

आयकर अपीलिय अधिकरण “बी” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, MUMBAI
BEFORE SHRI SHAMIM YAHYA, AM AND SHRI PAWAN SINGH, JM

आयकर अपील सं./I.T.A. No.7382/Mum/2012

(निर्धारण वर्ष / Assessment Year: 2009-10)

ITO 25(3)(1) R. No. 307, 3 rd floor, Bldg. No. C-11, Pratyakshakar Bhavan, Bandra Kurla Complex, Bandra (E), Mumbai—400 051	बनाम/ Vs.	Mita Samir Shah 404, A-2, Khajuria Nagar, Bldg.No.1, Khajuria Road, Kandivali (W), Mumbai-400 067
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AVTPS 9773 Q		
(अपीलार्थी /Appellant)	:	(प्रत्यर्थी / Respondent)
अपीलार्थी की ओर से / Appellant by	:	Shri T. A. Khan
प्रत्यर्थी की ओर से/Respondent by	:	Dr. K. Shivaram
सुनवाई की तारीख / Date of Hearing	:	14.12.2017
घोषणा की तारीख / Date of Pronouncement	:	23.02.2018

आदेश / ORDER

Per Shamim Yahya, A. M.:

This appeal by the Revenue is directed against the order by the Commissioner of Income Tax (Appeals) dated 28.09.2012 and pertains to the assessment year 2009-10.

2. The grounds of appeal read as under:

1) On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in considering the amount of Rs.100,62,430/- as diversion of income. Although this income of the assessee is only application of income and

not diversion since the income has been received by the assessee and claimed as deduction as part of the purchase expense."

2) "On the facts and in circumstances of the case and in law, Ld. CIT(A) erred in allowing the claim of the assessee without appreciation of the fact that the assessee has failed to establish the service rendered by M/s Vanguard Jewels Ltd, relying upon the agreement was an commercial expediency to take on the experienced business house."

3) "On the facts and in circumstance of the case and in law, the Ld CIT(A) erred in holding that no tax was deductible at source from the payment made by the assessee to M/s Vanguard Jewels Ltd. as the Ld. CIT(A)s had himself held that the payment was made due to contractual obligations, therefore, the payment attracts provision of section 194C of the income-tax Act, 1961.

4) "On the facts and in circumstances of the case and in law, Ld. CIT(A) erred in allowing the deductible to the assessee despite of the fact that the same is not deductible as per provision of Section 40(ia) of the Income-tax Act, 1961. As, the assessee has failed to deduct TDS from the payment made".

5) "On the facts and in circulation of the case and in law, the Ld CIT(A) erred in holding that the expenditure of Rs.100,62,430/- is allowable u/s 37(1) of the income-tax Act, 1961 without appreciating the fact the claim of expenditure of raw material corresponding to sale is allowable , not the claim of expenditure of share of profit as per provision of income tax Act. It is a case of division of profits, profits already ascertained with to the export business, i.e. on item of the assessee's business involved vide the export of goods to UAF".

6) "On the facts and in circulation of the case and in law, the Ld CIT(A) erred in allowing deductible to the assessee despite of the fact that the same is not deductible as per provisions of section 40(ia) of the income tax Act, 1961. As the assessee has failed to deduct TDS from the payment made".

7) "The appellant prays that the order of the Ld. CIT(A) on the able grounds be set aside and that the AO be restored'.

8) "The appellant craves to amend or alter any ground or add a new ground".

3. The assessee in this case is engaged in trading activity of chemical related to oil fields. During the course of assessment, the Assessing Officer noted that in the detail of direct expenses (export) sum of Rs.1,00,62,430/- was shown. This was paid to M/s. Vanguard Jewels Ltd. under a Joint Venture agreement dated 16.10.2008. It was explained that the assessee had received a request for quotation from a UAE company (consignee) on 29.09.2008 for 80 drums of C. P. Glicol of a specific blend. Upon the

assessee's response, the said company placed an order for 385 drums @ USD 1071 per drum on 10.10.2008. From the details of correspondence, the Assessing Officer found that order was seller driven, i.e., the assessee had full control over the export order. He further found that the assessee has herself received the entire amount. He further found that the above goods were delivered to the carrier by the assessee herself for shipment. He found that the assessee herself paid for the various port charges. The Assessing Officer noted that the assessee claimed that it shared 85% of the export profit amounting to Rs.1,00,62,430/- with M/s. Vanguard Jewels Ltd. On Assessing Officer's query in this regard, the assessee submitted that she was new in the field of export and it was a big consignment of a specific quality of material. That it was beyond her capacity to take risk. Therefore to guard the risk, on advice of friends and relatives, she had approached Shri Jayant Kansara, Director of M/s. Vanguard Jewels Ltd. and entered into a Joint Venture agreement dated 16.10.2008 and completed the export order. The assessee further submitted that M/s. Vanguard Jewels Ltd. provided all the support and assistance to the assessee for handling the above export order successfully. She also submitted that the assessee had got some discount on account of assistance provided by M/s. Vanguard Jewels Ltd. The Assessing Officer was of the opinion that the assessee has not submitted documentary evidence in support of its claim of the services and help provided by M/s. Vanguard Jewels Ltd. The Assessing Officer issues summon to Shri Jayant Kansara, Director of M/s. Vanguard Jewels Ltd. However, it was found that Shri Jayant Kansara has resigned from the directorship of

the company and other company representatives gave submissions. The Assessing Officer observed that M/s. Vanguard Jewels Ltd. has not provided the detail of services provided to the assessee and the documentary evidence. The Assessing Officer was of the opinion that nobody will pay as big as Rs.1,00,62,430/- without ascertaining the specific services received. The Assessing Officer proceeded to disbelief the role of M/s. Vanguard Jewels Ltd. in the deal. He also drew adverse inference for no separate disclosure of export activities by the assessee or M/s. Vanguard Jewels Ltd. The Assessing Officer further drew adverse inference for M/s. Vanguard Jewels Ltd. for not having previous experience in the field of chemicals. Thereafter, the Assessing Officer held that the assessee has failed to establish the genuineness of the transaction with M/s. Vanguard Jewels Ltd. He held that the payment made to M/s. Vanguard Jewels Ltd. under the profit sharing scheme is not bonafide and has merely a devise to reduce the tax liability of the assessee. Hence, he held that the entire payment of Rs.1,00,62,430/- is nothing but a colorable devise to reduce the tax liability of the assessee and hence, he disallowed the same.

4. Without prejudice to his above finding, the Assessing Officer also found that the assessee's claim of expenditure of Rs.1,00,62,430/- is not allowable for non deduction of tax at source u/s. 40(a)(ia).

5. Without prejudice to the above findings, the Assessing Officer held that the share of profit cannot be allowed as deduction against the business receipt, as the

assessee had considered the whole export proceeds to Rs.1,63,72,125/- as its revenue receipt and made part of its sale. He found that the above was an application of income not allowable.

6. Against the above order, the assessee is in appeal before the Id. Commissioner of Income Tax (Appeals).

7. The Id. Commissioner of Income Tax (Appeals) after examination of the facts observed that he was convinced that the Assessing Officer was unjustified in holding that the payments made by the assessee to M/s. Vanguard Jewels Ltd. is a colorable device to avoid tax. He observed that the export made by the assessee together with M/s. Vanguard Jewels Ltd. was a bonafide business activity and agreement with the assessee and M/s. Vanguard Jewels Ltd. was a genuine need of the assessee's business. He observed that the assessee was highly inexperienced in the field of chemical business. He noted that the assessee had originally refused to accept the export order of 385 drums from the overseas consignee as against the initial quotation of 85 drums. He found that this fact underlines that the assessee was not capable of handling the export order of her own. He observed that the agreement dated 16.10.2008 is a clear evidence that major and substantial part of the activity relating to the export by it being responsible for purchase of requisite chemicals or negotiating the rates of purchase, looking after the quality control or various acts which are inextricably related to an export consignment and the like, were assigned to M/s.

Vanguard Jewels Ltd. and the assessee appears to have been responsible only for making the payments for purchases or incurring related expenses or collecting the export proceeds. He further observed that all the payments were made by the assessee from the funds received from the overseas consignee. Hence, he found that it cannot be said that the assessee had contribution in funds to execute the export deal. Hence, the Id. Commissioner of Income Tax (Appeals) found that the assessee had a much lesser role to play. The Id. Commissioner of Income Tax (Appeals) found that M/s. Vanguard Jewels Ltd. was actively involved in the export order. He referred to following correspondences submitted to the Assessing Officer:

i) Appellant had entered into agreement with M/s Vanguard on 16.10.2008. Obviously, after the agreement, the appellant was certain to be in position to execute the export deal with the help of M/s Vanguard. The appellant therefore wrote on 18.10.2008 to the overseas consignee about her decision to go ahead with the export order with the support of M/s Vanguard :

"We have now finalized to go ahead with your esteemed order and Mr. Jayant Kansara of Vanguard, a experienced exporter will support us to complete this order.(Refer Paperbook Page-115)"

ii) The overseas consignee vide its letter dated 12.12.2008 addressee¹-to Appellant and Mr, Kansara (Director of M/s Vanguard), wherein it requested for discount in view of the meltdown in the global economy and overall "reduction in petroleum crude prices from about 130 dollars a barrel/drum to present level of around 40 dollars" and sought a discount of 20%,

iii) In reply to the above letter of consignee dated 12.12.2008 (Refer – paperbook Page-116), the appellant sent a letter dated 15.12.2008 Refer Paperbook Page-117) wherein appellant informed the consignee -about her consultations with Mr. Jayant Kansara of M/s Vanguard and her offer to reduce the price to 876 US\$ per drum:

"We had a discussion with Mr. Kansara and have jointly agreed to accommodate your request in this change scenario to have a long term relation with your esteemed company. We have done our calculation and

the best we can offer is a discount of 195 USD per drum. So now the reduced price will be 876 per drum. And the total order value will be 337260 USD."

- iv) Again, the overseas consignee has addressed a letter dated 15.12.2008 (Refer Paperbook Page-118) of jointly to Appellant and Mr. Kansara (Director of M/s Vanguard), confirming the acceptance new rate per barrel/drum of US\$ 876/-. Subsequently, on 16.12,2008 (Refer Paperbook Page 119) the consignee, issued Letter of Intent for Purchase (Rev.) jointly addressing to the Appellant and Mr. Kansara (Director of M/s Vanguard). Wherein the consignee agreed to purchase 385 drums of 200 kg. at the rate of 876 US\$ per drum.
8. The Id. Commissioner of Income Tax (Appeals) further observed that even the Assessing Officer has indicated the performance of service by the representative of M/s. Vanguard Jewels Ltd. such as inspection of packaging as per specification of the consignee, attending the logistics, etc. and many other works. However, the Id. Commissioner of Income Tax (Appeals) noted that the Assessing Officer had opined that such services involve work for a few days and involve nominal fee. Thus, the Id. Commissioner of Income Tax (Appeals) found that Assessing Officer's main ground was that the assessee should not have parted 85% to M/s. Vanguard Jewels Ltd. Thereafter, the Id. Commissioner of Income Tax (Appeals) referred to various submissions of the assessee's representative and found that the submissions were bonafide and logical. The Id. Commissioner of Income Tax (Appeals) also accepted the assessee's contention that there was diversion of income by overriding title. In this regard, he held as under:

I have carefully considered the facts and circumstances of the instant case and the legal evidence placed on record by the AR. For the sake of brevity, the submissions quoted by AR at length (supra) are not repeated, but I am in full agreement with the stand taken by the AR, 'Suffice it to say, diversion of

income at source can take place under a contractual obligation also. As per the terms and conditions of the agreement between the appellant and M/s Vanguard, which was executed even before the export order was finalised, the appellant was entitled only to 15% of the profits resulting from the export order., and the balance 85% was the entitlement of M/s Vanguard. The mode of computation of the profits was also given in the agreement. Thus, 85% of the profit which would arise from export stood diverted on the date of considered as part of appellant's income. Terms of agreement were binding both on the appellant and M/s Vanguard, and M/s Vanguard had an actionable claim which it could enforced, had the appellant defaulted to hand over the profits belonging to M/s Vanguard. In a transaction like this, merely because the appellant received export proceeds in her bank account; it would be erroneous to hold that entire profits belonged to the appellant. The concept of physical receipt has to be given a go by, and what has to be considered is the entity of the person who was entitled for the profits in real terms; The view taken by the appellant finds its support from the various decisions relied upon by the AR, Under the circumstances, it is hereby held that profits to the extent of 85% thereof stood diverted by an overriding title in favor of M/s Vanguard and the appellant was legally entitled not be taxed on the same.

Seen from the angle of real income also, the amount of Rs.1,00,62,430/- cannot be treated as constituting income of the appellant. Taxing of the said amount in hands of appellant would amount to taxing unreal income or income belonging to M/s Vanguard in the hands of appellant, The observations made by the AR that "profits accruing to M/s Vanguard assesses cannot be assessed in the hands of the assesses as it would amount to taxing the assessee in respect of income which neither belonged to the assessee nor which was retained by the assessee" is quite convincing and acceptable.

Keeping In view of the facts and circumstances of the case as discussed above, the addition of Rs.1,00,62,430/- is deleted.

9. Thereafter the Id. Commissioner of Income Tax (Appeals) found that no adverse inference can be taken from the fact M/s. Vanguard Jewels Ltd. have loss or income in the return for assessment year 2009-10. The Id. Commissioner of Income Tax (Appeals) further held that the amount was also allowable u/s. 37(1). As regards the disallowance u/s.40(a)(ia), the Id. Commissioner of Income Tax (Appeals) held

that TDS provisions are not applicable and the amount paid by the assessee is provided out of the contractual obligation not liable for TDS.

10. Against the above order, the Revenue is in appeal before us.

11. We have heard both the counsels and perused the records. The Id. Departmental Representative relied upon the orders of the Assessing Officer. He submitted that M/s. Vanguard Jewels Ltd. is involved in the business of import of diamond and is not expert in the field of chemicals. He submitted that the services rendered by M/s. Vanguard Jewels Ltd. has been orally explained only without any documentary evidence. He further submitted that the assessee has herself negotiated the contract and M/s. Vanguard Jewels Ltd. was nowhere in the picture. He further submitted that the assessee did not deduct TDS from the payment made and the amount was liable to be disallowed u/s. 40(a)(ia). In this regard, he placed reliance upon the order of the Hon'ble Andhra Pradesh High Court in the case of *CIT vs. Transport Corp. India Ltd.* [2002] 256 ITR 701 (AP).

12. Per contra, the Id. Counsel of the assessee submitted that the Id. Commissioner of Income Tax (Appeals) has passed a reasonable and correct order after considering all the facts of the case. He submitted that the assessee being a lady and because of lack of experience in export, and the huge value export order had entered into joint venture with M/s. Vanguard Jewels Ltd. The said concern was expert exporter who agreed to assist her completely. He submitted that M/s. Vanguard Jewels Ltd. helped

the assessee to engage with the manufacturer/seller Swash Noniocs Pvt. Ltd. of chemicals and helped the assessee to purchase the chemicals at Rs.56/- per kg. instead of Rs.60/- He submitted that M/s. Vanguard Jewels Ltd. helped the assessee save on commission cost. That M/s. Vanguard Jewels Ltd. gave financial guarantee to manufacturer on assessee's behalf which helped the assessee to enhance its brand image. M/s. Vanguard Jewels Ltd. helped the assessee to negotiate with buyer the quantity of discount. That it help the assessee in inspecting the material received from Swash Noniocs Pvt. Ltd. That it was due to M/s. Vanguard Jewels Ltd. that the price was reduced from Rs.56/- per kg. from Rs.60/- per kg. He further referred to the confirmations from M/s. Vanguard Jewels Ltd. accounted for the sum received. Thereafter, the ld. Counsel of the assessee gave various submissions disputing the Assessing Officer's findings. The ld. Counsel of the assessee placed reliance on the decision in the case of *S.A. Builders Ltd. vs. CIT (A)* [2007] 288 ITR 1 (SC) for the following proposition :

No businessman can be compelled to maximize its profit. The income tax authorities must put themselves in the shoes of the assessee and see how a prudent businessman would act. The authorities must not look at the matter from their own view point but that of a prudent businessman. A transaction must be viewed from the point of view of commercial expediency and not from the point of view whether the amount was advanced for earning profits.

13. The ld. Counsel of the assessee further submitted that the assessee was not required to deduct tax at source, since the payment was not contractual payment. He further submitted that the assessee is not required to deduct the tax at source as M/s. Vanguard Jewels Ltd. has included the amount in its income. In this regard, he

referred to the second proviso to section 40(a)(ia) of the Act which he claimed to have retrospective application. In this regard, he referred to the Hon'ble Delhi High Court and the ITAT decision from the proposition that the said second proviso is retrospective in effect.

14. Without prejudice to the above, he submitted that the amount payable to M/s. Vanguard Jewels Ltd. reported its share in the profit in joint venture. Therefore, he claimed that it was a case of diversion of profit by overriding title. In this regard, he refers to the decision of Hon'ble Apex Court in the case of *CIT vs. Sitaldas Tirathdas* [1961] 41 ITR 367 (SC). He further submitted that the agreements have to be read as administered by parties and not by the Revenue. For this proposition, he referred to the following case laws:

- *Polymat India Pvt. Ltd. & Anr. Vs. National Insurance Co. Ltd. & ors.* [2005] 9 SCC 174
- *Shin Satellite Public Co. Ltd. vs. Jain Studios Ltd.* [2006] 2 SCC 628
- *CIT vs. Arundua* [1990] 186 ITR 494 (Cal)(HC) (496)

15. The ld. Counsel of the assessee further submitted that the case laws relied upon the Assessing Officer are clearly distinguishable on facts.

16. We have carefully considered the submissions and perused the records. We find that in the present case, the assessee is a lady engaged in chemical trade. Initially she had given quotation for a small supply of chemicals to the overseas purchaser. However, the overseas supplier gave her comparatively large order. The assessee

found herself inexperienced to handle the above large export order. So she entered into a joint venture agreement with M/s. Vanguard Jewels Ltd. who had sufficient experience in handling export business. As per the said agreement, 85% share would go to M/s. Vanguard Jewels Ltd. and 15% would go to the assessee. The Assessing Officer has noted that all the work was done by the assessee herself and very nominal work was done by M/s. Vanguard Jewels Ltd. Hence, the Assessing Officer was of the opinion that work done by the M/s. Vanguard Jewels Ltd. did not command the amount given, i.e., Rs.1,00,62,430/-. However, despite noting that some work has been done by the M/s. Vanguard Jewels Ltd., the Assessing Officer proceeded to hold that the entire scheme was a colorable device and no amount was allowable to be paid to M/s. Vanguard Jewels Ltd.

17. The above action of the Assessing Officer is clearly contradictory in itself. Once having agreed that some work was done by M/s. Vanguard Jewels Ltd., he cannot disallow the entire amount. In this regard, we may gainfully refer to the Hon'ble Apex Court decision in the case of *CIT vs. Walchand and Co. Pvt. Ltd.* [1967] 65 ITR 381 (SC). In this case, it was expounded that in applying the case of the commercial expediency for determining whether the expenses was wholly and exclusively laid out for the business, reasonableness of the expenses has to be adjudged from the point of view of businessman and not of Revenue.

18. Furthermore, we note that the facts of the case and the finding of the Id. Commissioner of Income Tax (Appeals) clearly indicate that the work done/assistance

provided by M/s. Vanguard Jewels Ltd. cannot be termed as nominal, rather, it was substantial. M/s. Vanguard Jewels Ltd. had assisted in procuring the raw material from manufacturer/seller Swash Noniocs Pvt. Ltd. and had enabled to obtain discount in purchase also. M/s. Vanguard Jewels Ltd. had also given the guarantee to manufacturer on behalf of the assessee. Furthermore, the Assessing Officer himself has agreed that the services regarding the inspection of packaging as per specification of consignee, attending the logistic, etc. were performed by M/s. Vanguard Jewels Ltd. Furthermore, the correspondence with the consignee submitted before the Assessing Officer clearly showed that the consignee had acknowledged the role played by M/s. Vanguard Jewels Ltd. in executing the order. In these correspondences, the various factors relating to the work and assistance done by the M/s. Vanguard Jewels Ltd. are mentioned. Furthermore, the payment made to the concerned party is duly backed by joint venture agreement. In these circumstances, the payment made to M/s. Vanguard Jewels Ltd. cannot be termed as colorable devise and the expenditure cannot be held to be disallowed. As held by the Hon'ble Apex Court in the decision cited above, the reasonableness of the expenditure has to be adjudged from the point of view of the businessman and not Revenue. In the present case, the assessee was a lady business person. She has received a huge export order. She sought help and assistance from M/s. Vanguard Jewels Ltd. who had earlier sufficient experience in dealing the export business. The facts of the case clearly indicate that the considerable service was provided by M/s. Vanguard Jewels Ltd.

Under these circumstances, the order of the Assessing Officer that no amount was payable is not at all sustainable.

19. Furthermore, it is noted that the sum paid to M/s. Vanguard Jewels Ltd. as its share is duly reflected by M/s. Vanguard Jewels Ltd. in its return and it has been offered to taxation. Hence, it is also true that the same amount cannot be taxed in the hands of the two persons twice. The fact that M/s. Vanguard Jewels Ltd. had losses alone cannot turn the transaction into a colorable device.

20. Furthermore, the plea of the Assessing Officer that the assessee should have deducted tax at source, is not sustainable on both the counts. Firstly, as held by the Id. Commissioner of Income Tax (Appeals), it was a contractual payment. Secondly, the said sum was offered for taxation by M/s. Vanguard Jewels Ltd. and in such situation, the second proviso to section 40(a)(ia) of the Act had been held to be having a retrospective application by the Hon'ble Delhi High Court in the case of *CIT vs. Ansal Land Mark Township (P.) Ltd.* [2015] 377 ITR 635 (Del.) The said proviso exonerates the assessee from liability of deduction at source if the recipient of payment has offered the same for taxation in terms of sub section (1) of section 201.

21. We further find that the Id. Commissioner of Income Tax (Appeals) has also considered the above payment as diversion of income by overriding title. He found that this point of view is also sustainable. There is an agreement between the assessee and M/s. Vanguard Jewels Ltd. for share of the profit. Thereafter, sufficient amount of

work has been done by M/s. Vanguard Jewels Ltd. and it has received the share of 85% under the joint venture and offered the same for taxation. In such situation, the Id. Commissioner of Income Tax (Appeals) is correct in holding that the same is not taxable as the same is diversion of income by overriding title. This proposition is duly supported by the decision of the Hon'ble Apex Court in the case of *CIT vs. Sitaldas Tirathdas* [1961] 41 ITR 367 (SC) which reads as under:

There is a difference between an amount which a person is obliged to apply out of his income and an amount which by the nature of the obligation cannot be said to be a part of the income of the assessee. Where by the obligation income is diverted before it reaches the assessee, it is deductible ; but where the income is required to be applied to discharge an obligation after such income reaches the assessee, the same consequence, in law, does not follow. It is the first kind of payment which can truly be excused and not the second. The second payment is merely an obligation to pay another a portion of one's own income, which has been received and is since applied. The first is a case in which the income never reaches the assessee, who even if he were to collect it, does so, not as part of his income, but for and on behalf of the person to whom it is payable.

22. In the present case also we find that though the amount has been received by the assessee, the same is collected on behalf of the joint venture. There was a subsisting agreement with M/s. Vanguard Jewels Ltd. The Id. Commissioner of Income Tax (Appeals) has found that all the expenditure has been incurred out of the sums received from the consignee and no expenses have incurred by the assessee from her own funds. The mere accounting entry by which the entire receipt has been shown in the credit side and the payment to M/s. Vanguard Jewels Ltd. shown in the debit side cannot alter the substance of the transaction that it is a payment of the joint venture and there is an overriding title of M/s. Vanguard Jewels Ltd. in the said sum.

It is the settled law that the accounting entries are not determinative of the actual nature of the transaction; it is the substance that prevails.

23. Accordingly, in the background of the aforesaid discussion and precedent, we do not find any infirmity in the order of the Id. Commissioner of Income Tax (Appeals). Accordingly, we uphold the same.

24. In the result, this appeal by the assessee stands allowed.
परिणामतः निर्धारिती की अपील स्वीकृत की जाती है ।

Order pronounced in the open court on 23.02.2018

Sd/-
(Pawan Singh)

न्यायिक सदस्य / Judicial Member

Sd/-
(Shamim Yahya)

लेखा सदस्य / Accountant Member

मुंबई Mumbai; दिनांक Dated : 23.02.2018

व.नि.स./Roshani, 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)
4. आयकर आयुक्त / CIT - concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard File

आदेशानुसार/ BY ORDER,

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