

आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ , मुंबई ।

IN THE INCOME TAX APPELLATE TRIBUNAL "G" BENCH, MUMBAI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER

AND SHRI SANJAY GARG, JUDICIAL MEMBER

आयकर अपील सं/ I.T.A. No.7222/Mum/2013

(निर्धारण वर्ष / Assessment Year:2010-11

The ITO 16(1)(1), Matru Mandir, Tardeo Road, Mumbai-400 007	बनाम/ Vs.	M/s. Grand Paradi Co.Op. Hsg. Soc. Ltd. 572, Dady Seth Hill, August Kranti Marg, Mumbai-400 036
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAAAG 1083E		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
अपीलार्थी ओर से/ Appellant by:		Shri V. Tripathi
प्रत्यर्थी की ओर से/ Respondent by:		Shri Mayur R.Makadia

सुनवाई की तारीख / **Date of Hearing** : 8.10.2015

घोषणा की तारीख /**Date of Pronouncement** : 8.10.2015

आदेश / O R D E R

PER N.K. BILLAIYA, AM:

This is an appeal by the Revenue preferred against the order of the Ld. CIT(A)-27, Mumbai dated 23.9.2013 pertaining to Assessment year 2010-11.

2. The sole grievance of the Revenue is that the Ld. CIT(A) erred in deleting the addition of Rs. 18.50 lakhs received by the assessee as transfer fee. It is the claim of the Revenue that such transfer fee is not covered by the principle of mutuality and therefore taxable.

3. At the very outset, the Counsel for the assessee drew our attention to the decisions of the Tribunal in assessee's own case for A.Y. 2005-06 in ITA No. 521/M/2010 and for A.Y. 2009-10 in ITA No. 230/M/2013. It is the say of the Ld. Counsel that this issue has been decided in favour of the assessee and against the Revenue by the Tribunal (supra).

4. The Ld. Departmental Representative could not bring any distinguishing decision in favour of the Revenue.

5. We have carefully perused the facts in issue and the decisions of the Tribunal. We find force in the contention of the Ld. Counsel. We find that in both the decisions of the Tribunal, the Tribunal has followed the decision of the Hon'ble High Court of Bombay in the case of Sind Co.Operative Housing Soc. Vs ITO 317 ITR 47 and Shyam Co-Operative Housing Society Vs CIT in Income Tax Appeal Nos. 92,93 & 206 of 2008 dated 17.7.2009 which has also been followed by the Ld. CIT(A). We, therefore decline to interfere with the findings of the Ld. CIT(A).

6. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open court at the time of hearing on
8th October, 2015

Sd/-
(SANJAY GARG)

Sd/-
(N.K. BILLAIYA)

न्यायिक सदस्य/JUDICIAL MEMBER लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated : 8th October, 2015

व.नि.स./ Rj , 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
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई
/ DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार

(Dy./Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai