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

BEFORE SHRI R.C. SHARMA, AM AND SHRI RAVISH SOOD, JM

ITA No. 5947/MUM/2014
Assessment Year: 2008-09

Alliance Media & Entertainment Ltd. C/o. NatvarVepari& Co. Oricon House, 4th Floor, 12K. Dubhash Marg Fort Mumbai- 400023.	Vs.	ITO (TDS) 1(1), 8th Floor, Room No. 804, Ayurvedic Hospital Bldg., Charni Road (W). Mumbai.

PAN No. AAFCA3197A

(Appellant) **(Respondent)**

ITA No. 5570/MUM/2014
Assessment Year: 2008-09

ITO (TDS) 1(1), 8th Floor, Room No. 804, Ayurvedic Hospital Bldg. Charni Road (W) Mumbai.	Vs.	Alliance Media & Entertainment Ltd. C/o. NatvarVepari& Co. Oricon House, 4th Floor, 12K, Dubhash Marg Fort Mumbai-400023.

PAN No. AAFCA3197A

(Appellant) **(Respondent)**

Revenue By: Sh. Tufail A. Khan
Assessee By: Ms. Ruchi Tamhankar.

Date of Hearing : 03/02/2017
Date of pronouncement : 08/02/2017

O R D ER

PER RAVISH SOOD, JUDICIAL MEMBER :

The present cross appeals filed both by the assessee and the revenue arises from the order of the CIT(A)-12, Mumbai, dated 10/06/2014, which in itself has arisen from the assessment order passed by the ITO (TDS)-1(1), Mumbai under Section 201(1) & 201(1A) of the Income Tax Act, 1961(in short 'Act'), dated.10/03/2011.

ITA No. 5947/Mum/2014:

The assessee has assailed the order of the CIT(A) by raising the following grounds of appeal before us:-

> *"1. The Commissioner of Income-tax (Appeals_-12, Mumbai erred in confirming the levy of TDS of Rs. 2,06,000/- by the Income-tax Officer (TDS)-1(1), Mumbai (AO) on amount of provision of Rs. 20,00,000/- being provision for payment to artistes.*
>
> *2. The appellant submits that the appellant is following Mercantile system of Accounting and had made adhoc provision of Rs. 20,00,000/- , on matching principle to match costs with revenue on a prudent basis, towards amount to be paid to certain artistes which was based on the revenue to be earned by exploitation of the film Bheja Fry. Since the amount was not fully ascertained and crystallized, same was not subjected to TDS. In the return of income the same was added back since TDS was not deducted. The payment was not made till 31st March, 2014 and in the accounts for the year ended 31st March, 2014 the company*

has reversed the liability. Therefore the same was never subject to TDS as the liability was not crystallized. The non-payment thereof justifies the fact of non-crystallisation of the liability as of 31st March, 2008.

3. The AO erred in charging interest of Rs. 74,160/- u/s 201(1A) of the Act on TDS amount of Rs. 2,06,000/- which was not payable by the appellant company.

4. Each of the above grounds is without prejudice to one another.

5. The appellant craves leave to add, to alter, vary or cancel any of the above grounds of appeal."

2. Briefly stated, the facts of the case to the extent relevant to the present appeal are that the assessee is engaged in the business of celebrity endorsement, events promotion & management, production of telefilms, ad films and promotion of motion pictures. That during the year survey action u/s. 133A of the Income-tax act, 1961 (for short 'Act') was conducted at the premises of the assessee. During the course of the survey proceedings and subsequent thereto, the A.O observed that the assessee had carried out a disallowance of Rs. 20,00,000/- under Sec. 40(a)(ia). The assessee on being called upon by the A.O to explain as to why tax had not been deducted at source as regards the said amount, therein submitted that the same was a provision made for the payments which were to be made to artists in connection with the movie 'BHEJA FRY'. It was submitted by the assessee that in terms of the agreements with the artists, the amount

based on the revenue to be earned from the exploitation of the aforesaid movie was to be paid to the artists, however the same was subject to negotiations and was thus not fully ascertained and crystallized. In the backdrop of the aforesaid facts it was submitted by the assessee that as it was following mercantile system of accountancy, therefore it had made an adhoc provision of Rs. 20,00,000/- on prudent basis as regards the amounts which were to be paid to the artists. It was submitted by the assessee that it had on its own disallowed the sum of Rs. 20,00,000/- u/s 40(a)(ia) while computing its total income for the year under consideration, viz. A.Y. 2008-09 (fact which is borne from the record). That on query by the A.O as to why the said amount of Rs. 20,00,000/- was not subjected to deduction of tax at source, it was submitted by the assessee that as it was only a provision as regards expenses which had yet not crystallized, therefore it was under no statutory obligation to deduct tax at source as regards the said amount. The A.O however holding a strong conviction that as an assessee remains under a statutory obligation to deduct tax at source at the time of credit or provision in the books or payment, which ever is earlier, thus did not find favor with the submissions of the assessee and held the latter as being in default u/s 201(1) for failure to deduct tax at source, as well as raised demand towards interest u/s 201(1A).

3. The assessee being aggrieved with the order passed by the A.O u/ss. 201(1)/201(1A), therein carried the matter in appeal before the CIT(A). The CIT(A) being of the view that as there was nothing available on record from where it could be gathered as to whether the assessee had made payments to the artists in the subsequent years,

and as to whether tax was deducted at source in the subsequent years when the payments were made to the concerned artists, therefore concluded that it could not be treated as a mere provision *de hore*. It was further observed by the CIT(A) that if it would had been a mere provision as claimed by the assessee, the same would have been written off by the assessee in the subsequent year. It was thus in the backdrop of the aforesaid observations thus held by the CIT(A) that amount of Rs. 20,00,000/- was a liability of the assessee, and the assessee by duly acknowledging its failure to deduct tax at source on the said amount, had thus for the said reason disallowed the same u/s 40(a)(ia) in its return of income, as a result of which it could safely be concluded that the assessee had acknowledged both its liability towards deduction of tax at source, as well as failure to effect compliance to the same. The CIT(A) thus in the backdrop of the aforesaid facts thus concluded that the A.O had rightly held the assessee as being in default u/s 201(1) of the 'Act', and thus dismissed the appeal.

4. The assessee being aggrieved with the order passed by the CIT(A), had therein carried the matter in appeal before us. That at the very outset of the hearing of the appeal it was averred by the Ld. A.R that as it was following 'mercantile system' of accountancy, therefore in terms of the agreement with the artists, on the basis of the revenue to be earned from the exploitation of the movie 'BHEJA FRY', payments were to be made to them. It was submitted by the Ld. A.R that as the amounts to be paid were subject to negotiations and thus had not fully crystallized, it had therefore made an *adhoc* provision of

Rs. 20,00,000/- as regards the same. It was further averred by the Ld. A.R that it had on its own disallowed the sum of Rs. 20,00,000/- u/s 40(a)(ia) while computing its total income for the year under consideration, viz. A.Y. 2008-09. It was thus submitted by the Ld. A.R that as the amounts in itself were subject matter of negotiations and had not crystallized, as well as the payees were not identifiable, therefore no statutory obligation was cast upon the assessee for deduction of 'tax at source' as regards such a provision. That on the other hand the Ld. Departmental representative (for short D.R) therein submitted that as had been appreciated by the lower authorities, the assessee was liable for deduction of tax at source, and as such had rightly been held as being in default u/s 201(1)/201(1A) of the 'Act'. It was thus averred by the Ld. D.R that the appeal of the assessee lacked any merit, and as such was liable to be dismissed.

5. We have heard the learned authorized representatives of both the parties, perused the orders of the lower authorities and the records available before us. We have given a thoughtful consideration to the facts of the case and are of the considered view that now when the payees in the present case were not identifiable, therefore in the absence of the details of the beneficiaries of the credit, as well as the respective amounts of credits remaining unascertainable, the tax deduction mechanism could not have been pressed into service, because the liability of tax deduction at source is in the nature of a vicarious or substitutionary liability, which presupposes existence of a principal or primary liability. Thus in the backdrop of the aforesaid settled position of law, we are of the considered view that now when in

the case of the present assessee the amounts to be paid to the artists had not been ascertained and was a subject matter of negotiations and under consideration, therefore it could safely be concluded that neither the artists, i.e payees qua the amounts to be paid were identifiable, nor the amounts to be paid stood crystallized, therefore in the absence of any identifiable payee or the quantification of the duly ascertained amount of the liability, the provisions of TDS could not have been made applicable. Thus to be brief and explicit, we are of the considered view that if no income is attributable to the payee, there is no liability to deduct tax at source in the hands of the tax deductor. That our aforesaid observations stands fortified by the Judgment of the **Hon'ble Karnataka High Court** and an order of a coordinate bench of the ITAT, Mumbai, as under:-

