

IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, MUMBAI
BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER &
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No.7870/Mum/2019
(A.Y: 2010-11)
&
CO No. 59/Mum/2021
(Arising out of ITA No. 7870/Mum/2019)
A.Y 2010-11

DCIT – 6(1)(2) Room No. 506, 5 th Floor, Aayakar Bhavan MK Road, Mumbai.	Vs.	M/s. Balbir Metals and Power Pvt Ltd., 423, Nav Vyapar bhavan, PD Mello Road Carnac Bunder, masjid East, Mumbai – 400009.
स्थायी लेखा सं./जीआइआर सं./ PAN/GIR No. : AADCB0452D		
Appellant/Respondent	..	Respondent/Appellant

Appellant by :	Shri Chandra Vijay, DR
Respondent by :	Shri Prakash Jhunjunwala, CA AR

Date of Hearing	17.06.2021
Date of Pronouncement	06.07.2021

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

The revenue has filed the Appeal against the order of the CIT(A)-12, Mumbai passed u/s 147 r.w.s 143(3) and 250 of the Act and the assessee has filed the Cross Objections . First, we shall take up the revenue appeal

ITA 7870/M/2019 as a lead case and the facts narrated.
The revenue has raised the following grounds of appeal:

“1. Whether on the facts and circumstances of the case and in law, Ld. CIT(A) was justified in deleting the addition of Rs. 1,55,00,000/- made by the AO as unexplained cash credit u/s 68 of the Act without appreciating the fact that assessee failed to establish the genuineness and creditworthiness of the investing companies and thus failed to discharge the onus cast on it u/s 68 of the Act.

2. Whether on the facts and circumstances of the case and in law, Ld. CIT(A) failed to appreciate the fact that in this case, the A.O had received a specific and credible information from investigation wing, Mumbai, according to which the assessee company had taken accommodation entries in the form of share application money from Mukesh Chokshi and Group which it failed to prove during the course of assessment proceedings, leading to the AO making the addition of Rs. 1,55,00,000/- u/s 68 of the Act.

4. The appellant craves leave to amend or alter any ground or add a new ground, which may be necessary.

2. The brief facts of the case are that the assessee company is engaged in the business of manufacturing of mild structures and mild steel ingots. The assessee has filed the return of income for the A.Y 2010-11 on 27.09.2010 with a total income of Rs. 58,77,880/-. The A.O. based on the information, has reason to believe that the income has escapement assessment and hence a notice u/s 148 of the Act was issued. In response, the assessee has filed a letter to treat the original return of

income filed on 27.04.2010 as due compliance. Subsequently, the A.O. has issued notice u/s 143(2) and u/s 142(1) of the Act along with questionnaire and the assessee was provided reasons for reopening of assessment on 10.09.2015 and the assessee has filed objections on 12.10.2015. The Ld.AR of the assessee has appeared from time to time and furnished the details. The A.O. on perusal of the financial statements found that the assessee company has received share premium along with share application money and called for the information. The A.O. observed that the five investor companies have invested in the shares of the assessee company at a premium of Rs 90/-per share aggregating to Rs1.55crores. The A.O. based on the information found that these companies are floated by the Mr. Mukesh Chokshi, and is involved in the business of providing accommodation entries. The A.O has issued a show cause notice on the assessee and the assessee company has filed a letter 25.02.2016 along with the details referred at Para 3.2 of the assessment order. The assessee has explained the facts, circumstances, evidences and relied on judicial decisions.

3. The assessee has challenged the initiation of the reassessment proceedings, but the A.O. has found that the explanations are not convincing and relied on the

proceedings of Mr. Mukesh Chokshi and the statement recorded. The A.O. to test check the genuineness of the transactions has issued notice u/s 133(6) of the Act on investor companies. Whereas the two companies M/s Buniyad Chemical Ltd and M/s Talent infoway Ltd. have filed the reply mentioning that they could not provide the details as the accounting data has been impounded by the income tax department and in respect of remaining investors no information was received by the A.O. The A.O. considered the reply to the notice, submissions and statements and observed that the assessee company has failed to satisfy the ingredients required u/sec68 of the Act on the identity, genuineness and creditworthiness of the transactions and made an addition as unexplained credit of Rs.1.55crores and assessed the total income of Rs. 2,13,27,880/- and passed the order u/s 143(3) r.w.s 147 of the Act dated 18.03.2016.

