

आयकर अपीलिय अधिकरण, मुंबई न्यायपीठ , मुंबई ।

IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH, MUMBAI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER

AND SHRI AMARJIT SINGH, JUDICIAL MEMBER

आयकर अपील सं/ I.TA No. 3228/Mum/2014

(निर्धारण वर्ष / Assessment Year:2005-06

The ITO-10(2)(3), Aaykar Bhavan, Mumbai-400 020	बनाम/ Vs.	M/s. Zimith Properties Pvt. Ltd. Ganga Wadi, Agra Road, Shop No. 5 L.B.S. Marg, Opp. Ganesh Pan Bidi Shop, Mumbai-400 086
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAHCZ 1962B		

आयकर अपील सं/ I.TA No. 3227/Mum/2014

(निर्धारण वर्ष / Assessment Year:2009-10

The ITO-10(2)(1), Aaykar Bhavan, Mumbai-400 020	बनाम/ Vs.	M/s. Sanidhya Trading Pvt. Ltd., 1301/1302, Kalindi Bldg., Neelkanth Valley, Rajawadi, Ghatkopar (E), Mumbai-400 077
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAHCS 9103J		

आयकर अपील सं/ I.TA No. 3232 & 3229 /Mum/2014

(निर्धारण वर्ष / Assessment Year:2006-07 & 2008-09

The ITO-10(2)(3), Aaykar Bhavan, Mumbai-400 020	बनाम/ Vs.	M/s. Nextgen Constructions Pvt. Ltd., Ganga Wadi, Agra Road, Shop No. 5 L.B.S. Marg, Opp. Ganesh Pan Bidi Shop, Mumbai-400 086
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. :AABCN 8981F		

आयकर अपील सं/ I.TA No. 3234 & 3230/Mum/2014

(निर्धारण वर्ष / Assessment Years:2006-07 & 2008-09

The ITO-10(2)(3), Aaykar Bhavan, Mumbai-400 020	बनाम/ Vs.	M/s. Ritestep Software Pvt. Ltd., B-26, Om Yogini Society, Somwar Bazar Road, Malad (W), Mumbai-400 064
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AACCR 9963L		

आयकर अपील सं/ I.TA No. 3233/Mum/2014

(निर्धारण वर्ष / Assessment Year:2006-07

The ITO-10(2)(3), Aaykar Bhavan, Mumbai-400 020	बनाम/ Vs.	M/s. Superplaza Properties Pvt. Ltd., 101, Vallabh Vihar, M.G. Road, Ghatkopar East, Mumbai-400 077
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAICS 6658M		

आयकर अपील सं/ I.TA No. 3297/Mum/2014

(निर्धारण वर्ष / Assessment Year:2010-11

The ITO-10(2)(4), Aaykar Bhavan, Mumbai-400 020	बनाम/ Vs.	M/s. Superline Construction Pvt. Ltd., A-29, A Wing, 1 st Floor, Satyam Shopping Centre, M.G. Road, Ghatkopar East, Mumbai-400 077
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAICS 6463J		

आयकर अपील सं/ I.TA No. 3296/Mum/2014

(निर्धारण वर्ष / Assessment Year:2005-06

The ITO-10(2)(4), Aaykar Bhavan, Mumbai-400 020	बनाम/ Vs.	M/s. Superview Properties Pvt. Ltd., B-123, Vrindavan, LBS Marg, Ghatkopar (W),
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	Mumbai-400 086
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAICS 2665J	

आयकर अपील सं/ I.TA No. 3299/Mum/2014

(निर्धारण वर्ष / Assessment Year:2006-07

The ITO-10(2)(4), Aaykar Bhavan, Mumbai-400 020	बनाम/ Vs.	M/s. Supergold Properties Pvt. Ltd., Room No. 2, Munir Bashir Colony, Ghatkopar (W), Mumbai-400 086
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स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAHCS 9942F

(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
अपीलार्थी ओर से/ Revenue by:		Dr. P. Daniel
प्रत्यर्थी की ओर से/Assessee by:		Shri K. Ravi Ramchandran

सुनवाई की तारीख / Date of Hearing :29.10.2015

घोषणा की तारीख /Date of Pronouncement : 04.11.2015

आदेश / ORDER

PER BENCH:

The captioned appeals by the Revenue have identically worded grounds of appeal though with different quantum. This bunch of appeals were heard together and are disposed of by this consolidated order for the sake of convenience.

2. As mentioned hereinabove, the grievance of the Revenue is identical in all these appeals with different quantum. The representative of both sides agreed that the issues involved have been decided in favour of the assessee and against the Revenue in other cases of group and also by the decision of the Hon'ble Supreme Court and the High Court of Bombay.

3. On the concession made by the rival parties, it was agreed to proceed with the facts in ITA No. 3230/M/2014. The issue involved relates to the share application money received by the assessee amounting to Rs. 55 lakhs. The claim of the assessee is that it has proved the identity of the subscriber and also proved the genuineness of the transaction and the credit worthiness therefore the issues are squarely covered by the decision of the Hon'ble Supreme Court in the case of CIT Vs Lovely Export (Pvt) Ltd 216 CTR 195.

4. The Ld. CIT(A) was convinced with the claim of the assessee and deleted the impugned additions. The Ld. CIT(A) followed his own order in the case of M/s. Sarvadeep Trading Pvt. Ltd. vide CIT(A)-22/IT-10(2)-4/IT-78/2013-14 dated 24.3.2014. While deleting the impugned addition, the First Appellate Authority has also followed the decision in the case of M/s. J.J. Multitrade Pvt. Ltd. in ITA No. CIT(A)-21/IT/86/2013-14 dated 30.1.2014.

5. As no distinguishing decision has been brought before us in favour of the Revenue, we find that the order of the Ld. CIT(A) in the case of M/s. J.J. Multitrade Pvt. Ltd. (supra) was confirmed by the Tribunal in ITA No.s 2158 & 2159/M/2014 order dated 11.3.2015. We also find that in other cases of the group were decided by a consolidated order in the case of M/s. Deep Darshan Properties Pvt. Ltd., in ITA Nos. 2117 & 2118/M/2014, Aajivan Computers Pvt. Ltd in ITA No. 2160/M/2014, M/s. Karamveer Real Estate Pvt. Ltd. in ITA No. 2116/M/2014, Dignity Securities Trading Pvt. Ltd in ITA No. 2157/M/2014 and M/s. Blue Hill Properties Pvt. Ltd in ITA No. 2119/M/2014 order dated 28.9.2015 wherein the appeals of the

Revenue were also dismissed. We find that in all these appeals, the Co-ordinate Bench has followed the ratio laid down by the Hon'ble Supreme Court in the case of Lovely Export (Pvt) Ltd and Hon'ble High Court of Bombay in the case of CIT Vs Creative World Telefilms Ltd. 333 ITR 100. Respectfully following the decision of the Co-ordinate Bench (supra), all these appeals of the Revenue are dismissed.

6. In the result, all the appeals filed by the Revenue are dismissed.

Order pronounced in the open court on 4th November, 2015.

Sd/-
(AMARJIT SINGH)

Sd/-
(N.K. BILLAIYA)

न्यायिक सदस्य/JUDICIAL MEMBER लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated : 4th November , 2015

व.नि.स./ Rj , Sr. PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / 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