) 322 ITR 158 (SC)**, wherein the **Hon'ble Apex Court** had observed as under:-

"We do not agree, as the assessee had furnished all the details of its expenditure as well as income in its return, which details, in themselves, were not found to be inaccurate nor could be viewed as the concealment of income on its part. It was up to the authorities to accept its claim in the return or not. Merely because the assessee had claimed the expenditure, which claim was not accepted or was not acceptable to the Revenue, that by itself would not, in our opinion, attract the penalty under s. 271(1)(c). If we accept the contention of the Revenue then in case of every return where the claim made is not accepted by AO for any reason, the assessee will invite penalty under s. 271(1)(c). That is clearly not the intendment of the legislature."

We further find that the issue before us that where an assessee had in its return of income claimed depreciation in excess of its statutory entitlement, which however subsequent thereto during the course of the assessment proceedings was corrected by the assessee before the A.O, then, the same can safely be characterized as having emerged on account of a *bonafide* mistake on his part and would not call for levy of penalty under Sec. 271(1)(c) can safely be held to be covered by the judgment of the **Hon'ble High court of Bombay** in the case of **CIT Vs. Somany Evergreen Knits Ltd. (2013) 352 ITR 592 (Bom)**.

9. We have given a thoughtful consideration to the facts of the case and deliberated on the contentions of the authorized representatives for

both the parties. We are of the considered view that in the backdrop of our observations recorded hereinabove, the claim of depreciation on co-generation plant raised by the assessee at the rate of 100% as against the rate of 80% to which it was entitled during the year under consideration can safely be characterized as a *bonafide* mistake on its part, as result whereof, it would not be exigible to levy of penalty u/s 271(1)(c). Before parting, we may herein observe that the reliance placed by the Id. D.R. on the judgments of the **Hon'ble High Court of Delhi** in case of **Zoom Communications Ltd. (Supra)** and **Escorts Finance Ltd.(supra)** are distinguishable on facts. We find that unlike the facts involved in the case of the present assessee before us, in the aforesaid cases the penalty imposed by the A.O under Sec. 271(1)(c) was upheld by the Hon'ble High Court, for the reason that from the facts involved in the said respective cases, it emerged that the assessee had raised claims which were not only unsustainable in law, but rather were found to be *malafide*. We are of the considered view that in the case of the present assessee the revenue in itself appreciating that the raising of a claim of depreciation on the co-generation plant by the assessee at a rate of 100% as against the rate 80% to which it stood statutorily entitled was a *bonafide* mistake, had thus on the said count not even initiated any such penalty proceedings in the hands of the assessee for the immediate preceding year, viz. A.Y. 2003-04. Still further, we find that as observed by us hereinabove, the assessee had during the course of the assessment proceedings on realizing its mistake had revised the depreciation rate on the co-generation plant from 100% to 80%. We thus are of the considered view that the raising of the wrong claim of depreciation by the assessee in the present case safely falls beyond the sweep of a 'False claim', as a result whereof the aforesaid judicial pronouncements relied upon by the Id. D.R are clearly found to be distinguishable on facts, as against those involved in the

case of the present assessee. Thus, the aforesaid case laws relied upon by the ld. D.R would not be of any assistance to further the case of the revenue. We thus after deliberating at length on the well reasoned order of the CIT(A), find to be in agreement with the view taken by him. We thus in the backdrop of our aforesaid observations uphold the order of the CIT(A).

10. The appeal of the revenue is dismissed.

Order pronounced in the open court on 25.09.2017

Sd/-

(G.S.PANNU)
ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक 25.09.2017

Ps. Rohit Kumar

Sd/-

(RAVISH SOOD)
JUDICIAL MEMBER

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)-
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,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई / **ITAT,**
Mumbai

