

आयकर अपीलीय अधिकरण "E" न्यायपीठ मुंबई में।

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

श्री महावीर सिंह, न्यायिक सदस्य एवं श्री राजेश कुमार लेखा सदस्य के समक्ष।

BEFORE SRI MAHAVIR SINGH, JM AND SRI RAJESH KUMAR, AM

आयकर अपील सं./ ITA No. 915/Mum/2012

(निर्धारण वर्ष / Assessment Year 1996-97)

आयकर अपील सं./ ITA No. 916/Mum/2012

(निर्धारण वर्ष / Assessment Year 1997-98)

आयकर अपील सं./ ITA No. 917/Mum/2012

(निर्धारण वर्ष / Assessment Year 1998-99)

आयकर अपील सं./ ITA No. 918/Mum/2012

(निर्धारण वर्ष / Assessment Year 1999-00)

आयकर अपील सं./ ITA No. 869/Mum/2013

(निर्धारण वर्ष / Assessment Year 1996-97)

आयकर अपील सं./ ITA No. 870/Mum/2013

(निर्धारण वर्ष / Assessment Year 1997-98)

आयकर अपील सं./ ITA No. 871/Mum/2013

(निर्धारण वर्ष / Assessment Year 1998-99)

आयकर अपील सं./ ITA No. 872/Mum/2013

(निर्धारण वर्ष / Assessment Year 1999-00)

Tata Chemicals Limited  
(after merger of Sabras Investment & Trading  
Co. Ltd.) 24, Homi Mody Street, Bombay  
House, Fort, Mumbai  
**PAN – AAAC4059M**

..... Appellant

v/s



The Joint Commissioner of Income Tax,  
Special Range-1,  
Aayakar Bhawan, M.K. Road, Mumbai

.....Respondent

अपीलार्थी की ओर से / <b>Appellant by</b>	:	Shri Nitesh Joshi & Atul Saraiya, ARs'
प्रत्यर्थी की ओर से / <b>Respondent by</b>	:	Shri R Manjunatha Swamy, DR

सुनवाई की तारीख / <b>Date of hearing:</b>	05.09.2019
घोषणा की तारीख / <b>Date of pronouncement :</b>	05.09.2019

### आदेश / ORDER

#### **PER BENCH:**

These appeals of the assessee are arising out of the different orders of Commissioner of Income Tax (Appeals)-6, Mumbai in Appeal Nos. CIT(A)-6/IT-294, 295 and 296/2009-10, CIT(A)-6/IT-254/2010-11 dated 30.11.2011. The Assessments were framed by the Jt. Commissioner of Income Tax, Range-I Mumbai (in short JCIT/ITO/ AO) for AYs 1996-97 to 1999-2000 vide even dated Nil, 22.02.2000, 29.12.2000, 11.03.2002 under section 143(3) of the Income-tax Act, 1961 (hereinafter 'the Act').

#### **In ITAs No. 915-917/Mum/2012, 869-871/Mum/2013**

2. At the outset, the learned Counsel for the assessee stated it has raised additional grounds (which are common in all the six appeals for three AYs i.e. AY 1996-97, 1997-98 & 1998-99 in regard to assessment framed under section 143(3) and 154

of the Act) on 05.01.2018 before the ITAT challenging the validity of the assessment order passed by the Additional CIT *inter alia* on the following grounds: -

"5. *On the facts and in the circumstances of the case the assessment order dated 14.10.1998 passed by the Joint Commissioner of Income Tax under section 143(3) is bad in law, illegal and without jurisdiction and / or in excess of jurisdiction on the grounds amongst others, that he failed to establish that he possessed legal and valid jurisdiction under the Act to pass the assessment order and consequently the Hon'ble Tribunal he pleased to quash the said order.*

6. *The joint Commissioner of Income Tax lacked jurisdiction to pass the order of Assessment under section 143(3) dated 14.10.1998 and to exercise the powers of performing the functions of an Assessing Officer, without establishing that he possessed such jurisdiction conferred on him without establishing that he possessed such jurisdiction conferred on him under section 120(4)(b) of the Act.*

*Accordingly, in the absence of an order under section 120(4)(b) conferring jurisdiction on the Joint Commissioner of Income Tax the assessment order dated 14.10.1998 passed by him needs to be quashed.*

*7. The order of Assessment dated 14.10.1998 passed by the Joint Commissioner of Income Tax is without jurisdiction and needs to be quashed as it has been passed in the absence of an Order transferring jurisdiction under section 127 to the Joint Commissioner of Income Tax."*

As the facts and circumstances are common in all three years, hence we will take the facts from AY 1996-97 in ITA No. 869/Mum/2013 and decide the issue.

3. The learned Counsel for the assessee stated that these additional grounds of appeal are raised in all the appeals of assessee i.e. in ITAs No. 915-917/Mum/2012, 869-871/Mum/2013. The learned Counsel for the assessee stated that he will narrated the facts from AY 1996-97 in assessee's appeal in ITA No. 869/Mum/2013 and specifically referred to the additional grounds raised i.e. ground No. 5 to 7. He stated that the above additional grounds raised by assessee company

are purely legal grounds challenging the validity of the assessment order passed by the Addl. CIT, goes to the very root of the matter and deal with the jurisdiction and authority of the Addl. CIT to pass the assessment order. He stated that these additional grounds do not require any investigation as regards to facts and can be decided on the basis of records available in the assessment proceedings. He placed reliance on the following precedents for admission of the additional grounds: -

*"-National Thermal Power Co. Ltd. vs. CIT  
[229 ITR 383 (SC)]*

*-Jute Corporation of India Ltd. vs. CIT  
[187 ITR 688 (SC)]*

*-CIT vs. S. Nelliappan [66 ITR 722 (SC)]*

*-Ahmedabad Electricity Co. Ltd vs. CIT  
[199 ITR 351 (Bom)]*

*-CIT vs. Pruthvi Brokers & Shareholders  
(348 ITR 336 (Bom))*

*-Ashok Vardhan Birla Vs. CIT [208 ITR  
958 (Bom.)]*

*-Inaroo Vs. CIT (204 ITR 312 (Bom))*

*-CIT vs. Govindram Bros. P. Ltd (141 ITR  
626 (Bom))*

*-Maruti Suzuki Ltd. 397 ITR 681 (Del)"*

4. The learned Counsel for the assessee in support of his above argument also stated that on identical set of facts, the ITAT has admitted similar additional grounds in the case of its group concerns in the following cases: -

*"Tata Sons Ltd. V. ACIT (2016) 76 taxmann.com 126 (Mum ITAT)*

*Tata Sons Ltd. V. ACIT (ITA No. 2639/Mum/2009) (Mum ITAT)*

*Tata Sons Ltd. v. ACIT (ITA No. 5090Mum/2012) (Mum ITAT)*

*Tata Communication Ltd. Vs. Addl. CIT (ITA Nos. 3972/Mum/2007 & 1109/Mum/2008) (Mum ITAT)*

*Tata Communications Ltd. V. Addl. CIT (ITA No. 7071/Mum/2005) (Mum ITAT)*

5. He stated that the necessity for raising of additional grounds arose after the decision of Mumbai ITAT in the case of Tata Sons Ltd. Vs. ACIT 76 taxmann.com 126, wherein exactly identical issues was first dealt with. He has further narrated the facts after filing additional grounds of appeal in ITAT on 05.01.2018 challenging the jurisdiction of the Addl. CIT, who pass the assessment order under consideration. The learned

Counsel for the assessee narrated the dates and events in regard to assumption of jurisdiction, which are as under: -

Sr. No.	Dates	Events
1.	29.11.1996	The appellant filed its return of income declaring total income of ₹ 16,60,360
2.		The Assistant Commissioner of Income-tax Circle 1(5), Mumbai issued intimation under section 143(1)(a) of the Act for AY 1995-96 (see pages T-88 and T-89 of the Factual Paper Book). Therefore, he was the Appellant's jurisdictional Assessing Officer.
3.		By an undated order, the Jt. CIT Spl Rg.1, Mumbai passed the assessment order determining the appellant's total income at ₹ 16,03,18,080.
4.	21.01.2012	The CIT(A) disposed of the appeal against the assessment order partly allowing the same.
5.	21.03.2006	The Tribunal also disposed of the Appellant's appeal against the appellant order passed by the CIT(A) partly allowing the same. In so far as the issue on merits involved in the present appeals are concerned, the Tribunal had set aside the issue to the CIT(A) for reconsideration.
6.	03.11.2011	The CIT(A) in the second round upheld the assessment of gains arising from the transfer of shares and units of mutual fund, as business income. He accordingly also denied the Appellant's claim for exemption under section 47(v) of the Act. He failed to adjudicate the ground relating accrual of income on bonds and debentures purer to their period of actual purchase.
7.	10.02.2012	Aggrieved by the aforesaid appellate order, the Appellant has filed an appeal before the Tribunal being No. ITA/915/2012
8.	07.08.2012	Since the appellate order passed by the CIT(A) disclosed certain mistakes apparent from the record, the Appellant had also filed an application before him under section 154 of the Act pointing out the said mistakes.
9.	27.11.2012	CIT(A) passed the rectification order under section 154 of the Act rejecting the Appellant's application.
10.	01.02.2013	Aggrieved by the aforesaid order of the CIT(A), the appellant filed an appeal before the Tribunal being No. 869/M/2013.
11.	5.01.2018	The appellant filed additional grounds before the Tribunal with respect to assessment order being passed by the Jt. Commissioner of Income-tax without jurisdiction.
12.	04.07.18 & 14.09.18	The Id. DR has filed his submissions before the Tribunal with respect to the additional ground of appeal.
13.	10.08.18 & 06.09.18	The appellant filed its counter Note in respect of the submissions by the learned DR

In view of the above, the learned Counsel for the assessee requested that the assessee company pressed for admission of additional grounds of appeal raised by assessee and decide the same accordingly.

6. On the other hand, the learned CIT Departmental Representative, Shri Manjunatha Swamy argued that this ground is raised by assessee almost after 13 years and now by raising this jurisdictional issue the assessee company wants to go scot-free without paying any tax. On query from the Bench to the learned CIT Departmental Representative during the course of hearing on 05.09.2019, as to whether there was any order / notification issued under section 127/ 120(4)(b) of the Act? The learned CIT Departmental Representative fairly conceded that there were no such orders issued and he is unable to answer this.

7. We have heard rival contentions and gone through the facts and circumstances of the case. We noted that challenging the very jurisdiction of the AO for framing of assessment is purely a jurisdictional issue which is raised by assessee on 05.01.2018.

8. We noted that the assessee challenged the jurisdiction of Addl. CIT to pass the assessment order under section 143(3) of the Act and consequently the assessee company vide its grounds raised dated 05.01.2018. We noted that as per section 2(7A) of the Act, AO means *inter alia* an Addl. CIT who is directed under section 120(4)(b) to exercise or perform all or any of the powers and functions conferred on, or assigned to, an AO under the Act. As per Section 120(4)(b), the CBDT has to first empower the Commissioner to issue orders and then the said authority has to assign or confer the

authority of the AO on the Addl. CIT. In the present case none of such notifications/ orders as required by section 120(4)(b) of the Act have been issued. Further, as per section 127 of the Act when there is a transfer or jurisdiction, then the condition therein has to be fulfilled. In the present case, originally the jurisdiction to make the assessment over the company was with the DCIT. The assessment order has been passed by the Addl. CIT without any transfer or jurisdiction in his favour. Further, on a specific query the Bench to the learned Departmental Representative in the course of the hearing on 04.09.2019 as to whether there was any order/ notification issued under section 127/ 120(4)(b) of the Act, the learned Departmental Representative conceded that there were no such orders issued.

9. In view of the foregoing, the company argued that as the Addl. CIT did not possess the relevant jurisdiction to act as an AO, the assessment by undated order passed by him under section 143(3) of the Act is without jurisdiction, illegal, bad in law and hence ought to be quashed.

10. We noted that this issue is squarely covered by the various decisions of Co-ordinate Benches of this ITAT in the group concern of assessee's cases as noted above. We, hereby referred to the case law of Tata Communications Ltd., wherein this issue had been dealt at length by the co-ordinate bench of this Tribunal for AY 2002-03 in the case of Tata Communications Ltd. (formerly Videsh Sanchar Nigal Ltd.) in ITAs No. 6981 & 7071/Mum/2005 and ors. dated 30.06.2017, wherein it is held as under: -

*"13. We have carefully and patiently considered elaborate submissions made*

*by both the parties orally as well as in writing. We have also applied our mind to the decisions cited at the Bar. Specific issue raised before us which merits consideration is, whether the Addl CIT, Range-1(3), had the competence and jurisdiction to pass the assessment order in case of the assessee. As far as the relevant facts are concerned, there is no dispute that the assessee was under the assessment jurisdiction of Dy. CIT-1(3). In fact, the DCIT, being the "Assessing Officer" had initiated assessment proceedings in case of the assessee for the impugned assessment year by issuing notice under section 143(2) on 15th Oct 2003. Before that, he has also processed the return of the assessee for the impugned assessment year and issued intimation under section 143(1) on 31st March 2003. It is evident on record, subsequently the Addl. CIT, Range-1(3), assumed jurisdiction as an Assessing Officer of the assessee and issued notices under section 142(1) and 143(2) on 9`" December 2004 and ultimately completed the assessment for the impugned*

*assessment year vide order dated 21st February 2005. Therefore, we have to examine firstly, whether there is an order of transfer of jurisdiction under section 127 of the Act, from the DCIT, Range-1(3) to the Addl. CIT, Range-1(3) and secondly, whether the Addl. CIT is vested with authority/jurisdiction to act/perform or exercise the powers of an Assessing Officer in respect of the present assessee. Before proceeding to decide the, issue, it is necessary to examine certain provisions of the Act. The expression "Assessing Officer" has been defined under section 2(7A) of the Act. The aforesaid provision as it existed during the relevant period is extracted hereunder for convenience:*

#### *Definitions*

*2. In this Act, unless the context otherwise requires, -*

*.....*

*.....*

*(7A) "Assessing Officer" means the Assistant Commissioner or Deputy*

*Commissioner or Assistant Director or Deputy Director*

*Or the Income Tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (1) or sub-section (2) of section 120 or any other provision of this Act, and the Additional Commissioner or Additional Director or Joint Commissioner or Joint Director who is directed under clause (b) of sub-section (4) of that section to exercise or perform all or any of the powers and functions conferred on or assigned to, an Assessing Officer under this Act.*

*14. A plain reading of the aforesaid provision makes it clear that it is in two parts. First limb of the provision says, the Assessing Officer would include ACIT or DCJT or Asstt. Director or Dy. Director or the Income Tax Officer who is vested with the relevant jurisdiction by virtue of direction or orders issued under sub-section (1) or (2) of Section 120 or any*

*other provision of the Act. The second limb of the provision says, the KIT or JDIT if directed under clause (b) of sub-section (4) of section 120, can perform powers and functions of an Assessing Officer. It is relevant to observe, the provisions of section 2(7A) underwent a change by virtue of amendment brought by Finance Act, 2007. As per the said amendment in the second limb of section 2(74) along with the JCIT and JDIT, Addl. CIT /Addl. DIT were also to be treated as an Assessing Officer if they were directed to act as an Assessing Officer in terms of section. 120(4)(b). This amendment brought to section 2(7A) was with retrospective effect from 1st June 1994. Corresponding to the amendment made to section 2(7A), the Finance Act, 2007, amended the provisions of section 120(4)(b), providing that the Board in writing can empower the CCIT/CIT to issue orders directing an Addl. CIT/ADIT to act as an Assessing Officer in respect of any specified area or persons or classes of persons or classes of income or cases of classes of cases which earlier would only*

*be vested with JCIT or JDIT. This amendment to section 120(4)(b) brought by Finance Act, 2007 was also with retrospective effect from 1st June 1994. Thus, as could be seen, for assigning the work of an Assessing Officer to the Addl. CIT, the Board has to empower the concerned CCIT/CIT to issue order in writing in terms of section 120(4)(b) in respect of a particular assessee. Keeping in view the aforesaid statutory provisions, we have to decide the issue raised before us. The specific contention of the assessee is, as per the provisions of section 2(7A), as it existed at the relevant period, Addl CIT was not an Assessing Officer. It is further submitted, even otherwise also, there is no notification / order empowering the Addl. CIT to act as an Assessing Officer in terms of section 121)(4)(b). To counter the aforesaid contention of the assessee, the 'earned Departmental Representative has relied upon the following notifications.*

*i) Notification no.228 of 2001 date 31.072001*

ii) Notification no. MIC/HQ-1/Jurisdiction/2001 -02 dt 01.08.2001;

iii) Notification no. ACIT, Range-1(3)/Jurisdiction/2001-02 dated 08.08.2001; and

iv) Notification no.267/2001 dated 17.09.2001

15. At this stage, we propose to deal with each of the aforesaid notification relied upon by the Department to establish the valid exercise of jurisdiction as an Assessing Officer by the Addl. CIT. The first notification being notification no.228 of 2001 dated 31st July 2001, corresponding to notification no. S.O. 732(E) dated 31 July 2001, is a notification issued under sub-section (1) and (2) of section 120 of the Act and obviously is not a notification issued under clause (b) of sub-section (4) of section 120. As observed earlier by us, the Addl. CIT was not included as an Assessing Officer either under section 2(7A) or under section 120(4)(b) earlier. Only by virtue of Finance Act, 2007, the

*aforsaid provisions were amended by including Addl. CF as an Assessing Officer. However, even after such inclusion of Addl. CIT as Assessing Officer with retrospective effect from 1st April 1994, Section 2(7A) made it clear, Asstt. CIT, DCIT, ADIT, DDIT, ITO, can act as an Assessing Officer if they are vested with relevant jurisdiction by virtue of directions and orders issued under sub-section (1) or sub-section (2) of section 120. Whereas, as far as Addl. CIT, Addl. DIT, JCIT, JDIT are concerned, they can exercise powers and functions of an Assessing Officer, only, if they are directed to do so under clause (b) of sub-section (4) of section 120. Thus, vesting of power of Assessing Officer on different income tax authorities have been specifically demarcated under section 120 of the Act. A conjoint reading of Section 2(7A) an Section 120 would make it clear, as far as ACIT, ADIT, DCIT, ADIT; DDIT and ITO are concerned, they have to be vested with the power of Assessing Officer under section 120(1) or (2), whereas, Addl. CIT, Addl. DIT, KIT, MIT can be*

*vested with the power of Assessing Officer under Section 120(4)(b). In a notification issued under section 120(1) and 120(2), Addl. CIT cannot be vested with power to act as an Assessing Officer. Therefore, notification no.228 of 2001 dated 31" July 2001, cannot be said to be vesting power of Assessing Officer with the Addl. CIT. Similar is the situation with notification doted 1st August 2001, issued by the CIT, Mumbai, as it is a notification issued under section 120(1) and 120(2) and not under sub-section (4)(b). The third notification dated 8th August 2001, has been issued by the Addl. CIT, Range- .1(3), Mumbai, vesting jurisdiction upon himself to act as an Assessing Officer. Certainly, this notification is not in conformity with the provisions contained under section 120(4)(b), inasmuch as, this notification has been issued under section 120(1) and 120(2) and not u/s.(4)(b) of section 120. The last notification relied upon by the Department is notification no.267/2001 dated 17th September 2001. A perusal of the aforesaid notification, a copy of which has*

*been placed in the Departmental paper book shows that this notification has been issued by the Board under section 120.(b) directing JCIT/IDIT to exercise powers and functions of the Assessing Officer. It does not mention Addl. CIT / Addl. Director of Income Tax in any case of the matter at the time of issuance of this notification, Addl. CIT was not treated as an Assessing Officer either under section 2(7A) or under section 120(4)(b) as the amendment including Addl. CIT, as an Assessing Officer was brought to the statute by Finance Act, 2007, though, with retrospective effect from 1st April 1994. Therefore, under no circumstances, the Board notification dated 17th September 2001, can be said to have conferred the jurisdiction of assessing officer on Addl. CIT. In this context, it is necessary to deal with the argument of the Department that as per the definition of JCIT under section 2(28C), it includes Addl. CIT, therefore, the notification dated 17th September 2001, issued under Section 120(4)(b) also covers the Addl. CIT. We are not convinced with the*

*aforesaid submissions of the Department.*

*Had it been the intention of the legislature to treat the Addl. CIT as JCIT and, in turn, as Assessing Officer under section 2(7A) r/w section 120(4)(b), there was no necessity to amend the provisions of section 2(7A) and 120(4)(b) specifically including the Addl. CIT and Addl. DIT, since JCIT and JDIT were already included as Assessing Officer under both the provisions. This clarifies the intention of legislature in not treating JCIT and Addl. CIT as one. Thus, the Department has failed to bring to our notice any notification issued in conformity with section 120(4)(b) empowering the Addl. CIT, Range-1(3), to act as an Assessing Officer in respect of present assessee. The notifications relied upon by the learned Departmental Representative are not under section 120(4)(b). As far as notification dated 17th September 2001 of the Board is concerned, though, it is issued under section 120(4)(b) of the Act, however, it authorizes only the JCIT and JDIT to exercise the powers and function of the Assessing Officer and it is not in*

*respect of Addl. CIT or Addl. DIT. Thus, none of these notifications can validly authorize or empower the Addl. CIT, Range-1(3) to act as an Assessing Officer in the present case. In case of Mega Corporation Ltd. vs. ACIT, [2015] 155 ITD 1019, the Tribunal while deciding identical issue of exercise of powers and functions of Assessing Officer by Addl. CIT dealt with the aforesaid notifications relied upon by the learned Departmental Representative and following the decision of the Hon'ble Delhi High Court in Valvoline Cummins v/s DCIT, [2008] 307 FUR 103 (Del) held that without a notification under section 120(4)(b) authorizing the Addl. CIT to exercise the powers and functions of the Assessing Officer, assessment order passed by the Addl. CIT is without jurisdiction, hence, invalid. Moreover, it was held that once a proceeding has been initiated by an officer having valid jurisdiction, without any order of transfer under section 127 of the Act, the Addl CIT cannot be vested with power to function as Assessing Officer. The Tribunal negated the contention of*

*the Department regarding exercise of concurrent jurisdiction by both the officers. It was held by the Bench that there is a distinction between concurrent exercise of power and joint exercise of power. The Bench held when power has been conferred upon two authorities concurrently, either one of them can exercise such power and once a decision is taken to exercise the power by any one of those authorities that exercise must be terminated by that authority only. In fact on a careful perusal of the orders passed by the Tribunal in case of Mega Corporation Ltd. (supra) and Tata Sons Ltd. (supra) we are of the view that the arguments/contentions raised by the Department in the present appeal relying upon certain notifications have been exhaustively dealt with by the Tribunal in these decisions and the issue has been decided in favour of Though, the learned Departmental Representative has submitted that the decisions of Mega Corporation Ltd. (supra) and Tata Sons Ltd (supra) should not be relied upon,*

*however, we are of the considered view that these decisions of the Tribunal have been rendered more or less on identical facts and issues and after considering the very same notifications relied upon by the learned Departmental Representative in the present case and the Tribunal has ultimately concluded that in absence of a valid notification under section 120(4)(b) the Addl. CIT cannot exercise power of an Assessing Officer. In this context, it is necessary to reproduce the observations of the Bench in the case of Tab Sons Ltd. (supra) hereunder: -.*

### *3.11. Admission of Additional Grounds:*

*The assessee has challenged legal competence of the Additional Commissioner of Income Tax to act as an Assessing Officer of the assessee and to pass the impugned assessment order by way of additional grounds. The issue raised by the assessee goes to the root of the matter and seeks to shake the very sustainability of the impugned assessment order in the eyes of law. During the course of hearing, it was shown by the Ld.*

*Senior Counsel of the assessee that law in this regard has been developed recently. Moreover, this fact was not in the knowledge of the assessee that the Additional Commissioner of Income Tax had assumed jurisdiction to frame the impugned assessment order without the authority of law and without there being any order from the Commissioner of Income Tax authorizing him to act as Assessing Officer of the assessee. Under these circumstances, it is' bounden duty of the Revenue to establish legal competence and authority of the officer passing the assessment order, if so challenged by an assessee at any stage.*

*3.12. We have examined this issue. it is well accepted position that the Tribunal is a final fact finding body. Requisite documents required for establishing legal authority of the Assessing Officer who had passed the assessment order are expected to be available in the assessment records. Thus, the legal issue raised by the assessee falls in the*

*category of cases which can be decided on the basis of material held on record.*

*3.13 Further, it is noted by us that the aforesaid grounds are purely legal grounds and do not require any investigation of fresh facts and can be decided on the basis of records held on record. It has been, held by the Hon'ble Supreme Court in the case of National Thermal Power Corporation 229 ITR 383 as well as ' the other judgments as have been relied Upon by the Ld. Counsel in its petition that assessee should be permitted to raise legal grounds at any stage, if they go to the root of the matter.*

*3.14. Revenue's argument to reject the additional grounds due to acquiescence and participation of the assessee in assessment proceedings:*

*It was contended by the Ld. CIT-DR that during the course of assessment proceedings, assessee had made participation in the proceedings. Therefore, assessee cannot he allowed to*

*challenge jurisdictional defect in the assessment order at this stage. We have considered this aspect very carefully. The assessee has challenged before us authority of the Officer to pass the impugned assessment order. It is bounden duty of the Revenue to establish the authority and legal competence of, its officer to pass the assessment order, as and when it is called upon to do so. No order can be sustained in the eyes of law if its author does not have requisite sanction of the law. If an Order does not possess requisite strength in the eyes of law and is void ab-initio then it will remain so even if there is acquiescence or participation by the assessee in the proceedings carried out by the AO to frame the assessment order. it is well settled law that consent of the assessee cannot confer jurisdiction to an assessing officer who lacked jurisdiction under the law. Similarly, vice versa is also true i.e. absence of consent of the assessee shall not take away jurisdiction from an Assessing Officer who actually possessed a valid jurisdiction in the eyes of law.*

*Thus, legal competence of the officer who passed the assessment order as well as validity of the assessment order must be examined on the basis of factual analysis and provisions of law and not on the basis of conduct of the assessee. This issue is not res-integra. Immediate reference in this regard can be made on the judgment of Hon'ble Bombay High Court in the case of Inventors Industrial Corporation Limited Vs. CIT 194 ITR 548 (Bombay). Similar view was taken by Hon'ble Gujarat High Court in the case of P.V. Doshi Vs. CIT 113 ITR 22 (Gui). Recently Hon'ble Delhi High Court handled a similar situation in the case of Valvoline Cummins Ltd 307 ITR 103 (Del) wherein challenge was made to the jurisdiction of Additional Commissioner of Income Tax who had passed the assessment order. It was contended on behalf of the Revenue that challenge of jurisdiction must be made within the stipulated time during the course of assessment proceedings in view of restrictions imposed by the provisions contained in section 124 of the Act*

*Hon'ble Delhi High Court in the aforesaid case held as under: -*

*"This is well settled that mere acquiescence in the exercise of powers by a person who does not have jurisdiction to exercise that power cannot work as an estoppel against him."*

*3.15. It is further noted by us that in the case before us, a challenge has been made about the legal competence of the Additional Commissioner of Income tax and his jurisdiction to exercise the powers and perform the functions of the Assessing Officer of the assessee and to carry out the assessment proceedings and frame the assessment order in accordance with the provisions of the Income tax Act, 1961. Thus, reliance, upon the provisions contained in Section 124 of the Act would be of no help to the Revenue as the assessee has not challenged either territorial jurisdiction or irregular exercise of jurisdiction by the Additional Commissioner of Income Tax but challenge was made to the authority and legal competence itself of the Additional*

*Commissioner of Income tax to pass the impugned assessment order upon the assessee. Similar view has been taken by the Delhi Bench of ITAT in the case of Mega Corporation Ltd Vs. Additional CIT 155 ITD 1019 (Delhi) following the judgment of Hon'ble Delhi High Court in the case of Valvolines Cummins Ltd, supra.*

*3.16. In view of the facts and circumstances, of this case and the judgments of Hon'ble Supreme Court and Hon'ble Bombay High Court relied upon by the Ld. Counsel in its petition as mentioned above, we find that these additional grounds deserve to be an admitted and therefore, these are admitted for our adjudication.*

*3.17. Since the additional grounds go to the root of the matter and challenge jurisdictional validity of the order, therefore, we find it appropriate to first deal with the same before deciding the appeal on merits. It has been argued at length by the Ld. Senior Counsel of the assessee that in this case first notice of*

*assessment proceedings intimating change of jurisdiction was issued by ACIT circle 2(3) Mumbai, dated 5th September 2001 wherein it was claimed that the jurisdiction of assessment was with the said officer. Subsequently, notice u/s 143(2) was issued by the DCIT dated 01.12.2003. Thereafter a questionnaire was issued by the Additional Commissioner of Income Tax Range - 2(3), Mumbai dated 10th February 2004 and finally the Additional Commissioner of Income Tax framed the assessment order. He took us through the various provisions of Income Tax Act to impress upon the point that Additional Commissioner of Income tax was not legally competent to act as Assessing Officer and to pass assessment orders. He referred to provisions of section 2(7A) which provide definition of the term 'Assessing Officer'. He also referred to the provisions of section 2(28C) which defines Joint Commissioner of Income Tax. It was argued that in the definition of Assessing Officer earlier only Joint Commissioner was provided and Additional*

*Commissioner was inserted subsequently. It was further submitted that only those Joint Commissioners/Additional Commissioners were competent to pass the assessment order who were authorized to act as an Assessing Officer as per clause (b) of sub-section 4 of section 120. It was vehemently argued that the Additional Commissioner who passed the impugned assessment order was not having any authority issued from the Board or the jurisdictional Commissioner of Income Tax to act as an Assessing Officer and to pass an assessment order in the case of the assessee. He also took us through provisions of section 120 to argue that Additional Commissioner or Joint Commissioner could have exercised the power of an Assessing Officer only if they were so authorized specifically by their jurisdictional Commissioner. In support of his proposition, he relied upon following judgments:*

*Mega Corporation v: Addl; CIT (62 taxmann.com 351 (Del. ITAT)*

*Bindal Apparels Ltd. ACIT 104 TTJ 950(Del)*

*City Garden vs. ITO (21 taxmann.com 373 (Jodhpur ITAT)*

*Micro fin Securities (P) Ltd. vs Addl. CIT 1 SOT 302 (Luk.)*

*Prachi Leathers Ltd. 26L/Luk/201 0 in ITA No. 744/Luk/2004 order dat. 29.03.2010*

*1-farvinder Singh Jaggi vs. ACIT 67 Taxmann.com 109(DeL ITAT)*

*Dr. Nalini Mahafan vs. OfT (Inv.) 257 ITR 123(Del. HC)*

*Ghansh yam K. Khabrani vs. ACIT 346 ITR 443(Bom. HC)*

*CIT vs. SPL's Siddhartha Ltd. 345 ITR 223 (Del. HC)*

*3.18. Per contra, Ld. CIT-DR, with the assistance of Ld. AO, vehemently opposed the submissions of the Ld. Senior Counsel*

*and argued that all the Additional Commissioners have concurrent jurisdiction upon all the assesses falling in their respective ranges and therefore, Additional Commissioner was well within his competence to pass the impugned assessment order. It was further submitted that as per section 2(28C), Joint Commissioner includes Additional Commissioners also. It was further submitted that Section 2(7A) was amended retrospectively and the word 'Additional Commissioner' was also inserted along with word 'Joint Commissioner' by Finance Act, with retrospective effect from 01.06.1994..In response to the query, Ld. CIT-DR fairly submitted that he was not able to get any Order from the board or Chief Commissioner of Tax or Jurisdictional Commissioner of Income Tax authorizing the present Additional Commissioner of Income Tax to act as an Assessing Officer and to pass assessment order. But, he maintained that even without and such specific order, the Additional*

*Commissioner was legally competent to pass the impugned assessment order.*

*3.19. In rejoinder, Ld. Senior Counsel of the assessee again took us through all the previous order sheet entries recorded by the bench on earlier dates wherein bench had repeatedly directed and had given opportunity to the department to produce if there was any order authorizing the Additional Commissioner of Income Tax to pass impugned assessment order, It was further submitted by him that assessee is not challenging territorial jurisdiction of the assessee; but the assessee is challenging legal competence of the officer to pass the impugned Assessment order and it can be done at any stage. Under these circumstances, the restriction provided u/s 124 was not applicable. If the legal competence of the officer is challenged, then it is for the Revenue to establish that the officer was legally authorized to pass the assessment order. It was lastly argued that case of the assessee was squarely covered in view of various judgments relied upon by the*

*counsel wherein it has been inter alia held that if the law mandates a particular act to be done in a particular manner, then that act should be done by the concerned authorities in that manner alone as has been prescribed under the law, else it shall be deemed that the said act has never been done. He requested for quashing the assessment order on the ground that same was passed without authority of law and was void ab-initio.*

*3.20. We have gone through all the facts and circumstances of the case. It is noted by us that for the impugned assessment year; after the return was filed by the assessee, a notice was issued by the ACIT Cir-2(3), Mum bal, dated 5th September 2091, intimating the assessee about change in jurisdiction and Claiming that jurisdictional was with the said officer. The relevant part of the said notice is reproduced hereunder:*

*"Sub: Change in jurisdiction-Intimation regarding*

*In terms of Notification No. SO No. 732(E) dated 31.7.2001 of Central Board of Direct Taxes and consequential Notification dated 7.8.2001 of CIT. MC-11, Mumbai, jurisdiction over your case with effect from 1.8.2001 vests with the undersigned. All IT./W.T. and Interest tax Returns and necessary correspondence on that account are therefore required to be filed with the undersigned. All payments towards Income-tax (by way of Advance tax, Regular tax or S.A. tax), Interest tax, Wealth tax and payment u/s. 115-0 of the I.T. Act are also to be made w.e.f. 1.8.2001 to the credit of the ACIT Circle 7(3). Mumbai*

*2. Similarly, jurisdiction over the Managing Director, Director, Manager; and Secretary of your company also vests with the undersigned vide Notifications quoted supra. Consequently, all the returns of the above persons and follow up correspondences on that account are to be made with the undersigned. All payments towards Income-tax and Wealth-tax wef 01.08.2001 of the above*

*persons are also to be made to the credit of ACIT Cir. 2(3) Mumbai. This maybe Carefully noted.*

*Your's Faithfully*

*Sd/-*

*(Jagadish Prasad Jangid)*

*ACIT CIR2(3), Mumbai*

*3.21. Thus, from the above, it is clear that initially the jurisdiction was with ACIT Cir. 2(3), Mumbai, for passing the assessment order. Subsequently, a notice u/s 143(2) was issued by DCIT Cir. 2(3) dated 01.12.2003 who was indeed successor to the first officer. Subsequently, assessee received a questionnaire dated 10th December, 2004 from the Additional CIT range 2(3) Mumbai. Apparently, Additional Commissioner of Income Tax was not successor. of ACIT/DCIT who had issued earlier notice. But, the assessee has contended that there is nothing on record to show as to how the Additional Commissioner of Income Tax became AO*

*of the assessee and passed the impugned assessment order.*

*3.22. Thus, the first issue raised by the assessee before us is that in this case assessment proceedings were initiated by the Assistant Commissioner of Income Tax but were taken over in the middle of the proceedings by the Additional Commissioner of Income Tax and completed by him without there being any valid transfer of jurisdiction from the Assistant Commissioner of Income Tax to the Additional Commissioner of Income tax, as required under section 127 of the Income Tax Act. In this regard, Ld. CIT-DR was of the view that the Additional Commissioner of Income tax and Assistant Commissioner of Income tax have concurrent jurisdiction over the assessee. In our view, contention of Ld. CIT-DR is not valid as it is not based upon correct appreciation of the law. It appears that Revenue has misunderstood and miss-applied the very concept of concurrent jurisdiction' and has ignored the distinction between the 'concurrent*

*jurisdiction' and Joint jurisdiction'. When we talk about assignment of concurrent jurisdiction' to two officers of different hierarchy, it does not mean that both the officers can simultaneously or jointly work upon the assessment proceedings of same assessee. But it means that both the officers are legally eligible for assignment of jurisdiction of the assessment proceedings of an assessee and, therefore, any one of these officers can be assigned the jurisdiction by the higher authority. But, exercise of the jurisdiction between both the officers shall always be mutually exclusive to each other. If the jurisdiction has been assigned to one of the officers, it shall not be exercised by the other, and if the jurisdiction is taken away from the former officer and assigned to the latter, then it shall be exercised by the latter only and not by the former. Thus, the jurisdiction can be exercised by only one Assessing Officer at any given point of time who has been duly assigned the jurisdiction by the competent authority. The assignment of jurisdiction to an officer and its transfer from one*

*officer to the other can be made only through the prescribed process of law. Section 127 of the Act contains provisions regarding process to be followed by the Revenue Officers and their powers for transfer of cases from one Assessing Officer to the other. Section 127(1)inter-alia provides and mandates that the Commissioner may after recording his reasons for doing so, transfer any -case from one Assessing Officer subordinate to him to any other Assessing Officer (whether with or without concurrent jurisdiction) also subordinate to him. Thus, mandatory requirement of the law in this regard is that an order in writing must be passed by the jurisdictional Commissioner of Income tax for effecting transfer of assessment proceedings from one Assessing Officer to the other. Law in this regard was explained in detail by Hon'ble Delhi High Court in the case of Valvolines Cummins; supra Similar view was taken by the Delhi bench of the Tribunal in the case of Mega Corporation Ltd. Vs. Additional CIT, supra following the aforesaid judgment of the Delhi High*

*Court. Relevant part of order is reproduced below for the sake of ready reference: -*

*"...9 Another content/on specifically raised is that there is no transfer order u/s 127 of the Act from transferring the case from the DCIT to the Addl CIT, Range 6, and New Delhi. The learned CIT(A) has held that in the cases of transfer of cases to another AO after issue of notice u/s 143(2) of the Act by another AO, the issue involves the interpretation of concurrent jurisdiction which is beyond the scope of this appeal within the restricted directions of the Hon'ble ITAT. He has held that, "in my considered Opinion, since both Addl. CIT Range-6 and DCIT Circle-6(1) works as subordinate officer to the same CIT and the CIT having entire territorial jurisdiction, the passing of assessment order by the Addl. CIT after issue of notice u/s 143(2) by the DCIT Circle 6(1) does not affect the taxability of the appellant or appellant is not adversely affected by the order" The Hon'ble Delhi*

*High Court in the above context in the case of Valvoline Cummins Ltd. (supra) has held as under;*

*"28. On the issue of 'concurrent' jurisdiction between the Additional Commissioner and the Deputy Commissioner, learned counsel for the assessee relied upon a decision of the Calcutta High Court in Berger Paints India Ltd. v, Asstt. CIT [2000] 246 ITR 133. The Calcutta High Court had explained the meaning of the expression 'concurrent' to mean two authorities having equal powers to deal with a situation -but the same work cannot be divided between Concurrent jurisdiction means a subordinate authority can deal with the matter equally with any superior authority in its entirety so that either one of such jurisdictions can be invoked. It cannot be construed as concurrent jurisdiction when one part of the assessment will be dealt with by one superior officer and the other part*

*will be dealt with by one subordinate officer. ..."*

*It appears to us quite clearly that there is a distinction between concurrent exercise of power and joint exercise of power. When power has been conferred upon two authorities concurrently, either one of them can exercise that power and once a decision is taken to exercise the power by any one of those authorities, that exercise must be terminated by that authority only. It is not that one authority can start exercising a power and the other authority having concurrent jurisdiction can conclude the exercise of that power. This perhaps may be permissible in a situation where both the authorities jointly exercise power but it certainly is not permissible where both the authorities concurrently exercise power. One example that immediately comes to the mind is that of grant of anticipatory bail. Both the Sessions Judge and the High Court have concurrent power. It is not as if a part of that power can be exercised by the High Court and the balance power can*

*be exercised by the Sessions Judge. If the High Court is seized of an application for anticipatory bail it must deal with it and similarly if the Sessions Judge is seized of an anticipatory bail, he must deal with it. There can be no joint exercise of power both by the High Court as well as by the Sessions Judge in respect of the same application for anticipatory bail.*

*30. In the facts of the present case, since the Additional Commissioner had exercised the power of an Assessing Officer, he was required to continue to exercise that power till his jurisdiction in the matter was over. His jurisdiction in the matter was not over merely on the passing of the assessment order but it continued in terms of section 220(6) of the Act in dealing with the petition for stay. What has happened in the present case is that after having passed the assessment order, the Additional Commissioner seems to have washed his hands of the matter and left it to the Deputy Commissioner to decide the stay petition filed Under section 220(5) of the*

*Act. We are of the opinion that this was not permissible in law."*

*9.1 We therefore hold that applying the above judicial position that assessment has to be completed by the authority who has initiated the proceedings for making assessment and any other authority can take over the proceedings only after a proper order of transfer u/s 127(1) or 127(2) of the proceedings. The revenue has not brought any order for transfer of the proceedings from DCIT, Circle-6(1), New Delhi to the Additional CIT, Range-6, New Delhi and therefore it is quite evident that the Additional CIT, Range-6 took over the assessment proceedings without there being an order u/s 127(1). In the case of Prachi Leathers Pvt. Ltd. (supra), it has been held as under:*

*19. We are further of the opinion that the notice under section 143(2) of the Act having been issued by the Income-tax Officer, Range 6(2), Kanpur on 16.8.2002, it was Income-tax Officer alone who could frame the assessment subject however to the fact that that the*

*assessment could be framed by any other officer also provided there was an order of transfer of jurisdiction over assessee's case from Income-tax Officer, Range-6(2), Kanpur to that officer under section 127(4) of the Act, but so far as present case is concerned, the Revenue has not brought to our notice any order under section 127 passed after 6.8.2002 transferring jurisdiction over the assessee's case from the income-tax Officer, Range 6(2), Kanpur to .the Addl. CIT, Range-6,Kanpur and therefore, the assessment framed by the Addl CIT, Range-,Kanpur irrespective of the fact as to whether he was authorized to perform the functions of an AO or not, is illegal and void ab intio for want of jurisdiction. Consequently, we are of the opinion that the assessment order in the present case dated 31.3.2003 passed by the Addl. CIT, Range (6), Kanpur was illegal and void ab initio for want of jurisdiction. Consequently, the assessment order is quashed."*

*9.2 Consequently on this count also, the assessment made on 29.12.2008 by the Additional Commissioner is illegal and bad in law for want of jurisdiction.*

*10. for the reasons aforesaid we hold that the order of assessment dated 29.12.2008 was without jurisdiction and therefore is quashed as such. In result, ground Nos. 1 and 2 are allowed."*

*3.23. In the case before us, the facts are 'identical. it is noted that Ld. CIT-op as well as the Assessing Officer (present incumbent) who was personally present during the course of hearing before us, jointly stated that no such order (as prescribed under section 127(1) required to be passed by the jurisdictional Commissioner of Income tax) is available in the records. Thus, it is clear that there was no valid transfer of jurisdiction to the Additional commissioner of income Tax who had passed the impugned assessment order. Thus, impugned assessment order had been passed without assuming jurisdiction as per law.*

3-24. Next issue raised by the Ld. Senior Counsel was that the Additional Commissioner who had passed the impugned assessment order was not authorized to act as assessing officer of the assessee and pass the impugned assessment order. We analyzed the provisions of law in this regard and find that section 2(7A) defines the term of Assessing Officer as under:

"Assessing Officer" means the Assistant Commissioner or Deputy Commissioner or Assistant Director or Deputy Director or the income-tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (1) or subsection (2) of section 120 or any other provision of this Act, and the Joint Commissioner or

Joint Director who is directed under clause (b) of sub-Section (4) of that section to exercise or perform all or any of the powers and functions conferred on, 'or assigned to, an Assessing Officer under this Act."

*Subsequently, the word 'Additional Commissioner' was also added in the said definition by Finance Act, 2007, with retrospective effect from day 01.06.1994. Thus, from the above, it is clear that when the impugned assessment order was passed, definition of the word 'Assessing Officer' did not include 'Additional Commissioner of Income Tax. It is further noted that section 2(28C) defines Joint Commissioner. Section 2(28C) was available on statute since 01.10.1998 and provide as under:*

*"2(28C) Joint Commissioner means a person appointed to be a Joint Commissioner of Income Tax or an Additional Commissioner of Income Tax under sub-section (1) of section 117. On the other. hand, section 2(1C) defines 'Additional Commissioner' as under:*

*"Additional Commissioner means a person  
35 appointed to be an Additional  
Commissioner of Income Tax Under sub-  
section (1) of section 117."*

*Thus, combined reading of all the above sections makes it clear that prior to amendment made by Finance Act, 2007, the legislature treated 'Additional Commissioner' and 'Joint Commissioner' differently for the purposes of performing the role as an Assessing Officer, despite the fact that for all the other purposes 'Joint Commissioner' meant Additional Commissioner as well., as per section 2(25C). It is clear from the facts that by way of subsequent amendment by Finance Ad, 2007, words 'Additional Commissioner' have also been inserted along with words 'Joint commissioner', in section 2(7A) which defines the term for 'Assessment Officer' In case, the legislature would have intended and meant that for the purpose of acting as Assessing Officer, 'Joint Commissioner' and 'Additional Commissioner' means one and the same, then there was no need to come out with an amendment made by Finance Act, 2007, wherein the word 'Additional Commissioner' was also inserted in the definition of 'Assessing Officer' as contained in section 2(7A).*

*Thus, it is clear as per the plain reading of the statute that when the assessment order was passed, the 'Additional Commissioner was not authorized to act as Assessing Officer.*

*36 In addition to the above, it further noted by us that only that Joint Commissioner' was authorized to act as an Assessing Officer who was directed under clause (b) of sub-section 4 of Section 120 to exercise or perform all or any of the Powers and functions of an Assessing Officer as defined u/s 2(7A) Of the Act. Now, if we refer to section 120, its perusal makes further clear that only CBDT can empower the Chief Commissioners or Commissioners for issuance of orders to the effect that powers and functions of an Assessing Officer for a particular assessee or classes of assessee shall be exercised by a 'Joint Commissioner'. Despite numerous directions, the Revenue was not able bring before us any order wherein any specific authority was given by any Chief Commissioner or Commissioner*

*authorizing the impugned Additional Commissioner to pass impugned assessment order. We find force in the argument of Ld. Counsel that at the relevant time when the assessment proceedings were in progress, the word 'Additional Commissioner' was not available in the aforesaid section and therefore, it was not possible for the Chief Commissioner or the Commissioner to have authorized an Additional Commissioner for exercising powers and functions of an Assessing Officer for a particular assessee or classes of assessee. Even otherwise, no order could be shown to us, whereby any such authority was given to the Joint Commissioner of the Range. Under these circumstances, we find that the Revenue is not able to show any order or notification in favour of the Additional Commissioner authorizing him for performing the powers and functions of the Assessing Officer of the assessee.*

*3.27. During the course of hearing, Ld. CIT-DR had drawn our attention upon Board's Notification No.267/2001 dated*

17-9-2001, Notification No.228/2001 dated 31.7.2001 and Notification No.335/2001 dated 29-10-2001 with a view to argue that the jurisdiction was assigned to all the Officers including 'Additional Commissioner' for exercise of powers as Assessing Officer, and thus the 'Additional Commissioner. of Income Tax' who had passed the impugned assessment order had inherent powers under the law to act as assessing officer of the assessee and pass the impugned assessment order.

3.28. We have gone through all these Notifications, but do not find any substance in the contention of the Ld. CIT-DR. It IS noted that Notification No.335 is issued merely for assigning jurisdiction to various Commissioners and it is thus of no use to Revenue as far as issue before us is concerned. So for as Notification No.267/2001 is concerned, it reads as follows: -

"In exercise of the powers conferred by clause(b) of subsection (4) of section 120 of the income -tax Act,1'9'61(43 of 1961),

*the Central Board of Direct Taxes, hereby directs that the Joint Commissioners of Income Tax or the Joint Directors of Income tax, shall exercise the powers and functions of the Assessing Officers, in respect of territorial area or persons or classes of persons or incomes or classes of income or cases, or classes of cases, in respect of which such Joint Commissioners of Income tax are authorized by the Commissioner of Income tax, vide Government of India, Central Board of Direct. Taxes notification number S.O.732(E) dated 31.07.2001, S.O.880(E) dated 14.09.2001 S.O.881(E) dated 14.09.2001, S.O.882(E) 14.09.2001 and S.O. 883(E) dated 14.09.2001 published in the Gazette of India, Part II, Section 3, sub-section (ii), Extraordinary: (emphasis supplied)*

*3.29. Perusal of the aforesaid notification reveals that only those Joint Commissioners shall exercise the powers and functions of the Assessing. Officers who have been authorized by the concerned Commissioners of Income tax*

*in pursuance to the relevant notification conferring requisite powers to the concerned Commissioners.*

*3.30. Similarly, notification No.228/2001, supra authorize the Commissioners of Income tax to issue orders for authorizing in turn, the Joint Commissioner of Income tax who are subordinate to them for exercising of the powers and performance of the functions of the Assessing Officers. It also, inter-alia authorizes the Joint Commissioners who were so authorized by the Commissioners, to issue orders in writing to the Officers who are subordinate to them for the exercise of the powers and performance of the functions of the Assessing Officers for specified assessee or class of assessee. Relevant part of the said notification is reproduced as under for the sake of ready reference: -*

*.....(c) authorize the Commissioner of Income Tax referred to in this notification to issue the orders in writing for the exercise of the powers and performance of the functions of C the Joint*

*Commissioners of Income tax, who are subordinate to them, in respect of such cases or classes of cases specified in the corresponding entries in column (6) of the Schedule-I and Schedule -II of such persons or classes of persons specified in the corresponding entries in column(5) of the said Schedules, in such territorial areas specified in the corresponding entries in column (4) of the said Schedules, and in respect all of incomes or classes of income.*

*..(d) authorises the Joint Commissioner of Income Tax referred to in clause (c) of this notification, to issue orders in writing for the exercise of the powers and performance of functions by the Assessing Officers, who are subordinate to them, in respect of such specified area or persons or classes of persons or incomes or classes of income or cases or classes of cases, in respect of which such Joint Commissioners of Income Tax are authorised by the Commissioner of*

*Income Tax under clause (c) of this notification.....”*

*3.31. Thus, in view of the aforesaid notification it becomes imperative on the part of the Revenue to show us that in the case before us, the Additional Commissioner of Income tax, who had passed the impugned assessment order, was duly authorized by the jurisdictional Commissioner to do so. It is noted that any such order would not be available with the Revenue, because even in the notifications discussed above only 'Joint Commissioners' were authorized to perform the role of the Assessing Officers. However, the Revenue is not able to bring before us any order of the Commissioner authorizing even the 1 Joint Commissioner' to perform powers and' functions ' of Assessing Officer of the assessee. As per the discussion made by us in 'detail in the earlier part of our order, it is dear that no such order is available in the assessment record or in any other record. Legal consequences of the same have been elaborately*

*analysed in many judgments by various courts.*

*3.32. Identical issue came up for consideration before Delhi Bench of Income Tax Appellate Tribunal in the case of Mega Corporation, supra. The bench discussed entire law available on this issue and held that an 'Additional Commissioner of Income Tax' cannot ipso facto exercise the powers or perform the function of an Assessing Officer under the Act. He can perform the functions and exercise the powers of an Assessing Officer only if he is specifically directed under section 12Q(4)(b) of the Act to do so. Relevant part of the observations of the bench is reproduced hereunder for the sake of ready reference:-'*

*. . . . . We have considered the arguments advanced by the parties and perused the order of the learned CIT(A), comments of the Assessing Officer and material placed on record. The controversy raised in this appeal relates to the validity of order of assessment dated 29.12.2008 passed by Additional-*

*CIT, Range 6, New Delhi. According to the appellant/assessee, it is incumbent under the scheme of statute to vest the Additional CIT u/s 120(4)(b) of the Act to exercise or perform all or any of the powers and functions of Assessing Officer under the Act.*

*To examine the above contention, we consider it inappropriate to firstly extract section 2(7A) of the Act which is as under:*

*2(7A) Assessing Officers*

*2(7A) "Assessing Officer" means the Assistant Commissioner 2 Deputy Commissioner 3 or Assistant Director 4 or Deputy Director or the Income-tax Officer who is vested - with the relevant jurisdiction by virtue of directions or orders issued under sub-section (1) or sub-section (2) of Section 120 or any other provision of this Act, and the [Additional Commissioner or]6 7[Additional Director or]7 5 Joint Commissioner or Joint Director who is directed under clause (b) of sub-section (4) of that section to exercise or perform all or any of the*

*powers and functions conferred on or assigned to, an Assessing Officer under this Act; " 5.2 A plain reading of the aforesaid provision would show that it is in two parts. The first part provides that Assessing Officer means the "Assistant Commissioner" or "Deputy Commissioner" or "Assistant Director" or "Deputy Director" or "Income Tax Officer" who is vested with the relevant jurisdiction by virtue of directions or orders issued under section 120(1) or 120(2) or any other provision of this Act. The second part provides that Assessing Officer means the "Additional Commissioner" or "Additional Director" Or "Joint Commissioner" or "Joint Director" who is under section 120(4)(b) of the Act to exercise or perform all or any of the powers and functions conferred, on or assigned to an Assessing Officer under this Act. In other words, it is manifest that Assessing officer inter-alia means Additional Commissioner who is directed under section 120(4)(b) of the Act to exercise or perform all or any of the powers and functions conferred on or assigned to an Assessing Officer under*

*the Act. under the Act. In other. Words, an Additional Commissioner can only be directed u/s 120(4)(b) of the Act to "Assistant Commissioner" or "Deputy Commissioner" or "Assistant Director" or "deputy Director" or Income Tax Officer" under the Act. This interpretation also 'derives strength from the provisions contained in section 120(4)(b) of the Act which reads as under:*

*"120.Jurisdiction of income-tax authorities (4) Without prejudice to the provisions of sub-sections (1) and (2) , the Board may, by general or special order, and subject to such conditions, restrictions or limitations as may be specified therein,-*

*(b) empower the Director General or Chief Commissioner or Commissioner to issue orders in writing that the powers and functions conferred on, or as the case may be, assigned to, the Assessing Officer by or under this Act in respect of any specified area or persons or classes of persons or incomes or classes of income or cases or classes of cases, shall be*

*exercised or performed by an Additional Commissioner or an Additional Director or a Joint Commissioner or a Joint Director, and, where any order is made under this clause, references in any other provision of this Act, or in any rule made there under to the Assessing Officer shall be deemed to be references to such Additional Commissioner or Additional Director or Joint Commissioner or a Joint Director, by whom the powers and functions are to be exercised or performed under such order, and any provision of this Act requiring approval or sanction of the Joint Commissioner shall not apply."*

*53 It will be seen that the said provision provides that Board may by general or special order and subject to such conditions, restrictions or limitations as may be specified therein empower the Director General or Chief Commissioner or Commissioner to issue orders in writing that the powers and functions conferred on or as the case may be, assigned to, Assessing Officer by or under this Act in*

*respect of any spec/fled area or persons or classes of persons or incomes or classes of income or cases or classes of cases shall be exercised or performed by an Additional Commissioner or an Additional Director or a Joint Commissioner Or a Joint Director and where any order is made under this clause, reference in any other provision of this Act or in any rule made there under to the Assessing Officer shall be deemed to be references to such Additional Commissioner, or Additional Director or Joint Commissioner or a Joint Director by whom, the powers and functions are to be exercised or performed under such order and any provision of this Act requiring approval or sanction of the Joint Commissioner shall not apply.*

*54 The position which emerges thus is that an Additional under the Act. He can perform the functions and, exercise the powers of an Assessing Officer only if he is specifically directed under section 120(4)(b) of the Act."*

3.33. Similar issue has been decided by the Lucknow bench of ITAT in the case of Prachi Leather Put. Ltd Vs. Additional CIT in ITA No. 26(L)/2010 dated 8.12.2010 relying upon its earlier ITA No.744/2004/Lucknow for assessment year 2001-02 decided this issue on the similar lines after considering and following the decision of Hon'ble Delhi High Court in the case of Nalini Mahajan Vs. DIT 257 ITR 123 (Delhi). It is also noted Is decision has also been considered by Delhi Bench in the of Mega Corporations Ltd, supra and relevant portion of the order as discussed therein is reproduced below: -

"16.2 From the contents of. the aforesaid provisions, it isq uite clear that so far as Addl. Commissioner is concerned firstly he has been included in the definition of Assessing Officer" given under section 2(7A) of the Act with effect from 1.6.1994 as a result of retrospective amendment made by the Finance Act, 2007 but at the same time, it/s also clear that the Add/. Commissioner will be Assessing Officer as

*envisaged in section 2(7A) so amended only if he is directed under clause (b) of sub-section (4) of section 120 to exercise or perform all or any of the powers and functions concerned on or assigned to an Assessing Officer; meaning thereby that the Addl. CIT can function or can exercise the powers and perform the functions of an Assessing Officer if he is empowered by the CBDT as required under clause (b) of sub-section (4) of section 120.*

*18.1 So far as the issue before us in the present appeal is concerned, it is now clear from the provisions as discussed hereinbefore that the Additional CIT could act and exercise the powers of an AO only in consequence upon delegation of such authority by the Board, Chief Commissioner of Income-tax or Commissioner of Income-tax as envisaged in the provisions of section 120(4)(b) of the Act. However; the power given to the Chief Commissioner of Income-tax or Commissioner of Income-tax being in consequence upon the delegation of power duly authorized by the Legislature,*

*the Chief Commissioner of Income-tax or Commissioner of Income-tax were duty bound, if at all they were to exercise - such delegated power to act accord/hg to the provisions of, law; meaning thereby that it was incumbent upon the Chief Commissioner of Income-tax or the Commissioner of Income-tax, as the case maybe, if at all they wanted to authorize the Additional CIT to act and perform the functions of an AO to pass a proper order delegating such functions/ powers upon him This view of ours is fully supported by the decision of the Hon'ble Delhi High Court in t case of Dr. Nalini Mahajan vs DIE 257 ITR 123, wherein the Hon'ble High Court, while discussing the powers of Additional Director Investigation, held as under:*

*It is now well-settled that when a power is given to do a certain thing in a certain manner, the same must be done in that manner or not at alt A delegation of power is essentially a legislative function. Such a power of delegation must be provided by the statute. The director*

*himself for certain matters is the delegating authority. He, unless the statute expressly states; cannot sub-delegate his power to any other authority. In any event, if an authority, which had no jurisdiction to issue such an authorization, did so, the same would be liable to be quashed as ultra vires. Thus, unless and until an amendment is carried out, by reason of the resignation itself, read with the provisions of the General Clauses Act, the Addl. Director does not get any statutory power to issue authorization to issue warrant. Therefore, the Addl. Director (Investigation) cannot be said to have any power to issue any authorization or warrant to Joint Director. Consequently, notification dt. 6th Sep. 1989 is not valid in law to the said extent*

*18.2 So far as the present case is concerned, though we are concerned with the powers of Additional CIT but the proposition of law laid down by the Hon'ble High Court which was, though in relation S to powers of Additional Director*

*(Investigation), is fully applicable to the present*

*18.3 In view of the aforesaid facts, circumstances and the discussion and following the law laid down by the Hon'ble De/hi High Court in the case of Dr. Na/ii Mahajan (supra), first of all we are of the opinion that the Addl. CIT, Range-6, Kanpur having not been empowered to exercise or perform the powers or functions of an Assessing Officer, the assessment framed by him was illegal and void ab initio. " .....*

*3.34. It is further noted that similar view has been expressed by Jodhpur Bench of ETA in the case City Garden Vs. ITO 21 taxman.com 373 (Jodhpur) wherein it has been held that in the absence of a specific order issued in pursuance to Section 120(4)(b) specifically authorizing Joint Commissioner of Income Tax to exercise the powers and perform the function as conferred on or assigned to an Assessing Officer by or under the Act or a notification under section 120 of the Act, he is not competent to act as an Assessing Officer and pass an assessment order.*

3.35. *Similar view has been taken by Lucknow Bench of ITAT in case of Micro fin Security Pvt. Ltd vs. Additional CIT 94 TTJ 767 wherein it was held that in absence of any allocation being made in favour of Additional Commissioner to make an assessment, he cannot assume for himself such an authority so as to pass an assessment order.*

6. *Similar view has-been taken recently in another judgment by the Delhi bench of the ITAT in the case of Harvinder Singh Jaggi Vs. ACIT 157 ITD 869 (Delhi). Relevant part of observations of the Bench is reproduced below:-*

*.....As regard the contention of the assessee that no order under section 127 was passed by the Commissioner of Income-tax, the revenue has submitted that the Addl. Commissioner of Income Tax was provided concurrent jurisdiction over the cases through the order of the Commissioner of Income tax and, therefore, no separate order under Section 127 was required W be passed by the Commissioner of Income tax. However, no such order of*

*the Commissioner of income tax conferring the concurrent jurisdiction to the Addl. Commissioner of Income Tax over the cases of the Income tax officer is either available on assessment record, or was produced by the revenue. Thus, in absence of any such order, it can't be established that said assessment order passed was within the jurisdiction of the Addl. Commissioner of Income Tax. Thus, the assessment completed by Additional Commissioner of Income Tax in the case being without jurisdiction is void ab initio. Accordingly, the ground of appeal of the assessee is allowed.*

*3.37. In the case of Bindal Apparels Ltd vs. ACIT, Delhi Bench of ITAT took a similar view and held that in view of definition of Assessing Officer contained u/s 2(7A), an Additional Commissioner cannot be an authority to exercise and perform all or any of the powers of the functions of the Assessing Officer to make assessment of Income. The Bench analysed the provisions of Sect/on 2(7A) as it existed prior to amendment made by Finance Act, 2007.*

3.38. During the course of hearing, it was also submitted by id. CIT-DR to defend the impugned assessment order that in any case the assessment order has been passed by an officer of the rank of Additional Commissioner which is much superior to the rank of Assistant Commissioner and thus no prejudice-can be presumed to have been done to the assessee. We find that reasoning given by the Ld. CIT-DR to defend the impugned assessment order does not have any legal force. It is well settled that jurisdictional conditions required to be fulfilled by the assessing officer must be performed strictly in the manner as have been as prescribed and if it has not been done in the manner under the law. then it becomes nullity in the eyes Hon'ble Supreme Court in the case of CIT Vs. M. H. Ghaswala observed that it is a normal rule of construction that when a statute vests certain powers in an authority to be exercised in a particular manner, then that authority is bound to exercise it only in the manner provided in the statute only.

*3.39 Hon'ble Bombay High court dealt with a similar situation in the case of Ghansham K.Khabrani Vs. ACIT 346 ITR 443 wherein the said assessee raised an issue that requisite sanction prescribed u/s 151 for reopening of an assessment was required to be obtained by the AO from Joint Commissioner of Income tax whereas the same was granted by Commissioner\* of Income tax and therefore the same was nullity in the eyes of law. Revenue took a stand that sanction was granted by an officer superior in rank and therefore, no prejudice was caused to the assessee But Hon'ble High. Court did not agree with the contention of the Revenue and observed that:-*

*.....The expression "Joint Commissioner" is defined in section 2(28C) to mean a person appointed to be a Joint Commissioner of Income Tax or an Additional Commissioner of Income-tax under section 117(1). Section 151(2) mandates that the satisfaction has to be of the Joint Commissioner. The expression has a distinct meaning by virtue of the definition*

*in 'section 2(28C). The Commissioner of Income tax 15 not a Joint Commissioner within the meaning of section 2(28C). There is no statutory provision under which power to be exercised by an officer can be exercised by a superior officer, When the statute mandates the satisfaction of a particular functionary for the exercise of a power, the satisfaction must be of that authority. Where a statute, requires something to be done in a particular manner, it has to be done in that manner only.....*

*3.40. Thus, in view of the legal discuss/op made above and facts of the case, it is clear that impugned assessment order has been passed without authority of law in as much as Revenue has not been able to demonstrate that the Additional Commissioner of Income tax who had passed the assessment order had valid authority to perform and exercise the powers and functions of an Assessing Officer of the assessee and to pass the impugned assessment order. Under these circumstances, we have no other option but*

*to hold the same as nullity and, therefore, the impugned assessment order is quashed having been passed without authority of law,*

*16. The ratio laid down in the decision of Tata Sons Ltd (supra) and other decisions relied upon by the Bench therein, clearly applies to the facts of the present case. Therefore, adhering to the, principle of judicial discipline we follow the decisions of the Tribunal referred to the above and hold that in the facts of the present case, the Addl. CIT in the absence of a valid order under section 120(4)(b) as well as section 127(1) of the Act could not have exercised powers of on Assessing Officer to pass the impugned assessment order. Accordingly, the impugned assessment order passed being wholly without jurisdiction is void ab initio, hence, deserves to be annulled] quashed. Accordingly, we do so.*

*At this stage, we must deal with the contention of the learned*

*Departmental Representative to restore the matter back to the file of the learned*

*Commissioner (Appeals) for adjudicating the jurisdictional issue. We do not find any valid reason to accept the contention of the learned Departmental Representative. As stated earlier by us, exercise of jurisdiction by the Addl. CIT has to be examined on the basis of notification / orders passed under section 120(4)(b), inasmuch as, n 127(1) of the Act. In this context, learned Departmental representative has relied upon certain notifications to justify the validity of the assessment order passed by the Addl. CIT. As far as existence of any order under section 127(1) is concerned, the learned Departmental Representative has fairly submitted that no such order exist on record. At least, nothing was brought to our notice in spite of specific query bang raised by the Bench. Therefore, when the issues are to be decided on the basis of facts already available on record and keeping in view the relevant notifications placed on record as well as the decisions cited, there is no necessity of restoring the matter back to the file o the learned Commissioner (Appeals). As far as the contention of the learned Departmental*

*Representative regarding maintainability of the additional ground on the plea that the assessee can only challenge the jurisdiction & issue under section 124(3) of the Act, we do not find any merit in such submissions. A plain reading of section 124 would show that it refers to an order issued under subsection (1) or (2) of section 120, whereas, we are concerned with an order purported to be passed under section 120(4)(b) empowering the Addl. CIT to act as an Assessing Officer. Therefore, in our view, the provisions of section 124 are not applicable to the present case. For that reason we do not feel it expedient to deal with the decisions relied upon by the 'earned Departmental Representative in that regard. Thus, in view of the aforesaid the additional ground and supplementary additional grounds are allowed."*

11. Respectfully, following the above decision of this Tribunal, we allow the additional ground raised by the assessee challenging the validity of the assessment framed by the Addl. CIT and accordingly, quash the assessment framed under section 143(3) of the Act. Similarly, in other two years the assessment framed by the Addl. CIT is quashed. Since, we have quashed the assessment order on jurisdictional issue, the consequent rectification carried out under

section 144 of the Act in all these three years is also quashed. Hence, the other grounds on jurisdictional issue as well as on merits have become academic and hence, not adjudicated. These Six appeals of assessee are accordingly allowed.

### **In ITAs No. 918/Mum/2012, 872/Mum/2013**

12. At the outset, the learned Counsel for the assessee stated that it has raised additional ground in regard to assessment framed under section 143(3) of the Act is bad in law as it is made on a non-existent entity. The learned Counsel for the assessee referred to the additional grounds raised in this year i.e. AY 1999-00. The learned for the assessee stated that this additional grounds raised herein do not require any investigation of additional facts and go to the root of the matter on the legal issue involved. Hence, he requested that the said grounds to be admitted in the interest of substantial justice and for admission of additional ground, the learned Counsel relied on the following decisions: -

*"-National Thermal Power Co. Ltd. vs. CIT  
[229 ITR 383 (SC)]*

*-Jute Corporation of India Ltd. vs. CIT  
[187 ITR 688 (SC)]*

*-CIT vs. S. Nelliappan [66 ITR 722 (SC)]*

*-Ahmedabad Electricity Co. Ltd vs. CIT  
[199 ITR 351 (Bom)]*

*-CIT vs. Pruthvi Brokers & Shareholders  
(348 ITR 336 (Bom))]*

*-Ashok Vardhan Birla Vs. CIT [208 ITR  
958 (Bom.)]*

*-Inaroo Vs. CIT (204 ITR 312 (Bom))]*

*-CIT vs. Govindram Bros. P. Ltd (141 ITR  
626 (Bom))]*

*-Maruti Suzuki Ltd. 397 ITR 681 (Del)”*

13. For this, the learned Counsel for the assessee stated that the AO as well as the CIT(A) even in first and in second round framed assessment order and passed appellate orders respectively on non-existent of company i.e. Sabras Investment and Trading Company Limited in this assessment year. The learned Counsel for the assessee first of all took us through the assessment order for AY 1999-00 passed under section 143(3) of the Act dated 11.03.2002, wherein on the very heading of the assessment order it is mentioned that since merged with Tata Chemicals Limited, the relevant details are as under: -

*“Name & Address of the Assessee: M/s Sabras  
Investment and Trading Ltd.*

*(since merged with M/s Tata  
Chemicals Ltd.)”*

*PAN/ GIR No.*

*AABCS8618L*

<i>District/ Ward/ Circle</i>	<i>Circle-2(2)</i>
<i>Status</i>	<i>Company</i>
<i>Assessment year</i>	<i>1999-2000</i>
<i>Whether Residence/ resident but not ordinarily resident/ non- resident</i>	<i>Resident</i>
<i>Method of Accounting</i>	<i>Mercantile</i>
<i>Previous Year</i>	<i>31.03.1999</i>
<i>Nature of Business</i>	<i>Investment Company</i>
<i>Date(s) of hearing</i>	<i>As per order sheet</i>
<i>Date of order</i>	<i>11-03-2002</i>
<i>Section and subsection under which the assessment is made</i>	<i>U/s 143(3) of IT Act, 1961”</i>

14. The learned Counsel for the assessee then drew our attention to Para 3 of the order of the AO which read as under:

-

*"3. The assessee company was wholly owned subsidy company of M/s Tata Chemicals Ltd before its merger with*

*holding company w.e.f. 01.04.2000. It was an investment company having investments in shares and securities of various companies and also earned interest on advances and Inter Corporate Deposits.”*

15. According to the learned Counsel, the AO was very much aware that this company has merged with Tata Chemicals Limited with effect from 01.04.2000 and despite this fact, the assessment was framed in the name of a non-existent company.

16. The above facts are undisputed and admittedly, assessment orders were framed in this year after the amalgamation and on a non-existent company. In view of the above, the learned Counsel for the assessee stated that this assessment made on a non-existent company is bad in law in view of the Supreme Court decision in the case of PCIT vs. Maruti Suzuki India Limited (SC) in civil appeal No. 5409 of 2019 vide order dated 25 July 2019.

17. On the other hand, the learned CIT Departmental Representative has not disputed the fact situation but he vehemently opposed the admission of additional ground.

18. We have heard rival contentions and gone through the facts and circumstances of the case. We noted that admittedly, the assessee is a non-existent company and merged with Tata

Chemicals Limited as on 01.04.2000. These facts are undisputed. Admittedly, the assessment is done after the merger in the name of a non-existent company. Once, this is the fact situation, the issue is squarely covered by the decision of Hon'ble Supreme Court in the case of Maruti Suzuki India Limited (supra), wherein it is held as under: -

*"33 In the present case, despite the fact that the assessing officer was informed of the amalgamating company having ceased to exist as a result of the approved scheme of amalgamation, the jurisdictional notice was issued only in its name. The basis on which jurisdiction was invoked was fundamentally at odds with the legal principle that the amalgamating entity ceases to exist upon the approved scheme of amalgamation. Participation in the proceedings by the appellant in the circumstances cannot operate as an estoppel against law. This position now holds the field in view of the judgment of a co-ordinate Bench of two learned judges which dismissed the appeal of the Revenue in Spice Entertainment on 2 November 2017. The decision in Spice Entertainment has been followed in the*

*case of the respondent while dismissing the Special Leave Petition for AY 2011-2012. In doing so, this Court has relied on the decision in Spice Entertainment.*

*34. We find no reason to take a different view. There is a value which the court must abide by in promoting the interest of certainty in tax litigation. The view which has been taken by this Court in relation to the respondent for AY 2011-12 must, in our view be adopted in respect of the present appeal which relates to AY 2012-13. Not doing so will only result in uncertainty and displacement of settled expectations. There is a significant value which must attach to observing the requirement of consistency and certainty. Individual affairs are conducted and business decisions are made in the expectation of consistency, uniformity and certainty. To detract from those principles is neither expedient nor desirable."*

19. Respectfully following the decision of Hon'ble Supreme Court in the case of Maruti Suzuki India Limited (supra), we set aside the final assessment order as it is void and ab-initio, having been passed in the name of non-existent company by

the AO. We noted that once the assessment framed is bad in law being framed on a non-existent company, the consequent rectification order passed under section 154 of the Act will not survive. Hence, the rectification order passed under section 154 is also quashed. This issue of assessee's appeals (in both the appeals i.e. in ITAs No. 918/Mum/2012 & 872/Mum/2013 for AY 1999-2000) assessee is allowed.

**20. In the Result, all the appeals of the assessee are allowed.**

Order pronounced in the open court on 05.09.2019.

Sd/-

(राजेश कुमार / RAJESH KUMAR)

(लेखा सदस्य / ACCOUNTANT MEMBER)

मुंबई, दिनांक/ Mumbai, Dated: 05.09.2019

सुदीप सरकार, व. निजी सचिव / *Sudip Sarkar, Sr.PS*

Sd/-

(महावीर सिंह / MAHAVIR SINGH)

(न्यायिक सदस्य/ JUDICIAL MEMBER)

**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