

**IN THE INCOME TAX APPELLATE TRIBUNAL
“F” BENCH MUMBAI**

**BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &
MS. PADMAVATHY S, ACCOUNTANT MEMBER**

**ITA No.3245/Mum/2022
(Assessment Year: 2017-18)**

ACIT, C. Circle-2(1), Room No.804,8 th Floor, OldCGOAnnexBuilding, M.K.Road, Mumbai-400020.	बनाम/ Vs.	Fancy Devi, B-502, Oberoi Sky Heights, Cross Road, Lokhandwala, Andheri (W), Mumbai-400053.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AEGPJ5895J		
(अपीलार्थी /Appellant)		(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से / Appellant by :	Shri.Ankush Kapoor.DR
प्रत्यर्थी की ओर से/Respondent by :	Shri.Mahaveer Jain.AR

सुनवाई की तारीख / Date of Hearing	24/05/2023
घोषणा की तारीख /Date of Pronouncement	31/07/2023

आदेश / ORDER

PER PAVAN KUMAR GADALE - JM:

The Revenue has filed an appeal against the order of the Commissioner of Income-tax (Appeals)-48, Mumbai [“Ld. CIT(A)”] for the Assessment Year (“AY”) 2017-18 U/sec250 of the Act. The Revenue has raised following grounds of appeal:

- 1. "Whether on the facts and circumstances of the case and in law, the Ld CIT(A)-48, Mumbai is right in holding that incriminating material was found to sustain the addition.*
- 2. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A)-48, Mumbai is right in deleting*

the entire additions of Rs. 85,21,250/- made in the assessment order only on the ground that no incriminating material was found to sustain the addition without appreciating the facts that the assessment order was passed after carefully analysing the seized material and evidences found during the course of search and survey proceedings and seized..

3. *"Whether on the facts and circumstances of the case and in law, the Ld. CIT(A)-48, Mumbai is right in deleting the entire additions of Rs. 85.21,250/- made in the assessment order without appreciating the facts that the identity, genuineness and creditworthiness of the lenders were not established after giving ample opportunity to the assessee".*
4. *Whether on the facts and circumstances of the case and in law, the Ld.CIT(A)-48. Mumbai is right in allowing the appeal filed by the assessee by relying on the decision of the Hon'ble Bombay High Court in the case of CIT vs. Continental Warehousing Corporation [2015 374 ITR 645] ignoring the fact that appeal is pending before the Hon'ble Supreme Court of India on this issue of 'power conferred by section 153A of the Act' which was not adjudicated upon."*

2. The Brief facts of the case are that the assessee is an individual and filed the return of income for AY 2017-18 on 22.03.2018 disclosing a total income of Rs.39,41,780/- and there was search & seizure operations u/sec132 of the Act on 13-11-2019

and notice u/s 153A of the Income Tax Act, 1961 (“the Act”) was issued and in compliance to notice, the assessee has filed the return of income on 06.12.2020 disclosing a total income of Rs.39,41,780/-. The Assessing Officer (“AO”) has issued notice u/s 143(2) and 142(1) of the Act along with the requisition of details and the assessee has furnished the details and submissions in the assessment proceedings. The AO has considered the accommodation entries in the nature of unsecured loans at page 2 of the assessment order. The AO has not accepted the contentions that, the assessee has obtained unsecured loan of Rs.85,00,000/- from M/s. Aneri Fincap Ltd and the assessee also submitted the explanations on 30.07.2021, Further, the AO found that there was a search & seizure operations carried out in the case of Oneworld group entities on 06.11.2019 and the statement was recorded. Subsequently, the statement of key person of One World Group entities recorded who are engaged in providing accommodation entries and purchase bills. The AO has issued summons u/s 131 of the Act on the assessee and there was no compliance. Finally, the AO observed that the transaction is in nature of the accommodation entry and made addition of Rs.85,00,000/- as unexplained cash credit u/s 68 of the Act. Similarly, the AO has made an addition of commission @ 0.25% of the unsecured loans which works out to Rs.21,250/- and assessed the total income of

Rs.1,24,63,040/- and passed order u/s 143(3) r.w.s153A of the Act dated 07.08.2021.

3. Aggrieved by the order of AO, the assessee has filed the appeal before Ld.CIT(A). The assessee has challenged the validity of the additions made by the AO and the assessment fall under the category of unabated assessment and no incriminating material relating to the year was found in the search. The assessee has relied on the propositions of judicial decisions of the Hon'ble High Court and the Honble Tribunal. Whereas the CIT(A) has considered the grounds of appeal, submissions of the assessee, the provisions of law and the judicial decisions and observed that no incriminating material during the course of search relating to the year and deleted the additions and dealt at Page 37 Para 6.15 to 6.16 of the order as under:-

6.15. "Conclusion-The aforesaid detailed discussion with respect to various judicial decisions clearly laid down the following principles.

(i) the assessments which have been concluded u/s 143(3) of the Act and not pending at the time of search proceedings, do not abate.

(ii) for this purpose, intimation u/s 143(1) would constitute an assessment, relying on the decision of Hon'ble Bombay High Court in CIT V/S Gurinder Singh Bawa (79 taxmann.com 398)

(iii) the proceedings u/s 153A of the Act do not empower the Assessing officer to re-adjudicate the settled issues again, unless fresh incriminating material for the relevant year is found during the course of search proceedings.

(iv) the Assessing officer does not have jurisdiction to make additions/disallowances which are not based on relevant incriminating material found during the course of search proceedings.

(v) in the case of completed/un-abetted assessments, where no incriminating material is found during the course of search, the assessment u/s 153A of the Act is to be made on originally assessed/returned income and no addition or disallowance can be made de hors the incriminating evidences for the relevant year are recovered during the course of search.

(vi) Any admission or confession needs corroboration with evidences. In order to make a genuine and legally sustainable addition on the basis of admission or confession during search action, it is necessary that some incriminating material must have been found to correlate the undisclosed income with such statement.

(vii) Any statement recorded under section 132(4) cannot be considered as incriminating material found in the course of search as these are recorded to elicit more information/explanation of the search person on the

incriminating documents/gold/jewellery found during search.

6.16 Conclusion In the present case, additions have been made on account of accommodation entry of unsecured loan taken from M/s AneriFincap Limited u/s 68 of Rs.85,00,000/- and unexplained expenditure u/s. 69C due to commission for arranging accommodation entry of loan of Rs.21,250/- As stated above, the AO has not brought on record through the assessment order or through any communication regarding any incriminating document or material found or seized during the Search and Seizure action u/s 132 of the Act, which can be linked /correlated with the impugned additions made. Considering the totality of the facts and circumstances of the issues involve, I am of the considered opinion that these additions cannot survive de hors the incriminating evidences as held in the above binding judicial decisions. The AO is accordingly directed to delete the impugned additions made in the assessment order. Thus, the grounds of appeal no. 1 & 2 are allowed.”

4. Whereas the CIT(A) has considered the submissions, details and relied on judicial decisions and finally, concluded that the additions in respect of unsecured loans and commission expense are without any incriminating material, therefore the provisions u/s 153A of the Act, does not attract and deleted the additions and partly allowed the assessee's

appeal. Aggrieved by the order of the CIT(A), the revenue has filed an appeal before the Honble Tribunal.

5. At the time of hearing, Ld.DR submitted that Ld.CIT(A) has erred in deleting the additions on the ground that no incriminating material was found during the course of search and relied on the judicial decisions and CIT(A) has over-looked the statement recorded u/s 132(4) of the Act and the Ld.DR prayed for allowing the Revenue's appeal

6. Contra, the contentions of the Ld. AR are that the CIT(A) was correct in deciding the appeal on legal ground as the AO could not have made addition in this year in the absence of incriminating material and the assessment year fall under the category of unabated assessment year. The Ld. AR emphasized that the CIT(A) has considered the facts that the search has taken place on 13.11.2019 and the return of income for A.Y.2018-19 was filed on 22.03.2018 and the return of income was processed u/s 143(1) of the Act and the time limit for issue of notice u/s 143(2) of the Act is 30-09-2019. The contentions of the Ld.AR are that in respect of A.Y.2018-19 the time limit for issue notice u/s 143(2) of the Act has expired much prior to date of search i.e. 13-11-2019 and the Assessment year will come under the category of unabated assessment and further the revenue could not unearth any incriminating material warranting disturbance of already completed assessment and the Ld. AR has relied on the judicial decisions and emphasized that the

assessment is unabated and supported the order of the CIT(A).

7. We heard the rival submissions and perused the material on record. The Ld.DR submitted that the CIT(A) has erred in deleting the additions overlooking the findings of the assessing officer and the judicial decisions. Whereas, the contentions of the Ld. AR are that the AO has erred in issuing notice u/s 153A of the Act and further passing the order u/s 143(3) r.w.s 153A of the Act is bad in law though no incriminating material was found in the course of search and relied on the jurisdictional Honble Bombay High Court decision of M/s. Allcargo Global Logistic Ltd and CIT Vs Continental ware housing corporation (Nhavaseva) Ltd and the Hon'ble Tribunal decisions and emphasized the assessment year falls under category of unabated assessment. We find that the search took place on 13.11.2019 and the assessee has submitted the return of income on 22-03-2018 and time limit for issue of notice U/sec143(2)of the Act is 30-09-2019.

8. We find that there is no dispute with regard to the facts that the Assessment relating to AY 2018-19, fall under the category of "unabated assessment". There is also no dispute that the department did not unearth any incriminating material relating to the additions of unexplained cash credits and unexplained expenditure hence the AO, in the absence of

any incriminating material relating to the above said additions, could not have made any addition in unabated assessment year. In support of the above said proposition, we rely upon the decision rendered by Hon'ble Bombay High Court in the case of Continental Corporation (Nhava Sheva) Ltd (2015)(58 taxmann.com 78)(Bom) and Gurinder Singh Bawa (2017)(79 taxmann.com 398)(Bom), wherein the Hon'ble Bombay High Court held that the unabated assessments (finalized assessments) cannot be touched by resorting to the provisions of sec.153A of the Act unless some incriminating materials relating to the said assessments, which are contrary to and/or not disclosed during regular assessment proceedings, are found.

9. Whereas the provisions of sec.153A of the Act provide for issuing of notice u/s 153A of the Act for six assessment years immediately preceding the year of search and thereafter, the AO shall assess or reassess the total income for the above said six years. This section further provides that all pending assessment or re-assessment pending as on the date of search shall abate. Hence the assessments of the assessment years falling within the period of above said six years which are not pending, i.e., which have attained finality shall not abate. Assessments of such assessment years are called "unabated / completed / finalized" assessments. The question as to whether the AO is entitled to interfere with such kinds of unabated/completed/

finalized assessments or not without there being any incriminating material found during the course of search, was examined by the Special bench of Tribunal in the case of All Cargo Logistics Ltd vs. DCIT (2012)(137 ITD 287)(Mum), wherein it was held that the AO could interfere with the unabated/completed/finalized assessments only if the incriminating materials found during the course of search warrant such interference, meaning thereby, if the search action did not bring out any incriminating material, then the AO cannot disturb the completed assessments and he has to simply reiterate the earlier total income in the present assessment order.

10. Further the views expressed by the Special bench has since been upheld by Hon'ble Bombay High Court in the case of Continental Warehousing Corporation (Nhava Sheva) Ltd (supra). The relevant observations made by Hon'ble Bombay High Court in the above said case are extracted below:-

"31. We, therefore, hold that the Special Bench's understanding of the legal provision is not perverse nor does it suffer from any error of law apparent on the face of the record. The Special Bench in that regard held as under :

"48. The provision under [section 153A](#) is applicable where a search or requisition is initiated after 31.5.2003. In such a case the AO is obliged to issue notice u/s 153A in respect of 6 preceding years, preceding the year in which search etc. has been initiated. Thereafter he has to assess or reassess the total income of these six years. It is obligatory on the part of the AO to assess or reassess total income of the six years as provided in [section 153A\(1\)\(b\)](#) and reiterated in the 1st proviso to this section. The second proviso states that the assessment or reassessment pending on the date of initiation of the search or

requisition shall abate. We find that there is no divergence of views in so far as the provision contained in [section 153A](#) till the 1st proviso. The divergence starts from the second proviso which states that pending assessment or reassessment on the date of initiation of search shall abate. This means that an assessment or reassessment pending on the date of initiation of search shall cease to exist and no further action shall be taken thereon. The assessment shall now be made u/s 153A.

The case of Ld. Counsel for the assessee is that necessary corollary to this provision is that completed assessment shall not abate. These assessments become final except in so far and to the extent as undisclosed income is found in the course of search. On the other hand, it has been argued by the Ld. Standing Counsel that abatement of pending assessment is only for the purpose of avoiding two assessments for the same year, one being regular assessment and the other being assessment u/s 153A. In other words these two assessments coalesce into one assessment. The second proviso does not contain any word or words to the effect that no reassessment shall be made in respect of a completed assessment. The language is clear in this behalf and therefore literal interpretation should be followed. Such interpretation does not produce manifestly absurd or unjust results as [section 153A](#) (i)(b) and the first proviso clearly provide for assessment or reassessment of all six years. It may cause hardship to some assesses where one or more of such assessments has or have been completed before the date of initiation of search. This is hardly of any relevance in view of clear and unambiguous words used by the legislature.

This interpretation does not cause any absurd etc. results. There is no casus omissus and supplying any would be against the legislative intent and against the very rule in this behalf that it should be supplied for the purpose of achieving legislative intent. The submissions of the Ld. Counsels are manifold, the foremost being that the provision u/s 153A should be read in conjunction with the provision contained in [section 132\(1\)](#), the reason being that the latter deals with search and seizure and the former deals with assessment in case of search etc, thus, the two are inextricably linked with each other.

49. Before proceeding further, we may now examine the provision contained in sub-section (2) of [section 153](#), which has been dealt with by Ld. Counsel. It provides that if any

assessment made under sub-section (1) is annulled in appeal etc., then the abated assessment revives. However, if such annulment is further nullified, the assessment again abates. The case of the Ld. Counsel is that this provision further shows that completed assessments stand on a different footing from the pending assessments because appeals etc. proceedings continue to remain in force in case of completed assessments and their fate depends upon subsequent orders in appeal. On consideration of the provision and the submissions, we find that this provision also makes it clear that the abatement of pending proceedings is not of such permanent nature that they cease to exist for all times to come. The interpretation of the Ld. Counsel, though not specifically stated, would be that on annulment of the assessment made u/s 153(1), the AO gets the jurisdiction to assess the total income which was vested in him earlier independent of the search and which came to an end due to initiation of the search.

50. The provision contained in [section 132](#) (1) empowers the officer to issue a warrant of search of the premises of a person where any one or more of conditions mentioned therein is or are satisfied, i.e. - a) summons or notice has been issued to produce books of account or other documents but such books of account or documents have not been produced, b) summons or notice has been or might be issued, he will not produce the books of account or other documents mentioned therein, or c) he is in possession of any money or bullion etc. which represents wholly or partly the income or property which has not been and which would not be disclosed for the purpose of assessment, called as undisclosed income or property. We find that the provision in [section 132](#) (1) does not use the word "incriminating document". Clauses (a) and (b) of [section 132\(1\)](#) employ the words "books of account or other documents". For harmonious interpretation of this provision with provision contained in [section 153A](#), all the three conditions on satisfaction of which a warrant of search can be issued will have to be taken into account.

51. Having held so, an assessment or reassessment u/s 153A arises only when a search has been initiated and conducted. Therefore, such an assessment has a vital link with the initiation and conduct of the search. We have mentioned that a

search can be authorised on satisfaction of one of the three conditions enumerated earlier. Therefore, while interpreting the provision contained in [section 153A](#), all these conditions will have to be taken into account. With this, we proceed to literally interpret to provision in 153A as it exists and read it alongside the provision contained in [section 132\(1\)](#).

52. The provision comes into operation if a search or requisition is initiated after 31.5.2003. On satisfaction of this condition, the AO is under obligation to issue notice to the person requiring him to furnish the return of income of six years immediately preceding the year of search. The word used is "shall" and, thus, there is no option but to issue such a notice. Thereafter he has to assess or reassess total income of these six years. In this respect also, the word used is "shall" and, therefore, the AO has no option but to assess or reassess the total income of these six years. The pending proceedings shall abate. This means that out of six years, if any assessment or reassessment is pending on the date of initiation of the search, it shall abate. In other words pending proceedings will not be proceeded with thereafter. The assessment has now to be made u/s 153A (1)(b) and the first proviso. It also means that only one assessment will be made under the aforesaid provisions as the two proceedings i.e. assessment or reassessment proceedings and proceedings under this provision merge into one. If assessment made under sub-section (1) is annulled in appeal or other legal proceedings, then the abated assessment or reassessment shall revive. This means that the assessment or reassessment, which had abated, shall be made, for which extension of time has been provided under [section 153B](#).

53. The question now is - what is the scope of assessment or reassessment of total income u/s 153A (1)(b) and the first proviso ? We are of the view that for answering this question, guidance will have to be sought from [section 132\(1\)](#). If any books of account or other documents relevant to the assessment had not been produced in the course of original assessment and found in the course of search in our humble opinion such books of account or other documents have to be taken into account while making assessment or reassessment of total income under the aforesaid provision. Similar position will obtain in a case where undisclosed income or undisclosed property has

been found as a consequence of search. In other words, harmonious interpretation will produce the following results :-

a) In so far as pending assessments are concerned, the jurisdiction to make original assessment and assessment u/s 153A merge into one and only one assessment for each assessment year shall be made separately on the basis of the findings of the search and any other material existing or brought on the record of the AO,

(b) in respect of non-abated assessments, the assessment will be made on the basis of books of account or other documents not produced in the course of original assessment but found in the course of search, and undisclosed income or undisclosed property discovered in the course of search.

54. It may be mentioned here that Ld. Counsel for All Cargo Global Logistics Ltd. was questioned about the scope of pending assessments as it was his contention that all six assessments are to be made, if necessary, on the basis of undisclosed income discovered in the course of search. He was specifically questioned about the jurisdiction of the AO to make original assessment along with assessment u/s 153A, merging into one. However he took an evasive view submitting that this question need not be decided in his case although the question of jurisdiction u/s 153A was vehemently pressed on account of which ground No.1 in the appeal for assessment year 2004-05 was admitted as additional ground. He also wanted the additional ground to be retained in case of any future contingency."

11. Similarly the findings and views expressed by Hon'ble jurisdictional Bombay High Court in the case of Continental Warehousing Corporation (Nhava Sheva) Ltd (supra) was reiterated by the Hon'ble Bombay High Court in yet another case of Gurinder Singh Bawa (2017)(70 taxmann.com 398) as under:-

“5. On further appeal before the Tribunal, the assessee interalia challenged the validity of the assessment made under Section 153A of the Act. This on account of the fact that no assessment in respect of the six assessment years were pending so as to have abated. The impugned order accepted the aforesaid submission of the respondent-assessee by interalia placing reliance upon the decision of the Special Bench of the Tribunal in Al-Cargo Global Logistics Ltd. rendered on 6 July 2012. The Tribunal in the impugned order further held that no incriminating material was found during the course of the search. Thus the entire proceedings under Section 153A of the Act were without jurisdiction and therefore the addition made had to be deleted on the aforesaid ground. The impugned order also thereafter considered the issues on merits and on it also held in favour of the respondent-assessee.

5. Mr. Kotangale, the learned Counsel for the revenue very fairly states that the decision of the Special Bench of the Tribunal in Al-Cargo Global Logistics Ltd. was a subject matter of challenge before this Court as a part of the group of appeals disposed of as CIT v. Continental Warehousing Corporation (Nhava Sheva) Ltd. [\[2015\] 374 ITR 645/58 taxmann.com 78/232 Taxman 270 \(Bom.\)](#) upholding the view of the Special Bench of the Tribunal in Al- Cargo Global Logistics Ltd. Consequently, once an assessment has attained finality for a particular year i.e. it is not pending then the same cannot be subject to tax in proceedings under Section 153A of the Act. This of course would not apply if incriminating materials are gathered in the course of search or during proceedings under Section 153A of the Act which are contrary to and/or not disclosed during regular assessment proceedings.

7. In view of the above, on issue of jurisdiction itself the issue stands concluded against the revenue by the decision of this Court in Continental Warehousing Corpn. (Nhava Sheva) Ltd. (supra). In the appeal before us, the revenue has made no

grievance with regard to the impugned order of the Tribunal holding that in law the proceedings under Section 153A of the Act are without jurisdiction. This in view of the fact that no assessments were pending, so as to abate nor any incriminating evidence was found. The grievance of the revenue is only with regard to finding in the impugned order on the merits of the individual claim regarding gifts and deemed dividend. However once it is not disputed by the revenue that the decision of this Court in Continental Warehousing Corporation (Nhava Sheva) Ltd. (supra) would apply to the present facts and also that there are no assessments pending on the time of the initiation of proceedings under Section 153A of the Act. The occasion to consider the issues raised on merits in the proposed questions becomes academic.

8. In the above view, the questions as framed in the present facts being academic in nature, do not give rise to any substantial question of law. Thus not be entertained.”

12. The Coordinate bench of the Tribunal has followed the above said binding decisions of jurisdictional High Court in the cases of Smt Anjali Pandit vs. ACIT (ITA No.3028 to 3032/Mum/2011 & others - order dated 17.11.2016) and held as under:-

“8. From the propositions in the above mentioned decisions, we find that the case of the assessee is squarely covered by the ratio laid down in the decisions cited supra. We therefore respectfully following the same hold that the AO has not jurisdictional to assess the long term capital gain as income from other sources as the same is not based upon the seized or incriminating materials found during the search proceedings qua the long term capital gain. Similarly the CIT(A) enhancing the assessment is also not based upon any seized or incriminating materials found during the search and therefore the enhancement is also without jurisdiction u/s 153A. Accordingly, the additional grounds no. 1A and 1B raised by

the assessee stand allowed in favour of the assessee and AO is directed accordingly.”

13. We also rely on the decision rendered by Hon’ble Delhi High Court in the case of CIT Vs Kabul Chawla 380 ITR 573(Delhi) wherein identical view was expressed. The Hon’ble Delhi High Court has summarized the legal position with regard to the provisions of sec.153A of the Act as under:-

“Summary of the legal position

37. On a conspectus of [Section 153A\(1\)](#) of the Act, read with the provisos thereto, and in the light of the law explained in the aforementioned decisions, the legal position that emerges is as under:

i. Once a search takes place under [Section 132](#) of the Act, notice under Section 153 A (1) will have to be mandatorily issued to the person searched requiring him to file returns for six AYs immediately preceding the previous year relevant to the AY in which the search takes place.

ii. Assessments and reassessments pending on the date of the search shall abate. The total income for such AYs will have to be computed by the AOs as a fresh exercise.

iii. The AO will exercise normal assessment powers in respect of the six years previous to the relevant AY in which the search takes place. The AO has the power to assess and reassess the 'total income' of the aforementioned six years in separate assessment orders for each of the six years. In other words there will be only one assessment order in respect of each of the six AYs "in which both the disclosed and the undisclosed income would be brought to tax".

iv. Although Section 153 A does not say that additions should be strictly made on the basis of evidence found in the course of the search, or other post-search material or information available with the AO which can be related to the evidence found, it does not mean that the assessment "can be arbitrary or made without any relevance or nexus with the seized material. Obviously an assessment has to be made under this Section only on the basis of seized material."

v. In absence of any incriminating material, the completed assessment can be reiterated and the abated assessment or reassessment can be made. The word 'assess' in Section 153 A is relatable to abated proceedings (i.e. those pending on the date of search) and the word 'reassess' to completed assessment proceedings.

vi. Insofar as pending assessments are concerned, the jurisdiction to make the original assessment and the assessment under [Section 153A](#) merges into one. Only one assessment shall be made separately for each AY on the basis of the findings of the search and any other material existing or brought on the record of the AO.

vii. Completed assessments can be interfered with by the AO while making the assessment under Section 153 A only on the basis of some incriminating material unearthed during the course of search or requisition of documents or undisclosed income or property discovered in the course of search which were not produced or not already disclosed or made known in the course of original assessment."

14. Considering the facts, circumstances, submissions, judicial decisions and the ratio of the recent decision of Honble Supreme court in the Pr.CIT Vs Abhisar Buildwell Pvt Ltd. 2023 Live Law (SC) 346 find that the CIT(A) has

dealt on the provisions of law, judicial decisions and deleted the additions as no incriminating material was found in the course of search, We also considered the facts and judicial decisions as discussed above and are of the view that the CIT(A) has passed a reasoned and conclusive order. Accordingly, we do not find any infirmity in the order of the CIT(A) on these grounds of appeal and uphold the same and dismiss the grounds of appeal of the revenue.

15. In the result, the appeal filed by Revenue is dismissed.

Order pronounced in the open court on 31.07.2023.

Sd/-
(PADMAVATHY S)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated 31/07/2023
Amit Kumar, Sr. 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, मुम्बई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

1.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई/ ITAT, Mumbai