(i). Karnataka Power Transmission Corporation Ltd. Vs. DCIT (TDS) (2016) 383 ITR 59 (Kar)

Held:

"We have examined the applicability of section 194A of the Act to the present case. Section 194A of the Act mandates the tax deductor to deduct "income-tax" on "any income by way of interest other than income by way of interest on securities". The phrase "any income" and "income-tax thereon" if read harmoniously, it would indicate that the interest which finally partakes the character of income, alone is liable for deduction of the income-tax on that income by way of interest. If the said interest is not finally considered to be an income of the deductee, as per reversal entries of the provision in the present case, section 194A(1) of the Act

would not be made applicable. In other words, if no income is attributable to the payee, there is no liability to deduct tax at source in the hands of the tax deductor. In view of the admitted fact that interest being not paid to the payees (suppliers) being reversed in the books of account, we are of the considered opinion that there would be no liability to deduct tax as no income accrued to the payees (suppliers).”

(ii). Industrial Development Bank Of India Vs. ITO
(2007) 107 ITD 45 (Mum)

Held:

"the liability of tax deduction at source is in the nature of a vicarious or substitutionary liability, which presupposes existence of a principal or primary liability. Chapter XVII-B is titled: 'Collection and recovery of tax - deduction of tax at source: This title also indicates that the nature of tax deduction at source obligation is obligation for collection and recovery of tax. Under the Act, tax is on the income and it is in the hands of the person who receives such income, except in the case of dividend distribution tax which is levied under section 115-0, a section outside the Chapter providing for collection and recovery mechanism and set out under a separate chapter ‘Determination of tax in certain special cases - special provision relating to tax on distributed profits of domestic companies: A plain reading of section 190 and section 191, which are first two sections under the Chapter XVII, and of sections 199, 202 and 203(1), would show this underlying feature of the tax deduction at source mechanism. Section 190

makes it clear that the scheme of tax deduction at source is one of the methods of recovering the tax due from a person and it is notwithstanding the fact that the tax liability may only arise in a later assessment year. The tax liability is obviously in the hands of the person who earns the income and tax deduction at source mechanism provides for method to recover such tax liability. Therefore, this tax deduction at source liability is a sort of substitutionary liability. Section 191 further makes this position clear when it lays down that in a situation TDS mechanism is not provided for a particular type of income or when the tax has not been deducted at source in accordance with the provisions of Chapter XVII, income tax shall be payable by assessee directly. This provision, thus, shows that tax deduction liability is a vicarious liability and the principal liability is of the person who is taxable in respect of such income. Section 199 makes it even more clear by laying down that the credit for taxes deducted at source can only be given to the person from whose income the taxes are so deducted. Therefore, when tax deductor cannot ascertain beneficiaries of a credit, the tax deduction mechanism cannot be put into service. Section 202 lays down that tax deduction at source provisions are without any prejudice to any other mode of recovery from assessee, which again points out to the tax deduction liability being vicarious liability in nature. Section 203(1) then lays down that for all tax deductions at source, the tax deductor has to furnish to the person to whose account such credit is given or to whom such payment is made or the cheque or warrant it issued which presupposes that at the stage of tax

deduction the tax deductor knows the name of person to whom the credit is to be given, though whether by way of credit to the account of such person or by way credit to some other account. This again shows that tax deduction at source liability is a vicarious liability to pay tax on behalf of the person who is to be a beneficiary of the payment or credit, with a corresponding right to recover such tax payable from the person to whom credit is afforded or payment is made. Thus the whole scheme of tax deduction at source proceeds on the assumption that the person whose liability is to pay an income knows the identity of the beneficiary or the recipient of the income. It is a sine qua non for a vicarious tax deduction liability that there has to be a principal tax liability in respect of the relevant income first, and a principal tax liability can come into existence when it can be ascertained as to who will receive or earn that income, because the tax is on the income and in the hands of the person who earns that income. Therefore, tax deduction at source mechanism cannot be put into practice until identity of the person in whose hands it is includible as income can be ascertained. It is indeed correct that Explanation to section 193 lays down that even when an income is credited to any account in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly, but the fact that the credit to any account is to be deemed to be credit of the payee's account also presupposes that identify of the payee can be ascertained. Therefore, this deeming fiction can only be activated when the

identity of the payee can be ascertained. Therefore, the Explanation to section 193 cannot be invoked in a case where the person who is to receive the payment cannot be identified at the stage at which the provision for interest accrued but not due is made. This position is also accepted by the CBDT in its letter dated 5-7-1996 addressed to the Tata Iron & Steel Co. Ltd (Letter No.257/126 IT(B). In the instant case, the regular return bonds being transferable on simple endorsement and delivery and the relevant registration date being a date subsequent to the closure of books of account, assessee could not have ascertained the payees at the point of time when the provision for "interest accrued but not due" was made. Accordingly, no tax was required to be deducted at source in respect of the provision for interest payable made by assessee which reflected provision for interest accrued but not due" in a situation where the ultimate recipient of such 'interest accrued but not due' could not have been ascertained at the point of time when the provision was made. Assessee had duly deducted the tax source at the time of payment i.e. on 9.6.1994 and there was no loss of revenue as such. Therefore, assessee did not have any liability to deduct tax at source in respect of provision for interest accrued but not due in respect of regular return bonds, made on 31.3. 1994. When there was no obligation to deduct tax at source, there could not be any question of levy of penalty or interest."

6. We have given a thoughtful consideration to the facts of the case and are of the considered view that in the backdrop of the aforesaid judgment of the Hon'ble Karnataka High Court and the order of a

coordinate bench, since the payees are not Identifiable in this case also at the time of making of the provision, therefore no statutory obligation was thus cast upon the assessee to deduct tax at source on the above amount. However, we find that the facts as averred by the Ld. A.R that the entire provision has been written back in the next year and the actual amounts paid/credited were subjected to TDS in the subsequent years as per the detailed statements filed before the authorities, are not borne from the records, but are merely supported by the hollow and unsubstantiated claim of the assessee, therefore we herein set aside the matter to the file of the ITO(TDS) for making necessary verifications as regards the said claim of the assessee, and if the same is found to be in order, then as observed by us hereinabove, no obligation would be fastened upon the assessee for deduction of any tax at source as regards the aforesaid amount of Rs. 20,00,000/- during the year under consideration, viz A.Y. 2008-09, and as such the order of the lower authorities treating the assessee as being in default u/s 201(1)/201(1A) shall stand vacated. The matter is thus restored to the file of the ITO(TDS), who however is directed to restrict himself to making of the verifications as directed by us hereinabove. Needless to say, the A.O shall afford reasonable opportunity to the assessee of being heard during the course of the set aside proceedings, and the assessee shall be at a liberty to substantiate his claim by leading fresh documents/evidence before the A.O, who shall duly consider the same.

7. The appeal of the assessee is thus allowed for statistical purposes.

ITA No. 5570/Mum/2014:

The Revenue has assailed the order of the CIT(A) by raising the following grounds of appeal:-

" 1.(i). On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in holding that the assessee was liable to deduct tax at source from the payment made under film production agreement u/s. 194C instead of section 194J of the Act, as held by the Assessing Officer.

(ii). On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition made by the AO u/s 194J of the Act without appreciating the fact that the nature of work carried out by the payees amounts to nothing less than professional and managerial services and fall within the ambit of technical services u/s 194J of the Act.

(iii). On the fact and circumstances of the case and in law, the Ld. CIT(A) has erred in not confirming the order passed by the AO u/s 201(1)/201(1A) of the Act in respect of the amount of short deduction of tax and consequential interst, resulting from the action of the assessee in deducting tax at lower rate u/s 194C instead of section 194J of the Act.

2. Appellant craves to leave to amend or alter or add any ground a new ground which may be necessary at the time of the hearing of the case or thereafter.

3. The order of the Ld. CIT(A) being erroneous be set aside and the Ld. A.O's order be restored."

2. Briefly stated, the facts leading to the issue under consideration are that that the assessee is engaged in the business of celebrity endorsement, events promotion & management, production of telefilms, ad films and promotion of motion pictures. That during the year survey action u/s. 133A of the Income-tax act, 1961 (for short 'Act') was conducted at the premises of the assessee. During the course of the survey proceedings and subsequent thereto, the A.O noticed that the assessee had made payments aggregating to Rs. 4,18,53,865/- to 6 parties for production of complete films, against which tax was deducted at source by the assessee u/s 194C. The A.O holding a strong conviction that as the aforesaid payments were in the nature of payments for professional or technical services, therefore the assessee was liable to deduct tax at source under Sec. 194J and not under Sec. 194C of the 'Act', thus held the assessee as being in default u/s 201(1) for short deduction of tax at source, as well as raised demand towards interest u/s 201(1A).

3. The assessee being aggrieved with the order passed by the ITO u/ss. 201(1)/201(1A), therein carried the same in appeal. The CIT(A) being of the view that the payments made by the assessee to the 6 parties for production of films by them was rightly subjected to deduction of tax at source by the assessee u/s 194C, as such an obligation was specifically contemplated under the said statutory provision, thus allowed the appeal of the assessee.

4. That the revenue being aggrieved with the order of the CIT(A), had thus carried the matter in appeal before us. The Ld. Departmental representative (for short 'D.R') placed heavy reliance on the order of the ITO (TDS), and therein submitted that as the fees paid by the assessee to the 5 parties for production of films was well within the definition of 'fees for professional services' as the same involved considerable managerial capabilities and professional skills, therefore the ITO(TDS) had rightly held that the assessee remained under a statutory obligation to deduct tax at source u/s 194J. The Ld. D.R submitted that as the CIT(A) had erred in setting aside the well reasoned order of the ITO(TDS), therefore the same be set aside and the order of the ITO(TDS) be restored. That on the other hand the Ld. Authorized representative (for short 'A.R') for the assessee relied on the order of the CIT(A). The Ld. A.R further relied on the order of the **Hon'ble High Court of Delhi** in the case of : **CIT Vs. Prasar Bharti Broadcasting Corporation of India (2007) 292 ITR 580 (Del)** and submitted that the proposition under consideration was squarely covered by the said judgment, and had rightly been appreciated and followed as such by the CIT(A).

5. We have heard the Ld. Representatives of both the parties, perused the orders of the lower authorities as well as the material available on record. We are of the considered view that in the backdrop of the conceded fact that the assessee had made payments to 6 parties for production of complete films, we have been called upon to adjudicate as to whether the payments so made were liable for

deduction of tax at source under Sec. 194C or would fall within the scope and gamut of Sec. 194J of the 'Act'.

6. We find that the CIT(A) while disposing of the appeal had followed the judgment of the **Hon'ble Delhi High Court** in the case of **Prasar Bharti Broadcasting (supra),** and an order of a coordinate bench of the ITAT, Mumbai, in the case of Nitinin M. Panchamiya Vs. ACIT (ITA No. 3874/Mum/2009, as well as was persuaded to adopt the view of his predecessor who had allowed the appeals of the assessee involving the same issue for A.Y(s). 2006-07 & 2007-08, and had allowed the appeal of the assessee by observing as under:-

> *"I have considered the averments made in the impugned order and also the written and oral submissions of the learned A.R of the appellant and also the judicial pronouncements and order of the learned CIT(A)-14, Mumbai relied upon by the learned A.R. It immensely transpires that the issue in dispute is squarely covered by the decision of the Hon'ble Delhi High Court in the case of CIT Vs. Prasar Bharti Broadcasting Corporation of India [2007] 292 ITR 580 and a decision of the Hon'ble Mumbai ITAT in the case of Nitinin M. Panchamiya vs. ACIT [vide order dated. 17.02.2014 in ITA No. 3874/Mum/2009] and also decision of the ld. CIT(A)-14, Mumbai in the appellants own case for A.Ys 2006-07 & 2007-08 wherein relief has been allowed to the appellant on this count. In the facts and circumstances of the case, I do not find any reason to differ from the view taken on the instant issue by the ld. CIT(A)-14, Mumbai (having original jurisdiction over TDS appeals). Accordingly the relevant grounds of appeal stand allowed."*

7. We have heard the Ld. Authorized representatives and have perused the orders of the lower authorities, the records available before us, as well as given a thoughtful consideration to the facts of the case in the backdrop of the relevant statutory provisions under consideration. We find that the scope of Sec. 194C was broadened by the legislature, vide the Finance Act, 1995, w.e.f 01.07.1995, by incorporating therein an *'Explanation III'*, which reads as under:-

> *"Explanation III. – For the purposes of this section, the expression 'work' shall also include-*
>
> *(a). advertising*
>
> *(b). broadcasting and telecasting including* ***production of programmes for such broadcasting or telecasting****.*
>
> *(c). carriage of goods and passengers by anny mode of transport other than by railways ;*
>
> *(d). catering."*

That interestingly, vide the same finance act, viz Finance Act, 1995, the statutory obligation to deduct tax at source with respect to 'fees for professional or technical services' was also made available on the statute by incorporating Sec. 194J. The term "Professional services" was specifically defined in the said newly inserted statutory provision viz Sec. 194J, as under:-

> *"Explanation. – For the purposes of this section, -*
>
> *(a). 'Professional services' means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession or the profession of*

accountancy or technical consultancy or interior decoration or advertising or such other profession as is notified by the Board for the purposes of Section 44AA or of this section"

8. We are of the considered view that in the backdrop of the fact that though the legislature had vide the Finance Act, 1995, therein specifically earmarked a separate statutory provision in the form of Sec. 194J to regulate the obligation of an assessee to deduct tax at source in respect of fess for professional and technical services, however interestingly we find that the legislature in all its wisdom had simultaneously broadened the scope and gamut of Sec. 194C and had brought 'production of programmes for such broadcasting or telecasting' within the sweep of Sec. 194C. The aforesaid specific earmarking of the 'production of programmes for such broadcasting or telecasting' in the body of Sec. 194C, in light of the aforesaid legal juxtaposition can thus safely be concluded to have been carried out with a purposive intent of making the same as an exclusive subject matter of Sec. 194C. We are of the considered view that the very insertion of the 'Explanation III' to Sec. 194C by the Finance Act, 1995, alongwith a simultaneous insertion of Sec. 194J, can safely be held to be a conscious, purposive and intentional act on the part of the legislature, in order to avoid any doubt or debate as regards the statutory provision which would regulate the deduction of tax at source as regards the services contemplated therein. We are of the considered view that in light of the fact that the legislature had clearly brought 'production of programmes for such broadcasting or telecasting' within the sweep of Sec. 194C, therefore the deduction of tax at source as regards the services rendered therein would

inescapably be a subject matter of Sec. 194C, and the same would not fall within the sweep and domain of the provisions of the newly inserted Sec. 194J. We find that the issue under consideration before us, had came before the **Hon'ble High Court of Delhi** in the case of : **CIT Vs. Prasar Bharti Broadcasting (2007) 292 ITR 580 (Del)**, which had held as under:-

> *"We observe that Explanation III, which was introduced simultaneously with Section 194J, is very specific in its application to not only broadcasting and telecasting but also include "production of programmes for such broadcasting and telecasting". If, on the same date, two provisions are introduced in the Act, one specific to the activity sought to be taxed and the other in more general terms, resort must be had to the specific provision which manifests the intention of the legislature. It is not, therefore, possible to accept the contention of the Revenue that programmes produced for television, including "commissioned programmes", will fall outside the realm of section 194C-Explanation III of the Act. We find no infirmity in the view taken by the Income-tax Appellate Tribunal which we hereby affirm"*

We are persuaded to subscribe to the observations of the Hon'ble High Court of Delhi in the case of **Prasar Bharti Broadcasting (supra)** that if, on the same date, two provisions are introduced in the Act, one specific to the activity sought to be taxed and the other in more general terms, then resort must be had to the specific provision which manifests the intention of the legislature. We thus in the backdrop of our aforesaid observations are of the considered view that the assessee

had rightly deducted the tax at source under Sec. 194C at the time of making of payments to the 6 parties. We thus in light of our aforesaid observations, finding no reason to dislodge the well reasoned order of the CIT(A), therefore uphold the same and dismiss the appeal of the revenue.

9. The appeal filed by the revenue is dismissed.

Order pronounced in the open court on 08/02/ 2017.

Sd/-	Sd/-
(R.C Sharma)	(Ravish Sood)
लेखा सदस्य / Accountant Member	न्यायिक सदस्य / Judicial Member

मुंबई Mumbai; दिनांक Dated : 08.02.2017

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT – concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard File

आदेशानुसार/ BY ORDER,

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