

**IN THE INCOME TAX APPELLATE TRIBUNAL "SMC", BENCH
MUMBAI**

BEFORE SHRI R.C.SHARMA, AM

**ITA No.5983/Mum/2018
(Assessment Year:2006-07)**

**ITA No.5984/Mum/2018
(Assessment Year:2007-08)**

&

**ITA No.5985/Mum/2018
(Assessment Year:2008-09)**

Shri Mafatlal Devaji Mehta C/o. M.P. Jain & Co. 205, Godiji Chawl Kika Street Gulawadi Lane Mumbai – 400 004	Vs.	The Income Tax Officer, Ward No.19(2)(3) Room No.218, 2 nd Floor Matru Mandir Mumbai – 400 007
PAN/GIR No. AABPC2876C		
(Appellant)	..	(Respondent)

Assessee by	Shri Gautam Salecha
Revenue by	Shri Akhtar H Ansari
Date of Hearing	04/11/2019
Date of Pronouncement	14/11/2019

आदेश / O R D E R

PER: R.C. SHARMA, A.M.

These appeals are filed by the assessee against the order of CIT(A)-2, Mumbai dated 16/04/2018 for A.Y.2006-07, 2007-08 & 2008-09 in the matter of order passed u/s.143(3) r.w.s. 147 of the Income Tax Act, 1961.

2. In these appeals, assessee basically aggrieved by addition of full value of sale proceeds including long term capital gain as accommodation entry based on the statement of Mukesh M Chokshi. Grievance of assessee is common in all the years under consideration. Therefore, I have heard all the appeals together and am now deciding the same by this consolidated order.

3. Facts in brief are that assessment for all the years under consideration was reopened on the basis of information from Director of Income Tax, to the effect that assessee had obtained accommodation entries and had shown long term capital gains from sale of shares of Talent Infosys Ltd made through Alliance Intermediaries & Network Pvt. Ltd.

3.1. In this regard I observed that a search and seizure action u/s. 132 of the Income-tax Act, 1961 was conducted by the Investigation Wing of the Income-tax Department, in the case of M/s. Mahasagar Securities Pvt. Ltd. on 25/11/2009. Shri. Mukesh M. Chokshi and Shri Jayesh K. Sampat were directors of M/s. Mahasagar Securities Pvt. Ltd., and its related group of 34 odd companies out of which the prominent are being M/s. Alliance Intermediaries and Network Pvt. Ltd, M/s. Mihir Agencies Pvt. Ltd., M/s. Gold Star Finvest Pvt Ltd., M/s. Richmond

Securities Pvt. Ltd., etc., all run by Shri Mukesh M. Chokshi, were engaged in fraudulent billing activities and in the business of providing bogus speculation profit/loss, commodities, profit/loss on commodity trading (through MCX) and had been continuing this business for many years. The list of clients who have taken entries from these companies has been extracted from the computer data seized from M/s. Mahasagar Securities Pvt. Ltd., office and has been found to consist of many beneficiaries out of which the assessee Shri. Mafatlal Devji Mehta is one of the beneficiary, who has taken bogus billing order to claim bogus capital /loss in the F.Y 2005-06 relevant to A.Y 2006-07. After going through the information, it was found that Shri Mafatlal Devji Mehta has entered into bogus transactions to the extent of Rs.8,50,650/- and with M/s. Alliance Intermediaries and Net work Pvt. Ltd during the FY 2005-06 relevant to A.Y.2006-07. On the basis of facts mentioned above the AO has reason to belief that the assessee has entered into bogus / sham transactions through which the payments were made and has escaped assessment.

3.2. After making detailed inquiries the AO made addition with respect to the alleged accommodation entries so received by the assessee.

4. By the impugned order, CIT(A) confirmed the action of the AO after having following observation:-

From perusal of the various judgments of Hon'ble ITAT, Mumbai in case of Mr. Mukesh Choksi and various business concerns run by Shri Mukesh Choksi, it is evident that Hon'ble Tribunal has held that the various companies and business entities run by Shri Mukesh Choksi were indulged in the business of providing accommodation entries on which he was just charging a commission @ 0.15%. From the findings of Hon'ble ITAT it is also evident that the only business of Mr. Mukesh Choksi was to provide accommodation entries for which he had only earned commission income. It proves that no genuine transactions were executed by the business concerns run by Shri Mukesh Choksi. The findings of Hon'ble ITAT also establish that the credit worthiness of various business concerns run by Shri Mukesh Choksi is not proved as they were only indulged in providing accommodation entries on which commission was charged and not indulged in genuine business.

6.1.16 *From the above facts, it is clear that the appellant has taken an accommodation bill of Rs.8,50,650/- which is in form of a credit entry in its books of account and credit worthiness of the creditor is not proved, therefore, respectfully following various judgments of Hon'ble ITAT in Vlr. Choksi and various business concerns run by him where the Tribunal has held that the only business of Mr. Mukesh Choksi ;as providing accommodation entries. In instant case since the assessee had obtained accommodation entries to the tune of Rs.8,50,650/- and the addition was also made by the AO to that extent and the various judicial pronouncements strongly authenticates that Shri Mukesh Choksi and his group concerns have provided accommodation bills and the profit element has already been finalized by the highest facts finding authority, the accommodation entry taken by the appellant from the aforesaid parties comes into the sphere of unaccounted income. Therefore, I do not find any reason to interfere with the action of the AO and the addition made by the AO is sustained. Accordingly, the grounds of appeal is treated as disposed off and **dismissed**.*

7. *In the result, the appeal is **Dismissed**.*

5. I had carefully gone through the orders of the authorities below and found that on the basis of detailed inquiries and the material

available on record, the AO has made addition and CIT(A) has considered the issue threadbare and after applying various judicial pronouncements reached to the conclusion that assessee has taken accommodation bill which was in the form of credit entry of the books of accounts and credit worthiness of the creditors was not proved. The detailed finding so recorded by the lower authorities are as per material on record. However, nothing was produced before me so as to persuade me to deviate from the finding recorded by lower authorities. Accordingly, I do not find any reason to interfere in the order of the lower authorities.

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

7. The facts and circumstances in all the years are parimateria, therefore, following the reasoning given hereinabove, I confirm the action of CIT(A).

8. In the result, all the appeals of the assessee are dismissed.

Order pronounced in the open court on 14/11/2019.

Sd/-
(R.C.SHARMA)
ACCOUNTANT MEMBER

Mumbai; Dated 14/11/2019
Karuna, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

सत्यापित प्रति //True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai