आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री विजय पाल राव, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE: SHRI VIJAY PAL RAO, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No.656/JP/2015
निर्धारण वर्ष/Assessment Year : 2010-11

Yogendra Khandelwal, Jaipur	बनाम Vs.	JCIT, Range-03, Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: ADCPK0822B		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

आयकर अपील सं./ITA No.735/JP/2016
निर्धारण वर्ष/Assessment Year : 2011-12

Yogendra Khandelwal, Jaipur	बनाम Vs.	JCIT Range-03 Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: ADCPK0822B		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/ Assessee by : Shri P. C. Jain (Adv.)
राजस्व की ओर से/ Revenue by : Shri J. C. Kulhari (JCIT)

सुनवाई की तारीख/ Date of Hearing : 17/09/2018
उदघोषणा की तारीख/Date of Pronouncement: 25/09/2018

आदेश/ ORDER

PER: VIKRAM SINGH YADAV, A.M.

These are two appeals filed by the assessee against the order of ld. CIT(A)-1, Jaipur dated 11.05.2015 for AY 2010-11 and dated 09.05.2016 for AY 2011-12 respectively.

2. In ITA No. 656/JP/2015 for AY 2010-11, the assessee has taken the following two grounds of appeal:-

"1. That the learned Commissioner of Income Tax (A) has erred in maintaining the addition of Rs. 62069.00/- interest on late deposit of TDS.

2. That the learned Commissioner of Income Tax (A) is wrong & illegal in maintaining addition of Rs. 383388.00/- on account of loading charges.

3. That the learned commissioner of Income Tax (A) is wrong & illegal in maintaining addition of Rs. 7444070.00 on account of Commission paid to Arpit Khandelwal."

3. In ground No. 1, the assessee has challenged the sustenance of addition of Rs. 62,069.00/- being interest paid u/s 201(1A) on late deposit of TDS. During the course of hearing, the ld. AR has submitted that the TDS was collected by the assessee on behalf of the Government and since the funds were utilized for business purposes, the interest paid is business expense. It was further submitted that it is not an interest on tax levied on profit or gains of any business of professions and therefore, it is clearly allowable as business expenditure. Further the provisions of section 40(a)(ii) are not applicable on such interest.

4. Per contra, the ld. DR relied on the finding of the lower authorities and submitted that the ld. CIT(A) has already allowed relief in respect of interest and service tax, being charge on indirect taxes and as far as the interest on TDS, being charge on direct tax is concerned, the same has rightly not been allowed by him.

5. We have heard the rival contentions and purused the material available on record. Recently, in case of M/s Sand Plast India Limited vs. DCIT *(in ITA No. 310/JP/2018 dated 24/07/2018),* we had an occasion to examine a similar

issue and our findings are contained at Para 11 and 12 which are reproduced as under:-

"11. As far as interest on late payment of TDS u/s 201 (1A) is concerned, useful reference can be drawn to the decision of Hon'ble Bombay High Court in case of Ferro Alloys Corporation Ltd vs. CIT (1992) 196 ITR 406 (Bom) where interest payment u/s 201(1A) for failure to deduct or pay tax deducted at source was held not deductible. A Similar view has been taken by the Madras High Court in case of CIT vs. Chennai Properties & Investment Ltd., (1999) 239 ITR 435 (Mad) wherein it was held as under (Head notes):

"The liability for deduction of tax arises by reason of the provisions of the Act. Under section 201, the consequence of failure to comply with the same renders that person liable to be deemed as an assessee in default with all the consequences attached thereto. The liability to pay interest on the amount not deducted or deducted, but not paid is directly related to the failure to deduct or remit the amount. The amount required to be deducted is the amount payable as income-tax. The interest paid for the period of delay takes colour from the nature of the principal amount required to be paid but not paid within time. The principal amount here would be the income-tax and the interest payable for delayed payment is the consequence of failure to pay the tax and in the circumstances, is in the nature of a penalty though not described as such in section 201(1A). The fact that the income-tax required to be remitted is not income-tax payable by the assessee but is ultimately for the benefit of and to the credit of the recipient of the income on which that tax is payable, does not in any manner alter the character of the payment, namely, its character as income-tax. The interest paid under section 201(1A), therefore, would not assume the character of business expenditure and could not be regarded as a compensatory payment.

Income-tax is not allowable as business expenditure. The amount deducted as tax is not an item of expenditure. The amount not deducted and remitted has the character of tax and has to be remitted to the State and cannot be utilised by the assessee for its own business. The Supreme Court in the case of Bharat Commerce & Industries Ltd. v. CIT [1998] 230 ITR 733/ 98 Taxman 151rejected the argument that retention of money payable to the State as tax or income-tax would augment the capital of the assessee and the expenditure incurred, namely, interest paid for the period of such retention, would assume the character of business expenditure. It held that an assessee could not possibly claim that it was borrowing from the State the amounts payable by it as income-tax, and utilising the same as capitalization in its business, to contend that the interest paid for the period of delay in payment of tax amounted to a business expenditure. Therefore, the interest paid under section 201(1A) could not be allowed as business deduction."

12. The contention regarding section 40(a)(ii) is also not tenable as the same is in context of taxes levied on the profits or gains of business and not in context of taxes by way of TDS on payments made by the assessee and in any case, the interest will partake the character of the principal which is not otherwise allowable. Respectfully following the decisions referred supra, interest on late deposit of TDS u/s 201(1A) cannot be allowed to the assessee and the same has rightly been disallowed by the AO. In the result, ground No. 7 is partly allowed."

6. Following our aforesaid decision, the disallowance of interest paid on late deposit of TDS is hereby confirmed. In the result, the ground of the assessee is dismissed.

7. In ground No. 2, the assessee has challenged the disallowance of loading charges amounting to Rs. 38,33,88.00/- on account of non- deduction of TDS. During the course of hearing, the only argument raised by the ld. AR is that though the amendment in section 40(a) for disallowance of 30% of the expenditure was made with effect from assessment year 2015-16, the amendment being curative in nature, the same should be applied retrospectively including the impugned assessment year. It was further submitted that the amendment being remedial in nature and the intention of the legislature was to remove undue hardship to tax payers. In support, reliance was placed on the Co-ordinate Bench decision in case of Smt. Sonu Khandelwal vs. ITO, Jaipur in ITA No. 597/JP/2013 dated 13/05/2016 and Shri Rajendra Yadav, Ajmer vs. ITO, Ajmer in ITA No. 895/JP/2012 dated 29/01/2016.

8. The ld. DR is heard who has relied on the findings of the lower authorities.

9. We have heard the rival contentions and purused the material available on record. We had an occasion to examine a similar issue in case of Shri Bhanwar Lal Choudhary vs ACIT *(ITA No. 1073/JP/2016 dated 7.07.2017)* which has recently been confirmed by the Hon'ble Rajasthan High Court *(D.B. Income Tax Appeal No. 360/2017 dated 15.02.2018)* wherein the Hon'ble High Court has held as under:

"7. While considering the matter, the tribunal has held as under:-

> *"5. We have heard the rival contentions and pursued the material available on record. In view of Hon'ble Delhi High Court decision in case of CIT vs. Ansal Land Mark Township Pvt. Ltd (supra) wherein the second proviso to section 40(a)(ia) has been held to have a retrospective effect, the same will be applicable in the instant case. Accordingly, in case of Reliance Capital Limited, where the assessee*

contends that it has filed a certificate from Chartered Accountant certifying that the interest paid by the assessee has been included by the recipient of income in their return of income and tax is paid thereon, we set-aside the matter to the file of the AO to verify the said certificate and where the same is found to be in order, allow the necessary relief to the assessee.

5.1 Further, in respect of payment to other two financial institutions namely Fullerton India Limited and Religare Finvest Limited, we are unable to accede to the various contentions raised by the ld AR. Firstly, there cannot be any presumption regarding inclusion of income and payment of taxes just because the payees are large companies. The assessee has to demonstrate through verifiable evidence that the payees have reported the amount paid in their return and paid taxes thereon. Secondly, the issue regarding no amount outstanding at the end of the year and the same been fully paid during the year and provisions of section 40(a)(ia), the issue is no more res integra in light of Hon'ble Supreme Court decision in case of Palam Gas service. Thirdly, the contention regarding the amendment to Section 40(a)(ia) made by FA, 2014 w.e.f. 01.04.2015 which provides that 30% of any payable to a resident shall be disallowed if tax is not deducted at source under Ch. XVIIB as against the 100% presently made, should be read retrospective and apply in the instant case. We have gone through the said provisions and there is nothing in the legislature which suggest the said amendment has to be read retrospectively. The decision of the Coordinate Bench in case of Rajendra Yadav is not a speaking order and we are not inclined to follow the same in absence of appropriate reasoning of the Coordinate Bench which is not discernable from the said order. Accordingly, disallowance of payments to these two institutions is confirmed."

8. Taking into consideration, the decision rendered by the Delhi High Court in CIT vs. Ansal Land Mark Township Pvt. Ltd. reported in (2015) 377 ITR 635 which has been discussed by the tribunal in detailed, we are of the opinion that tribunal has not committed any error in allowing the appeal only for statistical purposes.

9. The view taken by the tribunal is just and proper. Therefore, no substantial question of law arises.

10. The appeal stands dismissed."

10. Respectfully following the above decision, the contention of the ld AR cannot be accepted and the disallowance so made by the AO is confirmed. The ground is thus dismissed.

11. In Ground No. 3, the assessee has challenged the sustenance of addition of Rs. 744,070/- on account of commission paid to Arpit Khandelwal.

12. After hearing both the parties and purusing material available on record, we find that a similar issue has been dealt with by us in assessee's own case in ITA No. 882/JP/2012 dated 17/01/2018 for AY 2009-10 wherein it was held as under:-

> *"26. We have heard the rival contentions and purused the material available on record. Firstly, regarding the commission on purchases paid for the first time by the assessee, the ld AR submitted that in this line of business and at the relevant point in time, the access to the products of Essar Steel was very difficult and it is not that anyone who wants to deal in Essar Steel products will get access to these products. It's was a very competitive market space and with great efforts of Arpit Khandelwal, the assessee was able to get access to Essar Steel products during the year. Typically, we have observed that the companies dealing in such products appoint distributors/dealers for a*

specific geographic location/area and further, these distributors then connect with retail dealers to supply the goods or the latter approached the former for procurement of goods for subsequent sale to retail customers. Appointment a person as commission agent for purchase of such goods is something that we haven't heard. Having said that, in the instant case, given the fact that the assessee has made a specific claim of appointment of an agent for purchase of goods who happens to be his son and also his employee, the assessee carries an onerous duty which he has to discharge by bringing on record necessary verifiable evidence in support of such an arrangement which he claims to have put in place in interest of his business.

27. As we have discussed in Para 17 above in context of payment of sales commission, applying the similar analogy in the instant case, the assessee has to demonstrate through verifiable evidence that such expenditure has been incurred wholly and exclusively for his business purposes and secondly, the same is commensurate with the services so availed. In other words, the assessee has to demonstrate that such commission payment has been made for availing services of his son in effecting the purchases and such services have actually been rendered and availed during the year. The question is how would the assessee demonstrate that such services have been rendered and availed by him and have been adequately compensated for. It can be demonstrated through producing for necessary verification before the AO any understanding, arrangement, or an agreement that has been entered into between the two parties in terms of scope of services, nature of product, area of operations, rate of commission, etc. Even where such an understanding/arrangement has not been entered in writing and there is a verbal understanding/arrangement, the details of such an understanding/arrangement can be brought on record by way of filing

an affidavit and/or producing the commission agent for necessary verification before the AO. Further, where the purchases are effected through the commission agent's efforts during the year, the documentation in support of such purchase efforts and involvement of the commission agent in effecting the purchases in form of communication, confirmation from the customers, and the products, the price and the customers to whom such products have been purchased through such commission agent. Once the assessee discharge the initial onus by producing the necessary verifiable evidence, the onus will then shift on the AO to prove otherwise.

28. In the instant case, what we find is that there is nothing that has been brought on record except certain correspondence of Arpit Khandelwal with Essar Steels and a copy of voucher signed by Arpit Khandelwal. The ld CIT(A) has returned a finding that on perusal of the evidence brought on record, it is seen that Shri Arpit Khandelwal did liaison with Essar Steel Ltd. during the year for purchase of goods and this was the first year in which purchases were made from Essar Steel Ltd. and further, Arpit Khandelwal has reported the said commission payment in his return of income and has paid taxes thereon. In our view, the same is not sufficient enough to discharge the initial onus placed on the assessee. Given that Arpit Khandelwal also happens to be an employee of the assessee, the latter has to demonstrate that the former's involvement in the purchase activity is in addition to his regular activity for which he has been compensated by way of regular salary. We are not suggesting that an employee cannot be paid compensation by way of commission in addition to his regular salary but the said arrangement has to be mutually agreed and reflected clearly and brought on record which has apparently not happened in the instant case. Further, merely the fact that the basis of payment has been

specified in the payment voucher and the payment has been effected during the year or the fact that the latter has offered the same in his return of income doesn't by itself is sufficient to hold that the services have been rendered and the expenditure is allowable. What is of relevance is the actual rendering of services and facilitation of purchase through the efforts of Arpit Khandelwal and the evidence so produced doesn't inspire any confidence in us in accepting the same in support of assessee's contention. In the entirety of facts and circumstances, we are unable to accede to the contentions so raised by the ld. AR. In the result, we set-aside the findings of the ld. CIT(A) and confirmed the order of the AO whereby he has disallowed the commission expenditure of Rs. 7,78,597/-."

13. Undisputedly, there are no changes in the facts and circumstances of the case and following the above decision so taken by us in respect of payment of commission to Mr Arpit Khandelwal, the disallowance so made by the AO is hereby confirmed.

In the result, the appeal of the assessee is dismissed.

ITA No. 735/JP/2016

14. In ITA No. 735/JP/2016 for AY 2011-12, the assessee has taken the following two grounds of appeal:-

"1. That the Learned CIT(A) is wrong and illegal in confirming/maintaining addition Rs.56,59,50/- on account of bad debts.

2. That the learned CIT(A) is wrong and illegal in confirming/maintaining additions of Rs. 593199/- on account of commission paid to Arpit Khandelwal."

15. In Ground No. 1, the assessee has challenged the sustenance of addition of Rs. 56,59,50/- on account of bad debt. In this regard, the relevant facts and findings of the ld CIT(A) are contained at Para 3.1.2 of the ld. CIT(A) order which is reproduced as under:-

"(i) The brief facts of the case are that during the year under consideration, the appellant has written off bad debt amounting to Rs. 5,65,950/- which was not allowed by the AO. It was held by the AO that the appellant was having regular dealing with the said parties during the year under consideration. Further, the appellant has also written back the bad debts written off in earlier years and thus the appellant was claiming bad debts as per its convenience.

(ii) During appellant proceedings, it was the contention of the appellant that since these parties were disputing rate difference and quality and were not making payments, it was not possible to recover the said amount from the parties, therefore, it was claimed as bad debts. It was the contention of the appellant that there is no condition for claiming bad debts that parties account should be totally closed. It write off dues as bad debts when it feel that it is disputed and not recoverable. In future when it remind the parties for previous dues and when it receive the amount, it was shown as bad debts recovered account. It was another contention of the appellant that after the amendment in Sec. 36(1)(vii) mere writing off the debts is sufficient and there is no requirement in law to prove that the debts has actually become bad.

(iii) I have duly considered the submissions of the appellant, assessment order and the material placed on record. It is noted from the assessment order that during the year under consideration, the appellant has claimed bad debts written off at Rs. 5,65,951/- whereas it has written back a sum of Rs. 14,12,442/- as bad debt recovered. The appellant has accepted that it was having regular dealing with the

parties for which it claimed bad debts during the year under consideration and the bad debts relates to the sale made to them during the year under consideration itself. All these facts indicate that the appellant is claiming the amount of bad debts at its own convenience without examining whether these debts have become irrecoverable or not. Further, the appellant has not brought on record any material which support the contention of the appellant that there was dispute with these parties regarding rate and quality. It appears that through writing off bad debts and writing back bad debts claimed in earlier years, the appellant is postponing its tax liabilities, which cannot be permitted. It may be mentioned that in the case of CIT vs. Kohli Bros. Color Lab (P.) Ltd., [2011] 186 Taxman 62 (ALL.), it has been held by the Hon'ble Allahabad High Court that qua the entries of bad debts written off, semblance of genuineness has to be there and the same should not be mere paper work. Further, the Hon'ble Apex Court in the case of Travancore Tea Estates Co. Ltd. vs. CIT [1998] 233 ITR 203, has taken the view that though standard proof of proving the same as bad debt is not required to be adopted and is to be decided on the wisdom of the assessee and not on the wisdom of the Assessing officer, but to show that the entry had been made as bad debt, there has to be some material in support of the same, giving some semblance of genuineness and truthfulness to the same in direction of forming an opinion that said debt was arising out of trading activity, there was relationship of debtor or creditor and same was irrecoverable. It is therefore held that the AO was justified in making addition of Rs. 5,65,951/- on account of bad debts written off by it during the year under consideration. Hence this ground of appeal is hereby rejected."

16. We find that a similar issue has been dealt by us in assessee's own case in AY 2008-09 in ITA No. 736/JP/2016 dated 28/02/2018 wherein we have held as under:-

"23. We have heard the rival contentions and perused the material available on record. As per the AO, copy of account of these parties shows that most of the trade dues written off relates to the sales made during the year only and these bad debts written off are in the nature of doubtful debts only which are recoverable as was done by the assessee in earlier years. As per the ld CIT(A), the assessee has accepted that it was having regular dealing with the parties for which it claimed bad debts during the year under consideration and the bad debts relates to the sale made to them during the year under consideration itself and all these facts indicate that the appellant is claiming the amount of bad debts at its own convenience without examining whether these debts have become irrecoverable or not. Further, as per the ld CIT(A), the appellant has not brought on record any material which support its contention that there was dispute with these parties regarding rate and quality. Further, he has referred to the decision of the Allahabad High Court in case of CIT vs Kohli Bros. Color Lab (P) Ltd 186 Taxmann 62 where it was held that qua the entries of bad debts written off, semblance of genuineness has to be there and the same should not be mere paper work. Further, ld CIT(A) also referred to the decision of the Hon'ble Supreme Court in case of Tranvancore Tea Estates Ltd vs CIT 233 ITR 203 wherein it was held that to show that the entry in the books of accounts had been made as bad debt, there has to be some material in support of the same giving semblance of genuineness and trustfulness to the same in direction of forming an opinion that that said debt was arising out of trading activity, there was relationship of debtor or creditor and the same was irrecoverable.

24. Further, useful reference can also be drawn to the decision of the Hon'ble Bombay High Court in case of Director of Income-tax (International Taxation) vs Oman International Bank SAOG reported in 184 Taxman 314 wherein it was held as under:

"10. Let us refer to some dictionary meanings of the word "bad debt". Chambers 20th Century Dictionary refers to bad debt as "a debt that cannot be recovered". Mitra's Legal & Commercial Dictionary refers to bad debt as a debt becomes bad debt when the creditor has no reasonable chance of recovering it from the debtor as held in Deoniti Prasad Singh v. CIT AIR 1953 Pat. 360. The Law Lexicon refers to bad debt as "debt which cannot reasonably be collected. A debt about which there is no reasonable expectation of recovery; a debt believed to be unrecoverable." Reference may also be made to p. 878 of the Law and Practice of Income-tax by Kanga, Palkhiwala & Vyas, 9th Edn. where the learned Jurist opined as under :—

"Under the amended clause, the requirement of 'establishing' that the debt had become bad in the relevant accounting year is dispensed with; all that the assessee has to show is that the bad debt has been written off as irrecoverable. But, the subject-matter of the clause is still 'any bad debt' and 'not any debt'. The consequences of the amendment are mainly three :—

(i) The assessee cannot arbitrarily, irrationally or mala fide treat a good debt as bad, write it off in his accounts.

(ii) Where the assessee has acted bona fide and reasonable, the Assessing Officer cannot substitute his own subjective judgment, but must accept the assessee's decision, as to the quality of the debt.

(iii) The assessee is not obliged to write off and claim the debt in the very year in which it becomes bad. He can write it off and claim it in a subsequent year in which the debt continues to remain bad."

11. All this would indicate that when the assessee treats the debt as a bad debt in his books the decision has to be a business or commercial decision and not whimsical or fanciful. The decision must be based on material that the debt is not recoverable. The decision must be bona fide. The difference between the position, pre-amendment and post-amendment would be that the burden is no longer on the assessee and can be claimed in the year it is written off in the books of account as irrecoverable. The Assessing Officer if he is to disallow the debt as a bad debt must arrive at a conclusion that the decision was not bona fide. The Assessing Officer only in those circumstances and to that extent may interfere. All that the assessee must do is to be prima facie satisfied based on the information available that the debt is bad and that would be sufficient requirement of the amended provisions.

12. Our attention was invited to the judgment of the Madras High Court in South India Surgical Co. Ltd. v. Asstt. CIT [2006] 287 ITR 62. In case the amount was payable by a Government Department (hospital). The Tribunal there had taken the view that the debt could not be claimed as bad on the mere ground that the hospital and the Departments might make payments as and when funds are provided. The Madras High Court after considering the various judgments was pleased to observe that it is not sufficient for the assessee to say that he has become pessimistic about the prospect of recovery of debt in question. The assessee must honestly feel convinced that the financial position of the debtor was so precarious and shaky that it would be impossible to collect any money from him. The question is really one of fact

depending upon the various facts and diverse circumstances bearing on the debtor's pecuniary position, his commitments and obligations. Further, that the judgment of the assessee in regard of the debt as a bad debt must be a honest judgment and not a convenient judgment.

Reference was also made to the judgment of the Delhi High Court in CIT v. Global Capital Ltd. [2008] 306 ITR 332. The Delhi High Court has taken the view that post the amendment the assessee is not required to establish that the concerned debt has actually become bad in the relevant year for the purpose of claiming deduction under this section and the only requirement for claiming deduction is that the assessee has to write off the relevant debt in his book treating it as bad.

This Court in CIT v. Star Chemicals (Bombay) (P.) Ltd. [2008] 220 CTR (Bom.) 319 had also taken a view that post-amendment on a reading of the section and the circular, what was required was to write off the debt as a bad debt based on the assessee's commercial wisdom and that will satisfy the purpose of the section.

13. Considering the above discussion, in our opinion to treat the debt as bad debt has to be commercial or business decision of the assessee based on the relevant material in possession of the assessee. Once the assessee records the debt as bad debt in his books of account that would prima facie establish that it is a bad debt unless the Assessing Officer for good reasons holds otherwise. The writing in the accounts no doubt, has to be bona fide. Once that be the case, the assessee is not called upon to discharge any further burden. In our opinion, therefore, we are in agreement with the view taken by the majority constituting the Bench of the learned Tribunal.

14. The question as framed will have to be answered by holding that after the amendment it is neither obligatory nor is the burden on the assessee to prove that the debt written off by him is indeed a bad debt as long as it is bona fide and based on commercial wisdom or expediency. Appeal disposed of accordingly."

25. In the instant case, all that the assessee has submitted is that certain amounts were disputed with its debtors and there was no chance to recover the same therefore it was claimed as bad debts. It was further submitted that once an entry has been made in the books of accounts writing off the bad debts, there is no necessity to demonstrate that debts written off were indeed bad debts and not recoverable. In the instance case, we find that there are regular financial dealing with these parties and in respect of certain transactions, there seems to be some dispute which the assessee is claiming and which has been written off during the year. In such a situation, to claim these as bad debt, the assessee has to demonstrate through certain verifiable material in its possession to show genuineness and trustfulness in its decision making process that debt has actually become bad and irrecoverable. During the course of hearing, the ld AR submitted that if given an opportunity, the assessee would be able to prove the bonafide of its decision of treating these amounts as bad debts. In light of the same, the matter is set-aside to the file of AO to examine the same afresh taking into consideration the above discussions. "

17. Following our above decision, the matter is set aside to the file of the Assessing Officer to examine the same afresh. The ground is thus allowed for statistical purposes.

18. In Ground No. 2, the assessee has challenged the addition of Rs. 5,93,199/- on account of commission paid to Shri Arpit Khandelwal. Both the parties fairly submitted that the facts and circumstances of the case are exactly identical issue as in case of ITA No. 656/JP/2015. Therefore, our findings and direction as contained in ITA No. 656/JP/2015 shall equally apply in the instant appeal. The ground is thus dismissed.

19. In the result, the appeal of the assessee in ITA No. 656/JP/2015 is dismissed and appeal of the assessee in ITA No. 735/JP/16 is partly allowed for statistical purposes.

Order pronounced in the open Court on 25/09/2018.

Sd/-	Sd/-
(विजय पाल राव)	(विक्रम सिंह यादव)
(Vijay Pal Rao)	(Vikram Singh Yadav)
न्यायिक सदस्य/Judicial Member	लेखा सदस्य/Accountant Member

Jaipur
Dated:- 25/09/2018
*Ganesh Kr

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:

1. अपीलार्थी/The Appellant- Shri Yogendra Khandelwal, Jaipur
2. प्रत्यर्थी/The Respondent- JCIT, Range-03, Jaipur
3. आयकर आयुक्त/CIT
4. आयकर आयुक्त(अपील)/The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर/DR, ITAT, Jaipur
6. गार्ड फाईल/Guard File (ITA No. 656/JP/2015 & 735/JP/2016)

आदेशानुसार/ By order,

सहायक पंजीकार/ Assistant. Registrar.