आयकर अपीलीय अधिकरण "C" न्यायपीठ मुंबई में।

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

आयकर अपील सं./I.T.A. No. 5739/Mum/2015

(**निर्धारण वर्ष /** Assessment Year : 2009-10)

DCIT CIR 6(2)(1) R.No. 563 Aayakar Bhavan, M.K Road, Mumbai 400020	**बनाम**/ v.	Century Textiles & Industries Ltd., Century Bhavan, 2nd floor, Dr. A.B. Road, Worli, Mumbai 400030
	स्थायी लेखा सं./PAN : AAACC2659Q	
(अपीलार्थी **/Appellant**)	..	(प्रत्यर्थी / **Respondent**)

Revenue by :	Shri Rajat Mittal
Assessee by:	Shri. P.R. Toprani

सुनवाई की तारीख **/Date of Hearing : 03-10-2017**

घोषणा की तारीख **/Date of Pronouncement : 28.11.2017**

आदेश / O R D E R

PER RAMIT KOCHAR, Accountant Member

This appeal, filed by the Revenue, being ITA No. 5739/Mum/2015 for assessment year 2009-10, is directed against the appellate order dated 09-10-2015 passed by learned Commissioner of Income Tax (Appeals)-12, Mumbai (hereinafter called "the CIT(A)") rectifying the appellate order dated 13-08-2015 passed by learned CIT(A), for assessment year 2009-10, appellate proceedings had arisen before learned CIT(A) from the assessment order dated 30-01-2014 passed by learned Assessing Officer (hereinafter called "the AO") u/s 143(3) r.w.s 147 of the Income-tax Act, 1961 (hereinafter called "the Act").

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

" *1. "On facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in allowing the appeal of the assessee ignoring the fact that the decision of the Hon'ble. ITAT in assessee own case for A. Y 2007-08 has not been accepted by the department and appeal u/s 260A has been filed before the Hon 'ble Bombay High Court. "*

2. "On facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in considering the reopening the case as bad in law without considering Explanation-2 to section 147 and especially clause (c) and its sub-clauses (i), (ii) & (iv) of t he Income Tax Act, 1961."

3. On facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in considering the reopening the case as bad in law without appreciating the fact that no opinion has been formed on the issue of allowing deduction u/s. 80-1C in respect of component of "other income" which was not derived from industrial undertaking and therefore on this issue on which assessment is sought to be reopened there was no question of "change of opinion" as held erroneously by the Tribunal, and material available on record would form "tangible materials" to constitute "reason to believe" that income has escaped assessment at the time of reopening of assessment.

4. On facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in ignoring the ratio of decision of the Bombay High Court in the case of Export Credit Guarantee Corporation of India Ltd. and Punjab & Haryana High Court decision in the case of Jawand Sons 326 ITR 39 which is squarely applicable to the facts of the case, while coming to the conclusion that reopening of assessment (which is before the expiry of four years from end of the impugned assessment year) is bad in law.

5. The appellant craves leave to amend or alter any ground or add a new ground which may be necessary."

3. The brief facts of the case are that the assessee is engaged in the business of manufacturing of Textile, Cement, Chemicals, Power Generation etc. . The assessment in the case of the assessee was originally framed by the AO u/s. 143(3) on 26.12.2011 , wherein the income was assessed at Rs. 134,37,34,556/- against the returned income of Rs.113,88,48,895/- . The total income was further revised at Rs. 126,60,19,165/- by the AO vide order giving effect to order of the learned CIT(A) dated 30.07.2013 . On perusal of the records , it was observed by the A.O as under:-

"*Supreme Court in the case of Liberty India Vs. CIT (317 ITR 218)(SC) on the issue of section 80IC of the Income tax Act 1961, held that "The words "derived from" are narrower in connotation as compared to the words "attributable to". In other words, by using the expression "derived from", Parliament intended to cover sources, not beyond the first degree." SC held that the receipts, by way of Duty*

Drawback and sale of Duty Entitlement Pass Book (DEPB) licence by the Taxpayer, do not form part of the profits 'derived from' the industrial undertaking (IU), eligible for tax holiday under the Indian Tax Law. The SC further held that the Duty Drawback and sale of DEPB licence are incentives which flow from the schemes framed by the Government of India (GOI) and do not have any direct nexus with the profits derived from the eligible IU of the Taxpayer.

The assessee had claimed deduction u/s. 80IC of Rs.30,36,22,952/- for its Pulp and paper unit located at Lalkua, District Nainital. The assessing officer disallowed income of Rs.9,56,18,376/- out of the above claim and allowed the balance amount as admissible deduction. It is seen that the assessee has claimed Export Incentives of Rs.2,36,32,653/- under the head other income (Schedule 6). As export incentives have been held by the Supreme Court as having no nexus with manufacturing, the same are not eligible for deduction u/s. 80IC. Failure to do so has resulted in excess allowance of deduction under Section 80IC to the extent of Rs.2,36,32,653/-. Therefore, income to the extent of Rs.2,36,32,653/- has escaped assessment."

Thus , the A.O had reason to believe that income chargeable to tax has escaped assessment due to failure on the part of the assessee to disclose truly and fully all material facts necessary for the assessment which led to the issuance of notice dated 13.06.2013 u/s. 148 of the Act which was duly served on the assessee, which notice was issued within four years from the end of the assessment year . Vide afore-said notice, the assessee was asked to file the return of income . The assessee in reply submitted that original return of income filed on 30.09.2009 u/s 139(1) may be treated as return of income filed in response to notice u/s. 148. The assessee also requested the AO to furnish reasons recorded for the reopening of the case which were duly furnished by the AO to the assessee . The assessee in reply submitted that while submitting return of income u/s 139(1), the assessee has submitted an explanation vide letter dated 29-09-2009 in support of its claim u/s 80IC as under :

" During the year, the company has claimed deduction u/s 80IC of the Act aggregating to Rs. 30,36,22,964/- in respect of paper, while computing this deduction the company has considered items of income like rent from properties given on lease to staff, export benefits, sale of scrap, insurance claims received, miscellaneous income, provisions no longer required written back , etc. as profits derived by 80IC undertaking."

The assessee has earned other income as per financial statements , the details of which are as under:

" Schedule '6' OTHER INCOME

Rent from properties	*Rs. 4,83,673/-*
Surplus on sale of assets	*Rs. 1,04,014/-*
Export benefits	*Rs.2,36,32,653/-*
Sale of Scrap	*Rs.2,64,72,728/-*
Insurance and other claims	*Rs. 21,41,977/-*
Miscellaneous income	*Rs.5,38,64,040/-*
VAT Input Credit received	--
Gain on Foreign Currency Fluctuation (Net)	--
Provisions no longer required	*Rs. 1,24,91,873 /-*
Provision for doubtful debts written back	*Rs.69,20,850/-*
Total	*Rs. 12,61,11,808/-*

The A.O , while allowing deduction u/s. 80IC in the assessment proceedings u/s. 143(3) however considered export incentives to the tune of Rs. 2,36,32,653/- to be eligible while computing profits eligible for computing deduction u/s. 80IC . This is the main bone of contention between the rival parties which has led to the reopening of the concluded assessment as the A.O has observed that by considering export incentive to the tune of Rs. 2,36,32,653/- to be eligible for computing profits eligible for deduction u/s. 80IC is contrary to the decision of Hon'ble Supreme Court in the case of Liberty India v. CIT (2009) 317 ITR 218(SC) which led to an escapement of income leading to reopening of the concluded assessment u/s 147 of the 1961 Act. The assessee challenged the reopening of the assessment by the AO u/s. 147 and submitted that it is merely a change of opinion by the AO as the AO has duly applied his mind while granting deduction u/s 80IC in the original assessment proceedings u/s 143(3) r.w.s. 143(2) , wherein export benefits were considered by the AO to be eligible for computing deduction u/s 80IC and now by reopening the concluded assessment , is merely a change of opinion by the AO which is not permissible under law . It was also submitted by the assessee that reopening of the concluded assessment u/s 147 is done by the AO without any new tangible material coming into possession of the AO , which is not in accordance with law. It is also claimed by the assessee that the reopening of the concluded assessment u/s 147 is done based on audit objections which is not permissible. The assessee relied upon several decisions including Full Bench decision of

Hon'ble Delhi High Court in the case of CIT v. Kelvinator of India Ltd. 256 ITR 1 which was later affirmed by Hon'ble Supreme Court in 320 ITR 561(SC). The assessee also relied upon several other decisions which are cited in the assessment order dated 30-01-2014 passed by the A.O. u/s 143(3) r.w.s. 147 .