4. Aggrieved by the order, the assessee has filed an appeal with the CIT(A), the CIT(A) considered the grounds of appeal, findings of the A.O., submissions of the assessee. Whereas, the CIT(A) on the disputed issue of challenging the validity of reassessment u/s 147 of the Act has observed that the return of income was processed u/s 143(1) of the Act, relied on the judicial decisions, the reasons recorded by the A.O and the

statement of Mr. Mukesh Chokshi and finally is of the opinion that the action of the A.O is tenable and upheld the validity of the reassessment proceeding. Whereas, in respect of the addition U/sec68 of the Act of Rs. 1.55 crores towards share capital and share premium from five investors companies. The Ld.CIT(A) find that the assessee has allotted equity share of Rs.10 each paid up at a premium of Rs.90 per share to the five share holders who are outsiders and whereas similar allotment was made to the one of the group company M/s Balbir Ispat Pvt Ltd. including premium of Rs.50 lakhs. The CIT(A) found that the A.O has relied on the statement of Mr. Mukesh Chokshi and the related companies involved in providing accommodation entries.

5. The assessee company has filed the details in respect of share application and share premium received in the financial year 2008-09. The assessee has filed the Ledger account copies, Pan details, CIN Master data from RoC, Share application forms, Board resolution, Certificate of incorporation and certificate of commencement of business, Acknowledgments of ITRs, Audited accounts and Balance sheet to support the claim. The assessee company also filed the copy of valuation report to justify the share premium on shares. Whereas the A.O. has accepted the genuineness of shares allotted to its group

company M/s Balbir Ispat Pvt Ltd however in respect of five investor companies, where the notices was issued u/s 133(6) of the Act the A.O. has treated as non genuine transactions and made addition as unexplained cash credit U/sec68 of the Act. The assessee in the appellate proceedings has filed a written submissions referred at page 10 to 23 Para 4.1 of the CIT(A) order substantiating with evidences that the share capital along with the Share Premium share capital was received in the F.Y 2008-09 relevant to A.Y 2009-10. The assessee has filed the valid information to establish that the disputed sum of Rs1.55 crores was received in the F.Y 2008-09 and there is no justification for addition in the A.Y.2010-11.The Ld.CIT(A) considered the evidences, submissions and the valuation report at page 20 Para 4.2 & 4.3 of the order and the provisions of sec 68 of the Act and relied on the Honble High Court and Honble Tribunal decisions and observed that the share premium and share capital amount received by the assessee cannot be treated as unexplained credit and deleted the addition and partly allowed the assessee appeal. Aggrieved by the CIT(A) order, the revenue has filed an appeal before the Honble Tribunal.

6. At the time of hearing, the Ld.DR submitted that the CIT(A) has erred in deleting the addition irrespective of

the fact that the assessee could not substantiate the identity, creditworthiness and genuineness of the investments of the investor companies .Further the A.O has made the addition based on the credible information from the Investigation Wing, Mumbai that these companies are floated for providing accommodation entries and supported the order of the A.O and prayed for allowing the revenue appeal.

7. Contra, the Ld. AR relied on the order of the CIT(A) and emphasized that the share capital and share premium collected is justified. The investor companies have established their identity, creditworthiness and genuineness of the investments. The Ld.AR also submitted that the assessee company has not received any share premium or share capital credited in the F.Y 2009-10 but the same was received in the F.Y 2008-09 relevant to A.Y 2009-10. Therefore, the addition made by the A.O on the opening balance of share application money is not tenable. The assessee has established the claim with the documentary evidence in respect of identity, creditworthiness and genuineness of the transactions. The Ld. AR relied on the Audited financial statements to establish that the share application including premium was received in the Financial year (F.Y.) 2008-09 and supported his submissions relying

on the judicial decisions and the paper book and emphasizing that the addition of opening balance of share application money u/s 68 of the Act is bad in law and prayed for dismissal of the revenue appeal.

8. We heard the rival submissions and perused the material on record. The sole crux of the disputed issue as envisaged by the Ld. DR that the Ld. CIT(A) has erred in deleting the addition of share premium considering the evidences. Further the CIT(A) has overlooked the facts that the investors companies are related to Mr. Mukesh Chokshi who are engaged in providing accommodation entries. The Ld. AR. demonstrated the submissions made before the lower authorities and emphasizes that the CIT(A) has rightly considered the facts, submissions, evidences, judicial decisions and deleted the addition. The contentions of the Ld. AR that the assessee has cooperated in submitting the information in reassessment proceedings and in response to notice u/s 142(1) of the Act along with questionnaire the assessee has filed detailed reply and supporting evidences. The assessee company has submitted the valuation report to justify the share premium collected. During the F.Y 2009-10 relevant to A.Y 2010-11 the assessee company has not received any share capital, whereas the A.O. has made addition of opening balance of share application money including

premium pending allotment of shares. At this juncture, we find the observations of the CIT(A) at Para 4.7 to 5.3 of the order which is read as under:

“4.7 It is seen that the appellant had received the disputed sum of Rs 1,55,00,00 as share application money in earlier year viz. A.Y.2009-10 and the appellant had made the allotment of such share application money during impugned yea. The deeming provision of Sec.68 attracts in case where any sum is found credited n the books of an assessee maintained for previous year and in case the assessee does not offer the explanation about the nature and source thereof, then, in such case, the sum so credited is chargeable to tax as income of the assessee of that previous year. In appellant's case, he disputed sum of Rs.1,55,00,000 was found credited in the appellant's books of account in earlier year ended 31.03.2009 as share application money and the appellant. The audited balance sheet of the appellant of earlier year ended 31.03.2009 discloses the share application money received of Rs 2,35,00,000 which had been transferred to share capital/ premium account during current year. The copies of ledger account, bank book, share application forms and confirmation of account also evidences the fact that the disputed sum of Rs.1,55,00,000 was received in earlier year and represents the opening balance for the present year. The audited balance sheet of the appellant of for FY 2009-10 relevant to the present assessment year does not disclose the receipt of fresh share application money. The AR also furnished the copies of acknowledged letters dated 17.02.2016 and 12.10.2015 wherein tie appellant had informed the AO that the disputed sum had been received in earlier year ended 31.03.2009 and AO, in assessment

order, had not disputed the fact that such sum was credited in appellant's books of account in earlier year. It appears from the record that the AO made the addition u/s 68 of the Act ignoring the basic facts brought on record by the appellant.

4.8 Appellant has placed reliance on number of case laws in support of its arguments that the opening balance cannot be brought to tax for the year. I have carefully gone through the cases relied. Kolkat ITAT in the case of DCIT vs. Global Mercantile Pvt Ltd reported in 67 taxmann.com 166, held that assessee received share application monies from 20 individuals during assessment year 2005-06 but shares were allotted to them later year which was under appeal, since no monies were received during assessment year under appeal there was no scope for invoking provisions of section 68. In the case of Rishirajit Solutions and Aim Ltd vs. ITO vide ITA No.1332/Pun/2017, Hon'ble Pune ITAT held that :-

"The contention of the assessee is that addition u/s. 68 cannot be made where -the amounts have been credited in books in period prior to "previous year". We find merit in this submission of assessee. The documents on record and as per Departments own case, the share application money was received, by the assessee much before the

previous year" under question. A bare perusal of section 68 shows that provisions of section 68 are attracted where any sum is found credited in the books of A. Y. 2013-14 an assessee maintained for any "previous year" under consideration. Therefore, no addition can be made u/s. 68 in the assessment year under appeal when the share application money has been received in Financial

Years 2009-10 and 2010-11."

4.9 In the case of CIT vs. Prameshwar Bohra reported in 301 ITR 404, Hon'ble Rajasthan High Court had decided that "The Tribunal has categorically come to a finding, and that finding is not under challenge, that this is not a case of cash credit entered in the books of account of the assessee during the year but it is a case in which the assessee has invested the capital in the business and this amount was shown as a closing capital, as on 31st March, 1992 and on 1st April, 1992 it was an opening balance. It does not require any elaborate argument that a carried forward 'amount of the previous year does not become an investment or cash credit generated during the relevant year 1993-94. This alone is sufficient to sustain the order of the Tribunal in deleting the amount from the assessment for asst. yr. 1993-94."

In the case of CIT vs. Usha Stud Agricultural Farms Ltd reported in 301 ITR 384, Hon'ble High Court of Delhi had decided that :-

The CIT(A) has deleted the addition of Rs. 15 lakhs mainly on the ground that this credit balance of Rs. 15 lakhs is being reflected in the accounts of the assessee over the past four to five years or so and hence this was not a fresh credit entry of the previous year under consideration and these credit entries were already made and accounted for in the assessment years 1995-96 and 1997-98 which were introduced in the form of advance against breeding stallions owned by the assessee and thus these credit entries did not relate to the year under consideration for being considered under section 68 of the Act.

Since it is a finding of fact recorded by the CIT(A) that this credit balance appearing in the accounts of the

assessee, does not pertain to the year under consideration, under these circumstances, the Assessing Officer was not *justified* in making the impugned addition under section 68 of the Act and as such no fault can be found with the order of the Tribunal which has endorsed the decision of the CIT(A)."

4.10 Respectfully following the judicial decisions cited *supra*, and in view of the provisions of the very section under which the addition is sought to be made, I hold that AO is not justified in making the addition u/s. 68 of I.T. Act, 1961 *sine* the disputed sum was not received by the appellant during impugned year and such sum had been found credited in the appellant's books of account in earlier year 2008-09 and represents the opening balance of impugned previous year 2009-10. Accordingly, I direct the AO to delete the addition made in assessment u/s. 68 of Rs.1,55,00,000. Appellant gets relief. Ground no 2 is allowed.

On merits

5 Though there is no need to discuss the case on merits in view of the decision in para 4.8 above, as the AO concluded in para 3.4 that the assessee was unable to satisfy the ingredients of section 68 of the Act, the same is disposed of on merits also. Appellant has made its submissions on merits by giving documents in support of the identity, creditworthiness of investors and genuinity of transactions. It is seen that the appellant furnished documentary evidence such as PAN, CIN Master Data (ROC) Certificate of Incorporation, Share application forms, Board resolution, confirmation of account, I.T. returns, balance sheet and bank statement of shareholders, own bank statement and other documents on record. In these circumstances, it can be said that the appellant had discharged the initial onus cast upon it to

establish the identity and creditworthiness of the creditors as well as genuineness of transactions. Therefore, the onus shifted to the AO. However, the A.O. has not brought any evidence on record to controvert the claims of the appellant. There is no finding by the AO that the evidences produced by the appellant were untrustworthy or lacked credibility. The nominal enquiry by issue of notices u/s. 133(6) to the parties is insufficient and half hearted enquiry. In other words, the AO did not make any attempt to discharge his burden of proof to rebut the evidences produced by the appellant or to bring any contrary material on record. Thus, the appellants contention that it had discharged onus of establishing the identity and creditworthiness of the investor companies and genuineness of the transactions with the help of relevant supporting evidences which could not be disproved by the AO appears to be correct. It is seen that the Assessing Officer did not bring specific or incriminating evidence to show that appellant had given cash to the investors in lieu of alleged entry for share capital and share premium. When the investor company is filing regular Income tax returns of income and there are transactions through banking channel, no addition can be made by making surmises without having any contrary or cogent evidences in possession.

5.1 The Hon'ble Supreme Court in the case of CIT V/s Lovely Exports 6 DTR 308 has held "If the share application money is received by the assessee company from alleged bogus share holders who's name are given to the Assessing Officer then the department is free to proceed to reopen their individual assessments in accordance with law but it cannot be regarded as undisclosed income of assessee company". The Hon'ble Bombay High Court in the case of CIT v/s Creative World Telefilms Ltd 333 ITR 100 has held "If the share

application money is received by the assessee company from alleged bogus shareholders who's name are given to the Assessing Officer then the department can always proceed against them and if necessary reopen their individual assessments. The Hon'ble Bombay High Court in the case of CIT vs. Gagandeep Infrastructure Pvt. Ltd (Bombay) :

"During the previous relevant to the subject Assessment Year the assessee had increased its share capital from Rs.2,50,000/to Rs.83.75 lakhs. During the assessment proceedings, the Assessing Officer noticed that the respondent had collected share premium to the extent of Rs.6.69 crores. Consequently, he called upon the respondent to justify the charging of the share premium at Rs. 190 per share. The respondent furnished the list of its shareholders, copy of the share application form, copy of share certificate and Form No. 2 filed with the Registrar of Companies. The justification for charging share premium was on the basis of the future prospects of the business of the assessee. The Assessing Officer did not accept the explanation/justification of the respondent and invoked Section 68 of the Act to treat the amount of Rs. 7.53 crores i.e. the aggregate of the issue price and the premium on the shares issued as unexplained cash credit within the meaning of Section 68 of the Act. This addition was deleted by the CIT(A) and the Tribunal. Before the High Court, the department contended that the proviso to Section 68 of the Act which was introduced with effect from 1st April, 2073 would apply in the facts of the present case even for A. Y. 2008-09. The basis of the above submission WOS that the de hors the proviso also the requirements as set out therein would have to be satisfied. HELD by the High Court dismissing the appeal:

(i) We find that the proviso to Section 68 of the Act has

been introduced by the Finance Act 2012 with effect from 1st April, 2013. Thus it would be effective only from the Assessment Year 2013-14 onwards and not for the subject Assessment Year. In fact, before the Tribunal, it was not even the case of the Revenue that Section 68 of the Act as in force during the subject years has to be read/understood as though the proviso added subsequently effective only from 1st April, 2013 was its normal meaning. The Parliament did not introduce a proviso to Section 68 of the Act with retrospective effect nor does the proviso so introduced state that it was introduced "for removal of doubts" or that it is "declaratory". Therefore it is not open to give it retrospective effect, by proceeding on the basis that the addition of the proviso to Section 68 of the Act is immaterial and does not change the interpretation of Section 68 of the Act both before and after the adding of the proviso. In any view of the matter the three essential tests while confirming the pre proviso Section 68 of the Act laid down by the Courts namely the genuineness of the transaction, identity and the capacity of the investor have all been examined by the impugned order of the Tribunal and on facts it was found satisfied.

(ii) Further it was a submission on behalf of the Revenue that such large amount of share premium gives rise to suspicion on the genuineness of the shareholders i.e. they are bogus. The Apex Court in CIT v/s. Lovely Exports (P)Ltd. 317 ITR 218 in the context to the amended Section 68 of the Act has held that where the Revenue urges that the amount of share application money has been received from bogus shareholders then it is for the Income Tax Officer to proceed by reopening the assessment of such shareholders and assessing them to tax in accordance with law. It does not entitle the Revenue to add the

same to the assessee's income as unexplained cash credit."

5.2 Honble ITAT, Mumbai in the case of Arceli Realty Ltd, ITA No. 6492/Mum/2016 dated 21/04/2017 has decided a similar issue. The operative portion of the decision is as under:-

"if the totality of facts and the judicial pronouncements, discussed hereinabove, are analyzed, we are of the considered opinion that the onus, caste upon the assessee, as provided u/s 68 of the Act, has been duly discharged by the assessee as the identity of the share subscribers, creditworthiness and genuineness of the transaction is not in doubt or it can be said that the same has been proved/explained by the assessee. Now, The onus has reverted back upon the Revenue to prove otherwise. The Ld. Assessing Officer merely relied upon the information received from the investigation wing and did not made any independent enquiry. The Assessing Officer was expected to disprove the claim of the assessee with the help of evidence, if any, received from the investigation wing, as has been claimed by the Revenue. The revenue has nowhere proved that any malafide is done by the assessee. Failure to do so, vitiate the addition made under the set of facts. Reference can be made to the decision in CIT Vs. Orissa Corporation Pvt. Ltd., 158 ITR 78 (SC) and the ratio laid cown in Khandelwal Construction vs CIT 227 ITR 900(Guw.). The satisfaction has to be derived from the relevant facts and that to on the basis of proper enquiry by the Assessing Officer and such enquiry must be reasonable and just. In the present case, the Assessing Officer has not brought any evidence on record that the amounts received from M/s Alka Diamond Industries Ltd. and A/I/s Yash-V-Jewels Ltd. are merely accommodation

entries. As mentioned earlier, the Ld. Assessing Officer has acted merely on the basis of information received from the Investigation wing. The ratio laid down by Hon ble Delhi High Court in CIT vs Vrindaban Farms Pvt. Ltd. squarely gives shelter to the assessee, wherein, it was held that if the identity and other details of share applicant are available, the share application money cannot be treated as undisclosed income in the hands of the company. In the present case, the assessee even has proved the source of source, therefore, the creditworthiness was also proved, consequently, no addition made u/s 68 of the Act can be said to be justified. The ratio laid down in Creative World Telefilms Ltd. (supra) by Hon'ble jurisdictional High Court squarely comes to the rescue of the assessee. The assessee duly furnished the proof of identity like PAN, bank account details from the bank, other relevant material, genuineness of the transaction, payment through banking channel and even the source of source, therefore, the assessee has proved the conditions laid down /s 68 of the Act. It is also noted that in spite of repeated request, the Ld. Assessing Officer did not provide opportunity to cross examine the concerned persons and even the relevant information and allegation, if any, made therein, which has been used against the assessee, was not provided to the assessee. At this stage, we add here that mere information is not enough rather it has to be substantiated with facts. The information may and may not be correct. For fastening the liability upon anybody, the Department has to provide the authenticity of the information to the person against whom such information is used. The principle of natural justice, demands that without confronting the assessee of such evidence, if any, or the information, no addition can be made. Even otherwise, as per Article-265 of the Constitution of India, only

legitimize taxes have to be levied and collected. In our humble opinion, the assessee has duly discharged the onus cast upon it, therefore, respectfully following the decisions from Hon'ble Apex Court, High Courts and Hon'ble jurisdictional High Court, we reverse the order of the Ld. Commissioner of Income Tax (Appeal), resultantly, this ground of the assessee is allowed.

5.3 In view the above factual and legal position when details of share application money and share holders are provided during the course of assessment proceedings and the same have been brought on record, the amount received as share capital and share premium cannot be treated as unexplained cash credit in the hands of receiver of such share application money. Respectfully following the orders of the jurisdictional ITAT and High Court which are squarely applicable to the facts of the appellant's case, the addition of Rs.1,55,00,000 made by the AO u/s 68 is directed to be deleted. Ground No. 2 is accordingly allowed.

9. We find that the CIT(A) has considered the provisions of Sec.68 of the Act in respect of addition of cash credit and the judicial decisions and relied on the supporting primary evidences furnished. The assessee company has received the share application money including share premium in the Financial Year (F.Y) 2008-09 and not in the F.Y 2009-10. The Ld.AR demonstrated the page no 19 of the paper book, where the Audited Balance sheet of the assessee company as on 31.03.2010 has been filed. On perusal of the Balance sheet, under the Head- Sources of Funds- we found that in the previous year ending as on

31.03.2009 the assessee has disclosed the Share Application money of Rs 2,35,00,000/-.Whereas, in the Balance sheet as on 31.03.2010, the Share Application Money balance does not exist and there is a increase in Share capital and Reserves and Surplus. We find these facts are clearly emanating from the Audited financial statements that the assessee company has received the Share Application Money in the F.Y 2008-09 which was also confirmed by the Ld.CIT(A).Further, on perusal of the Share Application Money Ledger Account at page 11&12 of the paper book, the assessee company has received the share application money in the month of March 2009. We are of the opinion that the Ld.CIT(A) has considered the submissions, evidences and observed that the assessee company has not received the share capital including premium in the impugned assessment year. The Ld.AR supported his Submissions relying on the judicial decisions:

(i)Principal.CIT Vs.Real Value Realtors (P.)Ltd -269
Taxman 64(Bombay)

(ii)Ivan Singh Vs. ACIT circle-1(1)- 422 ITR 128
(Bombay)

(iii)M/s Syntensia Network Security India Pvt Ltd.Vs.
ITO 11(2)(4), in ITA No. 2927/Mum/2017 dt 27-07-
2018(Mumbai)

(iv)DCIT-1 siliguri Vs. Global Mercantiles (P) Ltd.

157 ITD 924 (Kolkata)

(v)Rishirajit Solutions and Agro Ltd.VsITO.
ITAno1332/Pun/2017 dt8-12-2017.

10. The Ld.DR could not controvert the findings of the CIT(A) with new evidences or information and relied on the Assessing officer order. We find that the CIT(A) after considering the judicial decisions, facts and the provisions of Sec. 68 of the Act has passed a reasoned and logical order. Accordingly, we are not inclined to interfere with the order of the CIT(A) and upheld the same and dismiss the grounds of appeal of the revenue.

11. In the result appeal filed by the revenue is dismissed.

CO No. 59/Mum/2021

12. The assessee has filed the Cross Objections in the revenue appeal. At the time of hearing the Ld.AR submitted that if the issue is decided in favour of the assessee on merits. The Ld. AR shall not press the Cross

Objections. Since the Revenue appeal is dismissed as discussed in the above paragraphs, therefore the C.O. is treated as not pressed and is withdrawn. Accordingly, the C.O. filed by the assessee is dismissed.

In the result, the appeal filed by the revenue and the C.O. filed by the assessee are dismissed.

Order pronounced in the open court on 06.07.2021.

Sd/- (SHAMIM YAHYA) ACCOUNTANT MEMBER
Sd/- (PAVAN KUMAR GADALE) JUDICIAL MEMBER

Mumbai, Dated 06.07.2021

KRK, PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त(अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

(Asst. Registrar)
ITAT, Mumbai