IN THE INCOME TAX APPELLATE TRIBUNAL

“E” BENCH, MUMBAI

BEFORE HON’BLE SHRI R. C. SHARMA, AM &

HON’BLE SHRI SANDEEP GOSAIN, JM

आयकरअपीलसं./ I.T.A. No. 5472/Mum/2015
(**निर्धारणवर्ष** / Assessment Year:2011-12)

ITO - 13(2)(2) 1st floor Room no. 146, Aayakar Bhavan, M.K. Road, Mumbai-400 020.	**बनाम**/ Vs.	M/s Sigtia Constructions Pvt. Ltd. 402, Sagar Avenue, 54-B, S. V. Road, Andheri (west) Mumbai-400 058
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. AAGCS0311P		
(अपीलार्थी/**Appellant**)	:	(प्रत्यर्थी / **Respondent**)

&

आयकरअपीलसं./ I.T.A. No. 5215/Mum/2015
(**निर्धारणवर्ष** / Assessment Year: 2011-12)

M/s Sigtia Constructions Pvt. Ltd. 402, Sagar Avenue, 54-B, S. V. Road, Andheri (west) Mumbai-400 058	**बनाम**/ Vs.	ITO WD- 9(3)(2) Aayakar Bhavan, M.K. Road, Mumbai-400 020.
(अपीलार्थी/**Appellant**)	:	(प्रत्यर्थी / **Respondent**)
अपीलार्थीकीओरसे/ **Appellant by**	:	Shri Milind V. Patil, DR
प्रत्यर्थीकीओरसे/**Respondentby**	:	Shri U. C. Bothra, AR
सुनवाईकीतारीख/ **Date of Hearing**	:	07/09/2018
घोषणाकीतारीख / **Date of Pronouncement**	:	04/12/2018

आदेश / O R D E R

Per Sandeep Gosain, Judicial Member:

The present two appeals have been filed by the revenue as well as assessee are against the order of Commissioner of Income Tax (Appeals)-21, Mumbai dated 11.09.15 for AY 2011-12.

2. Since, the facts raised in both the appeals filed by the revenue and the assessee are identical, therefore for the sake of convenience; they are clubbed, heard and disposed of by this consolidated order.

3. First of all we take up appeal in **ITA No. 5472/Mum/2015** filed by revenue for AY 2011-12.

4. The brief facts of the case are that the return of income was filed on 30.09.12 declaring total loss of Rs. 4,53,277/-. Subsequently the case was selected for scrutiny and after serving statutory notices and providing opportunity of hearing, assessment order u/s 143(3) of the I.T. Act was passed on

28.03.142 thereby assessed income at Rs. 3 crore and made certain additions.

Aggrieved by the order of AO, assessee preferred appeal before Ld. CIT(A) and Ld. CIT(A) after considering the case of both the parties *partly allowed* the appeal of the assessee.

Now before us, the revenue as well as assessee have preferred their respective appeals. <u>Firstly we are dealing with the appeal filed by the revenue.</u>

5. The solitary ground raised by the revenue is against challenging the order of Ld. CIT(A) in *deleting the disallowance* made by the AO on account of the cost of the project being overruled at Rs. 14.25 crores which according to the revenue, is nothing but to claim excessive WIP and the assessee had made it a colourable device to increase the WIP of the project by routing of advance without any substance.

6. We have heard counsels for both the parties at length and we have also perused the material placed on record, judgment cited by both the parties as well as the orders passed by revenue authorities.

Before we decide the merits of the case, it is necessary to evaluate the orders passed by AO & Ld. CIT(A). The AO in para no. 11 to 15 and Ld. CIT(A) in para no. 7.3 to 7.5 of its order have dealt with the above ground raised by the revenue, which is reproduced below:-

<u>Operative portion of AO's order:-</u>

11. It is seen from the documents furnished by the assessee that two persons namely 'Nikhil Sigtia' and 'Lalita Sigtia' have given interest free advances of Rs.l,50,00,000/-each i.e. total Rs.3,00,00,000/- to the assessee company on 19/01/2011. It is pertinent to mention here that both these persons were directors and share holders in the assessee company in the earlier year, who had sold their shares to the present share holders.

During the assessment proceeding vide question no.5 of notice u/s.142(1) dt. 30/12/2013. The assessee was *asked to prove identity, Creditworthiness of the creditor and geniuness of the transaction of the above two persons and also asked to furnish their return of income, P/L account, Balance sheet, Computation of income, copy of the Bank Statement for the relevant A.Y.. As the assessee could not furnish the above details, the notice u/s. 133(6) of the I.T Act were issued to the loan creditors. The loan creditors has furnished their return of income, Computation of income, Bank Statement, etc. vide letter dt.02/01/2014. Further again vide order sheet noting dt.07/01/2014 the assessee's representative was again asked to furnish explanation regarding the nature and source of the transaction with the above two persons of Rs.3 Cr. with supporting documentary evidence and the case was adjourn on 13/01/2014 .On 13/01/2014 the assessee's representative has filed a letter for short adjournment and the case was adjourn on 20/01/2014.*

12. Thereafter, the assessee has furnish the details of legal and professional expenses on 20/02/2014 which was considered while ^tiding the issue of the said expenses as per 'Para no.6 to 10'. But the assessee is not able to explain the nature and source of the transaction of loan of Rs. 3Cr.

13. It is to be stated that the earlier directors of the assessee company namely 'Lalita Sigita' and 'Nikhil

Sigtia' has transfer their shares to the Shri Sudhakar Shetty(Present director) and M/s. Sahana Construction Pvt. Ltd. for a total consideration of Rs.14.25Cr. after releasing the total liability of the company as on 07/01/2011 of Rs.1,56,77,440/- by the new share holders vide agreement dt.08/01/2011 on Rs.100/- stamp Paper, which was not registered before the stamp duty authority. The paid up share capital of the company was Rs.1,04,000/- of 10,400/-equiry shares having a face value of Rs.10 each, unsecured loan was Rs.62,45,739/-, share money application money was Rs.1,83,000/-, W.I.P was Rs.60,27,308/-, Cash/Bank Balance was Rs.3,76,431/-, Loan and advance was Rs.3,50,000/- and current liabilities was Rs.2,46,000/- as on 31/03/2010.

14. During the course of assessment proceeding the assessee had furnished investment agreement between the loan creditor(Vinod Sigtia and Lalita Sigtia) and the assessee's company and Sahana Construction Pvt. Ltd. (one of the assessee's group concern) .This investment agreement is not being registered thereby there is no legal sanctity of the said document. Further, in the said agreement which is not registered one, the assessee company has allowed to allot the above two creditors the premises admeasuring approaxmately 80,000 Sq. feet of salable area ready in every aspect *for occupation on the ownership basis of the free sale building to be constructed fort the consideration of Rs.SCr. in the locality of Vile Parle(W),Mumbai .*

15. The entire cycle of transaction entered into between the assessee and the above two creditors seems to be colourful transaction so that the assessee can allot 80,000 sq.feet of habitable premises ready in every aspect at a nominal rate in the prime area of Mumbai. The rate per sq.feet of habitable premises which is to be allotted by the assessee company to the above two creditors comes to Rs.375/- Sq. feet which is dismally low for the area in which property is situated. The transaction of transferring the all shares by the earlier directors to the new person and company for the consideration of Rs. 14.25Cr. which is seen overvalued transaction after considering the balance sheet of the assessee as on 31/03/2010. To accomodate the excess payment made to the earlier director by the assessee, the assessee has made such modus-operandi to reverse back the excess payment made to the earlier directors over and above the actual valuation of the shares of the company. All this transaction cycle of accepting advances by the assessee company against the allotment of the habitable premises in future date is nothing but tactics to show the transaction of sale of the properly to it's earlier directors at a throwaway *price as compared to the market price of the same property in that locality thus, the explanation of the assessee regarding the nature of the receipt of advances amounting to Rs.3Cr.is doubtable and suspicious in view of the above facts, finding and the circumstances of the transaction between the assessee and it's so called creditor. Hence, the explanation of the assessee regarding the nature of advances received at Rs.SCr. is not satisfactory as is not found to be justifiable and acceptable.* ***Therefore, so called advances received Rs.3Cr. is added back to the income of the assessee as unexplained cash credit u/s.68 of the I.T Act 1961. The penalty proceedings u/s.274 r.w.s 271(1)(C) of the I.T Act is separately initiated for concealment of income and furnishing inaccurate particulars of income.***

Operative portion of CIT's Order

7.3 I have examined the facts on record, the assessment order and the submissions of the appellant carefully. The facts are that the amount of Rs 3 crores has been received from Lalita Sigtia and Nikhil Sigtia, whose identity is not in doubt, who are assessed to tax, and the sources of the advance are also not in doubt. What remains is the view of the assessing officer that the *transactions are colourable and that the sale consideration of shares by the Sigtias are undervalued and that construction space offered by appellant to the Sigtias is at much lower than the market value. Now even if it is assumed that the suspicion of the appellant is correct, then the correct action would be to tax the Sigtias for a higher value than that considered by them in their return of income while computing the capital gains. If a company passes on valuable assets to its past shareholder at less than market value, the assessment will be in the hands of the recipient. If and when such property is constructed and sold, the cost to be considered will also remain lower. However, the additions in the hands of the appellant u/s 68 cannot be made.*

7.4. I do not find any evidence brought on record by the assessing officer to substantiate that the value of shares at Rs 14.25 crores is undervalued. It is not inconceivable that the appellant may want to buy in the cooperation of the Sigtias for assistance in the project since they have conceptualized the project and are fully aware of all the past litigations, for which they have been given right to constructed area of 80,000 square feet. It is also noteworthy that the project has not commenced till date and the constructed are is not in existence on date.

7.5. A perusal of the computation of income of Nikhil and Lalita Sigtia shows that in the computation of long term capital gains , the sale consideration for 5300 shares is taken at Rs 646,30,7307- in the case of Lalita Sigtia and for 5100 shares is taken at Rs 621,91,8307- in the case of Nikhil Sigtia. Thus the total consideration considered is Rs 12,68,22,5607- whereas the sale consideration as per the agreement is Rs 14,25,00,0007= The assessing officer is directed to inform the assessing officer of Nikhil Sigtia and Lalita Sigtia to examine the facts and take appropriate action after allowing due opportunity.

7. After having gone through the facts of the present case as well as considering the orders passed by revenue authorities and submissions made by both the parties, we find from the records that the AO observed that 2 persons namely 'Nikhil Sigitia' and 'Lalit Sigitia' had given interest free advance of Rs. 3 crores to the assessee on 19.01.11. It was revealed from the documents that both were directors and share holders in the assessee previously, who had already sold their shares to the present share holders. From the assessment orders, we also noticed that the AO asked the assessee to prove the genuineness of the transactions

with the above two persons and was also asked to furnish their return of income, P & L account, balance sheet, computation of income, copy of bank statement for the relevant assessment year. Since the assessee did not furnish the details sought for by the AO, therefore required notices u/s 133(6) of the I.T. Act were issued to the loan creditors and therefore, loan creditors furnished their return of income, computation of income, bank statement, etc. From the ordersheet noting dated 07.01.14, the assessee was again asked to prove the genuineness and nature of transactions with the above persons of Rs. 3 crores with supporting documentary evidence. But the assessee could not prove the nature of transactions.

From the records, we noticed that the above two persons had transferred their shares in favour of Sudhakar Shetty (present director) and M/s Sahaha Construction Pvt. Ltd. for a total consideration of Rs. 14.25 crores vide agreement dated 08.01.11. According to the records, the paid up share capital of the company was 1,04,000 of 10,400 equity shares having a face value of Rs. 10 each, unsecured loan was Rs. 62,45,739/-, share application money was Rs. 1,83,000/-, WIP was Rs. 60,27,308, cash /bank balance was Rs. 3,76,431/-, loan and advance was Rs. 3,50,000/- and current liabilities was Rs. 2,46,000/- as on 31.03.10.

It was also noticed that assessee had furnished one 'investment agreeement' between the loan creditors and the assessee company and Sahana Construction. This 'investment agreement' was not registered and according to the said agreement the assessee company had allowed to allot the premises admeasuring 80,000 Sqft. of saleable area, ready in every aspect to the above two creditors on the 'ownership basis' for the consideration of Rs. 3 crores in the locality of Vile Parle (W), Mumbai. Considering the above facts, the AO reached to the conclusion that on the one hand, the transaction of transferring all the shares by the earlier directors to the new persons and the assessee for a consideration of Rs. 14.25 crores was considered as 'over valued transaction' after considering the balance sheet of the assessee as on 31.03.10 and on the other hand, the nature of transaction with regard to receiving advance of Rs. 3 crores remains suspicious as in lieu thereof the assessee had aggrieved to allow to allot 80,000 Sqft of ready saleable area on ownership basis.

Ld. CIT(A) had deleted the additions by holding that AO had not brought any evidence to substantiate that the value of shares at Rs. 14.25 crores was ‘under value’ and also found force in the transactions between the two creditors and the assessee for allowing to allot 80,00 Sqft. ready saleable area in lieu of advance of Rs. 3 crores. After having considered the facts of the case, we notice that Ld. CIT(A) went on deciding this ground by keeping in view that AO has commented on the ‘under valuation’ of the share value. Whereas on the contrary, the AO has categorically held that the transferring of shares by the previous share holders to the new person and company are ‘over valued transactions’. Ld. CIT(A) while deciding this ground had only taken into consideration that assessee had given right to construct an area of 80,000 Sqft, but has not considered at all the ‘investment agreement’, where the assessee had allowed to allot premises of 80,000 Sqft ready saleable area for occupation on the 'ownership basis'. Therefore, in this manner, the Ld. CIT(A) has not considered the documents and the facts in right perspective and deleted the additions.

Be that as it may, it is primary duty bestowed upon Ld. CIT(A) that the complete and all relevant facts of the case must be brought on record and discussed while deciding the appeal. It would be relevant here to quote from Hon'ble Delhi High Court in the case of **CIT vrs. Jansampark Advertising and Marketing Pvt. Ltd. Dated 11.03.15,** wherein it was held as under:-

> *35. Assessment proceedings under the Income Tax Act are not a game of hide and seek. The inquiry in the wake of a notice under Section 148 is not an empty formality. It must be effective and with a sense of purpose. There is an elaborate procedure set out which requires scrupulous adherence and followed up on. In the hierarchy of the authorities, the AO is placed at the bottom rung. The two layers of appeals, before the matter engages the appellate jurisdiction of this court, are authorities vested with the jurisdiction, power and obligation to reach appropriate findings on facts. Noticeably, it is only the appeal to the High Court,*

under Section 260-A, which is restricted to consideration of "substantial question of law", if any arising. As would be seen from the discussion that follows, the obligation to make proper inquiry and reach finding on facts does not end with the AO. This obligation moves upwards to CIT (Appeals), and also ITAT, should it come to their notice that there has been default in such respect on the part of the AO. In such event, it is they who are duty bound to either themselves properly inquire or cause such inquiry to be completed. If this were not to be done, the power under Section 148 would be rendered prone to abuse.

38. The provision of appeal, before the CIT (Appeals) and then before the ITAT, is made more as a check on the abuse of power and authority by the AO. Whilst it is true that it is the obligation of the AO to conduct proper scrutiny of the material, given the fact that the two appellate authorities above are also forums for fact-finding, in the event of AO failing to discharge his functions properly, the obligation to conduct proper inquiry on facts would naturally shift to the door of the said appellate authority. For such purposes, we only need to point out one step in the procedure in appeal as prescribed in Section 250 of the Income Tax Act wherein, besides it being obligatory *for the right of hearing to be afforded not only to the assessee but also the AO, the first appellate authority is given the liberty to make, or cause to be made, "further inquiry", in terms of sub-section (4) which reads as under:-*

―The Commissioner (Appeals) may, before disposing of any appeal, make such further inquiry as he thinks fit, or may direct the Assessing Officer to make further inquiry and report the result of the same to the Commissioner (Appeals).

42. The AO here may have failed to discharge his obligation to conduct a proper inquiry to take the matter to logical conclusion. But CIT (Appeals), having noticed want of proper inquiry, could not have closed the chapter simply by allowing the appeal and deleting the additions made. It was also the obligation of the first appellate authority, as indeed of ITAT, to have ensured that effective inquiry was carried out, particularly in the face of the allegations of the Revenue that the account statements reveal a uniform pattern of cash deposits of equal amounts in the respective accounts preceding the transactions in question.

8. Apart from above, we find that Hon'ble Apex Court in the case of **Kapurchand Shrimal Vrs. CIT 1981 131(ITR) Page 451** has held that the duty of the Tribunal does not end with making a declaration that the assessments are illegal and it is duty bound to issue further directions. The appellate authority has the jurisdiction as well as the duty to correct all errors in the proceedings under appeal and to issue, if necessary, appropriate directions to the authority against whose decision the appeal is preferred to dispose of the whole or any part of the matter afresh unless forbidden from doing so by the statute and the statute does not say that such a direction cannot be issued by the appellate authority in a case of this nature.

Therefore, considering the above judgment and keeping in view the interest of justice, we set aside the order of Ld. CIT(A) on this ground and remit the matter back to the file of AO with a direction to carry further 'investigation/verification', if so required, and to remove the doubts /suspicion if any, and to pass afresh order after reaching to a specific finding based on documents / reasoning. It is needless here to mention that before passing the order of assessment, the AO shall provide sufficient opportunity of hearing to the assessee. The assessee is also at liberty to file any other additional documents, if so desires with the AO.

Before parting, we may make it clear that our decision to restore the matter back to the file of AO shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by the AO independently in accordance with law. With these directions, this ground of appeal filed by the revenue is **partly allowed for statistical purposes.**

Now we take up ITA No. 5215/Mum/2015 filed by assessee.

9. This cross appeal filed by the assessee in ITA No. 5215/Mum/2015 for AY 2011-12 is against the order of Ld. CIT(A)- 21, Mumbai dated 11.09.15 on the ground mentioned herein below:-

> *1. **THAT** the learned Commissioner of Income Tax(Appeals) 21 as well as the Assessing Officer has erred in law as well as under the circumstances of*

the case in confirming the disallowance of Legal & Professional Charges amounting to Rs. 60,22,000/- made by the Assessing officer.

2. ***THAT*** *the learned Commissioner, of Income Tax(Appeals) 21 as well as the Assessing Officer has erred in law as well as under the circumstances of the case in not considering the expenses of Rs. 36,0007- shown under the head prior period expenses.*

3. ***THAT, your*** *appellant crave to add, alter, amend or delete any of the grounds at the time of hearing of appeal.*

<u>Ground No. 1.</u>

10. This grounds raised by the assessee relates to challenging the order of Ld. CIT(A) in confirming the disallowance of Legal & Professional Charges amounting to Rs. 60,22,000/- made by the Assessing officer.

11. We have heard counsels for both the parties at length and we have also perused the material placed on record, judgment cited by the parties as well as the orders passed by revenue authorities.

Before we decide the merits of the case, it is necessary to evaluate the orders passed by Ld. CIT(A). The Ld. CIT(A) has dealt with the above grounds raised by the assesee in para no. 6.1 to 6.5 of its order. The operative portion of the order of Ld. CIT(A) is contained in para no. 6.5 of its order and the same is reproduced below:-

> *6.5. In this backdrop, the appellant submitted that the litigation expenses were incurred to protect the business expenses of the Appellant. There is no doubt that the appellant is pursuing a slum redevelopment project which has been mired in litigation going up to the Apex Court. Thus legal expenses are inevitable. Further, provision for such expenses cannot be realistically made unless interim/or final bills are received from the advocates/counsels. As per the appellant the legal expenses of the advocates and solicitors have been finalized in the current year. However, it is also noted that during the year, the management and shareholding of the appellant company was transferred by the Sigtias to Sudhakar Shetty / Sahana Constructions Pvt. Ltd. sale of shares by the promoters was also one of the subjects on which legal advice was received. The purpose mentioned in the submissions of the AR was verified with*

the actual bills received and it is noted that the purpose mentioned by the AR tabulated earlier is not entirely truthful. For instance, the bill of M/s Mulla & Mulla & Crigie & Caroe dated 31.12.2010 for Rs 16,32,4407- mentions that it is in respect of advising in respect of proposed agreements between Sigtia Constructions Pvt. Ltd. and Lalita Vinod Sigtia and Nikhil Sigtia and Sudhakar Shetty / Sahana Constructions Pvt. Ltd. It also mentions that the bill is in respect of general advising from time to time. The other comments mentioned by AR is not found on these bills. Similarly the bill dated 31.12.2010 of Parekh & Co., Delhi for Rs 19,40,000/- is in respect of conferences of the Advocates with Advocates of Mulla and Mulla for finalizing the Share Purchase Agreement and the Investment Agreement. Similar is the purpose in the bills of Rs 24,50,000/- of Pravin Parekh dated 7.01.2011. The other bills are in respect of various Writ Petitions. The sale of shares and management by the promoters of the appellant company cannot be the business of the appellant company. These expenses should have been met by the Sigtia in their personal capacity and not be charged to and claimed by the appellant. I therefore hold that a total of Rs 60,22,000/- of the legal expenses during the year are in respect of sale of shares by the promoters and change of management, and thus not incurred for the business of the appellant. The disallowance is upheld to the extent of

Rs 60,22,0007- . The appellant gets a relief of Rs 33,00,4407- The ground of appeal no 3 is partly allowed.

After having gone through the facts of the present case as well as orders passed by the revenue authorities, we find that Ld. CIT(A) after appreciating the fact that after verification with the actual bills received and on verification, it was noted that the purpose mentioned by the assessee tabulated earlier was not fully true. Ld. CIT(A) after verifying had also given instances which are based on factual findings and for reference, the bill of M/s Mulla & Mulla & Crigie & Caroe dated 31.12.2010 for Rs 16,32,440/- mentions that it is in respect of advising in respect of proposed agreements between Sigtia Constructions Pvt. Ltd. and Lalita Vinod Sigtia and Nikhil Sigtia and Sudhakar Shetty / Sahana Constructions Pvt. Ltd. It was also pointed out that the bill was in respect of general advising from time to time. Similarly the bill dated 31.12.2010 of Parekh & Co., Delhi for Rs 19,40,000/- was in respect of conferences of the Advocates with Advocates of Mulla and Mulla for finalizing the Share Purchase Agreement and the Investment Agreement. Similar was the purpose in the bills of Rs 24,50,000/- of Pravin Parekh dated 7.01.2011. It was also specifically pointed out that the other bills was in respect of various Writ Petitions. By appreciating the factual aspects contained in the present case, we are also of the view that the sale of shares and management by the promoters of the assessee company cannot be termed as business of the company. Therefore, considering the above facts, Ld. CIT(A) had rightly upheld the disallowance to the extent of Rs 60,22,000/- and granted part relief of Rs 33,00,440/-

No new facts have been brought on record in order to controvert or rebut the findings so recorded by Ld. CIT(A). Therefore, there are no reasons for us to interfere into or deviate from the findings so recorded by the Ld.CIT(A). Hence, we are of the considered view that the findings so recorded by the Ld. CIT (A) are judicious and are well reasoned. Resultantly, this ground raised by the assessee stands **dismissed**.

Ground No. 2.

12. This grounds raised by the assessee relates to challenging the order of Ld. CIT(A) in not considering the expenses of Rs. 36,0007- shown under the head prior period expenses.

13. We have heard counsels for both the parties at length and we have also perused the material placed on record, judgment cited by both the parties as well as the orders passed by revenue authorities.

Before we decide the merits of the case, it is necessary to evaluate the orders passed by Ld. CIT(A). The Ld. CIT(A) has dealt with the above grounds raised by the assesee in para no. 8.1 to 8.2 of its order. The operative portion of the order of Ld. CIT(A) is contained in para no. 8.2 of its order and the same is reproduced below:-

> *8.2 These expenses were not claimed in the return of income, apparently since these were prior period expenses. Though the appellant has referred to Paper Book pages 563 to 570 as giving details of the same, I find that on those pages no such details are available. An additional ground not arising out of the order of assessing officer can be considered if the facts pertaining to the same are available on record. Such not being the case, this additional ground is dismissed.*

After having gone through the facts of the present case as well as orders passed by the revenue authorities, we find that Ld. CIT(A) after appreciating the facts had correctly noticed that the expenses claimed were not raised in the return of income and moreover no details were available. No new facts have been brought on record in order to controvert or rebut the findings so recorded by Ld. CIT(A). Therefore, there are no reasons for us to interfere into or deviate from the findings so recorded by the Ld.CIT(A). Hence, we are of the considered view that the findings so recorded by the Ld. CIT (A) are judicious and are well reasoned. Resultantly, this ground raised by the assessee stands **dismissed**.

Ground No. 3.

14. This grounds raised by the assessee is general in nature thus requires no specific adjudication.

15. In the net result, the appeal filed by the revenue stands **partly allowed for statistical purposes** and appeal filed by the assessee stands **dismissed.**

Order pronounced in the open court on 4th Dec, 2018

Sd/-	Sd/-
(R. C. Sharma)	(Sandeep Gosain)
लेखासदस्य / Accountant Member	न्यायिकसदस्य / Judicial Member

मुंबई Mumbai;दिनांकDated : 04.12.2018
Sr.PS. *Dhananjay*

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

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उप/सहायकपंजीकार
(Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई/ **ITAT, Mumbai**