

आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ, बी.मुंबई ।

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "B", MUMBAI**

श्री जोगिन्दर सिंह, न्यायिक सदस्य एवं

श्री संजय अरोड़ा, लेखा सदस्य, के समक्ष

**Before Shri Joginder Singh, Judicial Member, and
Shri Sanjay Arora, Accountant Member**

**ITA NO.2802/Mum/2015
Assessment Year:2007-08**

Santlal Gupta, 404, A Waghwadi, Kalbadevi Mumbai		ITO-14(2)(2), Mumbai
(निर्धारिती / Assessee)		(राजस्व / Revenue)
PAN. No.AABPG6320Q		

**ITA NO.2829/Mum/2015
Assessment Year:2007-08**

Kantadevi Gupta, 404, A Waghwadi, Kalbadevi Mumbai		ITO-14(2)(2), Mumbai
(निर्धारिती / Assessee)		(राजस्व / Revenue)
PAN. No.AHRPG7451P		

राजस्व की ओर से / Revenue by	Shri V.S. Jadhav
निर्धारिती की ओर से / Assessee by	Shri Harish Agarwal

सुनवाई की तारीख / Date of Hearing :	18/02/2016
आदेश की तारीख /Date of Order:	29/02/2016

आदेश / O R D E R

Per Joginder Singh (Judicial Member)

Both these appeals are by different assessees (close relatives), on identical issues, is aggrieved by the impugned order both dated 04/02/2015, of the ld. First Appellate Authority, Mumbai. The ground raised is that the ld. First Appellate Authority erred in observing that transaction of speculation income and short term capital gain are not genuine and further that sales proceeds of share of Crazy Infotech amounting to Rs.2,28,188/- and Rs.2,45,416/-, respectively is income from other sources, without considering the submissions of the assessee.

2. During hearing of these appeals, the ld. counsel for the assessee, Shri Harish Agarwal, advanced arguments, which are identical to the ground raised. On the other hand, Shri V.S. Jadhav, ld. DR, strongly defended the impugned order by inviting our attention to the factual finding recorded in the assessment order as well as in the impugned order.

2.1. We have considered the rival submissions and perused the material available on record. Before coming to any conclusion, we are reproducing hereunder the relevant finding recorded in the impugned order for ready reference:-

“3.2 Facts of the case and submission of the Ld. A.R. have been considered carefully. There is no dispute considering the facts that sum of Rs.31,110/-

constitutes the sum of Rs.2,28,188/- assessed as speculation income and further payment dt.28.03.2007 by cheque Rs.2,492/-. Therefore, the AO is directed to delete the addition of Rs.31,110/- made separately in the assessment order.

3.2.1 There is also no dispute of facts that all the transactions are from M/s. Alliance Intermediaries Net work Ltd which a Mukesh Chokshi group concern. In the case of Shri Mukesh Chokshi group concerns including M/s. Alliance Intermediaries -Network Ltd. ITAT in the following appellate orders have already held that Shri Mukesh Chokshi and all his associates have not done any genuine business of stock broking or dealing in shares. All these group has done is providing accommodation entries. The cash for such accommodation entries have been provided by the beneficiaries and accordingly the cheque as desired by the beneficiaries have been issued. For these reasons ITAT has held in Mukesh Chokshi group concerns that income of all these concerns has to be determined independent of the transactions but @ 0.15% of the gross value of all cheques issued from the bank accounts of such concerns. The income was held assessable is the net income -earned by Shri Mukesh Chokshi and his associates in providing the accommodation 'entries. The cases in which ITAT has held so are as under:-

3.3 Reference is also made to the various orders of the ITAT in cases of Shri Mukesh Chokshi and his associates as under:-

(a) Order dated 28.03.2008 in ITA Nos.462S/Mum/2005 and 5000/Mum/2005 for the A.Y.2002-03 in the case of M/s. Gold Star Finvest P. Ltd.

(b) Order dated 29.08.2008 in the cases of (i) Richmond Securities Pvt. Ltd. (Subsequently known as Mahasagar Securities P. Ltd. and now known as Alag Securities) in ITA No.4624/MUM/2005 for the A.Y.2002-03, and M/s. Alpha Chemie Trade Agencies Pvt. Ltd. in ITA No.4999/Mum/2005 for the A.Y.2002-03.

(c) Decision in ITA No.4912/Mum/2005 dated 30.05.2008, in the case of M/s. Mihir Agencies Pvt. Ltd.

3.3.1 Based upon these ITAT orders, all the concerns including M/s. Alliance Intermediaries and Network P. Ltd., M/s. Gold Star Finvest P. Ltd. and M/s. Alpha Chemie Trade Agencies Pvt. Ltd. have also filed their returns declaring it to be in the business of an entry provider and estimating its income @0.15% of total receipts from entry seekers. The same has been accepted in the assessment order dated 12.11.2008 for the A.Y.2007-08 u/s.143(3) by ACIT (OSD-1), Central Range- 7, Mumbai.

3.3.2 On the basis of the aforesaid orders of ITAT in case of Shri Mukesh Chokshi and his associates, it is a concluded fact that Shri Mukesh Chokshi is not doing any business of share transactions or stock brokering but he has provided only accommodation entries of share transactions and thus facilitated in helping various persons including the appellant for showing bogus Long Term Capital Gain and other incomes/losses as required by various persons. For accommodation entries provided by Shri Mukesh Chokshi and his associates, his net income @0.15% of total transactions has been shown as income and has been accepted by the ITAT.

3.3.3 The assessee is also one beneficiary of accommodation entry provided by Shri Mukesh Chokshi and his Associates. The entity used in this case is M/s. Alliance Intermediaries Network Ltd. Therefore, the speculative income and the Short term capital gains both are shown by the assessee without any underlying genuine transactions. The sum of Rs.2,492/- shown as paid to Mukesh Chokshi is also a fictitious payment since it is only an accommodation entry and also made after a gap of about 9 months since the purchase of 2800 shares of Crazy Infotech is shown and after receipt of the cheque for the sale of shares of Crazy Infotech Ltd.

3.4 Therefore, considering the facts of the case in totality it is hereby held that sum of Rs.1,97,078/- is rightly assessed by the AO Income from other sources. AO is directed to modify the assessment by assessing sale proceeds of shares of Crazy Infotech Ltd. of Rs.2,28,188/- as income of the assessee under the head Income from other sources. Accordingly, total income is to be determined as –

(i) Speculation income shown Rs.1,77,634/-

(ii) Interest income as shown Rs. 73,120/-

(iii) Income from other sources Rs.2,28,188/-

4. In the result, appeal is decided as above.”

2.2. If the observation made in the assessment order, leading to addition made to the total income, conclusion drawn in the impugned order, material available on record, assertions made by the ld. respective counsel, if kept in juxtaposition and analyzed, the facts, in brief, are that in the case of Smt. Kantadevi Gupta, income of Rs.4,45,449/- was declared on 28/07/2007 and the same was processed u/s

143(1) of the Act. Subsequently, the assessment was reopened u/s 147 of the Act after recording the reasons and issuance of notice u/s 148 of the Act dated 28/03/2013. The assessee attended the proceedings. The reasons for reopening the assessment were also provided to the assessee. The reasons have been reproduced in para 3 of the assessment order. It is noted that the assessee, an individual, declared short term capital gains on the sale of shares and also income from other sources. The assessee is beneficiary of bogus accommodation entries from M/s Mahasagar Group of cases i.e. M/s Alliance Intermediaries and network Pvt. Ltd. To verify the genuineness of the transaction with M/s Alliance Intermediaries and network Pvt. Ltd., information was sought from BSE and NSE u/s 133(6) of the Act, wherein, it was confirmed that M/s Alliance Intermediaries and network Pvt. Ltd. is not registered with them. The reply has been reproduced at page-3 of the assessment order. In view of this reply, the assessee was issued/served show cause notice dated 23/12/2013, as is evident from para 8 (pages 4 to 7) of the assessment order. The assessee also responded to the show cause notice which has also been considered. Finally, the Assessing Officer treated the amount of Rs.31,110/- (being purchase cost of 2800 shares) as unexplained money and added to the return income of the assessee u/s 69 of the Act, the so called profit was also treated as unexplained money and the differential amount of Rs.2,28,245/- with respect to bogus purchases transaction was treated as income from other sources.

2.3. On appeal, before the Id. Commissioner of Income Tax (Appeals) affirmed the stand of the Id. Assessing Officer. The assessee is in further appeal before this Tribunal.

2.4. Under the aforementioned facts, there is no dispute to the fact that M/s Alliance Intermediaries and network Pvt. Ltd. is the group concern of one Shri Mukesh Chokshi. The Chokshi group had been providing bogus accommodation entries to the beneficiary. Some of the decisions have already been quoted by the Id. Commissioner of Income Tax (Appeals). During hearing, before us, the assessee has not confronted the observation made in the impugned order. In fact, Mr. Mukesh Chokshi was not doing genuine share transaction and was merely providing bogus entries and showing bogus long term/short term capital gains. It is also noted that identically, in the following cases, order dated 16/11/2015:-

- Manish C. Jogani, (HUF) vs ITO (ITA NO.7344/Mum/2014)
- Sandeep C.Jogani (HUF)vs ITO (ITA No.7345/Mum/2014)
- Girish C. Jogani (HUF) vs ITO (ITA No.7346/Mum/2014) and
- Champaklal D. Jogani (HUF) vs ITO (ITA No.7347/Mum/2014)

Identically, the deposition made by Shri Mukesh Chokshi was discussed in detail along with the cases of Rinku Shah (ITA No.4311/Mum/2014), M/s Gold Star Finvest P. Ltd. (ITA No.4625/Mum/2005) and 5000/Mum/2005) order dated 28/03/2008, Richmond Securities Pvt. Ltd. (subsequently known as Mahasagar Securities Pvt. Ltd. and now known as Alag Securities (ITA No.4624/Mum/2005) order dated 29/08/2008, M/s Apha Chemie Trade Agencies (ITA

No.4999/Mum/2005), M/s Mihir Agencies pvt. Ltd. (ITA No.4912/Mum/2005) order dated 30/05/2008 and M/s Alliance Intermediaries and network Pvt. Ltd. were considered. The relevant portion of the order dated 16/11/2015 is reproduced hereunder:-

“This is a set of four Appeals by different Assesseees, agitating the dismissal of their appeals contesting their respective assessments u/s. 143(3) r/w s. 147 of the Income Tax Act, 1961 (‘the Act’ hereinafter) dated 07.2.2014 for the assessment year (A.Y.) 2008-09 by the Commissioner of Income Tax (Appeals)-27, Mumbai (‘CIT(A)’ for short) vide his separate orders of even date (20.10.2014). The issue/s arising being common, the appeals were posted for hearing, and were accordingly, heard together.

2. *It was, at the very outset, submitted by the ld. Authorized Representative (AR), the assessee’s counsel, that the only issue arising per the instant appeals concerns the genuineness of the long-term capital gain (LTCG) on the sale of shares. The appellant/s had on their part furnished all the relevant documents, i.e., toward establishing the validity of their claim, viz. the bills and contract notes for the purchase and sale of the relevant shares; De-mat account, through which the delivery of the shares stands effected; the bank account/s reflecting the receipt, etc. The Revenue, however, based on the deposition by one, Shri Mukesh Choksi, who and his companies, in the business of market intermediaries and dealers in securities, were subject to search on 25.11.2009, initiated proceedings, in all the cases, of which the present four are a part, where the LTCG had arisen on the basis of the transactions through his companies. Toward this, he would take the Bench to the relevant part of the impugned order in the case of Girish C. Jogani, stating the impugned orders to be the same in all cases, different only in the figures. No other material to impugn the assessee’s reliance on the said documents has been brought on record by the Revenue. Why, even cross examination of the deponent, specifically asked for, was not provided, and toward which he would advert to the letter dated 02.12.2013 (duly submitted on that date), submitted during the*

assessment proceedings (PB pgs. 10-14). The ld. CIT(A), in appeal, has made abundant reference to case law. The same is principally toward showing that the burden of proof, which is on the assessee, has been discharged, and that in the facts and circumstances of the case the credits are unproved. The same does not impugn the assessee/s case in any manner, even whose name does not appear in the statements of Shri Mukesh Choksi being relied upon. At this stage, on being asked by the Bench if the assessee had been supplied the copies of the said statements, he would reply in the negative. The ld. Departmental Representative (DR) would, on the other hand, submit that when the very person whose companies issued the relevant bills and contract notes, i.e., on the basis of which the truth of the transactions is being claimed, admits to the same being bogus, i.e., not representing actual transactions, how would it matter if the assessee's name is not specifically stated in the said statements? The assessee's plea of having been not supplied the copy of the said statements could not be countenanced in-as-much as there is nothing on record to show that the same were ever applied for. The assessee has not brought on record anything to rebut the Revenue's reliance on the said statements, which impinge directly on the validity of the documents being relied upon.

3. *The parties have been heard and the record perused. The first thing observed in the matter is that the assessee has not been supplied a copy of the statements being relied upon by the Revenue, and on the basis of which it claims the impugned transactions as bogus. The assessee, however, claiming his name as not appearing therein, appears to be well aware of the contents of the said statements, which was in fact conceded to by the ld. AR during hearing, explaining that the reassessments in other cases too had been initiated by the Revenue on the basis of the said statements, which are thus in common knowledge. Even so, the same would not substitute a formal conveyance thereof to the assessee, and being brought on record, form as it does, as it would appear, the substratum of the Revenue's case. The assessee/s - who is admittedly a beneficiary of the credits on transactions carried through the said companies, objection, however, holds little merit. The statements, being pursuant to a search action at the business premises of Sh. Mukesh Choksi and his companies, were not qua any specific*

assessee but specific to his business/es, covering all the persons transacting 'business' therewith. It is not the Revenue's case that only some specified transactions, as of the assessee, undertaken through the said company/s, are not genuine, but that the entire business as carried out through such hawala companies, is sham and bogus, only a make believe, being carried with a view to provide accommodation entries for a charge, even as admitted per the said depositions, and which is understood to be the substance thereof. The contention of the name being not specifically stated in the said statements, is thus of little consequence. In fact, the reassessment proceedings are not under challenge, so that the relevance of the materials with the Revenue, or the validity of the reasons recorded, is not in dispute.

Again, as observed by the Bench, how could, even de hors the said statements, credence be given to the bills/contract notes, as furnished, when the registration of M/s. Alliance Intermediaries & Network Pvt. Ltd., a sub broker affiliated to M/s. ISE Securities & Services Pvt. Ltd., and through whom the purchase of the relevant shares is stated to have been made, stood cancelled as far back as on 19.02.2004. Further, the transactions were admittedly not carried out through the stock exchange, as again clarified by the National Stock Exchange (refer para 2.4.3 of the impugned order). What value, then, the said bills/contract notes, issued by such companies, which could not have acted as brokers or sub-brokers? The contract notes are, in terms of the law/procedure, even otherwise required to be time stamped, also bearing the unique identification number (UIN) (and which bears reference to his PAN) of the client, while in the present case there is considerable doubt if the transactions are market transactions, i.e., through the market/exchange. The assessee's plea for cross examination is, again, misconceived. In-as-much as the assessee relies on the evidences furnished by Sh. Mukesh Choksi or his companies, i.e., in the form of bills, contract notes, etc., he (Mr. Mukesh Choksi) is his witness. The said reliance however gets put paid in view of his subsequent statements, which may even be substantiated and corroborated by the evidences/materials found in search. The credibility of the bills and contract notes is even otherwise in serious doubt, with the transactions being not market transactions, so that the 'broker' could not have acted as such, i.e., as a market intermediary. It is,

thus, the assessee, on whom the onus shifts, and who was required to produce and examine him (Mukesh M. Choksi), if he wanted to rebut the Revenue's reliance on his subsequent statements.

In fact, Sh. Mukesh Choksi as well as his companies stand black listed by SEBI on the ground of being engaged in clandestine activities, even as noted by the Tribunal in the case of Ratanchand J. Oswal & Rishi R. Oswal (in ITA Nos. 4998 & 4999/Mum/2009 dated 28.03.2013) vide para 4.2 of its order. Clearly, therefore, their capacity to function as dealers in securities is doubtful. Why, as observed during hearing itself, the assessments in the case of these companies have itself been confirmed by the tribunal on the basis that these entries do not represent or arise out of genuine transactions, but are only accommodation entries, assessing their income by estimating the same by applying a percentage on the gross receipt as per their bank accounts. Reference toward this, being information in the public domain, is made to the following cases, having been relied upon by the Revenue in another such case (Rinku Shah - in ITA No. 4311/Mum/2014 for A.Y. 2005-06):

- 1) M/s. Gold Star Finvest P. Ltd. (in ITA Nos. 4625/Mum/2005 & 5000/Mum/2005 dated 28.03.2008 for A.Y. 2002-03);*
- 2) Richmond Securities P. Ltd. (Subsequently known as Mahasagar Securities P. Ltd. and now known as Alag Securities) (in ITA No. 4624/Mum/2005 dated 29.08.2008 for the A.Y. 2002-03) and M/s. Apha Chemie Trade Agencies Pvt. Ltd. (in ITA No. 4999/Mum/2005 dated 29.08.2008 for A.Y. 2002-03);*
- 3) M/s. Mihir Agencies Pvt. Ltd. (in ITA No. 4912/Mum/2005 dated 30.05.2008); and*
- 4) M/s. Alliance Intermediaries and Network P. Ltd., (assessment order u/s.143(3) dated 12.11.2008 for A.Y.2007-08/by ACIT(OSD-1), Central Range-7, Mumbai)).*

That is, the tribunal, the final fact finding authority, has itself found, as a fact, that these companies were engaged in the business of providing accommodation entries to various entry seekers, so that only the commission at the stipulated rate could be assessed as income in their hands. By necessary, nay, direct implication, the entries/credits are not genuine.

Coming to the facts of the case, it is observed that though the Revenue has made a clear and thorough analysis of the obtaining legal framework, relying on abundant case law, which has not been rebutted, the facts have not been similarly collated & analyzed, with a view to determine the issue at large, which is principally factual, i.e., if the transactions are satisfactorily proved, toward satisfactorily explaining the impugned credit/s as to their nature and source, by the assesse. And which would also require providing him opportunity to explain the different aspects of the transactions. Several questions arise, in the matter, and which would require being suitably addressed. Whether the shares under reference were purchased from the market, or are off market transactions. What is the basis of the purchase price in the case of the latter? Who is the seller/s, from whom therefore the delivery would flow, and to whom the payment/s would be made? Is there any contemporaneous evidence to exhibit the purchase (as well as the rate), which is crucial also from the point of view that it is only where the holding period is for a minimum of 12 months that the gain arising on the transfer of the shares qualifies to be a LTCG. Like-wise, for the sale. Is the sale supported by market quote/s? What is the basis of the sale rate/s, which is several times the rate obtaining a year or so back, inasmuch as it was purchased thereat at that rate? Is there any justification on record for the sale (market) rate in terms of the credentials or fundamentals of the company? Who are the buyers of the shares, to whom the delivery thereof would be made and from whom the consideration flows, and who therefore represent the source of the credit. Where claimed as off-market transactions, the same could only be on 'principal to principal' basis, and as spot transactions, i.e., where both the actual delivery (of shares) as well as the payment there-against is concluded immediately, i.e., on the very same day of the contract or, maximum, the next day (s. 2(i) of Securities Contract Regulation Act, 1956). In what capacity, then, has the broker acted, who therefore could not have acted as one? This is apart from the fact that it is otherwise not eligible to act as one in view of the cancellation of the registration. One could in fact continue further. It is the satisfactory answer to all these and related questions that would determine if the transactions, as claimed, are proved, or not. And, thus, the applicability or otherwise of section 68 of the Act in the present case. Also relevant, would be the materials

found during search in-as-much as they may indicate if the statements are corroborative and, further, if the modus operandi adopted, as explained therein, corroborates the facts and incidents of the case. The law in the matter is well settled, and toward which some binding decisions may be cited:

CIT vs. Sri Meenakshi Mills Ltd. [1967] 63 ITR 609 (SC)

Juggilal Kamalapat vs. CIT [1969] 73 ITR 702 (SC)

CIT vs. Durga Prasad More [1971] 82 ITR 540 (SC)

McDowell & Co. Ltd. vs. Commercial Tax Officer [1985] 154 ITR 148 (SC)

Workmen, Associated Rubber Industry Ltd. vs. ARI Ltd. [1986] 157 ITR 77 (SC)

CIT v. Akshay Textile Trading & Agencies (P.) Ltd. [2008] 304 ITR 401 (confirming that there was no departure from the principles/ratio of the decision in McDowell & Co. Ltd.(supra) in UOI v. Azadi Bachao Andolan [2003] 263 ITR 706 (SC))

Twinstar Holdings Ltd.v. Dy. CIT [2003] 260 ITR 6 (Bom)

It needs to be appreciated that though the Revenue has sought to impugn the transaction/s as bogus/not genuine, the issue is qua the applicability of section 68, whereby the statute itself casts a burden of proof on the assessee to satisfactorily explain the nature and source of a credit. The issue, which is purely in the realm of a factual matter, is thus whether the assessee has been able to satisfactorily prove the impugned credit, i.e., as would satisfy a man of normal prudence, acting reasonably, as where with regard to his own affairs. In other words, is the assessing authority, in being not satisfied with the assessee's explanation, backed of-course by the materials relied upon, acting reasonably. Being, of-course, where and to the extent required/relevant, duly informed of the applicable law/procedure. The law in the matter is again well settled, and toward which some binding decisions may be cited:

A. Govinda Rajulu Mudaliar v. CIT (1958) 34 ITR 807 (SC)

Sreelekha Banerjee & Othrs. v. CIT (1963) 49 ITR 112 (SC)

Kalekhan Mohammed Hanif v. CIT (1963) 50 ITR 1(SC)

CIT v. Durga Prasad More (supra)

CIT v. Biju Patnaik (1986) 160 ITR 674 (SC)

Sumati Dayal vs. CIT [1995] 214 ITR 801 (SC)

CIT vs. P. Mohanakala & Others (2007) 291 ITR 278 (SC)

Then, again, whether the Securities Transaction Tax (STT) has been paid on the purchase and sale of shares. This is as it is only where the STT is chargeable, that an exemption u/s. 10(38) enures. No material has been brought on record by the assessee to establish its' case, besides claiming reliance on the documents, and which gets impugned in view of the statements, the existence of which is not doubted; rather, accepted, requesting for cross examination.

*The Revenue, on its part, has though made out a case, has not brought on record all the relevant facts. Also, it cannot be denied that the assessee is entitled to be furnished a copy of all the materials being relied upon by the Revenue toward impugning the assessee's reliance on the said documents, and an opportunity to set up its defense. The issue to my mind is factually indeterminate. Reliance on the decisions by the tribunal in cases of other persons availing such credits; the issue being principally factual, would be of little assistance. This is stated as the ld. AR claims of about 15-20 cases by the Mumbai Benches of the tribunal in the recent months, where, under such circumstances, the appeals by the assessee are claimed to have been allowed. Why, the ld. CIT(A) has himself relied on several decisions by the tribunal, even discussing the facts thereof, where under such similar circumstances the additions have been confirmed, so that the issue in all the cases, to be decided on the facts and circumstances of each case, is with regard to the discharge or otherwise of the burden of proof on the assessee to satisfactorily explain the nature and source of the impugned credits. Toward this, reference has already been made to the order by the tribunal in *Ratanchand J. Oswal & Rishi R. Oswal (supra)*. Similarly, the tribunal in the case of *Ziauddin A. Siddique & Others vs. Jt. CIT (in ITA Nos. 4699 and 4700/Mum/2011 and others, dated 25.04.2014)* on a factual analysis found the transactions through the Ahmedabad Stock Exchange to be sham, with in fact the market rates itself being rigged.*

4. *The matter accordingly would stand to be restored to the file of the Assessing Officer for adjudication afresh, even as indicated during hearing. The assessee shall be allowed proper opportunity to state their case, as well as to meet that of the Revenue, which shall*

make available thereto all the materials being relied upon by it. Reference in this context may be made to, among others, the decision by the Hon'ble Apex Court in the case of Kapurchand Shrimal vs. CIT [1981] 131 ITR 451 (SC). I decide accordingly.

5. In the result, all the appeals are allowed for statistical purposes.”

In the light of the aforesaid discussion and the judicial pronouncement discussed hereinabove, there is categorical finding in para 3.3.3 of the impugned order that both the assessee before us are beneficiary of accommodation entry provided by Shri Mukesh Chokshi and his associates. Before us, the assessee has not contradicted the factual finding recorded in the impugned order, thus, considering the totality of facts, we find no infirmity in the impugned order, confirming the assessed income as income from other sources. The stand taken by the ld. First Appellate Authority is affirmed, therefore, both the appeals are having no merit, therefore, dismissed.

Finally, both the appeals are dismissed.

This order was pronounced in the open court in the presence of ld. representative from both sides at the conclusion of the hearing on 18/02/2016.

Sd/-
(Sanjay Arora)

Sd/-
(Joginder Singh)

लेखा सदस्य / ACCOUNTANT MEMBER

न्यायिक सदस्य / JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated : 29/02/2016

Shekhar, P.S. नि.स.

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

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