

आयकर अपीलीय अधिकरण "E" न्यायपीठ मुंबई में।

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

श्री महावीर सिंह, न्यायिक सदस्य एवं श्री जी. मंजुनाथ लेखा सदस्य के समक्ष ।

BEFORE SRI MAHAVIR SINGH, JM AND SRI G MANJUNATHA, AM

आयकर अपील सं./ ITA No. 2518/Mum/2017

(निर्धारण वर्ष / Assessment Year 2012-13)

Income Tax Officer 29(3)(3) Room No. 306, 3 rd Floor, Pratyashkar Bhavan,, Bandra Kurla Complex, Bandra (E), Mumbai-400 051	Vs.	M/s Samruddhi Associate, Shop No.8, Purnima Darshan CHS Ltd, 90 Feet D.P. Road, Mulund-400 081
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
स्थायी लेखा सं./PAN No. ABLFS7650J		

अपीलार्थी की ओर से / **Appellant by** : Shri DG Pansari, DR

प्रत्यर्थी की ओर से / **Respondent by** : Shri M Subramaniam, AR

आयकर अपील सं./ ITA No. 5501/Mum/2016

(निर्धारण वर्ष / Assessment Year 2012-13)

The Asst. Commissioner of Income Tax, 20(3) Room No. 615, Piramal Chamber, Lalbaug, Parel, Mumbai-Maharashtra-400012	Vs.	Swapnil Atmaram Sawardekar, 1/8 Sadumiya Chawl, G.D. Ambewadi, Kalachowki, Maharashtra-400 033
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
स्थायी लेखा सं./PAN No. BAIPS0344G		

अपीलार्थी की ओर से / **Appellant by** : Shri DG Pansari, DR

प्रत्यर्थी की ओर से / **Respondent by** : none



आयकर अपील सं./ ITA No. 855/Mum/2017

(निर्धारण वर्ष / Assessment Year 2010-11)

Asst. Commissioner of Income Tax-Circle, 1(2)(1), R.No. 535, 5 th Floor, Aayakar Bhavan, M.K. Road, Mumbai-400 020	Vs.	J.B. Boda Reinsurance Brokers Pvt. Ltd. Maker Bhavan-1, Sir. V.T. Marg, Mumbai-400 020
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
स्थायी लेखा सं./PAN No. AABCJ2372E		

अपीलार्थी की ओर से / **Appellant by** : Shri DG Pansari, DR

प्रत्यर्थी की ओर से / **Respondent by** : Ms. Komal Mota, AR

आयकर अपील सं./ ITA No. 1897/Mum/2017

(निर्धारण वर्ष / Assessment Year 2012-13)

आयकर अपील सं./ ITA No. 1898/Mum/2017

(निर्धारण वर्ष / Assessment Year 2013-14)

The Dy. Commissioner of Income Tax, CC 3(3), Room No. 1923, Air India Building, 19 th Floor, Nariman Point, Mumbai-400 021	Vs.	Sharekhan Commodities Pvt. Ltd., 10 th Floor, Beta Bldg, Lodha-I Think Techno Park, Off: JVLR, Opp: Kanjurmarg Station East, Mumbai-400 042
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
स्थायी लेखा सं./PAN No. AAFCS6396F		

अपीलार्थी की ओर से / **Appellant by** : Shri DG Pansari, DR

प्रत्यर्थी की ओर से / **Respondent by** : None



आयकर अपील सं./ ITA No. 1951/Mum/2017
(निर्धारण वर्ष / Assessment Year 2011-12)

The Asst. Commissioner of Income Tax, Circle-1, Ashar I.T. park, 6 th Floor, B' Wing, Room No. 22, Road No. 16 Z, Wagle Industrial Estate, Thane (W)-400064	Vs.	M/s Micromatics Flat No. 4, Chandiwala Complex Panchpakhadi, Thane West, 400 602
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
स्थायी लेखा सं./PAN No. AAKFM5988P		

अपीलार्थी की ओर से / **Appellant by** : Shri DG Pansari, DR

प्रत्यर्थी की ओर से / **Respondent by** : None

आयकर अपील सं./ ITA No. 1718/Mum/2017
(निर्धारण वर्ष / Assessment Year 2011-12)

The Asst. Commissioner of Income Tax, Circle 27(1) R.No. 415, 4 th Floor, Tower No.6, Vashi Stn Complex. Navi Mumbai-400 703	Vs.	Jasmer Kewal Prakash Puri, B-9, Arjun Centre, BSD Marg, Govandi(E), Mumbai-400 088
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
स्थायी लेखा सं./PAN No. AAWPP1537H		

अपीलार्थी की ओर से / **Appellant by** : Shri DG Pansari, DR

प्रत्यर्थी की ओर से / **Respondent by** : None

आयकर अपील सं./ ITA No. 303/Mum/2017
(निर्धारण वर्ष / Assessment Year 2011-12)

The Asst. Commissioner of Income Tax, Circle 1(2)(1), R.No. 535, 5 th Floor, Aayakar Bhavan, M.K. Road, Mumbai-400 020	Vs.	Prince Marine Transport Services Pvt. Ltd. 255, Sahid Bhagat Singh Road, 1 st Floor, Near GPO, Mumbai-400 001
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(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
स्थायी लेखा सं./PAN No. AAACP3695B		

अपीलार्थी की ओर से / **Appellant by** : Shri DG Pansari, DR

प्रत्यर्थी की ओर से / **Respondent by** : None

आयकर अपील सं./ ITA No. 6672/Mum/2016

(निर्धारण वर्ष / Assessment Year 2009-10)

The Dy. Commissioner of Income Tax-Circle 3(3)(1), Room No. 609, 6 th Floor, Aayakar Bhavan, M.K. Road, Mumbai-400 020	Vs.	M/s Satya Securities Ltd. 1009, Maker Chamber-V, 10 th Floor, Nariman Point, Mumbai-400 021
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
स्थायी लेखा सं./PAN No. AAEC9414M		

अपीलार्थी की ओर से / **Appellant by** : Shri DG Pansari, DR

प्रत्यर्थी की ओर से / **Respondent by** : Shri Gaurav Bansal, AR

आयकर अपील सं./ ITA No. 507/Mum/2017

(निर्धारण वर्ष / Assessment Year 2012-13)

The Income Tax Officer 20(3)(2), R.No. 612, Piramal Chambers Lalbaug, Mumbai-400 012	Vs.	Sangmeshwar Taluka Kunbi Sahakari Patpedhi Ltd. 37/4, Padmavati Apartment, Nanabhai Paralkar Marg, Parel Village, Parel, Mumbai-400 012
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
स्थायी लेखा सं./PAN No. AAGTS1817H		



प्रत्याक्षेप सं./CO No. 197/Mum/2018

(Arising in ITA No. 507/Mum/2017 for AY 2012-13)

M/s Sangmeshwar Taluka Kunbi Sahakari Patpedhi Ltd. 37/4, Padmavati Apartment,s Nanabhai Paralkar Marg, Parel Village, Parel, Mumbai-400 012	Vs.	The Income Tax Officer 20(3)(2), R.No. 612, Piramal Chambers Lalbaug, Mumbai-400 012
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
स्थायी लेखा सं./PAN No. AAGTS1817H		

अपीलार्थी की ओर से / **Appellant by** : Shri DG Pansari, DR

प्रत्यर्थी की ओर से / **Respondent by** : None

आयकर अपील सं./ ITA No. 1073/Mum/2017

(निर्धारण वर्ष / Assessment Year 2012-13)

The Dy. Commissioner of Income Tax, Circle-3, Room No. 02, 6 th Floor, Ashar IT Park, B-Wing, Wagle Indl. Estate, Thane(W), 400 604	Vs.	M/s Shah Family Trust 4, Deepak Co-op Housing Society Dr. Moose Road, Thane (W), -400 601
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
स्थायी लेखा सं./PAN No. AAAAS0986P		

