

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

**BEFORE SHRI RAJESH KUMAR, ACCOUNTANT MEMBER AND
SHRI AMARJIT SINGH, JUDICIAL MEMBER**

**ITA Nos.3888, 3889 & 3890/M/2019
Assessment Years: 2013-14, 2014-15 & 2015-16**

Jt. CIT (OSD) Central Circle-5(1), Room No.1926, 19 th Floor, Air India Building, Nariman Point, Mumbai - 400021	Vs.	M/s. Gandhar Oil Refinery (I) Ltd., 29/3 Sewree Premises Coop. Society Ltd., Sewree Bunder Road, Seweree (E), Mumbai - 400015 PAN: AAACG3996J
(Appellant)		(Respondent)

**ITA No.3892/M/2019
Assessment Year: 2014-15**

Jt. CIT (OSD) Central Circle-5(1), Room No.1926, 19 th Floor, Air India Building, Nariman Point, Mumbai - 400021	Vs.	M/s. Gandhar Coal and Mines, 10001, 10 th Floor, Unique Towers, SV Road, Goregaon West, Mumbai - 400062 PAN: AAIFG4957E
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Main Jain, A.R.
Revenue by : Shri Ajay Pratap Singh, D.R.

Date of Hearing : 06.07.2021
Date of Pronouncement : 17.09.2021

ORDER

Per Rajesh Kumar, Accountant Member:

The above titled appeals have been preferred by the Revenue against the orders dated 28.03.2019 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment years 2013-14, 2014-15 &

2015-16. All these appeals have common issue and therefore these are being decided together for the sake of brevity and convenience. First we shall take up assessment year 2013-14 for adjudication.

ITA No.3888/M/2019 A.Y. 2013-14

2. The Revenue has raised the following grounds:

i. "Whether on the facts and in the circumstances of the case and in law, the Id. CIT(A) has erred in allowing the appeal of the assessee in respect of the additions pertaining to over invoicing of purchases and bogus expenses of Rs. 11,88,27,650/- and Rs. 1,56,86,000/-respectively, by questioning the genuineness of the three invoices viz. M/s Sandy Resources Pte. Ltd. Singapore, inspite of the fact that the same was shown to the partner of the assessee firm Mr. Kunal Parkeh at the time of recording the statement u/s 132(4) of the Act who in turn has not raised any objection regarding the genuineness of above invoice?"

ii "Whether on the facts and in the circumstances of the case and in law, the Id. CIT(A) has erred in allowing the appeal of the assessee in respect of the addition pertaining to over invoicing of purchase and bogus expenses of Rs. 11,88,27,650/- and Rs. 1,56,86,000/-respectively, by ignoring the fact that the statement u/s 132(4) of the Act, of the Director of the assessee company Mr. Kunal Parkeh was recorded on oath and acknowledged as true and correct to the best of their knowledge & believe, and that the said statement was given by him voluntarily, without any force, threat, coercion, any inducement, promise or any other undue influence?"

iii "Whether on the facts and in the circumstances of the case and in law, the Id. CIT(A) has erred in allowing the appeal of the assessee in respect of the addition pertaining to over invoicing of purchase and bogus expenses of Rs. 11,88,27,650/- and Rs. 1,56,86,000/-respectively, by ignoring the fact that the statement u/s 132(4) of the Act, of the Director of the assessee company Mr. Kunal Parkeh was recorded on oath inspite of the fact that the

statement being confirmed by Shri Ramesh Parkeh in capacity of Chairman of GORIL and Shri Saurabh Parkeh being working partner of Gandhar Coil Mines.?"

iv "Whether on the facts and in the circumstances of the case and in law, the Id. CIT(A) has erred in allowing the appeal of the assessee in respect of the additions pertaining to over invoicing of purchases of Rs. 4,63,19,046/- from P T Almoudi for supply of Indonesian Coal having specification of GCV 5100-5200 Kcal/kg (ADB) which is contrary to copy of agreement filed with the Department having a different specification of GCV 5600 Kcal/kg (ADB) by ignoring the fact that Shri Kunal Parekh Director of assessee company has accepted the same in the statement recorded.?"

v "Whether on the facts and in the circumstances of the case and in law, the Id. CIT(A) has erred in allowing the appeal of the assessee in respect of the addition pertaining to over invoicing of purchases of Rs. 4,63,19,046/- from P T Almoudi, by ignoring the fact that the statement u/s 132(4) of the Act, of the Director of the assessee company Mr. Kunal Parkeh was recorded on oath and acknowledged as

true and correct to the best of their knowledge & believe, and that the said statement was given by him voluntarily, without any force, threat, coercion, any inducement, promise or any other undue influence?"

vi "Whether on the facts and in the circumstances of the case and in law, the Id. CIT(A) has erred in allowing the appeal of the assessee in respect of the addition pertaining to over invoicing of purchases of Rs. 4,63,19,046/- from P T Almoudi, by ignoring the fact that the statement u/s 132(4) of the Act, of the Director of the assessee company Mr. Kunal Parkeh was recorded on oath inspite of the fact that the copy of incriminating (over invoicing of purchases personally in her own handwriting by Smt. Riddhi Punil Shah) email sent to Samsu Hussain on 15.01.2013 which evidence were collected from the residence of Smt. Riddhi Punil Shah employee of the company?"

The appellant prays that the order of Commissioner of Income Tax (Appeal) on the above ground be set aside and that the Jt. CIT(OSD) be restored. The appellant craves, leave to amend or alter any grounds or add a new ground, which may be necessary. Last date for filing second appeal is 02.06.2019. However, the appeal should be filed immediately."

3. The issue raised in ground No.1, 2 & 3 is against the order of Ld. CIT(A) deleting the addition on account of over invoicing of purchases of Rs.11,88,27,650/- and bogus expenses of Rs.1,56,86,000/-.

4. The facts in brief are that the assessee filed the original return of income on 30.11.2013 declaring total income of Rs.59,59,19,632/-. The assessee is engaged in the import of coal and sale thereof in the domestic market besides trading in petroleum products. A search and seizure action under section 132(1) of the Act was conducted on the assessee group on 11.11.2014 and notice under section 153A of the Act was issued on 21.01.2016 which was duly served upon the assessee. The assessee complied with the notice by submitting that the return filed on 13.02.2016 may kindly be treated as return filed in compliance to notice under section 153A of the Act. Thereafter, the statutory notices were duly issued and served upon the assessee. During the search action it was found that assessee is engaged in over invoicing of coal imports from Dubai through

two entities namely M/s. Global Petrochem FZC and M/s. Glaxo International FZC managed and controlled by Mr. Ankit Tandon. During the course of search proceedings a statement under section 132(4) of the Act was recorded of Shri Kunal Parekh (vice president, imports), a director in the assessee company wherein he accepted the fact of having over invoiced the coal imports and declared a sum of Rs.11,88,27,650/- as additional income for the year under consideration. However, while filing the return of income, the additional income as surrendered at the time of search Rs.11,88,27,650/- was not offered to tax. Accordingly, a show cause notice was issued on 08.11.2017 calling upon the assessee to explain the transactions of over invoicing of imported coal of Indonesian as well as of South African origin imported through to foreign entities M/s. Glaxo International FZC, UAE and M/s. Global Petrochem FZC, UAE which were associated entities to the assessee. The show cause notice also referred to search action at the residential premises of Mrs. Riddhi Shah and exchange of message between Mrs. Riddhi Shah and Mr. Sourabh Parekh and Mr. Kunal Parekh (vice president, imports), on whatsapp on quality and specification of coal and also referred to question No.18, 19, 20, 21, 22 & 23 of the statement recorded under section 132(4) of the Act. The AO also noted that during pre-search enquiry three invoices pertaining to M/s. Global Petrochem FZC were collected by the department which indicated the price charged by Singapore supplier from Dubai entities was much lesser than what the assessee paid to Dubai entities for coal import. According to the AO this has resulted into over invoicing whereby enormous profit has been shifted to and accrued in the hands of Dubai entities. The AO noted that

during the course of search, a statement under section 132(4) of the Act was recorded of Shri Kunal Parekh (vice president, imports) who made a disclosure on the basis of said invoices on 13.11.2014. The AO also discussed in para 4.1.4 the intelligence gathered with regard to modus operandi of the group qua purchase transactions. The AO stated that the purchase transactions were made through two offshore entities for the purpose of over invoicing though the consignments of coal from foreign based supplier were directly dispatched to the ports in India but the bills were being routed through the offshore entities located in Dubai. In response thereto Shri Kunal Parekh (vice president, imports) stated that purchase of coal through brokers/traders is unavoidable due to non availability of sufficient cash to meet the purchase value as the miners required advance payment as against the intermediary traders who provide 90 to 180 days of credit facility. Shri Kunal Parekh (vice president, imports) also stated that in the past the coal was procured directly from the miner namely Oorja Resources, Indonesia which resulted in huge loss mainly due to the fact that miner took advantage of his inadequate experience and thus justified the purchases through brokers. The AO also noted that bank statement and ledger of Dubai entities were found in the computer of an employee of the assessee which indicated that Dubai entities were closely associated with the assessee group and stationery and stamp pertaining to foreign entities were also found in the car at the residence of Mrs. Riddhi Shah. In the FT & TR enquiry, the name of the owner of one of the Dubai entities was Mr. Arpit Tandon instead of Mr. Ankit Tandon stated by the assessee. Therefore, on the basis of

detailed discussion and finding in the assessment order, the AO came to the conclusion that the excessive profit charged by the Dubai entities are nothing but passing on the profit of the assessee to Dubai entities and consequently the AO disallowed and added a sum of Rs.11,88,27,650/- on account of over invoicing of purchases from these entities. The AO also made addition of the commission charged by the Dubai based entities of Rs.1,56,86,000/- on the ground of being non genuine and bogus in the assessment framed under section 153A read with section 143(3) of the Act vide order dated 29.12.2017.

5. In the appellate proceedings, the Ld. CIT(A) deleted the addition by observing and holding as under:

“20.4.4 I have considered the submissions, facts on record and details called in the appellate proceedings carefully. It is noted that the main basis for the addition made by the assessing officer is the statement recorded of Shri Kunal Parekh to whom the copy of three invoices of supply of coal by M/s Sandy Resources Pte. Ltd. to M/s Global Petrochem FZC. The relevant Q and answers are reproduced below for ready reference.

“Q.22 In this background, I wish to inform you that intelligence gathered by this office suggests that the procurement of coal of Indonesian origin was done partly through M/s Global Petrochem (FZC), UAE and Glaxo International (FZE), UAE, two of the Dubai based entities controlled by Mr.AnkitTandon and that the final price paid by your group against such consignments is significantly higher. For example, I am showing you commercial invoice No.SR-INV-13-002 dated 17th June, 2013 of Sandy Resources Pte Ltd, Singapore raised in the name of M/s.Global Petrochem (FZC), UAE which reflects shipment of 40,002 MTS of low sulphur Indonesian steam coal (non coking) in bulk @ US\$ 18.750 per MT for a total billed amount of US \$ 750,037.50. Similarly, I am showing you another commercial invoice No. SR-INV-13-004 dated 9th July, 2013 of the same company, Sandy Resources Pte Ltd, Singapore raised in the name of M/s.Global Petrochem (FZC), UAE which depicts shipment of 66,228.00 MTS of low sulphur Indonesian steam coal (non coking) in bulk at the same rate of US\$ 18.750 per MT billed for a total amount of US \$ 1,241,775.00. Furthermore, I am also showing you a similar other proforma invoice bearing No.SR-13-03 dated 7th June, 2013 of the same company, Sandy Resources Pte Ltd, Singapore raised in the name of again M/s. Global Petrochem (FZC), UAE for a shipment of 41,615 MTS of low sulphur Indonesian steam coal (non coking) in bulk @ US\$ 18.75 per MT FOB Indonesia for a total billed

amount of US \$ 789,375.00. Likewise, I am also showing you similar other instances of invoice bills of Sandy Resources Pte Ltd raised in the name of Global Petrochem (FZC), UAE at the same rate for the same low sulphur Indonesian steam coal (non coking). You are requested to go through the same and confirm the contents thereof.

Ans. Sir, I confirm having seen the above commercial/proforma invoices as Shown to me. However, I am deeply shocked to know if the prices quoted in these proforma invoices were showing the correct prices charged against the respective consignments by the miners. If the information brought to my notice by your goodself is true, I am feeling acute pain of being cheated.

Q.23 Now, I am showing you the corresponding commercial invoices raised by Global Petrochem (FZC), UAE on GORIL as detailed below:

(i)(a)GPFZC/05A-2013-14	dated 07.06.2013	16001	MTS@US\$59
(b)GPFZC/05B-2013-14	dated 07.06.2013	<u>24001</u>	<u>MTS @ US\$ 59</u>
	Total quantity		40,002 MTS

The quantity and description eventually matches/corresponds with commercial invoice No.SR-INV-13-002 dated 1st June, 2013 of Sandy Resources Pte Ltd, Singapore raised in the name of M/s.Global Petrochem (FZC), UAE for shipment of 40,002 MTS @ US\$ 18.75 per MT as shown above.

ii) Commercial invoice GPFZC/08-2013-14 dated 09.07.2013 for supply of 66,228 MTS @US \$ 59 per MT which matches/ corresponds with commercial invoice No.SR-INV-13-004 dated 9th July, 2013 of the same company, Sandy Resources Pte Ltd, Singapore raised in the name of M/s. Global Petrochem (FZC), UAE for shipment of 66,228 MTS @18.75 per MT as shown above;

(iii) Commercial invoice GPFZC/06-2013-14 dated 14.06.2013 for supply of 41,615 MTS @ US \$ 59.50 per MT which matches/corresponds with proforma invoice bearing No.SR-13-03 dated 7th June, 2013 of the same company, Sandy Resources Pte Ltd, Singapore raised in the name of again M/s. Global Petrochem (FZC), UAE for a shipment of 41,615 MTS @US\$ 18.75 per MT as shown above.

On going through the above instances, it is apparently clear that the similar coal of low sulphur Indonesian steam coal (non-coking), which has been supplied to Global Petrochem (FZC), UAE @ US\$18.75 per MTS by Sandy Sources Pte Ltd. Singapore, has been received by GORIL directly at any of the Indian port, however the invoices were routed through Dubai based entities at a much higher average rate of US \$ 59. In this regard, you are requested to go through the above invoices raised on GORIL by Global Petrochem (FZC), UAE and invoices raised by actual supplier in the name of Global Petrochem (FZC), JAB, and offer your detailed explanation on the above observation.

Ans. After having seen various invoices/evidences shown to me. of the original suppliers, I am very much shocked that the person whom we trusted blindly has misrepresented the facts for his personal unethical gain. Had he not been a friend for past 9-10 years, I would not have trusted him so much. The value quoted in the said invoices in comparison to the invoices raised on us is really an eye-opener to us. I deeply feel that we have been cheated by the supplier, who has been a close friend

of us since past 10 years. Sir, I would like to request you to provide photocopies of all these crucial documents on the basis of which I will converse with Mr.AnkitTandon on the matter and get the extra amount remitted back so that the lawful income can be ploughed back in the books of account of Gandhar group. Sir, as per his oral assurance from time to time, we were under the impression that he is charging margin at max US \$ 2 per MT, therefore, in one or other way, your search & seizure action has been quite helpful for the future growth of business of the company. Sir, let me estimate the extra income, which would have been available with us if Mr^AnkitTandon had not misrepresented the facts taking advantage of our inexperience and good old relations. I would like to assure you on the basis of the documentary evidences provided by you, we will be able to get back the extra amount from the Dubai based entities controlled Mr.AnkitTandon, if need be by taking shelter of legal action, and the respective amount will be duty offered for taxation and we undertake to pay the taxes thereon accordingly. Sir, I need some time to make a reasonable estimate of additional amount taken in the guise of purchase value of cargo by Mr.AnkitTandon so that the same may be offered for taxation for the respective Assessment Years."

Q.24 Please refer to your statement recorded till now wherein you have said that you were unaware of these manipulative transactions, which resulted in that the additional income on account of the same remained to be offered for tax. Whether you have made any estimate of such additional income liable to be brought to tax?

Ans. Yes, Sir. I am submitting Assessment Year wise details of such additional income on estimation basis. On the basis of the sample of commercial invoices shown by you wherein the unit price is reflected at US\$ 18.75 per MT, I am presuming that the entire material supplied by Mr. Ankit Tandon is of the same value. Further, I am taking an estimated freight of US\$ 14 per MT for all CNF transactions and margin of Mr. AnkitTandon at a maximum of US\$ 2 per MT. Thereafter, the differential amount is worked out to arrive at a disclosure of additional income of Rs.98,53,75,297/- (Rupees Ninety Eight crores Fifty Three Lakhs Seventy Five thousand Two hundred Ninety Seven only) equivalent to US\$ 158,93,150 in the hands of Gandhar group as per following description:

Financial year	Assessment Year	Amount (in Rs.)
2012-13	2013-14	11,88,27,650
2013-14	2014-15	<u>86,65,47,647</u>
	TOTAL:	98,53,75,297

I am submitting a detailed working of invoice-wise total estimated additional income Separately. However, I would like to add that this exercise has been undertaken by me to buy peace of mind and to avoid protracted litigation under an impression that the information made available by it is correct and that I have been cheated by my Dubai based friend."

Perusal of the statement, and in particular the portion in bold, does show that the offer of additional income was conditional on the facts being true as alleged and on such amount being recovered. Thus there is merit in the contention of the appellant that there was no admission of any wrong doing and earning of unaccounted income.

20.4.5. It is further noted that the alleged invoices of supply of coal by M/s Sandy Resources Pte. Ltd. to M/s Global Petrochem FZC is on FOB basis whereas the invoices raised M/s Global Petrochem FZC to appellant is on CFR basis. Thus freight and UAE entity margin has to be added. Shri Kunal Parekh had made the estimate of over invoicing based on adding transport and suppliers margin @ \$14 and \$ 2 per MT respectively to the FOB rate of \$ 18.75 in the invoice of M/s Sandy Resources Pte. Ltd. which was compared with the invoices of M/s Global Petrochem FZC and M/s Glaxo International FZE to the appellant company. The exchange rate has been considered as Rs 62 per \$. He arrived at such estimate at Rs 98,53,75,297. It is noted that the assessing officer has made the computation somewhat differently. In the statement recorded estimate was made based on purchases by the appellant company and also purchases by M/s Gandhar Coal and Mines have been considered from the two UAE entities. One of the invoice falls in AY 2015-16. Hence additions have been made for AY 2013-14, AY 2014-15 and AY 2015-16 in case of appellant company and for AY 2014-15 in case of M/s Gandhar Coal and Mines. The assessing officer has in addition to the estimate furnished at the time of the recording of statement in search, made further disallowance of \$ 2 per MT which was the margin of the two UAE entity considered in the estimate by Shri Kunal Parekh The assessing officer has disallowed this margin also. An effort was made to reconcile the estimate prepared at the time of recording of statement and that computed in the assessment order. This is tabulated below.

ASSESS EE	OVER OMVPOCOMG AS PER STATEMENT	AS PER	DIFFEREN CE	MARGIN BASED ON STATEME NT	AS PER	DIFFERE NCE
		EOT ORDER			ASSESSM ENT ORDER	
GORIL 13-14	1188,27,650	1188,27,650	-	156,86,000	156,86,000	-
GORIL 14-15	7064,12,857	7472,13,146	408,00,290	824,28,628	416,28,339	408,00,289
GORIL 15-16	605,12,000	605,12,000	-	79,36,000	79,36,000	-
GCM 14- 15	996,22,790	588,22,500	408,00,290	114,06,016	522,06,306	408,00,290

Total	9853,75,297	9853,75,296		1174,56,644	1174,56,645	
--------------	--------------------	--------------------	--	--------------------	--------------------	--

As can be noticed from above, the overall figures considered in the assessment order and that as per statement is same though in some of the AY's the working in the assessment order is incorrect. This is for AY 2014-15 in case of GORIL where the over invoicing is overestimated by Rs.4,08,00,290 and the differential margin disallowed is underestimated by the same amount. Similarly for AY 2014-15 in case of GCM, the over invoicing is underestimated by Rs.4,08,00,290 and the differential margin disallowed is overestimated by the same amount. In short the assessing officer has made addition of Rs.98,53,75,297 as was mentioned in the statement. He has further disallowed Rs. 11,74,56,645 /-of margin of the two Dubai based entity @ \$2/ MT. It is also noted that the over invoicing computed by the assessing officer at Rs 110 crores is about 35% of the total purchases of Rs.JJ4r2~crores from the two UAE entities.

20.4.6. Details were also called party wise in respect of all purchases of coal and sale of coal reconciled with the P 85 L account. It is noted that the appellant has manufacturing and trading of Lubricant (gear oil, transformer oil) Oil apart from trading in coal. The profit margins for the appellant overall are tabulated below.

Assessment Year	AY:2009-10	AY:2010-11	AY:2011-12	AY-2012-13	AY:2013-14	AY:2014-15	A.Y.:2013-16
PARTICULARS	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
SALES/TURN OVER	21025,20, 413	30698,33, 62	44623,19, 502	57922,84, 664	126196,40, 298	156121,26, 208	219728,81, 954
PURCHASES	17967,89, 328	29047,64, 02	41093,33, 345	58386,65, 199	103115,49, 563	144083,76, 386	203087,66, 684
GROSS PROFIT/LOSS	2633,99, 4	3574,13, 9	4491,94, 8	5253,68, 2	13738,45, 6	15886,32, 1	25971,49, 6

	87	1	24	92	01	23	64
NET PROFIT/LOSS	1 137,57,4 05	2161,12,0 0 7	1709,42, 8 00	2291,82, 8 99	6060,95,5 9 3	4696,00,3 0 4	3215,75,7 6 3
GP RATIO	12.53	11.64	10.07	9.07	10.89	10.18	11.82
NP RATIO	5.41	7.04	3.83	3.96	4.80	3.01	1.46

This shows that reasonable profits are shown by the appellant company.

20.4.7. The trading in coal for AY 2013-14 to AY 2015-16 is tabulated below.

Rs/crores

AY	2013- 14	2014-15	2015-16	TOTAL
Sale	543.67	768.35	1379.89	2691.91
Purchases	423.66	719.56	1296.46	2439.68

It is noted that there are both imports and local purchases of coal made by the appellant. The import of coal from the two UAE entities as a % of total coal purchases of the appellant are 8% in AY 2013-14, 32% in AY 2014-15 and 4 % in AY 2015-16. There is a lot of variation in rate of purchase computed as Rs/ MT. However the rate per MT in respect of imports from the two UAE entities are within the normal range of all the purchases. For e.g. the average rate of purchase comes to Rs 2375/MT for import from Global Petrochem FZC in AY 2013-14. The purchase price ranges from Rs1042 to Rs.5229 per MT. The comparison of import prices for different suppliers to appellant for AY 2013-14 is tabulated below.

Party Name	Import Purchases		
	Quantity (MT)	Invoice Value in INR	Average rate per MT

BS Global Resources PTE Ltd.	55,035	5,73,96,552	1,043
GANDHAR GLOBAL SINGAPORE PTE PD	55,000	15,64,80,390	2,845
GLOBAL PETROCHEM(FZC)	1,26,500	30,04,88,985	2,375
MCS HOLDING PE.LTD	1,70,346	56,49,16,142	3,316
MCS HOLDING PTE. LTD-OTHER	59,356	16,36,25,254	2,757
PT. AL AMOUDI NATURAL RESOURCES TRADMIN	4,59,150	1,19,13,53,487	2,595
PT. STWORKS INDONESIA SK	42,008	10,57,22,441	2,517
SAEED PTE LTD	27,750	6,97,86,255	2,515
Grand Total	9,95,145	260,97,69,506	

The purchase price for import from Global Petrochem FZC in AY 2013-14 compares favourably with other imports. The imports of coal are about 70 % of total coal purchases in AY 2013-14. The appellant's import from UAE entities are 17 % of total imports in AY 2013-14. The position is similar in the other two AY 2014-15 and AY 2015-16. The variation in prices are informed by the variation in calorific value of coal, moisture and Sulphur content and impurities. The rate varies based on the gross calorific value based on As Dried Basis (ADB). The rate is lower when computed on As Received Basis (ARB) since it contains moisture but higher on ADB. A perusal of the invoices, when considered with information based on coal quality Specifications and surveyors report, does not indicate any evidence of over invoicing.

20.4.8 The appellant has also supported its prices of import from the two UAE entities with rates published by Argus. It is found from website that Argus is an independent media organisation with almost 950 staff. It is headquartered in London and has 21 offices in the world's principal commodity trading and production centres. Argus produces price assessments and analysis of

international energy and other commodity markets, and offers bespoke consulting services and industry-leading conferences. Companies in 140 countries around the world use Argus data to index physical trade and as benchmarks in financial derivative markets as well as for analysis and planning purposes. Argus was founded in 1970 and is a privately held UK-registered company. It is owned by employee shareholders and global growth equity firm General Atlantic. The evidence filed by appellant to show that import prices are reasonable as compared with Argus data is credible and the assessing officer has ignored it without any basis.

20.4.9 The imports from M/s Global Petrochem FZC and M/s Glaxo International FZE has been supplied to Bharat Oman Refineries Ltd. The Bharat Oman Refineries Limited (BORL) is the company that owns and operates Bina Refinery, located at Bina in the Sagar district of the state of Madhya Pradesh. Built as a joint venture between India's Bharat Petroleum Corporation (BPCL) and Oman's Oman Oil Company, the 6 MTPA refinery was commissioned in May 2011. The documents filed in the assessment proceedings showed that the appellant company qualified to supply coal to BORL based on open tenders. The coal has been accepted by BORL for which certificate was furnished in the assessment proceedings. The appellant had also furnished working to show that its supply to BORL was profitable. For AY 2013-14 the Gross Profit on sale of coal imports from M/s Global Petrochem FZC and M/s Glaxo International FZE was 26.75 % as compared with 19.49 % on other imports of coal. It is improbable that customers would allow and bidders would quote prices so high as the over invoicing of 35% that is computed by the assessing officer was true. This again indicates that there was no over invoicing in the import of coal from the two entities.

20.4.10 The assessing officer was asked to inform whether there was any action or indication by Custom Authorities regarding over invoicing of coal. No reply was received from the assessing officer. It stands to reason that if such large extent of over invoicing was involved, the Customs Authority would have raised red flag over the imports.

20.4.11. The appellant is correct in contending that the copy of invoices of M/s Sandy Resources Pte. Ltd. referred to are not authenticated. This entity is based in Singapore. These invoices are not originals and have not been authenticated by the supplier or any other authority. Further, the appellant again has a valid contention that based on mere 3 invoices, extrapolation of over invoicing in respect of all purchases is not justified. Even at best the three invoices in question raised by M/s Global Petrochem FZC totaling to USD 87,43,662 is only Rs 54 crores against total imports of over Rs.300 crores over the years. The over invoicing as computed by the assessing officer on these three invoices is about Rs 22 crores out of Rs 98 crores estimated overall. The appellant also has merit in the contention that the allegation of the assessing officer could be equally compatible with under invoicing by the supplier of coal to M/s Global Petrochem FZC and the allegation that there was over invoicing of imports is mere presumption.

20.4.12. Shri Tribhuvandas Parekh is an account executive of the appellant. Some information relating to two bank accounts and ledgers of Global Petrochem FZG

were found from his computer. This has been interpreted by the assessing officer as indicating that the appellant had control over Global Petrochem FZC. It is noted that the entries in such data pertained to period FY 11-12. The impugned purchases of the appellant are for AY 2013-14 onwards and not for the period to which the bank statements/ ledger pertains. As regards the stationary and stamps found in the course of search, referred to in the assessment order, it is noted that in the course of search proceedings, at the residential premise address 101, Adarsh Harmony Apartment, Adarsh Dughdhalaya Compound, Malad West, Mumbai - 64 of Mrs. Riddhi Punil Shah and Shri Punil Shah, a bag was found placed at boot of their car bearing No.MH-02-CL-3509 parked at the said premises. When questioned, in response, she replied that the same might be left out bag belonged to one Mr. Mihir Panchal who came to Mumbai 15/20 days back from the date of search action. Mr. Mihir Panchal runs M/s D Sons Traders DMCC. It is noted that the over invoicing alleged in the assessment order is not in respect of M/s D Sons Traders DMCC.

20.4.13. The assessing officer had requested for and obtained information from UAE under Exchange of Information procedure. Though he has mentioned that the information showed the dubious credentials of M/s Global Petrochem FZC and M/s Glaxo International FZE, he has not given any specific detail other than to say that M/s Glaxo International FZE is owned by one Arpit Tandon and not Ankit Tandon. This alone cannot be construed as indicating dubious credentials. Further the appellant has contended that there is no evidence that it was controlling these entities or had received any payments from these entities to show that alleged over invoicing proceeds were received by it. The information received showed that M/s Global Petrochem FZC and M/s Glaxo International FZE earned profits of about 6-7 % on sales. No abnormal profits are indicated which should have been there if the purchases were at such low rates.

20.4.14. The appellant did take up the recovery of alleged excess charged to it by the two UAE entities after the search action but short of legally admissible evidence could not effect recovery.

20.4.15 Thus based on the above discussion it is noted that

- i) There is no admission of any over invoicing by Shri Kunal Parekh and that the estimate given of over invoicing was conditional to facts alleged being true and based on certain assumptions regarding freight and exchange rates.
- ii) The 3 invoices of M/s Sandy Resources Pte. Ltd. Singapore, alleged to indicate that over invoicing was involved remains unauthenticated. There are no originals available. Further, the copies of 3 invoices representing mere 15% of purchases has been used to extrapolate that all purchases are over invoiced. This is not justified.
- iii) There is no indication that customs authority have questioned the valuation of imports from the two UAE entities.

iv) The rates at which coal was imported from the two UAE entities is comparable with other imports made by the company. It is also shown to be within the range of ARGUS prices at the relevant date for the relevant quality of coal.

v) The appellant has mainly supplied the coal imported from two UAE entities to Bharat Oman Refineries Ltd. Profits have been earned on such transactions which are better than that on other similar imports. The appellant won the bid to supply to BORL through tenders. The customer has issued certificate that the supply was as per specifications. It is unlikely that such a large margin as indicated by the quantification done by the assessing would be available when bids are received through tendering process.

vi) There is no evidence of any cash/profits coming back to appellant or its entities from alleged over invoicing of import. No evidence to suggest this was recovered in the search action.

vii) Copy of notice issued to supplier and its reply is filed by appellant to show that effort to recover money was unsuccessful since legally valid evidence was not available.

The most important factor, which tilts the case in favour, of the appellant, and is the reason for my view, is that the invoices considered to be evidence of purchases by M/s Global Petrochem FZC from M/s Sandy Resources Pte. Ltd. Singapore is unauthenticated and there is no evidence that the appellant received any money resulting from alleged over invoicing of purchases. Thus even if it were considered that the appellant had links with the two I suppliers M/s Global Petrochem FZC and M/s Glaxo International FZE, the over invoicing remains unproved and there is no evidence of the appellant earning out of such alleged over invoicing. Of course, the appellant has produced ample evidence and made out a case that its price of purchases from the two UAE entities are comparable with other imports and is at market rates, and that it has earned good profits on such imports.

20.4.16. It is therefore held that the allegation that there is over invoicing of import of coal from M/s Global Petrochem FZC and M/s Glaxo International FZE is not proved. Since it is held that the over invoicing is not proved, the disallowance made in respect of margin of \$2 per MT is also deleted. Further, the contention of the appellant that debit/credit notes in respect of purchases should be considered instead of the original invoice value, though merited, becomes infructuous since the addition on the premise of over invoicing is not upheld. Hence the addition of Rs.11,88,27,650/- and Rs. 1,56,86,000/- is deleted. Ground of appeal no 2 and 4 are allowed."

6. The Ld. D.R. vehemently submitted before us that the order passed by the Ld. CIT(A) ignored all the facts on record and the information collected, evidences found and correlated from the statements recorded during the search under section 132(4) of

the Act. The Ld. D.R. submitted that during the course of search and also pre-search enquiry it has been found that assessee has indulged in over invoicing the coal imports from Singapore supplier through Dubai entities namely M/s. Global Petrochem FZC and M/s. Glaxo International FZC. The Ld. A.R. submitted that as per the understanding between the assessee and Dubai based entities, the coal was to be procured from the supplier at a margin of USD \$ 2 per metric ton. It was also discovered that the price charged by the Dubai based entity from the assessee was much higher than the price charged by Singapore supplier from Dubai entities meaning thereby that enormous profit has accrued in the hands of Dubai entities which is nothing but shifting of profits from India to Dubai. The Ld. D.R. also referred to the statement recorded under section 132(4) of the Act of Shri Kunal Parekh Vice President(imports) in which he made disclosure on account of over invoicing and offered the additional income for the year under consideration of Rs.11,88,27,650/-. The Ld. D.R. also termed as ridiculous and absurd the contention of the assessee that the assessee has been cheated by Dubai based entities by charging exorbitant price for the import of the coal and also referred to the admission of the assessee that this amount would be offered to tax after the same is received from the Dubai based entities. The Ld. D.R. also argued that assessee has not made any offer to recover the amount and it was just an excuse to circumvent the action by the department. The Ld. D.R. also referred to the bank statement and ledger of Dubai based entities found in the computer of an employee of the assessee which revealed that these Dubai based entities are closely associated with the

assessee group and are working together to evade taxes in India. The Ld. D.R. also submitted that there were exchange of whatsapp between employee of the assessee Mrs. Riddhi Shah and Shri Kunal Parekh (vice president, imports) regarding the changes in specification of coal. The Ld. D.R. also referred to the stationery and stamps pertaining to these foreign entities found from the residence of Mrs. Riddhi Shah. The Ld. D.R. submitted that keeping all these facts as brought out by search during assessment proceedings, the arrangement is nothing but shifting the profit from India to Dubai and therefore was rightly added by the AO. The Ld. D.R. vehemently assailed the order of Ld. CIT(A) ignoring all these facts and prayed before the bench for the reversal of the same and restoring the order of the AO.

7. On the other hand, the Ld. A.R. relied heavily on the order of Ld. CIT(A) by referring to the order of Ld. CIT(A) wherein it has been clearly mentioned that in the statement of Shri Kunal Parekh (vice president, imports) nowhere any admission has been made qua the over invoicing of imports. The Ld. A.R. submitted that when Shri Kunal Parekh (vice president, imports) was confronted with the invoices during the search by the search team and he expressed his shock and felt cheated by the Dubai based middlemen/brokers. The Ld. A.R. submitted that only under these circumstances Shri Kunal Parekh (vice president, imports) accepted to offer the amount of excess profit charged by Dubai entities when the same would be recovered from them. The Ld. A.R. referred to the question No.23 and answered thereto which is dealt with by the Ld. CIT(A) at page No.45 to 46. The Ld. A.R. submitted that despite the best efforts by the assessee the amount could not be recovered and therefore

no income arose on account of the offer made by Shri Kunal Parekh (vice president, imports) in the statement recorded under section 132(4) of the Act. The Ld. A.R., on the issue of finding the bank statements and ledger accounts of the Dubai based entities with the employee of the assessee, submitted that the same were received for the purpose of reconciliation of the books of accounts and can not be assigned a different meaning. On the issue of whatsapp chat exchange between Mrs. Riddhi Shah and other directors of the assessee, the Ld. A.R. submitted that Mrs. Riddhi Shah has clearly explained in the statement recorded during the course of search that specification of coal was asked to be changed since they were not as per specifications decided in the contract. The Ld. A.R. also submitted that import of coal is subject to strict surveillance and strict procedure of customs authorities and therefore it is not in the hands of the assessee to change the specification of imports as per their conveniences or whims and fancies. The Ld. Counsel of the assessee also stated that pricing of purchases made from Dubai entities were comparable with the prices of other imports made by the assessee and also the price of imports of Dubai entities are comparable with the international coal prices and therefore it showed that there were no over invoicing of imports. The Ld. A.R. also referred to the gross profit returned by the assessee in the books of accounts for the year under consideration and submitted that it has offered a reasonable profit even more profit on sale of coal purchased from the Dubai entities then sale of coal purchased from other entities which is the substantiation of the fact that there were no over invoicing of imports. The Ld. A.R. also highlighted the

fact that the most of the sale has been made to government organizations through tender processes which itself showed that price of purchases is competitive and comparable. Further, the Ld. A.R. submitted that exchange of information from UAE revealed that profit offered by Dubai entities was meager ranging from 6% to 7% which clearly contradicted and demolished the stand of the AO. Besides there was no document or any report which showed that assessee exercised control over the Dubai entities. It is also stated that there was no proof that profit/cash received back from Dubai entities were found in the search operation. The Ld. A.R. also submitted that invoices obtained by the search team were unauthenticated and therefore lacked credence. The Ld. A.R. also submitted that the entire purchases have been extrapolated on the basis of a few invoices beside highlighting the fact that there was no invoice relating to M/s. Glaxo International FZC. The Ld. A.R. also submitted that the commission charged by Dubai entities for the actual services rendered was genuine and therefore its disallowance is unjustified and without any basis. Finally, the Ld A.R. prayed that the addition as made by the AO on account of over invoicing and the allegation of bogus commission were without any basis and rightly deleted by the ld CIT(A).Therefore the order of ld CIT(A) deserved to be upheld.

8. We have heard the rival submissions of both the parties and perused the material on record including the impugned appellate order. The undisputed facts are that the assessee is engaged in the business of import of coal and sales thereof in the Indian market besides dealing in petroleum products. We note that the AO has made the addition on account of over

invoicing of coal imports from two Dubai based entities namely M/s. Global Petrochem FZC and M/s. Glaxo International FZC. These two entities used to supply coal which was arranged from Singapore supplier. We note that during the course of statements recorded by the search team u/s 132(4) of the Act of Shri Kunal Parekh (vice president, imports) and other individuals that there was no clear chat as to over invoicing of imports but certainly there was a chat as to the change of specification of coal to be imported. Undisputedly, Shri Kunal Parekh (vice president, imports) who is also a director on the assessee offered to surrender an income of Rs.11,88,27,650/- when confronted with the invoices stated to be over invoiced and also expressed his complete lack of knowledge that these imports were over priced by Dubai entity and offered that same would be offered to tax as and when recovered from Dubai entities. We further note that the prices of coal supplied by the Dubai entities with the assessee are comparable with the other imports made by the assessee from various other entities and a findings of facts to this effect have been recorded by Ld. CIT(A) in para 20.4.7. The Ld. CIT(A) also noted that the assessee has offered reasonable profit during the year. The Ld. CIT(A) also referred to the prices of coal supplied by Dubai entities to be comparable with international prices as published by Argus an international organization in para 20.4.8. Besides, we note that most of the purchases made from UAE entities have been supplied to government organizations such as M/s. Bharat Oman Refinery Ltd. through a competitive bidding. The assessee would not have been granted the contract on the prices of coal which were over invoiced. The Ld. CIT(A) also noted that

in the exchange of information from UAE it was revealed that the Dubai based entities have offered a very meager income of 6% to 7%. The Ld. CIT(A) also recorded a finding that the AO has extrapolated the over invoicing on the entire purchases on the presumption and surmises which is incorrect and can not be allowed by giving a finding to this effect in para 20.4.11. We also note that the observations of the AO that stationery and ledger accounts of the Dubai based entities were found with the assessee's employees which were duly replied and also noted by Ld. CIT(A) while deleting the addition that same were for the purpose of reconciling the accounts with the overseas entities. The Ld. CIT(A) also noted that the documents found with the assessee were pertaining to F.Y. 2011-12 and not for the year under consideration. As regards the stationery and stamps found during the course of search the Ld. CIT(A) gave a finding that the said material belonged to Mr. Mihir Panchal who runs M/s. D Sons Traders DMCC in Dubai who had recently visited India and was not supplier of any coal to the assessee. We also note that the Ld. CIT(A) discussed and noted that assessee has made effort to recover the amount from Dubai entities but for the want of evidences no recovery could be made. Similarly, a finding is given that no cash or no other evidences of having received the margin from Dubai entities back in India were found. Considering all these evidences and facts on record, we do not find any infirmity in the order of Ld. CIT(A) and accordingly the ground Nos.1 to 3 of the Revenue's appeal are dismissed by upholding the order of ld. CIT(A).

9. The issue raised in ground No.4 to 6 is against the order of Ld. CIT(A) whereby the Ld. CIT(A) has allowed the appeal of the

assessee by deleting the addition pertaining to over invoicing of purchase of Rs.4,63,19,046/- from P T Almoudi for supply of Indonesian coal by ignoring the statement recorded under section 132 of the Act of Mr. Kunal Parekh, director of the assessee company.

10. The facts in brief are that during the course of search action, the search team found an email sent by Mrs. Riddhi Punil Shah dated 15.01.2013 in her email ID to one Mr. Samsu Husain with copy marked to Mr. Kunal Parekh with an attachment which was an invoice for vessel MV STX Clover for 77556 MT raised at US\$ 57 wherein the total column of the invoice was changed in handwriting. Accordingly, Mrs. Riddhi Punil Shah was shown an agreement for sale and purchase entered into co-seller PT Almoudi Natural Resources Tradmin and the co-seller Saeed Pte. Ltd. and the buyer PT Infinite Mining & Energy and the co-buyer the assessee M/s. Gandhar Oil Refinery India Ltd. dated 10.12.2012 with regard to the vessel MV STX Clover. As per the contract the price agreed upon was US \$ 31 FOB + freight charges at actual PMT. So the search team asked Mrs. Riddhi Punil Shah the reason for changing the invoice when the agreed price was US \$ 31, however, she failed to explain why US \$ 31 has been changed to US \$ 57 and further said that there was difference in the rate of contract and she carried out the changes at the direction of either Mr. Kunal Parekh or Mr. Sourabh Parekh and had nothing to do with the issuing of over invoicing. This was replied by Mrs. Riddhi Punil Shah by way of answer to question No.43 to 52 which is reproduced by the AO at page No.19 & 20. The search team while recording the statement of Mr. Kunal Parekh

on 14.11.2014 asked him about the changes in the invoice made by Mrs. Riddhi Punil Shah to US\$ 57 as against the agreed price of US\$ 31 per metric ton and explained the difference. However, Mr. Kunal Parekh could not justify the change in the invoice value and accordingly he offered the difference of US\$ 8,44,467.56 equivalent to Rs.4,63,19,046/- in terms of Indian currency at the exchange rate of Rs. 54.85 per US\$ and offered the same as additional income. However, in the return filed the assessee did not offer the same for taxation and consequently AO issued show cause notice to the assessee calling upon as to why the same should not be added to the income of the assessee on account of modification of invoice price from 31 US\$ + FOB freight charges as agreed by agreement dated 10.12.2012 to US\$ 57 inclusive of rate. Finally, the AO made the addition to the income of the assessee by rejecting the reply of the assessee that Mr. Kunal Parekh, director of the assessee company during the course of search proceedings has forgotten as to why the correction in the invoices were carried out and wrongly offered the same as additional income. However, as a matter of fact, the invoice is required to be corrected due to change of quality of material as per addendum made with the supplier PT Almoudi Natural Resources Tradmin.

11. In the appellate proceedings, the Ld. CIT(A) allowed the appeal of the assessee by observing and holding as under:

“20.4.18. In the assessment proceedings the appellant did explain that the appellant had entered into contract with M/s. PT Almoudi Natural Resources Tradmin for supply of Indonesian coal having the specification of GCV 5100-5200 Kcal/kg (ADB). Copy of the agreement was filed. It was stated that subsequently it was decided that the specification of the coal would be changed to GCV 5600 Kcal/kg (ADB) in light of the user requirement. This change of specification was brought about by the addendum agreement entered into between the parties dated 18-12-2012. This agreement was also filed. As per

the addendum, the rate of coal was changed to \$ 57 per ton on CFR basis (\$ 42.40 plus \$14.60). The appellant submitted the supporting document of the said purchase which includes copy of invoice raised by supplier, copy of load port test report, copy of certificate of weight, copy of certificate of origin, copy of test report for discharge port, copy of bill of lading to substantiate the changed specification of the coal at the time of loading. The appellant also submitted the details of subsequent sale of goods which shows that the appellant had sold the coal in local market with a good profit margin. Further, the appellant also submitted the comparison of the final rate charged by M/s.PT Almoudi Natural Resources Tradmin with the international coal prices as reflected in the forum "Argus". It was submitted that the price of \$ 57 per tonne charged by M/s. PT Almoudi Natural Resources Tradmin is lower than the international price. The assessing officer has treated these explanations and documents as an afterthought.

20.4.19. I find that the earlier agreement entered into by the appellant with M/s. PT Almoudi Natural Resources Tradmin, Jakarta, Indonesia seller and the appellant, the buyer dated 10.12.2012 was for steam coal of Indonesian origin. The specification of coal was Gross Calorific Value 5100-5200 KCAL / Kg on Air Dried Basis. The **FOB price** was \$31 per MT. There is an addendum of nol dated 18.12.2012. In this addendum specification of coal was changed to Gross Calorific Value 5600 KCAL/Kg. The FOB rate was fixed @ \$42.40/MT. Freight was \$14.60 per MT. The invoice dated 31.12.2012 is for 77556 MT @ **CFR** rate of \$57 per MT. Bill of Lading is dated 6.1.2013. Certificate of Sampling of Inspection Agency dated 9.1.2013 states that the Gross Calorific Value was 5682 KCAL/Kg on Air Dried Basis. Thus the difference in FOB price is \$11.40 per MT. There appears to be a minor error in computation of over invoicing computed by the assessing officer if this figure is considered. Details for other agreements with this party was called. When asked for, the appellant has also furnished other similar instances where similar agreement with this party was entered and later revised through addendum entered with it. An agreement dated 12.10.2012 was for 165000 MT of coal with GCV Air Dried Basis of 5100-5200 KCAL / Kg for FOB price \$30.75 /MT. An Addendum was entered dated 28.10.2012 for rate being revised to CFR \$41.65 per MT. Similarly another agreement dated 20.7.2012 was for 120000 MT of coal with GCV Air Dried Basis of 5100-5200 KCAL / Kg for FOB price \$32.75 /MT. An Addendum was entered dated 23.7.2012 for some clauses of the contract being modified. This does suggest that Addendums was a normal practice in such contracts. Thus the appellant has given an explanation for the revision which is based on change in specification of coal required and which was supplied. It can be believed that a specific instance of purchase may not have been recollected by Shri Kunal Parekh when he was asked regarding this in the course of search, more so when the matter was two year old. However, at no stage was any admission made that there was any over invoicing/manipulation. When evidence has been submitted in the assessment proceedings, the same cannot be summarily rejected without making any inquiry. It is noted from Web Search that Mohammed Hussein Ali Al-Amoudi isa Saudi billionaire businessman. In 2016, his net worth was estimated by Forbes at approximately \$10.9 billion and a relative fall in net value was linked to the global fall in oil and gold prices at the time of estimation. He was also listed as Ethiopia's richest man, the second richest Saudi Arabian citizen in the world and the second richest black person in the world. Al Amoudi made his fortune in construction and

real estate before branching out to buy oil refineries in Sweden and Morocco. Thus the entity M/s. PT Almoudi Natural Resources Tradmin, Jakarta, Indonesia, owned by Mohammed Hussein Ali Al-Amoudi is a well known business entity. The assessing officer has not made any verification to show that the Addendum was manipulated before implying so. The revision in price is justified and substantiated with evidence by the appellant.

20.4.20. In light of the facts and evidences on record, I find that the appellant has been able to substantiate the correction in invoice. The addition made of Rs.4,63,19,046/- is therefore deleted. Ground of appeal no 3 is allowed.”

12. After hearing both the parties and perusing the material on record, we observe that the AO made the addition on the basis of statement of the director of the company Mr. Kunal Parekh of Rs.4,63,19,046/- wherein Mr. Kunal Parekh stated that he has forgotten as to why the invoice for vessel MV STX Clover for 77556 MT was raised to US \$ 57 from US \$ 31 FOB + freight charges at actual PMT in terms of agreement for sale and purchase dated 10.12.2012. This was revealed by an email sent by an employee of the assessee Mrs. Riddhi Punil Shah to Mr. Samsu Husain with copy marked to Mr. Kunal Parekh on 15.01.2013. We note that Ld. CIT(A) allowed the appeal of the assessee on this issue on the ground that Mr. Kunal Parekh never admitted to over invoicing and earning of unaccounted income and in the statement recorded under section 132(4) the income was offered as assessee could not recollect the reason for last minute rate changes made in the invoice. The Ld. CIT(A) while allowing the appeal of the assessee also noted that the assessee had entered into contract with PT Almoudi Natural Resources Tradmin for supply of Indonesian coal having specification of GCV 5100-5200 Kcal/Kg vide agreement dated 10.12.2012 and subsequently the specification of the coal was changed to CGCV 5600 Kcal/Kg, which is of higher quality and due to the user requirement, by an addendum dated

18.12.2012. Accordingly, rate in the invoice was changed due to change in quality of coal. We also find that similar addendum was made for other purchases from PT Almoudi Natural Resources Tradmin which have not been doubted by the AO. Ld. CIT(A) has recorded his finding to this effect in para 20.4.19 in the appellate order. Besides the Ld. CIT(A) also recorded a finding of fact that the revised rate of invoice was comparable with the international rate published by Argus. In view of these facts, we do not find any infirmity in the order of Ld. CIT(A) and accordingly same is upheld by dismissing the ground No.4 to 6 of the Revenue's appeal.

ITA No.3889/M/2019 A.Y. 2014-15, ITA Nos.3890 & 3892/M/2019 A.Ys 2015-16 & 2014-15

13. The issue involved in the present appeal is identical to the ones as decided by us in ITA No.3888/M/2019 for A.Y. 2013-14. Therefore, our finding/decision in ITA No.3888/M/2019 for A.Y. 2013-14 would, mutatis mutandis, apply to these appeals as well. Accordingly, the appeals of the Revenue are dismissed.

14. In the result, all the appeals of the Revenue are dismissed.

Order pronounced in the open court on 17.09.2021.

Sd/-

(Amarjit Singh)

JUDICIAL MEMBER

Mumbai, Dated: 17.09.2021.

Sd/-

(Rajesh Kumar)

ACCOUNTANT MEMBER

* 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.