The A.O rejected the contentions of the assessee keeping in view decision of Hon'ble Supreme in the case of Liberty India Limited v. CIT (supra), wherein Hon'ble Supreme Court held that such incentives flow from the scheme framed by the Government of India(GOI) which do not have direct nexus with the profits derived from the eligible unit of the tax-payer . It was held by Hon'ble Supreme Court that the word 'derived from' are narrower in connotation as compared to the words 'attributable to' . Thus, Hon'ble Supreme Court held that the receipts , by way of duty drawback and sale of DEPB license by the taxpayer , do not form part of the profits 'derived from' the industrial undertaking eligible for tax holiday under the 1961 Act as these incentives flow from the scheme framed by GOI and do not have direct nexus with the profits derived from the business of the eligible undertaking, vide re-assessment order dated 30-01-2014 passed by the AO u/s 143(3) r.w.s. 147 of the 1961 Act.

4. Aggrieved by the re-assessment order dated 30-01-2014 passed by the AO u/s 143(3) r.w.s. 147 , the assessee filed first appeal before the learned CIT(A) who rejected the contentions of the assessee by dismissing the appeal of the assessee vide appellate orders dated 13-08-2015 which was later rectified by learned CIT(A) vide rectification orders dated 09-10-2015 passed by learned CIT-A, who allowed the appeal of the assessee by holding that reopening cannot be done u/s. 147 keeping in view of the tribunal decision in the case of assessee for A.Y 2007-08 in ITA no. 2036/Mum/2013 wherein tribunal quashed reopening u/s 147 and hence appeal of the assessee was allowed. The grounds on merits were dismissed by learned CIT(A) as being infructuous, vide rectification orders dated 09-10-2015 passed by learned CIT(A) rectifying appellate orders dated 13-08-2015.

5. Aggrieved by the rectified appellate order dated 09-10-2015 passed by learned CIT(A), Revenue has come in appeal before the tribunal .

It is the contention of the Ld. DR that assessee claimed deductions u/s. 80IC wherein export incentives were also considered part of the profits eligible for deduction u/s. 80IC which is in contravention of Hon'ble Supreme Court decision in the case of Liberty India Limited(Supra). It was submitted that in the assessment year 2007-08, tribunal has allowed the appeal of the assessee in ITA no.2036/Mum/2013 vide orders dated 22.08.2014 in assessee own case wherein the reopening was held to be bad in law. It was submitted that re-opening u/s 147 for the impugned assessment year was done within 4 years of the end of the assessment year and there was a decision of Hon'ble Supreme Court in the case of Liberty India Ltd.(supra) dated 31.08.2009 wherein Hon'ble Supreme Court had held that export incentives will not be considered while computing eligible profits for computing deduction u/s. 80IB as export incentives such as duty draw back and DEPB arise from the scheme framed by GOI and not derived from the eligible industrial undertaking. It was submitted that the assessee filed its return of income for the impugned assessment year only on 30.09.2009 which is after the pronouncement of judgment by Hon'ble Supreme Court in Liberty India Limited(supra) which was delivered on 31-08-2009 which was prior to the filing to the return of income on 30-09-2009. It was submitted that claim of the assessee was ex-facie wrong and hence A.O cannot form any opinion during the course of assessment proceedings u/s. 143(3) which is contrary to the decision of the Hon'ble Supreme Court which is law of the land binding on all authorities. He also relied of the decision of Hon'ble Bombay High Court in the case of ECGC of India Limited v. Addl. CIT r, w.p. 502 of 2012 order dated 10-01-2013 and also decision of the Hon'ble Punjab & Haryana High Court in the case of Jawand Sons, Ludhiana in ITA no. 479 of 2009, orders dated 18-11-2009 , to contend that reopening of the assessment u/s 147 in the instant case was valid.

Ld. Counsel for the assessee on the other hand has vehemently argued that there is a change of opinion of the A.O while the AO cannot be allowed to change his opinion as all the facts were declared and disclosed in the return of income filed with the revenue. Our attention was drawn to page no. 90/pb wherein letter dated 29-09-2009 is placed which was submitted by the assessee along with return of income filed with Revenue wherein at page

96/pb the assessee has duly given explanation about deduction claimed u/s 80IC . In the said letter dated 29-09-2009, it was made clear that export benefits are duly considered while computing profits considered eligible for deduction u/s 80IC. Our attention was also drawn to reply dated 12.12.2011 which is placed in paper book/ page no.6 which was given before the AO during original assessment proceedings conducted by the AO u/s 143(3) r.w.s. 143(2), wherein specific query was raised by the A.O with respect to the claim of deduction u/s. 80IC w.r.t. other income's but no specific query was raised by the AO with respect to export benefits being considered for computing profits eligible for deduction u/s 80IC , and the assessee replied that other incomes shall be included for computing deduction u/s 80IC by referring to the decision of Hon'ble Delhi High Court in the case of CIT v. Eltek SGS Private Limited 169 taxmann 283 and also decision of Delhi ITAT in the case of Nodi Exports v. ACIT reported in 2008 24 SOT 526. It was submitted that no specific query w.r.t. export benefits was raised by the AO during original assessment proceedings u/s 143(3) r.w.s. 143(2). It was fairly agreed by Ld. Counsel for the assessee that date of judgment of Hon'ble Supreme Court in the case of Liberty India Ltd.(supra) was dated 31.08.2009 , while return of income was filed later on 30.09.2009 and claim of deduction u/s. 80IC wherein export incentives was included for computing profits eligible for deduction u/s 80IC is against the said Supreme Court judgement which was very much in force at the time of filing of return of income with the Revenue. It is also submitted that reopening of the concluded assessment u/s 147 was done by Revenue within 4 years. The learned counsel for the assessee drew our attention to page no. 101 to 118 of paper book wherein the tax auditor certificate dated 29-09-2009 is placed for determine the amount eligible for deduction u/s 80IC and export benefits were included by the auditors for the purpose of computing deduction u/s. 80IC in certificate in form no 10CCB. Our attention was also drawn to decision of Hon'ble Bombay High Court in the case of CIT v. Arony Commercial Ltd. (2017) 393 ITR 673(Bom. HC) , wherein it was held that change of opinion of the A.O cannot be a ground for reopening if the query is raised during the assessment proceedings and the assessee replied to it which means that it was subject of consideration by the A.O while completing original assessment. He also relied upon the decision of the Hon'ble Bombay High Court in the case of ICICI Bank v. DCIT(2012) 65 DTR

249 2012 . The learned counsel for the assessee also relied upon the second proviso to Section 147 and it was submitted that the original assessment order of the A.O got merged with the appellate order of learned CIT(A) and now the original assessment order cannot be subject to reopening u/s 147. He also relied upon the decision of Hon'ble High Court of Gujarat in the case of United Phosphorus Ltd vs. Addl. CIT reported in (2011) 56 DTR 0193(Guj. HC). It was submitted that in original assessment , the deduction u/s 80IC was denied so far as other income were concerned excluding export benefits, which were not included for granting deduction u/s 80IC which matter travelled to the learned CIT(A). Our attention was drawn to page 70/pb wherein appellate order of learned CIT(A) dated 02-01-2013 is placed and hence it is submitted that issue of 80IC was very much before the AO wherein he denied inclusion of other income (excluding export benefits) for computing profits eligible for deduction u/s 80IC and since the matter travelled to learned CIT(A) , the original assessment order u/s 143(3) got merged with learned CIT(A) order and hence now the original assessment order cannot be subject matter of reopening u/s 147 and hence the entire proceedings are bad in law.

Ld. DR in the rejoinder objected to the assessee raising this contention before the tribunal for the first time as it was not raised before the learned CIT(A) that the A.O original assessment order got merged with the appellate order of learned CIT(A) and second proviso to Section 147 is attracted as this ground is raised for the first time before the tribunal . Ld. AR submitted that learned CIT(A) deleted the additions by holding that reopening of concluded assessment u/s 147 was bad in law and the assessee can always support the appellate order of learned CIT(A).

6. We have considered rival contentions and perused the material on record including orders of authorities below and cited case laws. We have observed that the assessee is engaged in the business of manufacturing of textile, cement, chemical, power generation etc. . The dispute between rival parties is in very narrow compass . The assessee has claimed deduction u/s. 80IC with respect to Century Pulp and Paper division engaged in manufacturing / production of paper w.r.t. substantial expansion undertaken by the industrial unit situated in State of Uttarakhand during

eligible period and while computing deduction u/s 80IC , the assessee has included export benefits such as duty draw back/ DEPB amounting to Rs. 2,36,32,653/- to compute profits eligible for deduction u/s 80IC being derived from the aforestated industrial undertaking , which was allowed by the A.O in the original assessment order dated 26-12-2011 framed u/s. 143(3) of the Act. The AO excluded certain other heads of other income such as rent, sale of scrap, insurance claim , provisions no longer required etc but export benefits were not excluded while computing profits eligible for deduction u/s 80IC being derived from the aforestated industrial undertaking , while framing original assessment u/s 143(3). In-fact , the AO query during the original assessment proceedings were never directed towards the exclusion of export benefits while computing eligible profits for computing deduction u/s 80IC while the query itself was directed towards exclusion of other incomes such as rent, sale of scrap, insurance claim , provisions no longer required etc. This claim of deduction u/s. 80IC by inclusion of export benefits for computing profits eligible for deduction u/s 80IC is ex-facie wrong claim setup by the assessee in the return of income filed with the revenue on 30.09.2009 , while Hon'ble Supreme Court decision in the case of Liberty India Ltd.(supra) was pronounced on 31.08.2009 which is date prior to the date of filing of return of income by the assessee on 30-09-2009 , wherein Hon'ble Supreme Court vide judgment dated 31-08-2009 has categorically held that export benefits such as duty drawback and DEPB arise from the schemes framed by GOI and are not profits derived from the industrial undertaking eligible for tax holiday under the provisions of Section 80IB of the 1961 Act.The law declared by Hon'ble Supreme Court is binding on all authorities in the territory of Union of India and the assessee as well the AO was bound to follow the decision of Hon'ble Supreme Court in the case of Liberty India Limited(supra) which was very much operative in force on the date of filing of the return of income on 30-09-2009. The tax-auditors could not have given any opinion in tax-audit report vide form no 10CCB on 29-09-2009 which is contrary to the binding decision of the Hon'ble Supreme Court in the case of Liberty India Limited(supra) pronounced on 31-08-2009. The AO could not have formed any opinion while framing assessment u/s 143(3) against the decision of Hon'ble Supreme Court in the case of Liberty India Limited(supra) and any such opinion if at all formed contrary to Hon'ble Supreme Court decision is bad in

law and is non-est. Thus in the teeth of Hon'ble Supreme Court judgement in Liberty India Limited(supra) pronounced on 31-08-2009 which was existing on the date of filing of return of income by the assessee on 30-09-2009, the claim of the assessee in the return of income filed with the revenue for claiming 80IC deduction wherein export benefits were included for computing eligible profits for computing deduction u/s 80IC , was ex-facie wrong claim qua export benefits having no force of law as the same was contrary to the decision of the Hon'ble Supreme Court . We are equally bound by the law declared by Hon'ble Supreme Court and we are not entitled to form any opinion which is contrary to the decision of the Hon'ble Supreme Court and any such opinion if at all formed is bad in law having no force of law. Any such opinion formed against the decision of Hon'ble Supreme Court decision will be bad in law , non-est opinion having no force of law and question of change of opinion does not arise in such situation . Thus, the contention of the assessee that there is a change of opinion by the AO vide reopening of the concluded assessment by invoking provision of Section 147 in the instant case will not fall under the ambit of change of opinion as the AO did not and could not have formed any opinion contrary to the binding decision of Hon'ble Supreme Court and any such opinion even if formed by the AO is non-est, bad in law having no force of law, hence reopening of the concluded assessment by the AO in the instant case u/s. 147 is perfectly valid being in accordance with law and is therefore upheld as income having escaped assessment due to claim of deduction u/s 80IC qua export benefits was wrongly allowed by the AO in the original assessment framed u/s 143(3) directly in contravention of the binding ratio of law laid down by Hon'ble Supreme Court in the case of Liberty India Limited(supra) . On merits, the Hon'ble Supreme Court has already decided the issue in Liberty India Limited (Supra) and the issue is no more res-integra as decision of the Hon'ble Supreme court in case of Liberty India Limited(supra) is binding and export incentives in the instant case to the tune of 2.36 crores cannot be included under any circumstances for computing eligible profits derived from industrial undertaking for computing deduction u/s. 80IC .

The assessee has also contended that vide proviso 2 to Section 147 , the concluded assessment could not be re-opened as the issue regarding

deduction u/s 80IC was subject matter of appeal before learned CIT(A) and hence original assessment order of the AO stood merged with appellate order of learned CIT(A).Thus, it is contended that the said assessment order does not have any separate existence as it got merged with appellate order of learned CIT(A) and hence could not be subject matter of reopening proceedings u/s 147 of the Act. The assessee has placed reliance on decision of Hon'ble Gujarat High Court in the case of United Phosphrous Limited (supra) and Hon'ble Bombay High Court in the case of ICICI Bank Limited(supra). We have carefully gone through the above decisions as well provisions of the 1961 Act. We have observed that the AO never raised any query w.r.t. excise benefit forming part of the eligible profit derived from industrial undertaking for computing deduction u/s 80IC of the 1961 Act. We have observed that the AO excluded other incomes such as rent, surplus on sale of assets, sale of scraps , insurance claims, provisions no longer required etc amounting to Rs. 9,56,18,376/- while computing deduction u/s 80IC in original assessment framed u/s 143(3), while export benefits to the tune of Rs. 2,36,32,653/- which albeit formed part of other income disclosed in audited financial statements were never being queried by the AO for computing deductions u/s 80IC although the assessee made disclosure that the same was also included while computing deduction u/s 80IC, which clearly mean that the AO allowed the same to be included while computing eligible profits derived from industrial undertaking for computing deduction u/s 80IC in the original assessment proceedings u/s 143(3) r.w.s. 143(2). The export benefits were allowed by the AO to be included for computing eligible profits derived from the industrial undertaking for determining deduction u/s 80IC despite the fact that the AO could not have allowed the same due to Hon'ble Supreme Court decision to the contrary in the case of Liberty India Limited(supra). Thus, the issue of computing deduction u/s 80IC qua inclusion of other income such as rent, surplus on sale of assets, sale of scraps , insurance claims, provisions no longer required etc to the tune of Rs. 9,56,18,376/- was subject matter of appeal before learned CIT(A) and is hit by the second proviso to Section 147 which could not have been re-opened by the AO u/s 147 as the assessment order stood merged with the appellate order of learned CIT(A), but to say that learned CIT(A) is seized of the matter w.r.t. determining the controversy as to the inclusion of export benefits to the tune of Rs. 2,36,32,653/- for computing eligible profits

derived from the industrial undertaking for computing deduction u/s 80IC is fallacious and to contend that the assessment order originally framed u/s 143(3) cannot be now subject to re-assessment proceedings u/s 147 despite the income having escaped assessment in light of Hon'ble Supreme Court decision in the case of Liberty India Limited(supra) is not acceptable and is hereby rejected as learned CIT(A) was never seized of this controversy. Thus, we uphold re-assessment order passed by the AO dated 30-01-2014 u/s 143(3) and 147 of the 1961 Act both on merits as well on legal ground concerning validity of re-opening of the concluded assessment u/s 147 and we have no hesitation in setting aside the appellate order dated 09-10-2015 passed by learned CIT(A) which was an order of rectification rectifying appellate order dated 13-08-2015 passed by learned CIT(A). Hence, under this factual matrix of the case , we allow the appeal of revenue and hold that export incentive to the tune of 2,36,32,653/- shall not be included for the purposes of computing eligible profits derived from the industrial undertaking for computing deduction u/s. 80IC of the Act. The Revenue succeeds in this appeal. We order accordingly.

7. In the result appeal of the Revenue in ITA 5739/Mum/2015 for assessment year 2009-10 is allowed.

Order pronounced in the open court on 28.11.2017

आदेश की घोषणा खुले न्यायालय में दिनांकः 28.11.2017 को की गई ।

Sd/	Sd/-
(SAKTIJIT DEY)	(RAMIT KOCHAR)
JUDICIAL MEMBER	ACCOUNTANT MEMBER

Mumbai, dated: 28.11.2017

Nishant Verma
Sr. Private Secretary

copy to…

1. The appellant
2. The Respondent
3. The CIT(A) – Concerned, Mumbai
4. The CIT- Concerned, Mumbai
5. The DR Bench, E
6. Master File

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BY ORDER

DY/ASSTT. REGISTRAR
ITAT, MUMBAI