अपीलार्थी की ओर से / **Appellant by** : Shri DG Pansari, DR

प्रत्यर्थी की ओर से / **Respondent by** : Shri Subodh Ratnaparkhi, AR

आयकर अपील सं./ ITA No. 5222/Mum/2015

(निर्धारण वर्ष / Assessment Year 2007-08)

The Dy. Commissioner of Income Tax Circle-4, Room No.2, 'A' Wing, 6 th Floor, Ashar IT Park, Road No. 16Z, Wagle Indl. Estate, Thane(W)-400 602	Vs.	Kunark Hi-tech Machining Sales Pvt. Ltd Gala No.6, Hotel Flora Near Hindustan, Katawala, Chincholi Naka Devdai Village vasai East, Thane-401208
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)



स्थायी लेखा सं./PAN No. AACCK3683N

अपीलार्थी की ओर से / **Appellant by** : Shri DG Pansari, DR

प्रत्यर्थी की ओर से / **Respondent by** : None

आयकर अपील सं./ ITA No. 6844/Mum/2016

(निर्धारण वर्ष / Assessment Year 2007-08)

The Dy. Commissioner of Income Tax, Circle 32(2), R.No. 108, 1 st Floor, C-11, Pratayakshkar Bhavan, BKC, Bandra, Mumbai-400 051.	Vs.	M/s S.K. Developers 101, Ashirwad CHS Ram Mandir Road, Boriwali(W) Mumbai-400 091
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
स्थायी लेखा सं./PAN No. AATFS1409A		

अपीलार्थी की ओर से / **Appellant by** : Shri DG Pansari, DR

प्रत्यर्थी की ओर से / **Respondent by** : None

आयकर अपील सं./ ITA No. 6378/Mum/2016

(निर्धारण वर्ष / Assessment Year 2012-13)

The Asst. commissioner of Income Tax, Circle 6(3)(2), R. No. 522, 5 th Floor, Aayakar Bhavan, M.K.Road, Mumbai-20	Vs.	M/s Karjat Golf Club Pvt. Ltd. Level-2, Kalpataru Synergy, Opposite Grand Hyatt Plaza, Santacruz (E) Mumbai-400 055
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
स्थायी लेखा सं./PAN No. AADCK0915A		

अपीलार्थी की ओर से / **Appellant by** : Shri DG Pansari, DR

प्रत्यर्थी की ओर से / **Respondent by** : None



आयकर अपील सं./ ITA No. 2199/Mum/2016

(निर्धारण वर्ष / Assessment Year 2006-07)

The Asst. Commissioner of Income Tax, Circle 24(3) Office of the ACIT, 613, Piramal Chambers, Lalbaug, Mumbai-400 012	Vs.	Shri Rajkumar Nandwani, 201-202; Kalpruksha Society, RHB Road, Mulund(W) Mumbai-400 080
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
स्थायी लेखा सं./PAN No. AAJPN9378B		

प्रत्याक्षेप सं./CO No. 123/Mum/2018

(Arising in ITA No. 2199/Mum/2016 for AY 2006-07)

Shri Rajkumar Nandwani 201-202; Kalpruksha Society, RHB Road, Mulund(W) Mumbai-400 080	Vs.	The Asst. Commissioner of Income Tax, Circle 24(3) Office of the ACIT, 613, Piramal Chambers, Lalbaug, Mumbai-400 012
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से / **Appellant by** : Shri DG Pansari, DR

प्रत्यर्थी की ओर से / **Respondent by** : Shri Subodh Ratnaparkhi, AR

आयकर अपील सं./ ITA No. 308/Mum/2017

(निर्धारण वर्ष / Assessment Year 2007-08)

The Income Tax Officer-Ward 19(3)(2), Matru Mandir, Tardeo Road, Mumbai-400 007	Vs.	Smt. Sangeeta K Rathod Flat No. 401/B, Block A-22, Sandhya Apartment Walkeshwar Road Mumbai-400 004
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
स्थायी लेखा सं./PAN No. ADDPJ9711E		

