

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

**SHRI B.R. BASKARAN, ACCOUNTANT MEMBER  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 1754/MUM/2023**  
**(Assessment Year: 2012-13)**

**ITA No. 1752/MUM/2023**  
**(Assessment Year: 2013-14)**

**ITA No. 1751/MUM/2023**  
**(Assessment Year: 2014-15)**

**ITA No. 1753/MUM/2023**  
**(Assessment Year: 2015-16)**

**Avaada Ventures Private Limited,**  
406, 4<sup>th</sup> Floor, Hubtown Solaris,  
N.S. Phadke Marg, Andheri (East),  
Mumbai - 400069  
[PAN: AAKCS9700L]

..... **Appellant**

Vs

**Deputy Commissioner of Income Tax,**  
**Central Circle 3(3), Mumbai,**  
Room No. 1923, Air India Building,  
Nariman Point, Mumbai - 400021

..... **Respondent**

**ITA No. 2089/MUM/2023**  
**(Assessment Year: 2012-13)**

**ITA No. 2088/MUM/2023**  
**(Assessment Year: 2013-14)**

**ITA No. 2087/MUM/2023**  
**(Assessment Year: 2014-15)**

**Deputy Commissioner of Income Tax,**  
**Central Circle 3(3), Central Range -**  
**3, Mumbai,**  
Room No. 1923, 19<sup>th</sup> Floor,  
Air India Building, Nariman Point,  
Mumbai - 400021

..... **Appellant**

Vs

**Avaada Ventures Pvt. Limited,**  
**(Juicy International Pvt. Ltd.**  
**(AABCJ8216D) merged with Avaada**  
**Power Pvt. Ltd. which is now known**  
**as Avaada Ventures Pvt. Ltd.)**  
406, 4<sup>th</sup> Floor, Hubtown Solaris,  
N.S. Phadke Marg,  
Andheri East West Flyover,  
Mumbai - 400069  
[PAN: AAKCS9700L]

..... **Respondent**

**Appearance**

For the Appellant/Assessee : Shri Mani Jain  
Shri Prateek Jain  
For the Respondent/Department : Shri Ajay Chandra

**Date**

Conclusion of hearing : 25.10.2023  
Pronouncement of order : 08.11.2023

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**ORDER**

**Per Bench**

1. This is a batch of 7 appeals pertaining to Assessment Years 2012-13, 2013-14, 2014-15 and 2015-16 which were heard together as the same involved identical issues and are, therefore, being disposed off by way of a common order.

**Assessment Year 2012-13**

2. We would first take up cross-appeals for the Assessment Year 2012-13.
  3. These cross-appeals arise from the order, dated 21/03/2023, passed by the Commissioner of Income Tax (Appeals) [hereinafter referred to as 'the CIT(A)'] whereby the CIT(A) had allowed the appeal preferred by the Assessee against the Assessment Order, dated 29/12/2019, for the Assessment Year 2012-13 passed under Section 153A read with Section 143(3) of the Income Tax Act, 1961 [hereinafter referred to as 'the Act'].
- 3.1. The Revenue has raised the following grounds of appeal in ITA No. 2089/Mum/2023:
1. *"On the facts and in the circumstances of the case, the Ld. CIT(A) is not justified in holding that the assessment order passed u/s. 153A r.w.s 143(3) of the Income Tax Act, 1961 is*

*invalid in law without appreciating that the facts and the circumstances of this case are distinguishable from the Supreme Court judgment in the case of "Maruti Suzuki India Limited?"*

2. *"On the facts and in the circumstances of the case, the Ld. CIT(A) is not justified in holding that the assessment order passed u/ s. 153A r.w.s. 143(3) of the Income tax Act, 1961 is invalid in law without appreciating the fact that the Hon'ble Supreme Court in the case of "Mahagun Realtors Private Limited" held that, legislative change, by way of introduction of section 2(1A) defining "amalgamation" and the tax treatment in various provisions of the Income tax Act, 1961, were not taken into account or were not brought to the notice of this Court, in the previous decisions."*

3.2. The Assessee has raised the following grounds of appeal in ITA No. 1754/Mum/2023:

- "1. *On the facts and circumstances of the case and in law, Ld. CIT(A) erred in not holding the action of Id.AO in completing the impugned assessment u/s.153A of the Act in the absence of any incriminating material found during the course of search as incorrect, making the assessment order illegal and without jurisdiction.*
2. *On the facts and circumstances of the case and in law, Ld. CIT(A) erred in not holding the action of Id.AO in making the various additions/ disallowances in the absence of any incriminating material found during the course of search action as incorrect, for the reasons mentioned in impugned order or otherwise.*
3. *On the facts and circumstances of the case and in law, Ld. CIT(A) erred in not holding the action of Id.AO in making the additions merely relying on the averments made in the statements recorded of third parties during the search proceedings as incorrect, for the reasons mentioned in impugned order or otherwise.*
4. *On the facts and circumstances of the case and in law, Ld. CIT(A) erred in not holding the action of Id.AO in holding that the appellant has entered into accommodation transaction of share application and share capital with M/s. Nimbus Dealers Pvt. Ltd. and M/s. Luxury Vinimay Pvt. Ltd. without any*

*incriminating material found during the course of search proceedings conducted at the premises of the assessee as incorrect, for the reasons mentioned in impugned order or otherwise.*

5. *On the facts and circumstances of the case and in law, Ld. CIT(A) erred in not holding the action of Id.AO in making addition of Rs.22,07,00,000/- on account of alleged unexplained bogus share capital and share premium received from M/s. Nimbus Dealers Pvt. Ltd. by invoking provisions of section 68 of the Income Tax, 1961 as incorrect, for the reasons mentioned in impugned order or otherwise.*
6. *On the facts and circumstances of the case and in law, Ld. CIT(A) erred in not holding the action of Id.AO in making addition of Rs.13,87,50,000/- on account of alleged unexplained bogus share capital and share premium from M/s. Luxury Vinimay Pvt Ltd. by invoking provisions of section 68 of the Income Tax Act, 1961 as incorrect, for the reasons mentioned in impugned order or otherwise.*
7. *On the facts and circumstances of the case and in law, Ld. CIT(A) erred in not holding the action of Id.AO in making addition of Rs.3,85,00,000/- on account of alleged bogus share application money as unexplained credit from M/s. Luxury Vinimay Pvt. Ltd. by invoking provisions of section 68 of the Income Tax Act, 1961 as incorrect, for the reasons mentioned in impugned order or otherwise.*
8. *On the facts and circumstances of the case and in law, Ld. CIT(A) erred in not holding the action of Id.AO in making addition of Rs.3,85,00,000/- on account of alleged bogus share application money from M/s. Luxury Vinimay Pvt. Ltd. despite the fact that the same amount has already been added in the assessment order passed for A.Y. 2013-14 as incorrect, thereby leading to double addition, for the reasons mentioned in impugned order or otherwise.*
9. *On the facts and circumstances of the case and in law, Ld. CIT(A) erred in not holding the action of Id.AO in making addition of Rs.39,79,500/- on account of alleged undisclosed commission paid in cash being 1% of alleged bogus share application money and share capital along with share premium received from the above mentioned parties amounting to Rs.39,79,50,000/- as incorrect, for the reasons mentioned in impugned order or otherwise.*

10. *On the facts and circumstances of the case and in law, Ld. CIT(A) erred in not holding the action of Id. AO in alleging that the appellant has entered into accommodation transactions of unsecured loans with Shri. Bhawarlal Jain Group without any material evidence on record by merely relying on the averments of Shri. Bhanwarlal Jain as incorrect, for the reasons mentioned in impugned order or otherwise.*
11. *On the facts and circumstances of the case and in law, Ld. CIT(A) erred in not holding the action of Id.AO in making addition of Rs.50,00,000/- on account of alleged bogus unsecured loan taken from Marc Gems by treating the same as not genuine by invoking provisions of section 68 of the Income Tax Act, 1961 as incorrect, for the reasons mentioned in impugned order or otherwise.*
12. *On the facts and circumstances of the case and in law, Ld. CIT(A) erred in not holding the action of Id.AO in making disallowance of Rs.3,25,479/- on account of interest paid on the alleged bogus unsecured loan taken from Marc Gems by invoking provisions of section 37 of the Income Tax Act, 1961 as incorrect, for the reasons mentioned in impugned order or otherwise."*

**Appeal by Revenue ITA No. 2089/Mum/2023 (AY 2012-13)**

4. We would first take up appeal preferred by the Revenue as the issues raised therein go to the root of the matter.
5. The relevant facts in brief are that Juicy International Pvt. Ltd. was an Indian private limited company engaged, inter alia, in manufacture and retail of food & juice products, investment in shares and real estate business. It filed the original return of income for the Assessment Year 2012-13 under Section 139(1) of the Act on 24/09/2012 declaring income of INR 39,70,436/- which was taken up for scrutiny. The original scrutiny assessment proceedings resulted in passing of order, dated 26/03/2015, under Section 143(3) of the Act whereby income of Juicy International Pvt. Ltd. was assessed at INR 55,66,732/-. Thereafter, reassessment

proceedings were initiated against under Section 147 of the Act which were abated on account of search and seizure action under Section 132 of the Act carried out in the case of Welpsun Group of the Company under which the premises of the Assessee were also covered on 30/06/2017. Notice was issued under Section 153A of the Act in the name of '*Juicy International Pvt. Ltd. (now amalgamated with Avaada Power Pvt. Ltd.)*'. In response to the aforesaid notice, the reply, dated 24/06/2019, was filed stating as under:

*"With reference to the above and under the instructions from our above referred client, we would like to state that our client is in receipt of your honors notice u/s 153A of the Income Tax Act, 1961 dated 15.04.2019. In respect of the same, we would like to state that the above mentioned company is already merged vide High Court Order dated 20.11.2015 with M/s. Avaada Power Private Limited now known as M/s. Avaada Ventures Private Limited, and accordingly above mentioned assessee is no more in existence and therefore, no return can be filed u/s. 153A of the IT Act, 1961.*

*Without prejudice to the above, just for the compliance purpose (still holding the uncertainty about the legality of the said notice issued u/s. 153A) in response to the said notice received u/s 153A, assessee has duly filed its return of income on 21.06.2019. Copy of ITR acknowledgement is enclosed herewith for your honors kind perusal and record."*

6. Despite the above intimation to the effect that Juicy International Pvt. Ltd. stood merged with M/s Avaada Power Pvt. Ltd. [name changed to Avaada Ventures Pvt. Ltd.] by virtue of order, dated 20/11/2015, passed by the Hon'ble Bombay High Court, the

Assessing Officer proceeded to frame assessment in the name of Juicy International Pvt. Ltd. (merged with Avaada Power Pvt. Ltd.) (now known as Avaada Ventures Pvt. Ltd.) vide Assessment Order, dated 29/12/2019, passed under Section 153A read with Section 143(3) of the Act.

7. In appeal preferred by the Avaada Ventures Pvt. Ltd., the CIT(A), vide order, dated 21/03/2023, held that the Assessment Order having been passed in the name of an amalgamating company which was not in existence at the time of issuance of notice, was invalid in the eyes of law.
8. Being aggrieved, the Revenue is now in appeal before us against the order dated 21/03/2023, passed by the CIT(A). The Assessee has also preferred cross appeal raising grounds challenging the additions/disallowances made by the Assessing Officer on merits since the CIT(A) did not adjudicate the grounds raised by the Assessee pertaining to the merits of the additions/disallowances.
9. We have heard the rival contention and perused the material on record including the judicial precedents cited during the course of hearing. The primary contention of the Ld. Departmental Representative was that in response to notice issued under Section 153A of the Act, return was filed by the Assessee in the name of M/s Juicy International Pvt. Ltd. (merged with Avaada Power Pvt. Ltd.) using the Permanent Account Number AABCJ8216D belonging to M/s Juicy International Pvt. Ltd. on 21/06/2019. Therefore, the Assessing Officer was correct in passing the Assessment Order in the name stated on the return of income. In this regard, reliance was also placed by the Ld. Departmental Representative on the judgment of Hon'ble Supreme Court in the case of Principal

Commissioner of Income Tax Vs. Mahagun Realtors Pvt. Ltd. reported in 443 ITR 194 (SC). Taking us through paragraph 18, 30 and 32 of the aforesaid judgment of Hon'ble Supreme Court the Ld. Departmental Representative submitted that in case of amalgamation there is no end to the enterprise which continues to exist, and therefore, in that sense it cannot be said that assessment has been framed on a non-existing entity. He submitted that the Assessing Officer has, therefore, correctly passed the order in the name of Juicy International Pvt. Ltd. (merged with Avaada Power Pvt. Ltd.) (now known as Avaada Ventures Pvt. Ltd.). It was also pointed out that even the Permanent Account Number has been mentioned as AABCJ8216D (merged with AAKCS9700L). The Ld. Departmental Representative further submitted that no intimation of merger was given by the Assessee to the Assessing Officer before the issuance of notice under Section 153A of the Act. Therefore, the judgment of Hon'ble Supreme Court in the case of Mahagun Realtors Pvt. Ltd (supra) supported the case of the Revenue. Per contra, Ld. Authorised Representative for the Assessee pointed out that the return was filed electronically on the portal in the aforesaid name since notice under Section 153A of the Act was issued in the name of M/s Juicy International Pvt. Ltd. (merged with Avaada Power Pvt. Ltd.) quoting the Permanent Account Number AABCJ8216D. Vide letter dated 24/06/2019 the Assessee had intimated that Juicy International Pvt. Ltd. has been merged with Avaada Power Pvt. Ltd. (now known as M/s Avaada Ventures Pvt. Ltd.). Though the Assessing Officer was aware of the aforesaid fact, the Assessing Officer proceeded to frame assessment in the name of the company which was not in existence. The CIT(A), after appreciating the aforesaid facts, concluded that the Assessment

Order, dated 29/12/2019, passed under Section 153A read with Section 143(3) of the Act non-est in the eyes of law. Thus, the Ld. Authorised Representative for the Assessee supported the order passed by the CIT(A).

10. We have considered the rival contention and perused the material on record. The Revenue has not disputed the position that Juicy International Pvt. Ltd. was merged with Avaada Power Pvt. Ltd. (now known as Avaada Ventures Pvt. Ltd.) with effect from 01/04/2015 by virtue of the order dated 20/11/2015, passed by the Hon'ble Bombay High Court. Notice under Section 153A of the Act was issued on 15/04/2019 almost four years after the effective date of merger. The contention of the Revenue is that no intimation of the merger was sent to the Assessing Officer before the issuance of the above notice. However, we note that the Assessee had vide letter, dated 24/06/2019 clearly communicated to the Assessing Officer that Juicy International Pvt. Ltd. merged with Avaada Power Pvt. Ltd. (now known as Avaada Ventures Pvt. Ltd.) and was not in existence. Further, by way of the aforesaid letter, the Assessee had also expressed inability to file return in the name of Juicy International Pvt. Ltd. (merged with Avaada Power Pvt. Ltd.) and had, without prejudice to the aforesaid contention, filed return in order to comply with the requirement of notice issued under Section 153A of the Act. The Assessing Officer completed the assessment and raised demand in the name of Juicy International Pvt. Ltd. (merged with Avaada Power Pvt. Ltd.) (now known as Avaada Ventures Pvt. Ltd.). In the appeal preferred by the Assessee, the CIT(A), after considering the aforesaid facts and relying upon various judicial precedents, held that the Assessment Order was passed in the name of non-existent entity and was therefore, invalid

in the eyes of law. The relevant extract of the decision of the CIT(A) read as under:

*"7.28 Further, in its submission, the appellant has also relied on the decision in case of its sister concern M/s. Candor Renewables Energy Pvt. Ltd. (earlier known as Bhadrawati Ispat & Energy Pvt. Ltd.), wherein on identical facts, the assessment order was quashed by my Ld Predecessor and the same was further upheld by the Hon'ble jurisdictional Mumbai ITAT vide order dated 19.10.2022. To further prove the similarity of both the cases, the appellant has submitted the notices and replies filed in the case of M/s. Candor Renewables Energy Pvt. Ltd. In this regard, it is relevant to consider the decision of the Hon'ble Tribunal which is reproduced hereunder.-*

*31. Thus, the decision of Hon'ble Apex Court in the case of Mahagun Realtors Pvt Ltd (supra) is not applicable on the facts of the assessee's case albeit its facts are clearly covered by the judgment of Apex Court in the case Maruti Suzuki India Ltd. (supra). Here right from the day one, the AO was brought to the notice and as was brought on cord before him that the erstwhile enus perehogy Ltd had already stood amalgamated with M/s Reliable Record Keepers Pvt. Ltd. w.e.f. AY 2015-16 only and still he continued with the proceedings u/s 153A in the name of non-existing entity. Thus the entire proceedings including notice u/s 153A and also statutory notice issued in the name of non-existing entity was void ab initio. Consequently, the entire proceeding was illegal. Even the assessment order though which has been captioned as "M/s Bhadrawati Ispat & Energy Ltd. (merged with M/s. Reliable Record Keepers Pvt. Ltd. which has now known as M/s. Candor Renewable Energy Private Limited" is in fact in the name of non-existing entity only. Therefore, the reasons and principles laid down by the Hon'ble Apex Court in the case of Maruti Suzuki India Ltd. (supra) is applicable and accordingly assessment orders passed by the AO are invalid and non est.*

*32. Accordingly, we hold that the entire assessment order is bad in law and therefore has rightly been quashed by the Ld. CIT(A). The aforesaid findings of the Ld. CIT(A) as incorporated supra is not only correct in law but also the facts*

*and hence the order of Ld. CIT(A) is confirmed. Accordingly, the grounds raised by the revenue are dismissed for both the AY 2013-14 and 2014-15".*

7.29 Further, the details of notices issued and replies filed in the case of the assessee as well as M/s Candor Renewables Energy Pvt. Ltd. is tabulated hereunder:

xx xx

7.30 On perusal of the said table, it is observed that the facts of both the cases are identical and have been passed by the same Assessing Officer.

7.31 It is also observed that the Hon'ble ITAT has duly considered the recent decision of Hon'ble Supreme Court in the case of Mahagun Realtors Pvt. Ltd. SLP No. 4063/2020 and has distinguished the same. It is noted that in the said case, the assessee had not intimated or raised objection before the AO during the assessment proceedings regarding the merger of the assessee company. It was on these peculiar facts, Hon'ble Supreme Court upheld the validity of the assessment order.

7.32 In the assessee's case, it is noted that the AO was put to notice with respect to the amalgamation of Juicy International Private Limited with Avaada Power Pvt. Ltd. (now known as Avaada Ventures Private Limited), as the search was conducted after the amalgamation had been effected. The amalgamation happened w. e. f. 1.4.2015 while the search took place on 30.6.2017 and the issue of amalgamation was in the knowledge of the Department during the search proceedings. It is also noted that the said fact was brought to the notice of the AO immediately on issue of notice under section 153A of the Act on 23.05.2019, wherein the assessee specifically took the plea that the notice had been issued in the name of an

entity which did not exist and hence, no return could be filed by the said entity u/s 153A of the Act. In fact, in spite of reiteration of the above position by the assessee, the AO has proceeded to continue to issue notices in the name of the non-existent entity and has finally passed the assessment order in the name of the non-existent company. Passing of the assessment order in the name of the non-existent company has been unanimously held to be an illegality which cannot be condoned u/s 292B of the Act.

7.33 Further, the comments of the AO in respect of the above contentions of the assessee, were also called for during the appellate proceedings. The AO vide report dated 05.07.2022 has stated that the name of the amalgamated company was also mentioned in the notices issued and therefore, the contention of the assessee cannot be accepted. It is noted that the notices as well as assessment order has been passed in the name and PAN of the non-existing company and merely mentioning the name of the amalgamated company would not be a sufficient compliance. This issue has already been dealt with in the decision of Supreme Court in the case of Maruti Suzuki (supra) and Candor Renewables (supra).

7.34 In my view, the facts of the present case are identical with the facts in the case of Maruti Suzuki (supra) as well as in the case of sister concern M/s. CandorRenewables Energy Pvt Ltd. None of the ameliorating circumstances mentioned and taken note of by the various High Courts are present in this case. The AO has not proceeded to modify / correct the name on subsequent notices or the assessment order on receipt of specific information with reference to the scheme of amalgamation effected in the case. While dealing with the issue in the Maruti Suzuki case, the Hon'ble Supreme Court has elaborated on the binding nature of its order by observing that:

"26..... The law declared would attract the applicability of Article 141 of the Constitution. For, as this Court has held in *Kunhayammed (supra)*:

"40...Where the order rejecting an SLP is a speaking order, that is, where reasons have been assigned by this Court for rejecting the petition for special leave and are stated in the order still the order remains the one rejecting prayer for the grant of leave to appeal. The petitioner has been turned away at the threshold without having been allowed to enter in the appellate jurisdiction of this Court. Here also the doctrine of merger would not apply. But the law stated or declared by this Court in its order shall attract applicability of Article 141 of the Constitution. The reasons assigned by this Court in its order expressing its adjudication (expressly or by necessary implication) on point of fact or law shall take away the jurisdiction of any other court, tribunal or authority to express any opinion in conflict with or in departure from the view taken by this Court because permitting to do so would be subversive of judicial discipline and an affront to the order of this Court. However this would be so not by reference to the doctrine of merger."

7.35 In light of the clear Binding decision of Hon'ble Supreme Court on same facts and also of the jurisdictional ITAT in case of assessee's sister concern M/s. Candor Renewables Energy Pvt. Ltd. (earlier known as Bhadrawati Ispat & Energy Pvt. Ltd.), the assessment order passed by the AO in the name of an amalgamating company which was not in existence at the time of issue of notice is not found sustainable in eyes of law. The order is held to be invalid in eyes of law, having been framed in the name of a non-existent entity. Therefore, I find that there is merit in the contention of the assessee that in the event of amalgamation, the AO should have issued the notice for assessment in the name of the amalgamated company and not in the name of the amalgamating company and the assessment should also have been completed in the name of the amalgamated company. Accordingly, Ground no. 1 raised by the assessee in the present appeal is allowed." (Emphasis Supplied)

11. On perusal of above, it is clear that the CIT(A) has held the Assessment Order to be invalid after taking into consideration the judgment of the Hon'ble Supreme Court in the case of Mahagun Realtors Pvt. Ltd. (supra) and Pr. CIT Vs. Maruti Suzuki India Ltd.: 416 ITR 613 (SC) as well as the decision of the coordinate Bench of the Tribunal in the case of Candor Renewable Energy Pvt. Ltd. (erstwhile Bhadrawati Ispat & Energy Ltd. Vs. Assistant Commissioner of Income Tax, CC-3(3), Central Range-3, Mumbai: ITA No. 697 & 698/Mum/2022, dated 19/10/2022. We have perused of the aforesaid judicial precedents and are of the view that the CIT(A) was correct in holding that the Assessment Order, dated 29/12/2019, passed under Section 153A of the Act read with Section 143(3) of the Act is invalid in the eyes of law as the same has been passed on non-existing entity despite the Assessing Officer having been put to notice by the Assessee during the course of assessment proceedings. Given the facts and circumstances of the present case, the judgment of Hon'ble Supreme Court in the case of Mahagun Realtors Pvt. Ltd. (supra) as well as Maruti Suzuki India Ltd. (supra) support the case of the Assessee. Therefore, we do not find any infirmity in the order passed by the CIT(A). Accordingly, Ground No. 1 and 2 raised by the Revenue are dismissed.

**Appeal by Assessee ITA No. 1754/Mum/2023 (AY 2012-13)**

12. Since, we have upheld the order of CIT(A) dated 21/03/2023, holding that the Assessment Order, dated 29/12/2023, passed under Section 153A of the Act read with Section 143(3) of the Act was invalid in the eyes of law and therefore, the question of adjudicating grounds raised by the Assessee in cross appeals

pertaining to the merit of additions/disallowances does not arise. Accordingly, all the grounds raised in appeal preferred by the Assessee are dismissed as being infructuous.

**Appeal by Revenue ITA No. 2088/Mum/2023 (AY 2013-14)**  
**Appeal by Assessee ITA No. 1752/Mum/2023 (AY 2013-14)**  
**Appeal by Revenue ITA No. 2087/Mum/2023 (AY 2014-15)**  
**Appeal by Assessee ITA No. 1751/Mum/2023 (AY 2014-15)**

13. ITA No. 2088/Mum/2023 preferred by the Revenue and ITA No. 1752/Mum/2023 preferred by the Assessee arise from the order, dated 21/03/2023, passed by the CIT(A) whereby the CIT(A) had allowed the appeal preferred by the Assessee against the Assessment Order, dated 29/12/2023 for the Assessment Year 2013-14 passed under Section 153A read with Section 143(3) of the Act.
14. ITA No. 2087/Mum/2023 preferred by the Revenue and ITA No. 1751/Mum/2023 preferred by the Assessee arise from the order, dated 21/03/2023, passed by the CIT(A) whereby the CIT(A) had allowed the appeal preferred by the Assessee against the Assessment Order, dated 26/12/2023 for the Assessment Year 2014-15 passed under Section 153A read with Section 143(3) of the Act.
15. Both the sides agreed that the grounds raised in the above cross-appeals for the Assessment Year 2012-13 as well as the applicable facts are identical to the appeals for the Assessment Years 2013-14 and 2014-15, and therefore, our findings and adjudication in respect of grounds of appeal raised by the Assessee/Revenue for the Assessment Year 2012-13 shall apply mutatis mutandis to the corresponding grounds raised in the cross-appeals for the

Assessment Year 2013-14 and 2014-15. Accordingly, adopting the reasoning given while disposing the cross appeal for the Assessment Year 2012-13, Ground No. 1 and 2 raised in appeals preferred by the Revenue for the Assessment Year 2013-14 and 2014-15 are dismissed while all the grounds raised by the Assessee in appeals for the Assessment Year 2013-14 and 2014-15 are dismissed as being infructuous.

**Appeal by Assessee ITA No. 1753/Mum/2023 (AY 2015-16)**

16. ITA No. 1753/Mum/2023 preferred by the Assessee arise from the order, dated 21/03/2023, passed by the CIT(A) whereby the CIT(A) had allowed the appeal preferred by the Assessee against the Assessment Order, dated 29/12/2023 for the Assessment Year 2015-16 passed under Section 153A read with Section 143(3) of the Act.
17. As regards, appeal preferred by the Assessee for the Assessment Year 2015-16 is concerned, we note that Revenue has not preferred in appeal challenging the order dated 21/03/2023, passed by the CIT(A) whereby the Assessment Order, dated 29/12/2023 passed by the Assessing Officer for the Assessment Year 2015-16 has been held to be invalid in law. As on date the order passed by the CIT(A) dated, 21/03/2023, continues to hold the field and therefore, the grounds raised by the Assessee in its appeal pertaining to merits of the addition made by the Assessing Officer for the Assessment Year 2015-16 do not require adjudication and are, therefore, disposed off as being infructuous at this stage.
18. In result, all the 3 appeals by the Revenue pertaining to Assessment Years 2012-13 [ITA No. 2089/Mum/2023] Assessment Year 2013-

14 [ITA No. 2088/Mum/2023] and Assessment Year 2014-15 [ITA No. 2087/Mum/2023] are dismissed, and all the 4 appeals by the Assessee pertaining to Assessment Years 2012-13 [ITA No. 1754/Mum/2023], Assessment Year 2013-14 [ITA No. 1752/Mum/2023, Assessment Year 2014-15 [ITA No. 1751/Mum/2023 and Assessment Year 2015-16 [ITA No. 1753/Mum/2023] are dismissed as being infructuous.

Order pronounced on 08.11.2023.

**Sd/-**  
**(B.R. Baskaran)**  
**Accountant Member**

**Sd/-**  
**(Rahul Chaudhary)**  
**Judicial Member**

मुंबई Mumbai; दिनांक Dated : 08.11.2023  
Alindra, PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT,  
Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai