IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "B", MUMBAI
BEFORE SHRI R.C. SHARMA, ACCOUNTANT MEMBER AND
SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

आयकर अपील सं./**ITA Nos.7408/M/2014**

(**निर्धारण वर्ष / Assessment Year: 2010-11)**

ACIT CC 3(3) Mumbai – 4000020	Vs.	Mentor Capital Ltd. 713 Raheja Centre Free Press Journal Rd. Nariman Pt. Mumbai-400021
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : **AACCP7995G**		
(अपीलार्थी **/Appellant**)	··	(प्रत्यर्थी / **Respondent**)

AND

आयकर अपील सं./ **ITA Nos. 194 to 196/M/2015 & 7512/M/2014**

(**निर्धारण वर्ष /** Assessment Year: 2008-2009 to 2011-2012)

Mentor Capital Ltd. 713 Raheja Centre Free Press Journal Rd. Nariman Pt. Mumbai-400021	Vs.	ACIT, CC -22 Mumbai – 4000020
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : **AACCP7995G**		
(अपीलार्थी **/Appellant**)	··	(प्रत्यर्थी / **Respondent**)

राजस्व **की ओर से** /Revenue by : Shri N.P. Singh, CIT DR

निर्धारिती **की ओर से** /Assessee by : Mr. N. R. Suresh, AR

सुनवाई की तारीख **/ Date of Hearing : 25/07/2016**

घोषणा की तारीख**/Date of Pronouncement 03/08/2016**

आदेश / O R D E R

***PER R.C.SHARMA (A.M)*:**

These are the cross appeals filed by the revenue against the order of CIT(A)-Mumbai, for the A.Y.2010-2011 and the appeals filed by assessee for assessment years 2008-2009 to 2011-2012, in the matter order passed u/s 143(3)/143(3) r.w.s.147 of the I.T. Act.

2. Common grievance of the assessee in all the years pertain the disallowance made u/s 14A read with Rule 8D.

3. In the assessment year 2010-11 both assessee and revenue are aggrieved for addition made on account of share capital.

4. Rival contentions have been heard on record and perused.

5. Facts in brief are that assessee is a non-banking finance company. The return of income for A.Y. 2010-11 was filed on 25.09.2010 declaring income at Rs.7,14,97,010/-. A survey u/s 133A was carried out on the assessee company on 4.12.2010. During the course of survey it was found that the company was in receipt of share application moneys. During the survey, the department doubted that some of them could be accommodation entries. In the statement recorded Mr. Sanjay Dangi, Director of the company, under duress, stated that in respect of 12 parties that though they were genuine, it may be difficult for the investors to prove and offered as income Rs.11.45 crores. A revised return was filed declaring income of RS.18,59,95,930/-. During assessment proceedings it was also stated that the income was offered under pressure by Mr. Sanjay Dangi, Director and the share application moneys received are genuine and therefore not to be taxed as income. The AO examined the details and sought for confirmation of details by way of notice under Section 133 on the respective subscribers other than the 11 subscribers. The assessee also made a request to seek for confirmation under Section 133 from the 11 parties also and made detailed submission in this regard. However, AO did not send notices under Section

133 to the 12 parties The AO noticed that the amount received from the 12 parties aggregated to Rs.19.40 crores and not Rs.11.45 crores, therefore added the balance of Rs.7.95 Crores as income.

6. The AO also made addition u/s 14A r.w. Rule 8D.

7. In appeal filed before ld. CIT(A) assessee has agitated the addition made on account of share capital amounting to Rs.19.40 crores on the plea that complete details were filed before AO which establishes identity, genuineness and creditworthiness of shareholders, however without finding any fault therein, the AO has added the same is assessee's income. It was also submitted before the ld. CIT(A) that during the course of assessment, the A.O. had called for details of increase in share capital in the questionnaire annexed to notice under s.142(1) dated 29.11.2012. The assessee, as per its letter dated 07.01. 2013, had submitted the details as called for and the 'details submitted included the name of the subscriber, address, PAN, face value, share premium collected, copy of the Income Tax returns of all the' parties from whom share capital and share application money received, and also copies of bank statements of all the parties. It was also submitted that further details in respect of the share application money relating to merged companies had been filed before the A.O. on 17.03.2013. It was further submitted that the A.O. had examined the details and sought for confirmation of details by way of notice under s. 133 on the respective subscribers, other than the 11 subscribers, from whom the amount received was Rs. 19.40 crs. It was pointed out that the A.O. was satisfied with the

response to the notices under s.133 served on the subscribers and therefore, did not add any amount in respect of the subscribers to whom notices under s. 133 were served and reply received. It was further submitted by the assessee that in respect of the 11 parties also the primary information was submitted just as in respect of the other subscribers. Therefore, the assessee had established identity of the subscribers by giving name, address, PAN, application, allotment and bank statements of the assessee company as well as that of the subscribers. It was contended that though after filing of all these documentary evidences, the onus to prove that the share money is not genuine got shifted to the A.O., however the A.O. without examining the evidences filed and without calling for confirmation under s. 133 as was done in the case of other subscribers, added the amount of Rs. 19.40 crs. According to the assessee without considering the submissions, merely relying on the statement taken during the survey, the A.O. had added the balance amount also. In view of the matter, it was submitted that the addition of Rs. 19.40 crs, which is purely based on the oral statement, is not sustainable in law and is liable to be deleted.

8. In the impugned order ld. CIT(A) observed that the addition has been made by the A.O. without scrutinizing all the documents that had been filed before him. As can be seen in respect of the said 11 parties, the total amount received as share application money is Rs.19,40,00,000/-. Out of the said sum, the assessee had declared Rs.11,45,00,000/ - as his income and the same had been added by the AO. The CIT(A) perused the statement

recorded in the course of survey on 04.12.2010. In the statement as recorded, the assessee has stated that though the said amounts have been received by way of cheques, it may be difficult to be substantiated by the concerned investors, and therefore, to buy peace of mind a sum of Rs. 11.45 crs was declared as income for F.Y. 2009-10. According to the assessee, since all the relevant documents to prove the genuineness of the investors had been furnished, no addition is called for and in any case, no further addition than what was offered in the course of survey is called for. In view of the said submissions as made by the assessee, it was thought fit by CIT(A) in the surrounding circumstance of the case to remand the matter to the A.O. for verification of the documents filed and for conducting appropriate enquiries as regards the said relevant parties Therefore, as per remand order No. CIT(A)-39/Rem.Report/2013-14, the A.O. was directed to conduct necessary enquiries so as to ascertain the veracity of the' contentions as made by the assessee company that the subscribers are genuine parties. The remand order of the CIT(A) is reproduced below:-

> *"The assessment order in respect of the captioned year was passed under s. 143(3) of the Act as per order dated 28.3.2012. The return of income was filed on 25.9.2010 declaring total income at Rs.7,14,97,010/ - which later on was revised to Rs.18,59,95,930/-. The A.O has completed the assessment making the following additions:-*
> *i) Disallowance under s. 14A Rs. 7, 72, 74,019/ -*
> *ii) Unexplained cash credit under s. 68 Rs. 7,95,00,000/-*
> *2. A search and seizure action was conducted under s. 132(1) of the Act on the Directors of the company Shri Sanjay Dangi and Smt. Alpana Dangi. Thereafter, a survey was carried out in the business premises of the appellant company. During the course of survey it was noticed that the appellant company has received certain share application money, share capital and share premium. Share application and share capital money received to the extent of Rs.*

11.45 crores from 11 parties was declared as unaccounted income of the appellant for the captioned year. The said declaration was made by filing a revised return of income. During the course of assessment proceedings, it was observed by the A.O that there was receipt of Rs. 19.40 crores from certain parties.

In the course of assessment proceedings, it was the explanation of the appellant company before the AO that all the investments are by genuine investors and only to buy peace of mind it had surrendered Rs.11,45,00,000/- as income and in order to evidence that the investors are genuine, the assessee had placed before the A 0 the following documents:-
i. Copy of share application
ii. Copy of bank statement of investors evidencing payment of subscription money.
iii. Balance sheet of the investors for the financial year 2009-10
iv. Income Tax acknowledgement copy of the investor for assessment year 2010-11.

However, it is seen from the assessment order that the AO has not accepted the said explanation and had brought to tax a sum of Rs.7,95,00,000/- under is. 68 holding that since the assessee itself has admitted certain receipts form the above parties as genuine, the explanation as now offered cannot be accepted.

3. During the course of hearing of the appeal, it was submitted by the appellant that the AO has brought to tax a sum of Rs. 19.40 crores received as share capital ignoring the evidence as submitted before the A O. It is stated that in the course of assessment, the A 0 had called for details of increase in share capital as per notice issued under s. 142(1) of the Income Tax Act. It is submitted that as per letter dated 07.01.2013, the appellant company had submitted the details called for and that the details also included the name of the subscriber, address, PAN, face value, share premium, copy of income tax returns of all the parties from whom the share capital have been received. It is further submitted that a copy of the bank statement of all the parties from whom share capital/ share application money were received were also filed before the A O. It is further submitted by the appellant that the appellant also furnished all the primary information and thereby have established the identity of the subscriber by giving name, address, PAN, Bank A/c., Bank statement. of the assessee as well of the subscriber and therefore the onus to prove that the share monies are not genuine got shifted to the AO. It is the contention of the appellant that the AO without examining the facts filed, and without calling for confirmation. under s. 133 has added the amount of Rs. 19.40 crores.

4. From a reading of the assessment order, it is not clear whether the AO has examined the facts as already furnished by the appellant

company with regard to share capital brought in amounting to Rs. 19.40 crores. The appellant has furnished a Paper Book wherein the copy of the questionnaire dated 17.3.2013 and also replies to the questionnaire, as per pages 36 to 42 of the paper book. The evidence as submitted by the appellant in order to evidence the genuineness of the subscribers may be examined by the AO after conducting appropriate enquiries in this regard and also by calling for confirmation under s. 133 of the Income Tax Act. In other words, the AO is directed to conduct enquiries so as to ascertain the veracity of the contention as made by the appellant company that the subscribers are genuine parties and that the share monies are genuine. A copy of the paper book as submitted by the appellant company is enclosed. This matter is remanded to the A O so as to enquire and report whether the investments are by genuine investors and that the subscribers money invested are genuine. The A.O is directed to conduct necessary enquiries in this matter and to submit his report and that is in accordance with section 250(4) of the Income Tax Act. . The report in this regard may be sent on or before 20th March, 2014. The report may be expedited since this is case in which approval has been received from CIT(C)-II for early disposal from the B4 Basket.

After conducting the necessary enquiries as directed, the A.O. submitted the remand report dated 12.06.2014, which had been forwarded by the Addl.CIT, CR. 5, Mumbai as per her letter No. Addl.CIT-CR- 5/Remand Rprt/2014-15 dated 16.06.2014. The remand report as received from the A.O. is reproduced below:

"As per directions of the Ld. CIT(A) in order to ascertain the veracity of the contention as made by the appellant company that the subscribers are genuine parties and that the share monies are genuine, the undersigned issued notices u/s. 133(6) of the 1. T. Act, 1961 vide letter dated 13.03.2014 to all the parties as mentioned in the remand report called for. In response all the parties concerned submitted details called for which is enclosed. However, during the survey conducted on the assessee on 04.12.2010, the assessee in the statement recorded u/s. 131 of the income Tax Act, 1961 has stated as under :-

"Sir, I will take this opportunity to state that the following share applications though having been received by way of cheque, may be difficult to substantiated by the concerned investors and hence to buy

peace of mind, I declare the following amount of share applications as my own unaccounted income for the F. Y. 2009-10".

Hence, the entire amount received by the assessee from these parties of Rs.19.40 crs required to be treated as unaccounted income which includes an amount of Rs. 11.45 crs already offered by the assessee during the survey proceedings as this balance amount of Rs. 7.95 crs which is added during the course of assessment proceedings as this balance amount is received from the same parties.

9. In the rejoinder to the Remand Report, it was submitted by the assessee that from the remand report it can be seen that all the 11 parties are genuine and the share application money received are genuine. All the parties had responded to the notices issued under s. 133(6) and all the parties had confirmed the investments by furnishing the appropriate documents. It was further reiterated by the assessee that even as per the statement recorded it has been clarified and confirmed that the investments are by genuine investors and that it is only to buy peace of mind that the share application money received to the extent of Rs. 11.45 crs. has been declared by the assessee. Therefore, it was submitted by the assessee before the CIT(A) that the addition made by the A.O. on account of share capital should be deleted for the reason that the genuineness of the investments have been confirmed, no materials had been collected during the assessment proceedings to controvert the documents furnished and that the evidences on record will prevail over the recorded statement. Therefore, it was prayed that the entire addition of Rs. 19.40 crs be deleted.

10. By the impugned order ld. CIT(A) deleted the addition of Rs.7.95 crores and confirmed the addition of Rs.11.45 crores after having the following observation:

> *7.7 I have very carefully considered the findings of the A.O., the submissions as made by the appellant, the Remand Report of the A.O. as well as the Rejoinder filed by the appellant to the Remand Report. A survey had been carried out on the business premises of the appellant and in the course of survey the appellant had made a disclosure of Rs. 11.45 crs. The appellant had received share application money aggregating to Rs. 19.40 crs from 11 parties. From the contents of the statement recorded during the course of survey, it can be seen that share application money to the extent of Rs. 11.45 crs had been offered as undisclosed income on the ground that though the same had been received by cheques, it may be difficult to be substantiated by the concerned investors and therefore to buy peace of mind the said sum is being offered. The A.O., however, was of the view that since the aggregate sum of money received as share application money from the said 11 parties is Rs. 19.40 crs, the entire sum is to be brought to tax. However, the appellant had furnished relevant documents to support its contention that the investors are genuine such as copy of share application, copy of bank statements, copies of the balance sheets of the investors, copies of Returns of the investors before the A.O. in the course of assessment proceedings. Since, the assessment order was silent on the veracity of the said documents, through remand, the A.O. was directed to examine the veracity of the said documents and to conduct necessary enquiries as warranted. From the Remand Report as furnished by the A.O., which has been extracted above, it can clearly be seen that the evidences as furnished by the appellant have not been discredited. On the other hand, the A.O. has only cited the statement recorded in the course of survey in support of addition of Rs. 7.95 crs as made. It can be seen that the A.O. has not brought anything on record to conclude that the receipt of Rs. 7.95 crs is not genuine. Therefore, I am unable to sustain the addition of Rs.7.95 crs as made by the A.O. So also, there is no merit in the contention of the appellant that the entire sum of Rs. 19.40 crs requires to be deleted. During the course of survey under s. 133A, the appellant had, indeed, made a declaration and had surrendered Rs. 11.45 crs, which had been offered to tax by filing a revised return and incorporating the said sum for taxation. At this stage, the appellant is prevented from going back on his statement especially in view of the fact that it could not be pointed out whether there was any mistake of fact in the statement as made during the course of*

survey that resulted in the admission of income. A mere denial now made is certainly not a valid retraction in law. Having categorically stated that the admission is made to purchase peace of mind and there is not even an iota of whisper that the disclosure was under duress, the appellant is prevented from going back on its disclosure and stating that the entire addition be deleted. In view of the said facts and the legal position as set forth above, the addition is sustained to the extent of Rs.11.45 crs."

11. Against the above order of ld. CIT(A) both assessee and Revenue are in appeal before us.

12. It was argued by ld. AR that merely on the basis of statement recorded during course of survey u/s.133A an addition cannot be made as held by Hon'ble Supreme Court in the case of S. Kadar Khan 300 ITR 157. Our attention was also invited to the decision of Hon'ble Madras High Court in the case of CIT Vs. S.Khader Khan Son (2008) 214 CTR 589 wherein Madras High Court, held as under :-

"Section 133A does not empower any ITO to examine any person on oath; so statement recorded under section 133A has no evidentiary value and any admission made during such statement cannot be made basis of addition.

An admission is extremely an important piece of evidence but it cannot be said that it is conclusive; and it is open to the person who made the admission to show that it is incorrect.

The word 'may' used in section 133A(3)(iii), viz., 'record the statement of any person which may be useful for, or relevant to, any proceeding under this Act', makes it clear that the materials collected and the statement recorded during the survey under section 133A are not conclusive piece of evidence by themselves. The statement obtained under section 133A would not automatically bind upon the assessee.

Section 133A does not empower any ITO to examine any person on oath. In contradistinction to the power under section 133A, section 132(4) enables the authorized officer to examine a person on oath and any statement made by such person during such examination can also be used in evidence under the Income-tax Act. On the other hand, whatever statement is recorded under section 133A is not given an

evidentiary value. The statement obtained under section 133A would not automatically bind upon the assessee.

Therefore, admission made during such statement cannot be made the basis of any addition."

The above decision of the Madras High Court has been affirmed by the Supreme Court in Commissioner of Income Tax Salem Vs S Khader Khan Son (2008) 300 ITR 157 (Madras).

13. Reliance was also placed on the decision of Madras High Court in the case of CIT Vs. P. Balasubramanian (2013) 354 ITR 116, wherein it was held as under :-

"Any statement recorded under section 133A would have an evidentiary value only if it is supported by relevant material to substantiate same."

14. Reliance was also placed on the decision of Kerala High Court in the case of Paul Mathews & Sons Vs Commissioner of Income Tax (2003) 129 Taxman 416, wherein it was held that :-

" Section133A enables the income-tax authority only to record any statement of any person which may be useful but does not authorize for taking any sworn in statement. On the other hand, such power to examine a person on oath is specifically conferred on the authorized officer only under section 132(4) in the course of any search or seizure. Thus, the Act whenever it thought fit and necessary to confer such power to examine a person on oath, the same has been expressly provided whereas section 133A does not empower any ITO to examine any person on oath. In contradistinction to the power under section 133A, section 132(4) enables the authorized officer to examine a person on oath and any statement made by such person during such examination can also be used in evidence under the Act. On the other hand, whatever statement recorded under section 133A is not given any evidentiary value obviously for the reason that the officer is not authorized to administer oath and to take any sworn in statement which alone has the evidentiary value as contemplated in the law."

In Pullangode Rubber Products Co Limited Vs State of Kerala (1973) 91 ITR 18, it was held that: "-an admission is an extremely important

piece of evidence but it cannot be said that it is conclusive. It is open to the person who made the admission to show that it is incorrect."

15. Reliance was also placed on the decision of the Kolkata Tribunal, in the case of Assistant Commissioner of Income Tax Vs Samar Kumar Sen (Kolkata Tribunal) (ITA No.952/Kol/2013) July 01, 2016, wherein it was held that:-

"Statement recorded during survey has got no evidentiary value and AO had no jurisdiction to record a statement on oath u/s 133A during survey proceedings, since officer was not empowered u/s 133A to administer oath."

Reliance was also placed on CBDT Instruction and contended that the CBDT vide Instruction F.No.286/2003-IT have very clearly instructed its officers that there should be no attempt to obtain confession of undisclosed income during the course of search and seizure and survey operations and any action on the contrary shall be viewed seriously.

16. It was further contended by ld. AR that statement made by assessee during survey operations has no evidentiary value. For this reliance was placed in the case of Mahesh Ohri v. ACIT (Delhi) . 154 TTJ 33 Del 'E' (UO) ITR tribunal Volume 23 Part 4 page 522 and UNITEX PRODUCTS LTD. vs. ITO (2008) 22 SOT 429 (Mumbai).

17. Mr. N.R.Suresh, Ld. AR further contended that no other collaborating evidence was found during survey for addition except only statement of assessee. Amount surrendered in survey under pressure, no material or evidence was found in support of amount was surrendered, under these

circumstances, addition is liable to be deleted. For this purpose reliance was placed on the following decisions :-

> *Satish Builders v/s ACIT ITA no. 4095 12005 Bench 'C' dated 13/212009 (Del) reported in Tax review March 2009 page 65 23 DTR 171 (Del);*
>
> *DCIT v/s Premsons 'B' Bench Mumbai BCA April 2009 page 25 130 TTJ 159 (Mum)*
>
> *DCIT v/s Pahar Ganj Grih Nirman Sahakari Samiti Ltd. 99 TTJ 549 (Jaip)*
>
> *Ajit Chintaman Karve v/s ITO 311 ITR (AT) 66 (Pune)*

18. In view of above submission, it was contended by ld. AR that considering the law that a statement recorded under 133A(3)(iii) does not have a stand-alone evidentiary value and in the absence of any materials that have been gathered during the Survey / Assessment proceedings, cannot be the basis for an addition. Further the remand report is also in favour of the assessee. Following the CBDT Instructions, the decision of the Madras High Court, Kerala High Court and Supreme Court, the Hon'ble ITAT should delete the entire addition so made by AO.

19. On the other hand it was contended by ld. CIT DR that during the course of survey, director of the assessee company himself has declared income of Rs.11.45 crores in respect of 11 shareholders, therefore, there is no justification for deleting the addition in respect of income so declared during the survey and also offered by way of revised return filed with the department. He further contended that correct amount in respect of these

shareholders works out to Rs.19.40 crore, therefore, CIT(A) was not justified in deleting the addition of Rs.7.95 crores.

20. We have considered rival contentions and carefully gone through the orders of authorities below as well as statement recorded during the course of survey u/s.133A. We had also deliberated on the judicial pronouncements referred by lower authorities in their respective orders as well as cited by ld. AR and DR during the course of hearing before us. From the record we found that assessee is a non-banking finance company engaged in the business of trading in shares and securities and also investment. There was a survey at the residence of director, during the course of survey u/s.133A, statement of director was recorded, wherein income of Rs.11.45 crores was offered in respect of share capital alleged to be accommodation entries. During the course of assessment u/s.143(3) the assessee has filed complete details of share applicants, their PAN nos. bank statement, their balance sheet, return of income filed with the department to substantiate identity of subscribers, genuineness of transaction and creditworthiness of investors. Accordingly, it was contended that all the shareholders are genuine and amount was surrendered under misconception of facts. The AO by issuing notice u/s.133(6) on the respective subscribers, examined the details and sought for confirmation. There was no adverse remark by the AO with regard to the genuineness, creditworthiness or identity of the subscribers. The addition was made merely on the basis of statement so made and the revised return so filed by the assessee.

21. The issue was taken in appeal before the CIT (A) and detailed submissions were made. The CIT (A) called for remand report directing the AO to conduct appropriate enquires under Section 133 and confirm the genuineness of the evidences filed by the assessee including that investors are genuine and subscription money received was genuine. In the remand report AO has confirmed that in response to notices issued under Section 133(6) all the parties in the report concerned submitted the details called for. The AO did not report any infirmities on the confirmation received and the CIT (A) has made a finding that the evidences filed by the assessee have not been discredited and the AO has not brought anything on record to conclude the receipt of Rs.19.40 crore as not genuine. However, without giving any justification or reasoning the CIT(A) deleted only the addition of Rs.7.95 crores, and upheld the addition of Rs.11.45 crores purely based on the statement recorded during course of survey, ignoring the various decisions cited. As per the judicial pronouncements discussed above, under Section 133A(3)(iii), an Income Tax authority acting under that section may record the statement of any person, which may be useful for or relevant to any proceedings under the Act. However, under Section 133A (3) (iii),the authority cannot examine the person on oath, unlike the powers conferred under section 132(4). A statement recorded under oath has no evidentiary value by itself. It can only support other evidences that the income tax authority may rely upon to make an addition or disallowance. Mere statement

without corroborative evidence cannot be made the basis for assessment of income.

22. As per verdict of Hon'ble Supreme Court in the case of CIT Vs. S. Kahder Khan & sons, 300 ITR 157, Section 133A does not empower any IT Authority to examine any person on oath, hence, mere statement recorded during survey has no evidentiary value and any such addition cannot be made, without bringing on record corroborative materials. The Hon'ble Supreme Court further observed that this view is clearly supported by CBDT Circular dated 10th March, 2003. Accordingly it was held that no addition can be made merely on the basis of statement recorded during survey u/s.133A. Futhermore, any statement without any corroborative evidence cannot be used for making an addition especially when such statements are made during the survey proceedings. For this purpose, reliance can be made on the following judicial pronouncement.

> *i. S Arjan Singh vs. CWT 175 ITR 91 [Delhi]*
> *In this case the assessee is having one property at Aurangzeb Road, New Delhi. The assessee had indicated some value in the Wealth Tax Return. The WTO referred the matter to a valuer and accepted the value determined by the Valuation Officer. The assessee appealed to the AAC that the Valuation Officer had, inter alia, not deducted 50 percent of the unearned increase to be paid to the Land and Development Officer on transfer, in arriving at the valuation. The AAC rejected the contention but the Tribunal held that after 1951, this payment became obligatory and the said amount has to be allowed as a deduction in arriving at the valuation of the property in the light of the principles laid down by the Supreme Court in CWT vs. Sikand (P. N.) (1977) 107 ITR 922. Consequently, the Tribunal directed the WTO "to recompute the value of the property in different years in the light of the above directions" but indicated that the recomputed value will not be less than that returned by the assessee in those years.*
>
> *Against this, the assessee had preferred an appeal in HC raising the question that lithe Tribunal erred in law in holding that the*

valuation of the property computed in accordance with the direction of the Tribunal be not less than that returned by the assessee itself."

Hon'ble High Court had held that a valuation lower than that returned may be the correct value. An admission is an important piece of evidence, but it is not conclusive and it is open to the assessee to show that it is incorrect.

ii. Commissioner Of Income Tax vs. Dhingra Metal Works 328 ITR 384 [Delhi]

On 14th Sept., 2004, a survey under s. 133A of the Act was conducted on the assessee's business premises. During the course of survey, the tax officials noticed some discrepancies in stock and cash in hand. During the said survey, assessee surrendered an amount of Rs. 99,50,000/- and offered the same for the purposes of taxation. The additional income offered included a sum of Rs. 45,00,000 on account of excess stock found during the course of survey and offered by one of the partners of the assessee as additional income. Subsequently, the assessee vide its letter dt. 29th Nov., 2004, contended that the statement about stock was incorrect and that the impugned discrepancy had been reconciled as it was only a mistake. Consequently, the respondent-assessee withdrew the offer of additional income for taxation on account of excess stock.

On 31st Dec., 2007, the AO passed the assessment order wherein he did not accept the plea of the assessee that excess stock during the course of survey had been reconciled. The AO relied upon the statement of one of the partners of the assessee given during the course of survey under s. 133A of the Act and concluded that the explanation/retraction by the assessee was an afterthought and had no element of truth. CIT (A) as well as ITAT had deleted the addition. Department had preferred an appeal in HC. HC Held that where the assessee has been able to explain the discrepancy in stock found during the survey, addition could not have been made by the AO solely on the basis of the statement made by the assessee during the course of survey.

iii. Paul Mathews & Sons Vs. Commissioner Of Income Tax 263 ITR 101Revision-Erroneous and prejudicial order-Assessment vis-a-vis disclosure during survey-Sec. 133A does not empower any ITO to examine any person on oath-Thus, the statement elicited during the survey operation has no evidentiary value-ITO did not accept the income declared by the assessee after the survey in a mechanical way, but applied his mind to various aspects of the matter before completing the assessment-Advances admittedly received by the assessee from two parties have been explained partly and the unexplained amount is telescoped in the income already disclosed. Hence, no separate addition was made-Alleged admission in the statement of the

managing partner was only a qualified one and the assessee had clearly explained the same to the AO by cogent materials-Order passed by the AO cannot be said to be erroneous or prejudicial to the interests of Revenue - CIT not justified in invoking powers under s. 263.

iv. Assistant Commissioner Of Income Tax Vs. Smt. Usha Rani Talla 6 ITR (Trib) 37.

Assessment - Undisclosed income – Addition - Sustainability-Survey operations in the business premises of partnership firm carrying business in jewellery-discrepancy found in the stock and cash found-Assessee being the wife of the partner summoned and her statement recorded-Based on the statement made by her amounts surrendered during survey added to income of assessee notwithstanding the subsequently retraction of the statement stating that it was made in a disturbed mind-On appeal CIT(A) holding that there being no evidence regarding undisclosed income, addition made only on the basis of statement given in a state of confusion and later retracted, could not be sustained either in part or as a whole-On further appeal held that a statement is recorded under s. 133A is not given any evidentiary value obviously for the reason that the officer is not authorized to administer oath and to take, any sworn statement which alone lends evidentiary value as contemplated under the law-Basis for addition was the statement of the assessee without any corroborative material or evidence on record no material brought on record by the AO to substantiate that any expenditure on renovation was incurred by the assessee nor the AO made any reference to the DVO to find out the correct state of affairs-No addition warranted in the hands of the assessee merely because she signed the statement accepting the same.

v. CIT vs. P Balasubramanian 354 ITR 116 [Madras]
Survey-Statement recorded u/s 133A-No corroboration-Addition-Deletion thereof-Survey was conducted at assessee's premises-900 gms of gold was found during survey-Assessee's statement that it had 2100 gms of gold which was given to three persons was recorded-AO made addition of 3000 gms of gold-CIT(A) further made addition of unaccounted cash found in survey and interest earned on unaccounted investments based on assessee's statement-Tribunal deleted additions made by CIT(A)- Held, assessee, in his explanation, had stated that remaining 2100 gms had been given to 3 Asaris- Officers had not verified whether gold was available with said Asaris nor chose to examine them- Statement recorded during survey operation u/s 133A may be a relevant material, but in absence of further materials to substantiate same, such statement recorded u/s 133A can hardly be basis for assessment-During survey, 900gms gold was found in assessee's premises and statement of assessee was supported only to that extent-Statement of assessee in respect of remaining gold was not substantiated-In so far as unaccounted cash, assessee tried to explain

by stating that he had sold a land and consideration was deposited in Bank and was withdrawn and during course of survey, Department came across said cash-Survey was on 29.10.2002 and withdrawal of money from Bank was a few days before search-Even though said amount was not disclosed in his books, assessee tried to explain same- So far as addition of interest earned on unaccounted investment in money lending business was concerned, enhancement was based only on statement recorded from assessee-No other material or information was available that assessee invested in money lending business and earned interest-Thus, addition was based on only rough estimate-CIT{A) made enhancement to income determined by Assessing Officer based on unsworn statement obtained u/s. 133A, in absence of other materials-Thus, Tribunal had rightly set aside order of CIT (A).

vi. ITO vs. Vijay Kumar Kesar 327 ITR 497 [Chhattisgarh]
Income from undisclosed sources-Addition under s. 69-Addition on the basis of statement recorded during survey-Assessee surrendered the cash and value of excess stock found during survey for taxation but did not offer any such amount in his return-He produced his updated books of account and other primary records during the assessment proceedings to explain the cash and stock found at the time of survey but the AO rejected the same solely on the ground that the assessee had made confessional statement during the survey proceedings and surrendered income from undisclosed sources in the form of cash and excess stock and such primary evidence was produced after considerable period-On appeal, CIT(A) accepted the explanation offered by the assessee and the books of account produced by him as the entries in the books were supported by primary evidence-CIT(A) also accepted the explanation that the statements were made by the assessee without understanding the import of the same as he was under stress due to the death of his daughter-Order passed by CIT(A) has been confirmed by the Tribunal- Findings recorded by both the authorities cannot be termed perverse or contrary to record-Confession made by the assessee during survey proceedings is not conclusive and it is open to the assessee to establish that the same was not true and correct by filing cogent evidence-Additions rightly deleted.

vii. ClT vs. Mrs Doris S Luiz 96 ITR 646 [Kerala]
The stand taken by the assessee was that the money in question is in the nature of trust money, not impressed with the character of revenue receipt. On a careful analysis of the position, one is satisfied that the money was being held by the assessee in confidence for the benefit of the students going for overseas training and employment and, as such, it is not a taxable item in her hands. The money received has no profit-making quality about it, and it continues to be the money of the students for which the assessee is accountable to the students. The assessee all along has been in the bona fide belief that the surplus amount in her hands under the above account was in the nature of a

trust fund refundable or returnable to the party. Reliance was placed very much by the lAC on the admission of the assessee that Rs. 22,000 was not refunded to the students. It is stated that she agreed to the said amount of Rs. 22,000 being treated as income. It is worthwhile to remember in this connection that during all the relevant years the assessee had taken the consistent stand that the deposits were returnable to the persons concerned after meeting the expenses, and the surplus, therefore, should not be assessed as income. During the year in question she happened to make the admission under a misconception of the attendant facts and circumstances. In spite of the admission it is incumbent on the Department of establish by relevant proof that the amount in question was income in the hands of the assessee. The admission was wrong and it was for the Department to prove positively on other material that there was concealment of income. Being a quasi-criminal proceeding, the burden is entirely on the Department. Apart from the so-called admission, there is no material to hold that the income was concealed.

Further Hon'ble se in case of Pullangode Rubber Produce Co ltd vs. State of Kerala & ANR 91 ITR 18 had held that an admission is an extremely important piece of evidence but it cannot be said that it is conclusive. It is open to the person who made the admission to show that it is incorrect.

In this case the assessee had incurred an amount of Rs. 79,680/- for the cultivation, upkeep or maintenance of immature plants. The same has been capitalized in the books of accounts. However, at the time of agricultural income tax assessment, the same has been treated as revenue expenditure and deducted in the computation. The same was denied to the assessee. The matter ultimately travelled to se. se held that "It is no doubt true that entries in the account books of the assessee amount to an admission that the amount in question was laid out or expended for the cultivation, upkeep or maintenance of immature plants from which no agricultural income was derived during the previous year. An admission is an extremely important piece of evidence but it cannot be said that it is conclusive. It is open to the person who made the admission to show that it is incorrect. "

However, during the course of survey, no incriminating evidence was gathered by the survey team to prove that the assessee has obtained bogus share capital. Further no evidence was gathered by the survey team that cash was paid by the assessee to these parties after amount of share capital was received in cheques. Thus, charge of bogus share capital having been

obtained by assessee is not proved by any incriminating material gathered during the survey operation or while completing scrutiny assessment u/s.143(3) or even during remand proceedings.

23. In the instant case, a survey has been conducted under section 133A and a confession statement has, no doubt been taken admitting income of Rs.11.45 Crores towards Share Capital receipts. However, the confession statement alone cannot be the basis and the Assessing Officer should have gathered enough materials to substantiate that the subscribers are not genuine or the money received are not properly explained. In the case of the assesse, during assessment proceedings the company furnished all the primary information relating to the subscribers like name of the subscribers, PAN No., copy of Bank statement, Income Tax Return etc. and further requested that proceedings under section 133 may be made on these 11 parties similar to what has been done by AO in respect of other cases. In the course of the proceedings before CIT(A), the CIT(A) called for remand report to be submitted after examining the parties and in fact a remand report was submitted by AO. The AO did not report any infirmities on the documentary evidences submitted by assessee with regard to identity, genuineness and creditworthiness of subscribers. After considering the remand report, the CIT(A) has made a very clear observation that evidences filed by the assessee have not been discredited and the AO has not brought anything on record to conclude the receipt as non-genuine. However, nothing was placed on record by ld. DR to controvert the findings given in the remand report vis-

à-vis finding of CIT(A) to the effect that evidences filed by the assessee with regard to the subscribers have not been discredited and the AO has not brought anything on record to conclude the receipts of Rs.19.40 crores as non-genuine. Under these facts and circumstances, we do not find any justification on the part of the CIT(A) for upholding addition of Rs.11.45 crores, which was offered by assessee during course of survey u/s.133A. Accordingly, we direct the AO to delete the entire addition of Rs.19.40 crores towards share capital receipts. The action of CIT(A) for deleting the addition of Rs.7.95 crores are upheld. There is no difference with respect to the finding given by AO in the remand report with regard to the share capital of Rs.11.45 crores vis-à-vis share capital of Rs.7.95 crores. In respect of 11 subscribers the assessee has filed all the informations and documentary evidence so asked by AO to establish the identity, genuineness and creditworthiness of the respective subscribers. However, nothing was brought on record either during the course of original assessment proceedings nor during the course of remand proceedings so as to allege that any of the subscribers were ingenuine. Accordingly, addition made merely on the basis of statement recorded u/s.133A is not sustainable in law and facts.

24. In the assessment year 2010-11 the assessee is also aggrieved for the disallowance made by the AO u/s 14A r. w. r. 8D. From the record we found that the Assessee earned dividend income of Rs.2, 03 85 715 and the same has been claimed as exempt income. The Assessee in the Return of Income

offered disallowance of Rs.4,65,28,474/- under section 14A of the Income Tax Act. The aassesse was asked to explain why disallowance should not be made in accordance with rule 8D. In response the assessee by their letter dated 22. 3.2013 made submission as to why disallowance under section 14A read with Rule 8D is not required. The AO held the assessee could not establish that entire investments has been made out of own funds, therefore, interest relating to investments were disallowed. Further, as per AO the assessee could not establish and provide any basis for just and fair disallowance under section 14A. Since the assessee could not provide any method / basis which is acceptable to the department, he has invoked the provision of section 14A and Rule 8D.

25. By the impugned order ld. CIT(A) confirmed the action of the AO by observing that the assessee had, suomoto, worked out disallowance under 14A based on adhoc method and the AO computed the disallowance as sanctioned by law.

26. Reliance was also placed by ld. CIT(A) on the decision of Chennai Tribunal in the case of DCIT Vs Vinbros and (2013) 141 ITO 626.

27. Similar disallowance u/s.14A has been made by the AO in the A.Y. 2008-09. From the record we found that the assessee earned dividend income of Rs.1,37,96,163 and the same has been claimed as exempt income. In the Return of Income disallowance of Rs.1,37,96,163 under section 14A of the Income Tax Act was made. In the order under section 143(3), 14A was reworked by AO applying Rule 8D and disallowance of

Rs.7,90,87,380 was arrived at after considering amount already disallowed by the Assessee. Rectification letter was filed by the assesee on 15.12.2010 asking for net interest to be considered for disallowance and only investment earning exempted income has to be considered for average investments. Order under section 154 was passed on 18.01.2011 re-computing 14A read with rule 8D to Rs.6,95,83,725. During the course of reassessment proceedings the assessee made a claim by their letter dated 18-03-2014 as to why disallowance under section 14A read with Rule 8D is not required. The assessee also submitted that the interest free funds of the company are in excess of investments yielding exempt income and also further submitted that the incremental interest free cash flows exceeded the incremental investments yielding exempt income and therefore no interest need be disallowed. In respect of administrative expenditure, the assessee company submitted details of direct expenditure related to exempt income, expenditure relating to taxable income and expenditure disallowed in the computation and claimed that no interest need be disallowed and the disallowance of common expenditure to be restricted to 0.5 % of average of opening and closing investments.

28. However, he AO did not accept the claim on the ground that any claim for deduction can be made only by filing a revised return of income as held by the Supreme Court in M/s. Goetze India Ltd., Vs Commissioner of Income Tax (2006). 284 ITR 323. The AO also disallowed interest applying Rule 8D

on the basis that assessee has interest free funds and borrowed funds and the assessee has investments yielding tax free income.

29. By the impugned order ld. CIT(A) confirmed the action of the AO. Exactly on the similar reasoning AO has made disallowance for the year 2009-10 and 2011-12 by observing that any claim for deduction can be made only by filing a revised return of income as held by the Supreme Court in M/s. Goetze India Ltd., Vs Commissioner of Income Tax (2006). 284 ITR 323. The AO also disallowed interest applying Rule 8D on the basis that assessee has interest free funds and borrowed funds and the assessee has investments yielding tax free income.

30. It was contended by ld. AR that disallowance under section 14A has been a part of the original return of income filed and the claim during assessment proceedings for reworking is in continuation of the claim made in the original return. No new facts have been brought on record and both Section 14A and the facts relating to the claim were already on record when the return was filed and therefore, the claim before the AO is a continuation of the claim already made.

31. Reliance was placed by ld. AR on CBDT Circular No. 14 (XL-35), dated 11-4-1955, wherein CBDT has instructed that Officers must not take advantage of ignorance of an assessee as to its rights and its one of the duties to assist the tax payer in every reasonable way particularly in the matter of claim and securing reliefs. In the said circular, they have cited certain examples and it is stated that examples cited are by no means

exhaustive. This circular being a beneficial circular in favour of the assessee is binding on the AO and therefore CIT should have directed the AO to consider the claim made by the assess, which is in accordance with law

32. Reliance was also placed by ld. AR on the decision of jurisdictional High court in Commissioner of Income Tax Vs Pruthvi Brokers and Shareholders P. Ltd., (2012) 349 ITR 0336, wherein it was held that :-

> *"An assessee is entitled to raise not merely additional legal submissions before the appellate authorities but is also entitled to raise additional claims before them. The appellate authorities have the discretion to permit such additional claims to be raised. The appellate authorities have jurisdiction to deal not merely with additional grounds, which became available on account of change of circumstances or law, but with additional grounds which were available when the return was filed. The words "could not have been raised" must be construed liberally and not strictly. There may be several factors justifying the raising of a new plea in an appeal and each case must be considered on its own facts."*

33. Further reliance was placed by ld. AR on the decision of Hon'ble Delhi High Court in Commissioner of Income Tax Vs Sam Global Securities Ltd., (2013) 38 Taxmann, wherein it was also held that :-

> *"In Goetze (India) Ltd., v.CIT (2006) 284 ITR 323 (SC) wherein deduction claimed by way of a letter before the AO, was disallowed on the ground that there was no provision under the Act to make amendment in the return without filing a revised return. Appeal to the Supreme Court, as the decision was upheld by the Tribunal and the High Court, was dismissed making clear that the decision was limited to the power of the assessing authority to entertain claim for deduction otherwise than by a revised return, and did not impinge on the power of the Tribunal.*

34. On the other hand, it was contended by ld. DR that AO has correctly computed the disallowance u/s.14A r.w.r.8D in respect of expenditure incurred for earning exempt income.

35. We have considered the rival contentions and carefully gone through the orders of the authorities below. We had also deliberated on the judicial pronouncement referred by lower authorities in their respective orders as well as cited by ld. AR and ld. DR during the course of hearing before us, in the context of factual matrix of the instant case. We had also perused the balance sheet and cash flow statement placed on record so as to work out interest free fund available with the assessee for making investment in tax free securities. In respect of assessment years 2008-09, 2009-10 and 2011-12, we found that the assessee has interest free funds in excess of investments yielding tax free income as demonstrated by the assessee by the networth method as well as the incremental cash flow method during assessment proceedings and this was reiterated in appellate proceedings before the CIT(A). In respect of assessment year 2010-11, we found that the observations made by the AO is contrary to facts and the details filed during assessment which clearly indicated availability of interest free funds invested in shares and securities. On 22.03.2013 a detailed note as to why no disallowance is required under section 14A was filed by assessee before the AO, wherein it was brought to the attention of the AO that following the net-worth method, the interest free funds were in excess of the book value of the investments and further a statement for the Financial Years 2007-08, 2008-09 and 2009-10 showing the incremental cash flows with respect to interest free funds and investments yielding exempt income was also submitted. The AO failed to consider the same and passed an order. We also found that the

matter was again brought to the attention of the CIT(A) and submissions were made. However. the CIT(A) has also brushed aside the correct facts on record and without adjudicating on the submissions filed, dismissed the appeal and confirmed the addition. The fact that interest free funds are in excess of investments yielding exempt income has been established before the AO based on the materials filed with the return of Income and in fact has been accepted by the AO in three assessment years and reiterated before the CIT(A). The issue that no disallowance may be made under section 14A, if the interest free funds are in excess of investments yielding exempt income is settled by the jurisdictional High Court decisions in the case of HDFC Bank 49 taxmann.com 335 and 67 Taxmann.com 42 and Reliance Utilities 313 ITR 340 and by the decision of the Gujarat High Court in CIT Vs UTI Bank (2013), 32 Taxmann.com 370 etc.

36. The assessee had suo moto disallowed interest u/s.14A of the Act in the computation of income out of abundant caution. The assessee during the proceedings u/s.143(3) had made a claim before the AO that own funds being more than tax free investments, the disallowance u/s.14A be deleted. Under these circumstances the AO is bound to assess the correct income and for this purpose, the AO should grant reliefs/refunds suo moto or can do so on being pointed out by the assessee in the course of assessment proceedings for which the assessee has not filed revised return any claim in the return.

37. The Mumbai Tribunal in the case of Chicago Pneumatic India Ltd vs. DCIT (15 SOT 252) after considering the decision of Apex Court in the case of Goetze (India) Ltd. 284 ITR 323 has held that the AO is bound to assess the correct income and for this purpose, the AO may grant reliefs/refunds suo moto or can do so on being pointed out by the assessee in the course of assessment proceedings for which the assessee has not filed revised return.

38. The Mumbai Tribunal while rendering the decision also recognized the fact that in case like that of assessee it leads to a situation which results in undue hard ship to the assessee. The Tribunal further relied on the Circulars issued by the CBDT especially Circular No. 14 (XL-35) dated 11-4-1955. In the said Circular the CBDT has directed the officers to draw the attention of the assessees in respect of any refunds or reliefs to which they are eligible, which they have not claimed for some reason or the other. The Tribunal held that if a circular is issued directing the assessing authorities to grant reliefs/refunds while completing the assessment proceedings, even though such circular may be at variance with the law, as pronounced by the Supreme Court, yet the same would be binding on the subordinate income-tax authorities. Therefore, circulars of same nature which have been already issued would not become irrelevant or can be ignored. The relevant observations of Tribunal are reproduced as under:

> *"It is well-settled that the onus lies on the assessee to make right claim and such claim must be made within the framework of provisions of the Act. However, this situation may result into genuine hardship to the assessees, as the assessees would be left with the option only to proceed u/s. 264, that too in case they have not gone into appeal before the Commissioner (Appeals) on the same issue or*

the Commissioner (Appeals) has not admitted those issues. Other' option would be to approach the CBDT u/s. 119 for getting the specific relief Both these options involve time as well as engagement of other administrative authorities, which can be otherwise devoted to other important issues. Therefore, one has to look into the duties of the AO rather than the powers of the AO, because the Government is entitled to collect only the tax legitimately due to it, otherwise the tax not so collected would be violative of the article 265 of the Constitution. The CBDT as back as in the year 1955 issued Circular No. 14 (XL-35), dated 11-4-1955 as to what should be a departmental attitude towards refund and reliefs to the assessees. In this circular, the CBDT has recognized the fact that responsibility for claiming refunds and reliefs rests with the assessees; even then the CBDT has directed the officers to draw the attention of the assessees in respect of any refunds or reliefs to which they are eligible, which they have not claimed for some reason or the other. Further, the Board also issued Circular No. F. 81127/65-iT(B), dated 18-5-1965 defining the duties of the PROs in providing assistance to the public. in this circular, the CBDT has also advised the PRO to visit the Government/commercial establishments to provide them assistance in filing correct returns and making eligible claims. These circulars issued by the CBDT almost 4-5 decades before cast a duty on the AO to collect only the legitimate tax. It is a settled position that the Circulars issued by the Board are binding on the subordinate income-tax authorities and if the CBDT issues directions which are beneficial to the assessees, although the same may not be directly in consonance with the provisions of law, even then these instructions have to be given effect to and adhered to by the concerned authorities. Thus, there is a strong case for reciprocity to be shown by the revenue authorities while completing assessments and to avoid administrative hardships to the assessee. The CBDT is the Apex body for tax administration and it can also issue directions which are for the benefit of the assessee's, though such directions may not be in consonance with the provisions of law; hence, if circular is issued directing the assessing authorities to grant reliefs/refunds while completing the assessment proceedings, even though such circular may be at variance with the law, as pronounced by the Supreme Court, yet the same would be binding on the subordinate income-tax authorities. Therefore. circulars of same nature which have been already issued would not become irrelevant or can be ignored. Admittedly, the circular issued in the year 1955 has not been withdrawn; hence, it has got binding force on the subordinate authorities even as on date. Accordingly, the AO is bound to assess the correct income and for this purpose, the AO may grant reliefs/refunds suo moto or can do so on being pointed out by the assessee in the course of assessment proceedings for which the assessee has not filed revised return. Therefore, the Commissioner (Appeals), having coterminus powers with the powers of the AO and the fact that appellate proceedings are the continuation of original proceedings, should have entertained the claim of the assessee and

allowed, if other conditions of the provisions of the law were satisfied. Therefore, the Commissioner (Appeals) was to be directed to consider the claim of the assessee at the revised figures on merits and decide the same according to the provisions of sections 80HH and 80-I. (Emphasis Supplied).

Further, the Hon'ble Gujarat High Court in the case of Choksi Metal Refinery Vs.CIT (107 ITR 63) also relied on the Circular 14 (XL-35) and held that the AO is duty bound to point out any relief available to the assessee under the Act even though it is not claimed by the assessee.

39. The jurisdictional High Court in the case of CIT Vs. Reliance Utilities & Power Ltd., 313 ITR 340 has laid down the following principle :-

"If there are funds available both, interest free and over draft and/or loans are taken, then a presumption would arise that investments would be out of the interest-free fund generated or available with the company, if the interest-free funds are sufficient to meet the investments."

40. Hon'ble Bombay High Court in the case of CIT Vs. Pruthvi Brokers & Shareholders Pvt. Ltd. (349 ITR 336) has held as under:

"We find well founded, Mr. Mistri's submission that even assuming that the Assessing: Officer is not entitled to grant a deduction On the basis of a letter requesting an amendment to the return filed, the appellate authorities are entitled to consider the claim and to adjudicate the same. (para 9) .

It is also important to note that in the appeal filed by the appellant before the Tribunal, there is no challenge to the CIT(A) having entertained the respondent's claim for deduction on the ground that the appellate authority had no jurisdiction to do so. Even if such a contention had been raised, it would make no difference. (para 11)

The underlined observations in the above passage do not curtail the ambit of the jurisdiction of the appellate authorities stipulated earlier. They do not restrict the new/additional grounds that may be taken by the assessee before the appellate authorities to those that were not available when the return was filed or even when the assessment order was made. The sentence read as a whole entitles an assessee to raise new grounds/make additional claims

"if the ground so raised could not have been raised at that particular stage when the return was filed or when the assessment order made .... "

"or"

if "the ground became available on account of change of circumstances or law" .... (para 17)

The appellate authorities, therefore, have jurisdiction to deal not merely 'With additional grounds, which became available on account of change of circumstances or law, but with additional grounds which were available when the return was filed. The first part viz "if the ground so raised could not have been raised at that particular stage when the return was filed or when the assessment order was made ... " clearly relate to cases where the ground was available when the return was filed and the assessment order was made but "could not have been raised" at that stage. The words are "could not have been raised" and not "were not in existence". Grounds which were not in existence when the return was filed or when the assessment order was made fall within the second category viz. where "the ground became available on account of change of circumstances or law. "(para 18)

The words "could not have been raised" must, therefore, be construed liberally and not strictly. (para 19)

"It is indeed a question of exercise of discretion whether or not to allow an assessee to raise a claim which was not raised when the return was filed or the assessment order was made. As held by the Supreme Court there may be several factors justifying the raising of a new plea in appeal and each case must be considered on its own facts. However, such cases include those, where the ground though available when the return was filed or the assessment order was made, was not taken or raised for may consider valid. In other words, the jurisdiction of the appellate authorities to consider a fresh or new ground or claim is not restricted to cases where such a ground did not exist when the return was filed and the assessment order was made. (para 20)

In the decision of Pruthvi (supra), the AO rejected the claim for deduction made by the Assessee in the course of the assessment on the ground that it was not claimed in the ROI. Before CIT(A), the assessee argued that CIT(A) had powers to consider the claim of the Assessee. In that case, CIT(A)

examined the issue and allowed the deduction claimed. In the Department's appeal Hon'ble ITAT noted that the Assessee had relied on NTPC and other cases on the powers of the Appellate authorities and dismissed the appeal after considering the claim. Thus, in Pruthvi's case there was a claim before the AO as well as an independent claim before the appellate authorities, viz: CIT(A) and ITAT. Thus, while in Goetze (supra), the claim was only before the AO, in Pruthvi (supra), there was a claim before the AO as well as the Appellate authorities.

41. In Pruthvi's case, Hon'ble High Court interpreted the power of Hon'ble ITAT to include a power to entertain a claim for the first time based in a judicial decision given while the appeal is pending before ITA T. Hon'bIe High Court heavily relied on the decisions of the Apex Court in Jute Corporation of India Ltd. (187 ITR 688) and NTPC (supra) to decide on the powers of the Appellate Authorities. On page 349 of the Report, Hon'bIe High Court has referred to Goetze (supra) and has observed that in the case before Hon'ble Supreme Court, there was no claim before the appellate authorities and that the jurisdiction of the appellate authorities has not been negated in Goetze (supra).

42. The assessee, based on the Judgment of the Hon'ble Bombay High Court in the case of Reliance Utilities (supra) and also the decision of in the case of HDFC Bank (supra) has raised such claim before the Income-tax Authorities that no disallowance u/ s 14A of the Act be made if investments

are made from own funds. Thus, the additional claim made by the assessee is fully covered by Pruthvi (supra); it is not restricted by Goetze(supra).

43. Further, in the case of National Thermal Power Co. Ltd. v. CIT (229 ITR 383) (SC) wherein the assessee had offered interest income earned on idle funds to tax, but later, based on the judicial pronouncements of the Special Benches of the Tribunal, learnt that the interest earned on funds before setting up the business is not taxable as income but is to be reduced from the capital cost. On learning this legal position, the assessee raised additional grounds before the Tribunal which, the Tribunal declined to entertain. Thus, in the above case, the Hon'bIe Supreme Court held as under:

> *"We reframe the question which arises for our consideration in order to bring out the point which requires determination more clearly. It is as follows:*
>
> *"Where on the facts found by the authorities below a question of law arises (though not raised before the authorities) which bears on the tax liability of the assessee, whether the Tribunal has jurisdiction to examine the same?"*
>
> *Under section 254 of the Income-tax Act, the Appellate Tribunal may, after giving both the parties to tlie appeal an opportunity of being heard, pass such orders thereon as it thinks fit. The power of the Tribunal in dealing with appeals is thus expressed in the widest possible terms. The purpose of the assessment proceedings before the taxing authorities is to assess correctly the tax liability of an assessee in accordance with law. If, for example, as a result of a judicial decision given while the appeal is pending before the Tribunal, it is found that a non-taxable item is taxed or a permissible deduction is denied, we do not see any reason why the assessee should be prevented from raising that question before the Tribunal (or the first time, so long as the relevant facts are on record in respect of that item. We do not see any reason to restrict the power of the Tribunal under section 254 only to decide the grounds which arise from the order of the Commissioner of Income-tax (Appeals). Both the assessee as well as the Department have a right to file an appeal/cross-objections before the Tribunal. We fail to see why the Tribunal should be*

prevented from considering questions of law arising in assessment proceedings although not raised earlier.

The view that the Tribunal is confined only to issues arising out of the appeal before the Commissioner of Income-tax (Appeals) takes too narrow a view of the powers of the Appellate Tribunal (vide, e.g., CIT v. [1981] 128 ITR 388 (Delhi), CIT v. Karamchand] ITR 25 (Cuj) and CIT v. Cellulose products of India Ltd. (1985) 151 ITR 99 (Guj) [FB]). Undoubtedly, the tribunal will have the discretion to allow or not allow a new ground to be raised. But where the Tribunal is only required to consider a question of law arising from the facts which are not on record in the assessment proceedings we fial to see why such a quewtino sh9ould not be allowed to be raised when it is necessary to consider that question in order to correctly assess the tax liability of an assessee.

The reframed question, therefore, is answered in the affirmative i.e. the Tribunal has jurisdiction to examine a question of law which arises from the facts as found by the authorities below and having a bearing on the tax liability of the assessee. We remand the proceedings to the Tribunal for considering of the new grounds raised by the assessee on the merits."

44. Further, placing reliance on the decision of National Thermal Power Co. Ltd. (supra), similar view was taken by the Honble Delhi High Court in the case of CIT v. Jai Parabolic Springs Ltd. (306 ITR 42), wherein the assessee had claimed 1/5th of the expenditure in the return of income treating the balance as a deferred revenue expenditure and later, by way of an additional ground had claimed the entire expenditure as an allowable deduction. The CIT(A) allowed the assessee's claim and on department's appeal, the Tribunal restored the matter back to the file of AO. Thereafter, the AO did not allow the assessee's claim as it was not made in the return. Both the CIT(A) and Tribunal held that the claim was allowable and allowed the same. Aggrieved thereby, the revenue filed an appeal before the Hon'ble Delhi High Court wherein it was held as under:

"Section 254 of the Act says that the Appellate Tribunal may, after giving both the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit. (para 13)

In Goetze (India) Ltd. v. CIT [2006) 284 ITR 3231 (SC), wherein deduction claimed by way of a letter before Assessing Officer, was disallowed on the ground that there was no provision under the Act to make amendment in the return without filing a revised return. Appeal to the Supreme Court, as the decision was upheld by the Tribunal and the High Court, was dismissed making clear that the decision was limited to the power of assessing authority to entertain claim for deduction otherwise than by revised return, and did not impinge on the power of Tribunal. (para 17)

it is very clear that there is no prohibition on the powers of the Tribunal to entertain an additional ground which according to the Tribunal arises in the matter and for the just decision of the case." (para 19)

Thus, in view of above judicial pronouncements, it is a settled legal position that the Appellate Authorities have the powers to consider an additional claim made by the Appellant during the course of assessment proceedings other than by filing a revised return.

45. Reliance is also placed on the decision of the Hon/ble Mumbai Tribunal in the case of M/s First Advantage P. Ltd. v. ACIT (ITA No. 9088/Mum/2010) wherein, placing reliance on National Thermal Power Co. Ltd (supra), the Tribunal has held as under:

"It is true that the Hon'ble Bombay HighCourt in the case of Pruthvi Brokers & Shareholders Pot. Ltd. (supra) followed Hon'ble Supreme Court judgment in Goetze indiai supra) to reiterate that Assessing Officer cannot entertain claim in the absence of revised return. However, relying on the case of National Thermal Power Company Ltd. Vs. CIT (229 ITR 383) it was held that appellate authorities have jurisdiction to entertain the new claim provided that the facts are available on the record. In this case, the assessee made the claim before the Assessing Officer about the taxability of Foreign Exchange Gain on loan obtained for acquisition of capital assets. The Assessing Officer ignored the provisions of Section 43A which is very specific with reference to changes in rate of exchange of currency when an

assessee has acquired any assets. Thus, there is merit in the assessee's contentions. However, since the claim was not examined by Assessing Officer in its correct prospective, we direct the Assessing Officer-to consider the claim after examining whether the amount can be considered as capital in nature, so as to adjust in the Block of Assets. He was also directed to keep in mind the stand taken by the Assessing Officer in the Assessment Year 2009-10 where it seems the loss on Foreign Exchange Loan was disallowed, in order to have consistency on the issue. Therefore, the claim is accepted and the issue in this ground is restored the file of Assessing Officer to consider on its merits."

46. The same view has also been held by the Hon'ble Mumbai Tribunal, in the case of ADIT v. Credit Lyonnais (28 taxmann.com 91), the relevant extract of which is as under:

"The only distinguishing feature which weighed with the Id. CIT(A) for not accepting the assessee's claim in this regard is that the assessee voluntarily offered such amount for taxation. The Hon'ble Bombay High Court in the case of CIT v. Pruthvi Brokers & Shareholders [2012] 23 iaxmann.com 23/208 Taxmann 498 (Bom.) has held that the assessee is entitled to raise before the appellate authorities an additional claim which was not made in the return filed by it. Even though the assessee initially voluntarily offered an income under some misconception, that cannot be a reason to put such amount to tax if it later on turns out to be not chargeable to tax."

47. Reliance can also be placed on the decision of the Hon'ble Delhi Tribunal in the case of Solaris Bio Chemicals Ltd. v. DCIT (25 taxmann.com 182) wherein it was held as under:

"Further, in 'Goetze (India) Ltd. (supra), undeniably, the decision rendered was only in respect of a new claim made in the assessment and not in respect of modification of claim. ln r Hero Honda Finlease Ltd. (supra), the assessee had claimed higher depreciation @ 40% during the assessment proceedings, as against @ 20% in the tax audit report. The Tribunal held that the claim of higher depreciation in the assessment proceedings could not be termed as a new claim and that Goetze (India) Ltd. (supra) was only in respect of a new claim made in the assessment proceedings and not modification of claim. Then, in 'Ramco International' (supra), it has been held that where, during the assessment proceedings, the assessee had not made any fresh claim and had duly furnished the documents and submitted Form No.

10CCB for claim u/s 80IB of the Act, no revised return was required to be filed; .

In keeping with the aforesaid decisions, here also, on facts, it is held that since the assessee had only sought to claim a higher rate of depreciation, no revised return of income was required to be filed and that being so, 'Goetze (India) Ltd. (supra) is not applicable at all and it has been wrongly applied by the authorities below."

48. Further, reliance can be placed on the recent decision of the Mumbai Tribunal in the case of ITO v. Idea Cellular Ltd. (ITA No. 3493/Mum/2008) wherein it was held as under:

"The restriction on the jurisdiction for entertaining a fresh claim otherwise than a revised return is applicable only of the AO and not of the appellate authorities. There is no fetter on the power and jurisdiction of the appellate authorities to entertain a fresh claim if no new facts are required to be investigated to adjudicate such fresh claim.

So far as the admissibility of the fresh claim first time before the appellate authority is concerned, we find that an identical issue was before the Hon'ble Supreme Court in the case of National Thermal Power Corporation Ltd. Vs. CIT (supra). The issue in the said case emerged from the fact that the assessee offered an amount to tax in the return of income which was not taxable as income. The inclusion of the said amount was not objected by the assessee even before the CIT(A) and only after filing appeal before the Tribunal the assessee raised a ground by way of forwarding a letter. In those facts, Hon'ble Supreme Court has held that when it is found that non taxable item is taxed or a permissible deduction is denied, we do not see any reason why the assessee should be prevented from raising the question before the "Tribunal first time so long as relevant facts are on record in respect of that item. We have already reproduced the relevant finding of the Hon'ble Supreme Court in the foregoing paras while discussing the ground no. 2. It is clear from the decision of Hon 'ble Supreme Court that when a claim which is otherwise allowable /permissible but was not allowed as the assessee did not claim the same in the return of income, there is nothing under law to prevent the assessee to raise such claim before the appellate authorities if the facts relating to such new claim are already on record and do not require any investigation. Accordingly in the (acts and circumstances of the case when the denial of claim by CIT(A) is not on the ground that it is not allowable but [or want of such claim be[ore the AD and further on merits this issue is covered bl{ the series of decisions as relied upon by the assessee then we are of the view that the CIT(A) has committed an

error in not admitting the additional ground raised by the assessee. Hence this ground stands admitted."

To summarize, the assessee had claimed before the AO that if own funds are more than the tax free investments, then the presumption can be drawn that investments are made from own funds. Further, independent of that claim the assessee has claimed before CIT(A) as well as before us that, based on legal position, no interest disallowance can be made u/s.14A when sufficient interest free funds are available with assessee.

49. Article 265 of the Constitution in unmistakable terms provides that no tax shall be levied or collected except by authority of law and therefore the Hon'ble Supreme Court has held that the purpose of assessment proceedings is to assess correctly the tax and consequently, the Tribunal has the power to grant relief if it is found that a non-taxable item is taxed or a permissible deduction is denied and thus an assessed income can be lesser than the returned income. Hence, in the present case, it is permissible for the Hon'ble Tribunal to consider assessee’s claim for not making any disallowance of interest u/s.14A since interest free funds are more than investment, notwithstanding the assessee having offered a disallowance under Section 14A in its return of income which was calculated on the basis of the method adopted by the Department in the earlier years.

50. In case of Birmala L. Mehta - 299 ITR , the Hon’ble Bombay High Court held as under :-

"Article 265 of the Constitution of India unmistakable terms provides that no tax shall be levied or collected except by authority of law.

Acquiescence cannot take away from a party the relief that he is entitled to where the tax is levied or collected without authority of law."

In case of Balmukund Acharya - 310 ITR 310 the Hon'ble High Court held that;

In this case, the Bombay High Court applied the decision of Nirmala L. Mehta and at page 318 in paragraph 32 observed as follows: "Tax can be collected only as provided under the Act. If any assessee, under a mistake, misconceptions or on not being properly instructed is over assessed, the authorities under the Act are required to assist him and ensure that only legitimate taxes due are collected."

(vi) Guharat Gas vs. JCIT - 245 ITR 84 (Gujarat High Court)

In this case, the Gujarat High Court held that an assessed income can be less than the returned income under the provisions of the Income-tax Act and therefore a contrary CBDT Circular was not in accordance with law.

(vii) Chandrashekhar Baharwani vs. ACIT (ITA Nos.7810/M/2010) (Mumbai Tribunal)

In this case, the Mumbai Bench followed the above decisions of the Bombay High Court and of the Gujarat High Court. The Tribunal granted a relief in respect of Capital Gains which were inadvertently included in the return. The Tribunal observed as follows:

"Moreover, if the assessee is, otherwise, entitled to a claim of deduction but due to his ignorance or for some other reason could not claim the same in the return of income, but has raised his claim before the appellate authority, the appellate authority should have looked into the same .. The assessee cannot be burdened with the taxes which he otherwise is not liable to pay under the law."

51. So far as the contention that the assessee itself has offered disallowance in the return of income is concerned, the Id. AR has relied upon various case laws to stress the point that even if the assessee under a mistake or misconception has over assessed itself in the return of income,

the Tribunal can give relief to the assessee to the extent the assessee is over assessed and direct the lower authorities to tax the assessee as per the provisions of law. We find that in the case of "National Thermal Power Co. Ltd." vs. CIT" 229 ITR 383, the facts before the Hon'ble Supreme Court were that the assessee in that case offered the interest amount for taxation and the assessment was completed on that basis. Before the Ld. CIT (A), the assessee though had taken a number of grounds of appeal; however, the inclusion of the said amount of interest was not challenged. The inclusion of the said amount of interest was not objected to even in the grounds of appeal as originally filed before the Tribunal. However, the assessee by way of subsequent letter raised the additional ground in relation to the said inclusion of interest into the income of the assessee. In the above circumstances, the question before the Hon'ble Supreme Court was "Where on the facts found by the authorities below a question of law arises (though not raised before the authorities) which bears on the tax liability of the assessee, whether the Tribunal has jurisdiction to examine the same?" The Hon'ble Supreme Court while answering the said question observed that under section 254 of the Income Tax Act, the power of the Tribunal in dealing with the appeals is expressed in the widest possible terms; the power of the Tribunal under section 254 is not restricted only to decide the grounds which arise from the order of the Commissioner of Income Tax (Appeals); that both the assessee as well as the department have a right to file an appeal/cross objection before the Tribunal and the Tribunal is not prevented from considering

questions of law arising in assessment proceedings although not raised earlier. While answering the question in affirmative, the Hon'ble Supreme Court concluded that the Tribunal has jurisdiction to examine a question of law which arises from the facts as found by the authorities below and having a bearing on the tax liability of the assessee.

52. The full bench of the Hon'ble Bombay High Court in the cases of "Ahmedabad Electricity Company Ltd. vs. CIT" and "Godavari Sugar Mills Ltd. vs. CIT" by way of a common order dated 30.04.1992 (1993) 199 ITR 351 has observed that the basic purpose of an appeal procedure in an income tax matter is to ascertain the correct tax liability of the assessee in accordance with law. Therefore, at both the stages, either by the Appellate Assistant Commissioner or before the Appellate Tribunal, the appellate authority can consider the proceedings before it and the material on record before it for the purpose of determining the correct tax liability of the assessee. The Hon'ble Bombay High Court in the case of "CIT vs. Pruthvi Brokers and Shareholders Pvt. Ltd." (2012) 349 ITR 336 (Born.) has observed that the assessee is entitled to raise not merely additional legal submissions before the appellate authorities, but is also entitled to raise additional clams before them. The appellate authorities have jurisdiction to deal not merely with additional grounds, which became available on account of change of circumstances or law, but with additional grounds which were available when the return was filed. The words 'could not have been raised' must be construed liberally and not strictly. There may be several factors

justifying the raising of a new plea in an appeal and each case must be considered on its own facts.

53. The co-ordinate bench of the Tribunal in the case of "Shri Chandrashekhar Bahirwani" ITA NO.7810/M/2010 and 6599/M/2011 vide order dated 17.06.2015 while deciding the question as to whether the income cannot be assessed less than the returned income has observed as under:

> *"5. Now coming to the finding of the Ld. CIT(A), that income cannot be assessed less than the returned income, the Ld. A.R. of the assessee has submitted before us that the action of the Ld. CIT(A) in rejecting the claim of the assessee on this ground was not justified. He has further relied upon the decision of the Hon'ble Gujarat High Court in the case of "Gujarat Gas Ltd. vs. JCIT" (2000) 245 ITR 84. In the said case, the words of the Circular No.549, para 5.12, dt. 31st October, 1989, providing that the assessed income under section 143(3) shall not be less than the returned income was considered by the Hon'ble High Court and it was held that as per proviso to section 119 of the Act, the Board cannot issue instructions to the Income Tax Authority to make a particular assessment or to dispose of a particular case in a particular manner as well as not to interfere with the discretion of the Commissioner in exercise of his appellate functions. It was further held that the AO, while exercising his quasi judicial powers, was not bound by the said circular and should have exercised his powers independently. The Hon'ble High Court, therefore, directed the AO to make the assessment without keeping in mind the said circular. It may be further observed that the Hon'ble Bombay High Court in the case of 'Pruthvi Brokers & Shareholders Pvt. Ltd.' ITA No.3908 of 2010 decided on 21.06.12, while relying upon the various decisions of the Hon'ble Supreme Court and other Hon'ble High Courts has held that even if a claim is not made before the AO, it can be made before the appellate authorities. The jurisdiction of the appellate authorities to entertain such a claim is not barred. The Hon'ble High Court has further observed that the decision of the Hon'ble Supreme Court in the case of 'Goetze (India) Limited v. CIT' (2006) 157 Taxman 1, relating to the restriction of making the claim through a revised return was limited to the powers of the Assessing Authority and the said judgment does not impinge on the power or negate the powers of the appellate authorities to entertain such claim by way of additional ground. Even otherwise, the Ld. CIT(A) ought to have considered the claim of the assessee in exercise of his appellate jurisdiction under section 250 of the Act. Moreover, if the assessee is, otherwise, entitled to a claim of deduction but due to his ignorance or for some other reason could*

not claim the same in the return of income, but has raised his claim before the appellate authority, the appellate authority should have looked into the same. The assessee cannot be burdened with the taxes which he otherwise is not liable to pay under the law. Even a duty has also been cast upon the Income Tax Authorities to charge the legitimate tax from the tax payers. They are not there to punish the tax payers for their bonafide mistakes. In view of our above observations, it is held that the assessee is not liable to pay Capital Gains Tax, though originally he had subjected himself to the said tax as per his return of income. The AO is directed to process the claim of refund in this respect as per provisions of the law."

54. Respectfully following the above decisions of higher courts and that of co-ordinate benches of the tribunal, we direct the AO to delete the disallowance of interest u/s.14A and restrict the disallowance of common expenses to the extent of 0.05% of average investment.

55 Respectfully following the decision of Hon'ble Jurisdictional High Court in the case of HDFC Bank and Reliance Utility, and also decision of Gujarat High Court in the case of UTI Bank. We do not find any merit for disallowance of interest u/s 14A r.w.r. 8D, in so far as assessee was having sufficient interest free funds available with it as per the balance sheet and the incremental cash flow statement placed on record. Accordingly, we direct the AO to delete the disallowance made in respect of the interest expenses while computing disallowance u/s 14A r.w.r 8D.

56. In view of the above, we direct the AO not to disallow any interest expenditure so incurred and restrict the disallowance in respect of administrative expenses to the ½ percent of average investment, we direct accordingly.

57. We also found that in the A.Y. 2008-09, While computing the Business income for rebate under Section 88E, the gross income relating to Profit on sale of immovable property and Other income was deducted from the business income of Rs.11,73,25,194 by the AO and the income from business relating to taxable securities transactions was arrived at. We direct the AO that surcharge and education cess also forms part of income tax and should be included for arriving at the average rate of tax. We direct accordingly.

58. From the record we also found that in the A.Y. 2008-09, the AO has not considered the Surcharge and Education Cess while arriving at the average rate under sub-section (2) of 88E. Surcharge and education cess also form part of income tax and should be included for arriving at the average rate of tax. For this purpose reliance is placed on the following decisions :-

1. Commissioner of Income Tax,VS Tulsyan NEC Limited (SC) 196 Taxman 181
2. DIC Asia Pacific Pte limited Vs Assistant Director of Income tax, Kolkatta ITAT
3. Commissioner of Income Tax Vs K Srinivasan (SC) 83 ITR 346

59. We direct the AO to determine income on proportionate basis taking into account and profit on dealing in shares and securities, gross receipt for income from business and taxable income as per A.Y. We direct accordingly.

60. In the result, appeals of the assessee are allowed in part, in terms indicated hereinabove, whereas appeal of the Revenue is dismissed.

Order pronounced in the open court on 03.08.2016.

आदेश की घोषणा खुले न्यायालय में दिनांकः 03.08.2016 को की गई ।

Sd/-	**Sd/-**
(SANDEEP GOSAIN)	**(R.C.SHARMA)**
न्यायिक सदस्य / **JUDICIAL MEMBER**	लेखा सदस्य / **ACCOUNTANT MEMBER**

मुंबई/Mumbai; दिनांक/Dated 03.08.2016

* AKVerma/PKM,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 / The DR Concerned Bench,
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

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

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