

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

**BEFORE SHRI RAJESH KUMAR, ACCOUNTANT MEMBER AND  
SHRI RAVISH SOOD, JUDICIAL MEMBER**

**ITA No.5621/M/2018  
Assessment Year: 2015-16**

DCIT-CC-6(3), Room No.1926, 19 <sup>th</sup> Floor, Air India Building, Nariman Point, Mumbai – 400021	Vs.	Ms. Hansa Kailash Agarwal, 13 <sup>th</sup> -18 <sup>th</sup> Floor, Nishika Terraces, Khan Abdul Gafar Khan Marg, Worli Sea Ace, Mumbai-400 030 <b>PAN: AAIPA0707C</b>
(Appellant)		(Respondent)

**CO No.194/M/2019  
(Arising out of ITA No.5621/M/2018)  
Assessment Year: 2015-16**

Ms. Hansa Kailash Agarwal, 13 <sup>th</sup> -18 <sup>th</sup> Floor, Nishika Terraces, Khan Abdul Gafar Khan Marg, Worli Sea Ace, Mumbai – 400 030 <b>PAN: AAIPA0707C</b>	Vs.	DCIT-CC-6(3), Room No.1926, 19 <sup>th</sup> Floor, Air India Building, Nariman Point, Mumbai – 400021
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri Rakesh Joshi, A.R.  
Revenue by : Shri Gurbinder Singh, D.R.

Date of Hearing : 16.06.2021

Date of Pronouncement : 16.06.2021

**ORDER**

**Per Rajesh Kumar, Accountant Member:**

The present appeal by the Revenue and cross objection by the assessee have been preferred against the order dated

31.07.2018 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2015-16.

**ITA No.5621/M/2018 (Revenue's appeal)**

2. The issue raised by the Revenue in ground no. 1 is against the order of Ld. CIT(A) wherein the Ld. CIT(A) has deleted the addition of Rs.3,31,59,996/- as made by the AO on account of jewellery found during the course of search at the premises of the assessee.

3. In the 2<sup>nd</sup> ground, the Revenue has challenged the order of Ld. CIT(A) that the Ld. CIT(A) has failed to appreciate that assessee has challenged this addition before the tribunal despite admitting the fact before Ld. CIT(A) that it has not challenged the substantial addition on technical ground.

4. After hearing the rival parties and perusing the material on record, we note that this addition of Rs.3,31,59,996/- has been accepted by the assessee in the assessment of M/s. Nish Developers Pvt. Ltd. in A.Y. 2015-16 and therefore there is merit in the submission of the Ld. A.R. that the appeal of the Revenue becomes infructuous and it has to be dismissed.

5. The Ld. D.R., on the other hand, fairly submitted that if this is accepted in the hands of Nish Developers in A.Y. 2015-16 then the appeal of the Revenue may kindly be decided accordingly.

6. After hearing the rival parties and perusing the materials on records, we find that this addition of Rs.3,31,59,996/- has

been accepted in the hands of M/s. Nish Developers Pvt. Ltd. which was made on substantive basis and therefore, protective addition made by the AO in the hands of the assessee can not be sustained. The Ld. CIT(A) has rightly passed the order by deleting the addition in the hands of the assessee. Accordingly, we are inclined to dismiss the appeal of the Revenue.

**CO No.194/M/2019**

7. Ld. Counsel of the assessee did not press the Cross Objection at the time of hearing and accordingly the same is dismissed as not pressed.

8. In the result, Revenue's appeal as well as assessee's cross objection are dismissed.

**Order pronounced in the open court on 16.06.2021.**

**Sd/-  
(Ravish Sood)  
JUDICIAL MEMBER**

**Sd/-  
(Rajesh Kumar)  
ACCOUNTANT MEMBER**

Mumbai, Dated: 16.06.2021.

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The CIT (A) Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.