अपीलार्थी की ओर से / **Appellant by** : Shri DG Pansari, DR

प्रत्यर्थी की ओर से / **Respondent by** : Shri Suchek Anchaliya, AR



आयकर अपील सं./ ITA No. 6313/Mum/2016

(निर्धारण वर्ष / Assessment Year 2013-14)

The Income Tax Officer 13(2)(3), Room No. 146B, Aayakar Bhavan, M.K. Road Mumbai-400 020	Vs.	M/s Shree Sidh Stones Pvt. Ltd. 16A, Rajput Marble Market, Marve Road, Malad (West), Mumbai-400 095
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
स्थायी लेखा सं./PAN No. AALCS3167Q		

अपीलार्थी की ओर से / **Appellant by** : Shri DG Pansari, DR

प्रत्यर्थी की ओर से / **Respondent by** : None

आयकर अपील सं./ ITA No. 3993/Mum/2017

(निर्धारण वर्ष / Assessment Year 2009-10)

The Dy. Commissioner of Income Tax, Circle-11(2)(2), 421, 4 th Floor, Aayakar Bhavan, M.K. Road, Mumbai- 400 020	Vs.	SNA Infotech Pvt. Ltd. 17, Navyug Industrial Estate, Vazir Glass Factory Lane, J.B. Nagar, Andheri (E), Mumbai-400 059
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
स्थायी लेखा सं./PAN No. AAJCS7663P		

अपीलार्थी की ओर से / **Appellant by** : Shri DG Pansari, DR

प्रत्यर्थी की ओर से / **Respondent by** : Shri Rajesh B. Shah, AR

आयकर अपील सं./ ITA No. 335/Mum/2017

(निर्धारण वर्ष / Assessment Year 2012-13)

The Dy. Commissioner of Income Tax 1(3)(2) Room No. 540, 5 th Floor, Aayakar Bhawan, M.K. Road, Mumbai-400 020	Vs.	The shamrao Vithal Co-op Bank Ltd. JN Road, Vakola, Santacruz (E), Mumbai-400 055
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)



स्थायी लेखा सं./PAN No. AAAAT0177C

अपीलार्थी की ओर से / **Appellant by** : Shri DG Pansari, DR
 प्रत्यर्थी की ओर से / **Respondent by** : Shri Rajesh Waglay, AR

आयकर अपील सं./ ITA No. 821/Mum/2017

(निर्धारण वर्ष / Assessment Year 2007-08)

The Income Tax Officer-19(2)(1), Room No. 221, Matru Mandir, Mumbai-400 007	Vs.	Ms. Jitendra G. Sanghvi 13/A/28, badrikashram Bldg, Near Alankar Cinema, 2 nd Flr, Nanubhai Desai Rd., Mumbai-400 026
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
स्थायी लेखा सं./PAN No. AKAPS6657F		

अपीलार्थी की ओर से / **Appellant by** : Shri DG Pansari, DR
 प्रत्यर्थी की ओर से / **Respondent by** : Shri Rajesh Chamaria, AR

आयकर अपील सं./ ITA No. 5556/Mum/2016

(निर्धारण वर्ष / Assessment Year 2007-08)

आयकर अपील सं./ ITA No. 5557/Mum/2016

(निर्धारण वर्ष / Assessment Year 2008-09)

The Dy. Commissioner of Income Tax, CC-7(1), R.No. 636, 6 th Floor, Aayakar Bhavan, M.K. Road, Mumbai- 400 020	Vs.	Shri ManeeshR. Sapte 51-52/A Opp. Cine Planet, Off. Sion Circle, Kamani Marg, Sion Circle, Kamani Marg, Sion Mumbai-400 022
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
स्थायी लेखा सं./PAN No. ALXPS9987L		

अपीलार्थी की ओर से / **Appellant by** : Shri DG Pansari, DR
 प्रत्यर्थी की ओर से / **Respondent by** : None



सुनवाई की तारीख / Date of hearing:	03-08-2018
घोषणा की तारीख / Date of pronouncement :	03-08-2018

आदेश / ORDER

PER BENCH:

All these appeals pertain to Revenue and when called for hearing and pointed out to the learned Sr. DR that the tax effect in these appeals is below the prescribed limit as prescribed by the Central Board of Direct Taxes (CBDT) vide circular F.No. 279/Misc. 142/2007-ITJ (Pt) dated 11.07.2018, wherein monetary limits and other conditions for filing of departmental appeal before Tribunal has been revised and fixed at ₹ 20 lacs for filing of the Departmental appeal, the learned Sr. DR could not controvert the fact that the tax effect in all these appeals of Revenue is below the prescribed limit as prescribed by CBDT circular dated 11.07.2018.

2. We have gone through the circular and noticed that this circular will apply to pending appeals also & we are referring to Para 13 of the circular for this proposition, which reads as under: -

*“13. This Circular will apply to SLPs/appeals/ cross objections/ references to be filed henceforth in SC/HCs/Tribunal and it shall also apply retrospectively to pending SLPs/ appeals/cross objections/ references. **Pending appeals below the specified tax limits in para 3 above may be withdrawn/ not pressed.**”*

3. In view of the above, we are of the view that the Revenue's appeals are fully covered by CBDT circular No. 3 of 2018 and there is no



exception brought out by the Revenue that these appeals falls under any of the exception as provided in Para 10 which reads as under: -

“10. Adverse judgments relating to the following issues should be contested on merits notwithstanding that the tax effect entailed is less than the monetary limits specified in para 3 above or there is no tax effect:

(a) Where the Constitutional validity of the provisions of an Act or Rule IS under challenge, or

(b) Where Board's order, Notification, Instruction or Circular has been held to be illegal or ultra vires, or

(c) Where Revenue Audit objection in the case has been accepted by the Department, or

(d) Where the addition relates to undisclosed foreign assets/ bank accounts.”

4. When this was confronted to the learned Sr. Departmental Representative Shri DG Pansari, he could not point out that these appeals falls under any of the exception as provided in Circular No. 3 of 2018 but he only requested that a liberty be given to Revenue for recalling of the order in case the AO found that these cases falls under any of the exceptions as provided in this circular. Admittedly, the tax effect in these appeals of Revenue is much below the prescribed limit of filing appeal before the Tribunal i.e. ₹ 20 lacs as per CBDT circular No. 3 of 2018. In view of the above, these appeals of Revenue are dismissed as withdrawn in view of Circular No 3 of 2018. However, the Revenue is



at liberty to get the order recalled in case any of the above appeals falls under the exceptions as provided in above CBDT circular.

5. The CO No. 197/Mum/2018 arising out of ITA No. 507/Mum/2017 for AY 2012-13 is supportive of the order of CIT(A) and since we have already dismissed the Revenue's appeal as withdrawn, consequently, the CO has become infructuous and dismissed.

6. As regards to CO No. 123/Mum/2018 arising out of ITA No. 2199/Mum/2016 for AY 2006-07, the learned Counsel for the assessee before us contended that in case Revenue's appeal is dismissed, the assessee is not interested in prosecuting the Cross Objection. As the learned Counsel for the assessee has not pressed this issue, the same is dismissed as withdrawn.

7. In the result, these appeals of Revenue are dismissed as withdrawn and the CO's of the assessee are also dismissed as infructuous.

Order pronounced in the open court on 03-08-2018.

आदेश की घोषणा खुले मे दिनांक 03-08-2018 को की गई ।

Sd/-

(जी. मंजुनाथ /G MANJUNATHA)

(लेखा सदस्य / ACCOUNTANT MEMBER)

Sd/-

(महावीर सिंह /MAHAVIR SINGH)

(न्यायिक सदस्य/ JUDICIAL MEMBER)

Mumbai, Dated: 03-08-2018

Sudip Sarkar /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 (Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai