



ITA NO. 397-398/Mum/2014  
Shri Narendra R.Shah  
Assessment Years 2008-09 &2009-10

**आयकर अपीलीय अधिकरण “बी” न्यायपीठ मुंबई में।**

**IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, MUMBAI**

श्री सी. नागेंद्र प्रसाद, न्यायिक सदस्य एवं  
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।  
**BEFORE SHRI C.N. PRASAD, JM AND  
SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./I.T.A. No. 397-398/Mum/2014

(निर्धारण वर्ष / Assessment Year:2008-09 & 2009-10)

<b>ASSTT. COMMISSIONER OF INCOME TAX</b> Central Circle 13 Room No.1103, 11 <sup>th</sup> Floor Old CGO Annex. Building Mumbai 400 020	<b>बनाम/ Vs.</b>	<b>SHRI NARENDRA R.SHAH</b> D-28/205, 2 <sup>nd</sup> Floor Yogi Nagar Borivali (W) Mumbai 400 092
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AAPPS-6559-P		
(अपीलार्थी /Appellant)	:	(प्रत्यर्थी / Respondent)
अपीलार्थी की ओर से / Appellant by	:	Shri Purushottam Kumar, DR
प्रत्यर्थी की ओर से/Respondent by	:	None
सुनवाई की तारीख / <b>Date of Hearing</b>	:	24/11/2016
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	18/01/2017

**आदेश / ORDER**



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**Per Manoj Kumar Aggarwal (Accountant Member)**

1. The captioned appeal by revenue for Assessment Year [AY] 2008-09 & 2009-10 assails common order of Ld. Commissioner of Income Tax (Appeals)-37 [CIT(A)], Mumbai dated 22/11/2013 *qua* relief provided to the assessee with respect to bogus *hawala* entries. Since, common issues are involved, we dispose-off the same by this common order for the sake of convenience and brevity. None appeared on behalf of assessee despite being provided with several opportunities and hence, we proceed to decide the issues after hearing the revenue and on the basis of material available on record. First we take appeal for AY 2008-09.

**ITA 397/Mum/2014 for AY 2008-09**

2. Briefly stated, the assessee was resident individual and filed its return of income for AY 2008-2009 on 23/07/2010 declaring total income of Rs.2,60,210/-. Pursuant to search operation u/s 132 on *Narendra R.Shah* Group on 24/01/2006, the assessee was subjected to assessment u/s 143(3) r.w.s.147 of the Income Tax Act vide Assessing Officer [AO] order dated 31/03/2011 wherein the total income was assessed at Rs.2,86,25,200/-. The assessee was found to be engaged in the business of facilitating artificial bogus capital gains through the share market and *hawala* operations and also involved in giving various other financial accommodation entries of gift, speculation profit etc. in nature. The AO estimated commission from these bank transactions in the following manner:-

<i>No.</i>	<i>Particulars</i>	<i>Amount (Rs.)</i>	<i>Rate of Commission</i>	<i>Estimated Commission</i>
1.	<i>Cheques issued and unidentified transfers (debits)</i>	24,60,29,167/-	5%	1,23,01,458/-
2.	<i>Cheques deposited and unidentified transfers (credits)</i>	20,16,23,247/-	5%	1,00,81,162/-

Similarly, an additional sum of Rs.63,38,059/-, being commission on bank entries of group concern namely '*M/s G.R.Pandya Share Broking Ltd.*' was also added to the income of the



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assessee on '*protective basis*'. The same was contested before CIT(A) who noted that the assessee was continuously engaged in similar activity since AY 2000-2001 and a consolidated order was passed by its predecessor in assessee's own case from AY 2000-01 to 2007-08 on 31/01/2011. Relying upon the same, CIT(A) deleted estimated commission on total bank credits but sustained addition of 3% on total bank debit amount against which the assessee was entitled for expenses to the extent of 20%. Similar relief was provided *qua* '*protective additions*'. Aggrieved, the revenue is in appeal before us.

3. The Ld. DR while supporting the stand of AO, fairly conceded that the issue involved in the appeal has already been settled by Tribunal in assessee's own case from AY 2000-01 to 2007-08 in ITA No. 2637 to 2644/Mum/2011 order dated 06/04/2016 where Tribunal finding the stand of CIT(A) reasonable, upheld the stand of First Appellate Authority in making correct estimation of income of the assessee.

4. We have heard the Ld. DR and perused the relevant order. We find that the Tribunal in ITA No. 2637 to 2644/Mum/2011 order dated 06/04/2016 at Para-8 has upheld the stand of CIT(A) in estimating commission incomes @3% on debit entries against which estimated expenses to the extent of 20% were allowable to the assessee i.e. net commission rate of 2.4% has been approved by the Tribunal. Therefore, there being no change in facts or circumstances of the case, following the same, we upheld the stand of CIT(A) and dismiss the revenues' appeal.

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5. The assessee suffered similar addition of estimated commission @5% of total bank debits and credits vide AO order dated 31/03/2011. The CIT(A) relying upon, earlier years order in assessee's own case, restricted the same to 3% of total cheques issued against which 20% estimated expenses were available to the assessee. Such estimation of income, being already approved by Tribunal in assessee's own case from years 2001-01 to 2007-08, we find no infirmity in the order of CIT(A) and hence dismiss the revenue's appeal.



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6. In nutshell, both the appeals filed by the revenue stands dismissed.

*Order pronounced in the open court on 18<sup>th</sup> January, 2017.*

Sd/-

(C. N. Prasad)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 18.01.2017

*Pooja K., 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 – concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायक पंजीकार (Dy./Asstt. Registrar)**

**आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai**