

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

BEFORE SHRI PAWAN SINGH, JM AND SHRI N.K. PRADHAN, AM

ITA No.139/Mum/2017 Assessment Year 2007-08

ITA No.140/Mum/2017 Assessment Year 2007-08

ITA No.141/Mum/2017 Assessment Year 2008-09

ITA No.142/Mum/2017 Assessment Year 2008-09

ITA No.110/Mum/2017 Assessment Year 2009-10

ITA No.111/Mum/2017 Assessment Year 2009-10

DCIT, Central Circle-7(3), Room No.655, 6 th Floor, Aayakar Bhavan, M.K. Road, Mumbai-400 020.	बनाम/ Vs.	M/s. Lodha Construction (Dombivali), 216, Shah and Nahar Industrial Road, Off. Dr. E. Moses Road, Worli, Mumbai-400 018.
स्थायी लेखा सं./PAN :AABFL 3409 M		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

ITA No.135/Mum/2017 Assessment Year 2008-09

DCIT, Central Circle-7(3), Room No.655, 6 th Floor, Aayakar Bhavan, M.K. Road, Mumbai-400 020.	बनाम/ Vs.	Lodha Building & Construction Pvt. Ltd., 216, Shah and Nahar Industrial Road, Off. Dr. E. Moses Road, Worli, Mumbai-400 018.
स्थायी लेखा सं./PAN :AABCL 2571 K		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

ITA No.6602/Mum/2016 Assessment Year 2011-12

ITA No.6603/Mum/2016 Assessment Year 2010-11

ITA No.6604/Mum/2016 Assessment Year 2011-12

DCIT, Central Circle-7(3), Room No.655, 6 th Floor, Aayakar Bhavan, M.K. Road, Mumbai-400 020.	बनाम/ Vs.	M/s. Lodha Construction Pvt. Ltd., 216, Shah and Nahar Industrial Road, Off. Dr. E. Moses Road, Worli, Mumbai-400 018.
स्थायी लेखा सं./PAN :AAACL 2519 A		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

ITA No.6605/Mum/2016 Assessment Year 2011-12

ITA No.6606/Mum/2016 Assessment Year 2011-12

DCIT, Central Circle-7(3), Room No.655, 6 th Floor, Aayakar Bhavan, M.K. Road, Mumbai-400 020.	बनाम/ Vs.	M/s. Lodha Facilities Management Ltd., 216, Shah and Nahar Industrial Road, Off. Dr. E. Moses Road, Worli, Mumbai-400 018.
स्थायी लेखा सं./PAN :AABCL 4864 F		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

ITA No.6612/Mum/2016 Assessment Year 2009-10

DCIT, Central Circle-7(3), Room No.655, 6 th Floor, Aayakar Bhavan, M.K. Road, Mumbai-400 020.	बनाम/ Vs.	M/s. Aashtavinayak Real Estate P.Ltd., 216, Shah & Nahar Industrial Road, Off Dr.E. Moses Road, Worli, Mumbai- 400 018.
स्थायी लेखा सं./PAN :AAGCA 2860 B		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

C.O. No.157/Mum/2018

(Arising out of ITA No.6612/Mum/2016 Assessment Year 2009-10)

M/s. Aashtavinayak Real Estate P.Ltd., Mumbai-400 018.	बनाम/ Vs.	DCIT, Central Circle-7(3), Mumbai-400 020.
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

C.O. No.154/Mum/2018

(Arising out of ITA No.6603/Mum/2016 Assessment Year 2010-11)

M/s. Lodha Construction Pvt. Ltd., Mumbai-400 018.	बनाम/ Vs.	DCIT, Central Circle-7(3), Mumbai-400 020.
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से /Appellant by	Shri Vijay Mehta (AR)
प्रत्यर्थी की ओर से/ Respondent by	Ms. Pooja Swaroop-(DR) & Shri Rajesh Kumar Yadav

Date of Hearing	18/07/2018 19/07/2018
Date of Pronouncement	30/07/2018

आदेश / O R D E R

PER BENCH:

1. This group of 13 appeals by the Revenue and cross objection by the assessee in appeal for the assessment year 2010-11 are directed against the order of CIT(A).s for different assessment years. In all the appeals revenue has raised identical Grounds of appeal. Therefore, with the consent of parties all appeals were clubbed, heard together and are being disposed/decided by a single consolidated order. In all the appeals Revenue has challenged the deletion of penalty either under section. 271D or 271E of the Act. For appreciation of facts we are referring the facts in appeals for **AY 2007-08** in ITA No.139&1409/Mum/2017.
2. Brief facts of the case are that the assessee is a Private Limited Company, engaged in the business of development and construction of real estate properties. It filed its return of income on 30/10/2007, declaring income at Rs.5,25,128/-. The assessment was completed under section 143(3) on 30/03/2015 determining total income at Rs.1,02,65,660/-. The AO while passing the assessment order made reference for considering penalty u/s.271D and 271E for accepting loan/deposit by assessee from various sister concern through journal

entries i.e., otherwise than account payee cheque/draft holding that assessee has violated the provisions of section 269SS/269T of the Act. The Assessing Officer simultaneously made reference for consideration of penalty under section 271E/269T as well. On receipt of reference the ACIT issued separate show cause notice dated 03/07/2015 as to why penalty u/s. 271D and 271E should not be levied. The assessee filed reply vide letter dated 13/07/2015. In reply the assessee contended that journal entries were passed to avoid the delay in procedural hassles of preparing cheque and obtaining signature of authorized persons. It was also made to avoid temporary arrangements of funds for clearance of cheque and earlier settlement of transaction as settlement of these transactions through banking channels results in avoidable delay of 3-4 days, besides blocking huge funds for temporary period and without any corresponding commercial gain. It was also passed for squaring off and consolidation of receivable and payable, operational efficiency and ease of MIS and correction of errors while passing assessment order while passing the entry. It was contended that while passing the assessment order no adverse inference were drawn by Assessing Officer. It was contended that these journal entries were passed for business exigencies to clear the transactions expeditiously and without any commercial loan. It was further contended that at no point of time was there any cash

transaction with sister concerns. The transaction was ultimately settled through banking channels. Hence, there is no avoidance of tax liability by transferring the assets. There is no revenue loss either. Thus the journal entries passed were due to reasonable cause and business expediency. The assessee prayed for dropping penalty u/s. 271D and 271E of the Act. The reply of the assessee was not accepted by the ACIT. The ACIT levied penalty of Rs.1,73,49,453/- under section 271E and penalty of Rs.2,84,12,090/- under section 271D. While levying penalty u/s. 271D/271E the ACIT relied upon the decision of Hon'ble Bombay High Court in the case of Trump International Finance (I) Ltd.(345 ITR 270) wherein it was held that transaction of loan/deposit by way of adjustment through book entry would result in contravention of provisions of section 269SS.

3. On appeal before CIT(A) both the penalties were deleted. The ld. CIT(A) while deleting the penalty u/s. 271D/271E held that genuineness of the transactions made through journal entries is not in doubt and it has not been shown either in assessment proceedings or in penalty proceedings that unaccounted income of lender or borrower was involved. There was no finding that the transactions by way of journal entries were not bonafide or made to evade tax. The ld. CIT(A) further held that the decision of the Hon'ble Bombay High Court in the case of

Trump International Finance (I) Ltd. was dated 12/06/2012 and that payment of journal entry was given prior to the decision of Hon'ble Bombay High Court, which constitutes a reasonable cause within the meaning of section 273B. Aggrieved by the order of the CIT(A), the revenue is in appeal before the Tribunal.

4. We have heard the submissions of the Ld. Departmental Representative (DR) for the Revenue and the Ld. Representative for the assessee (AR) and perused the material on record. At the outset Ld. AR submits that Grounds of appeal raised by the revenue are covered in favour of the assessee by the decision of Hon'ble Jurisdictional High Court in assessee's group case in CIT vs. Ajinath Hitech Builders Private and Others (in ITA.s No.171,172,202, 203, 218 and 219 of 2015 dated 06th February, 2018). Ld.AR further submits that by following the decision of the Hon'ble Jurisdictional High Court the Tribunal allowed similar relief to the assessee in the case of Aashthavinayak Estate Company Ltd. (ITA No.602/M/2017 dated 31 may, 2018) ; CIT vs. National Standard India Ltd. (ITA No.6607/Mum/2016 & 6609/Mum/2016 dated 6th June 2018). The Ld.AR further submits that the journal entries were made/received by the assessee prior to 12th June, 2012. The present appeal pertains to AY-2007-08; therefore, the ratio of the decision of the Hon'ble Jurisdictional High Court in the case of CIT vs. Trump International (I)

Ltd. is not applicable. The Ld.AR further submits that all connected cases listed along with these appeals pertain to AY 2007-08 to 2011-12. Therefore, the ratio of the decision in the case of Trump International (I) Ltd. (supra), is not applicable.

5. On the other hand the ld. DR submits that the assessee has received exorbitant amount from group entities in violation of section 269SS and 269T. The ld. CIT(A) ought to have upheld the penalty levied under section 271D as well as 271E. The assessee failed to establish that there was sufficient or reasonable cause or genuine business constrain of having transactions of each and every journal entry with different group entries. The ld.AR submits that penalty levied by Assessing Officer may be upheld by reversing the order of ld. CIT(A).
6. We have considered the rival submission of the parties and have gone through the orders of authorities below. The ACIT levied penalty u/s.271D as well as u/s.271E on his observation that the assessee has accepted loan/deposit from sister concern through journal entries i.e., otherwise then account payee cheque /draft thereby violated provisions of section 269SS and/ or 269T. The Assessing Officer further held that the assessee has not made out any reasonable cause as prescribed 273B of the Act.

7. Before Id. CIT(A) the assessee urged that journal entries is not loan or deposit of money neither there is any unaccounted cash flow money of the group entities. The assessee further contented that Section 269SS was introduced by the Finance Act, 1984. The Circular, gave the purpose of introduction of Section 269SS. The broad purpose of insertion of section 269SS was with the view to counter the device, which enables the tax payer to explain away un accounted cash or unaccounted deposits, the new section 269SS debars person from taking or accepting after 30/6/1984 from any person loan or deposit otherwise by an account payee cheque or account payee bank draft if the amount of loan or deposit or aggregating amount of such loan is Rs.10,000/- or more. The object of insertion of section 269SS was to ensure that tax payer is not allowed to give false explanation for his unaccounted money or if he has given some false entries in his accounts, he should not escape by giving some false entries in his account, he shall not escape by giving false explanation for the same. The assessee further contended that there is no receipt of any loan/deposit or repayment in any other mode other than the account payee cheque. It is merely a case of assignment of debt by one group entity to another group entity and journal entries have been passed to record such assigned transactions. The provision of section 269SS and 269T are not applicable on such genuine transactions. The Assessing

officer in the assessment order has not made any observation that transactions in question are not out of business exigency or was done with a motive to evade tax. Penalties cannot be levied in a mechanical manner. The provisions of section 269SS and section 269T are not applicable where transaction is between sister concerns. The Id. CIT(A) after considering the contention of the assessee concluded that the assessee has violated the provisions of section 269SS and 269T of the Act. However, the Id CIT(A) concluded that the assessee has given sufficient explanation within the meaning of section 273B , particularly in the facts that there is no finding that such transactions were undertaken to evade the tax. The Id CIT(A) also followed the decision of Tribunal in Lodha Builder Pvt Ltd Vs ACIT in (ITA No. 476/M/2014 and 481/M/2014 dated 27.06.2014 for AY 2009-10.

8. The Hon'ble Bombay High Court in assessee's group case in CIT Vs. Ajinath Hitech Builders Private and Others (supra), on similar Grounds on the question whether the Tribunal is justified in deleting the penalty u/s. 271 held that here was reasonable cause u/s. 273B and held as under

*“3. **Regarding Question No.(i) :-** (a) The common impugned order of the Tribunal arises from the orders passed by the Addl. Commissioner of Income Tax imposing penalty upon the respondents under Section 271D of the Act for breach of Section 269SS of the Act. This penalty was imposed inasmuch as during the previous year relevant to the subject assessment year, the*

respondents had accepted loans / deposits by way of passing journal entries in its books of accounts, in breach of Section 269SS of the Act. In terms Section 269SS of the Act prohibits a person from taking / accepting any loan / deposit or specified sum, otherwise by an account payee cheque or by an account payee bank draft or by use of electronic clearing system of a bank if the amount involved is in excess of Rs.20,000/-. This imposition of penalty under Section 271D of the Act, was upheld by a common order dated 31st December, 2013 passed by the Commissioner of Income Tax (Appeals). On further appeal, the impugned order dated 27th June, 2014 of the Tribunal, inter alia held that penalty under Section 271D of the Act is not imposable in view of Section 273B of the Act. This for the reason that there was a reasonable cause for the failure to comply with Section 269SS of the Act.

*(b) On merits of the issue, the parties before us are agreed that the Tribunal was correct in holding that receipt of any advance / loan by way of journal entries is in breach of Section 269SS of the Act as the decision of this Court in **Commissioner of Income Tax Vs. Triumph International Finance (I) Ltd. 345 ITR 270** is binding upon it. However, the Revenue's grievance is with the impugned order dated 27th June, 2014 of the Tribunal further holding no penalty under Section 271D of the Act is imposable in view of Section 273B of the Act in the present facts. This is so as the Tribunal holds that the failure to comply with Section 269SS of the Act was on account of reasonable cause on the part of the respondents. This finding of reasonable cause was on the application of parameters laid down by this Court in **Triumph International Finance (supra)** to determine reasonable cause for not complying with the provisions of Section 269SS of the Act.*

(c) Mr. Mohanty, the learned Counsel for the Revenue seeks to challenge the impugned order of the Tribunal on the ground that Section 273B of the Act will have no application as the test of reasonable cause is not satisfied :in the present facts for the following reasons :-

*(i) the decision of this Court in **Triumph International Finance (supra)** will have no application as that was of the case of only one transaction while in this case, there are numerous transactions reflected through the passing of journal entries;*

(ii) *the reasons set out for taking advances / deposits by way of journal entry would not satisfy the test of reasonable cause; and*

(iii) *the non-satisfaction of showing reasonable cause as required under Section 273B of the Act gives rise to a question of law as it is a legal inference to be drawn from primary facts as held by the Apex Court in **Premier Breweries Ltd. Vs. Commissioner of Income Tax 372 ITR 180.***

Thus, it is submitted this question requires admission as it gives rise to a substantial question of law;

(d) *We find that the impugned order of the Tribunal has on application of the test laid down for establishment of reasonable cause, for breach of Section 269SS of the Act by this Court in Triumph International Finance (supra) found that there is a reasonable cause in the present facts to have made journal entries reflecting deposits. The Tribunal while relying upon the order of this Court in Triumph International Finance (supra) has held that in the present facts, neither the genuineness of receipt of loans / deposits by way of an adjustment through journal entries carried out in the ordinary course of business has been doubted in the regular assessment proceedings. It held in the present facts the transaction by way of journal entries was undisputedly done to raise funds from sister concerns, to adjust or transfer balances to consolidate debts, to correct clerical errors etc. Further, the Tribunal records that as observed by this Court in Triumph International Finance (supra) that journal entries constituted a recognized modes of recording of transactions and in the absence of any adverse finding by the authorities that the journal entries were made with a view to achieve purposes out side the normal business operations or there was any involvement of money, then, in these facts there was a reasonable cause for not complying with Section 269SS of the Act.*

(e) *Mr. Mohanty's submission that the test laid down in Triumph International Finance (supra) will have no application in the present facts in view of the large number of entries in this case as compared to only one entry in the case before this Court. The test of reasonable cause can not, in the present facts be determined on the basis of the number of entries. If there was a reasonable*

cause for making the journal entries, then, the number of entries made, will not make any difference. Besides, on facts, the Tribunal was satisfied with the reasons given by the Assessee for reasonable cause and this finding is not shown to be perverse. Finally, the issue of there being a reasonable cause or not is an issue of fact. No inference of law and / or issue of interpretation is to be made. The decision relied upon by the Revenue in case of Premier Breweries Ltd.(supra) concerned itself with the issue of a claim for deduction under Section 37 of the Act on the basis of the Agreements entered into between the parties. The inference of law in that case was whether on the facts, it could be inferred that the claim for deduction is in respect of expenditure incurred wholly and exclusively for the purposes of the business. Thus, it would involve a question of interpretation of the agreements etc. from which an inference is to be drawn. Further, it also involves application of principles of law to the facts for the purposes of deductions and, therefore, it would lead to a question of law. Therefore, the Court held in the facts of that case that a question of law does arise.

*(f) In this case, the issue of reasonable cause is an inference of fact from facts and, therefore, a question of fact. The Supreme Court decision in **Sree Meenakshi Mills Ltd. Vs. Commissioner of Income Tax, 31 ITR 28** had laid down the tests to determine a question of law and / or fact. In the above context, the Court observed that when the finding is one of fact, the fact that it itself is an inference from other basic facts, will not alter its character as one of fact. Therefore, the issue of there being reasonable cause or not, is a question of fact and unless it is shown to be perverse, we would normally not interfere.*

(g) In the above circumstances, the view taken by the Tribunal on the facts before it, is a possible view and does not give rise to any substantial question of law.

(h) In any event, as rightly pointed out by Mr. Sridharan, learned Senior Counsel for the respondents assesses, the order of this Court in Triumph International Finance (supra) was rendered on 12th June, 2012. This, was in an appeal filed by the Revenue from the order of the Tribunal dated 29th January, 2008, which had held that deposits / loans received through journal entries do

*not fall with the mischief of Section 269SS of the Act, so as to invite penalty under Section 271D of the Act. This, the Tribunal did by following its earlier orders in the case of V.N. Parekh Ltd. and Ketan Parekh as indicated in the order of this Court in Triumph International Finance (supra). Our attention was also invited to numerous reported decisions of the Tribunal in the cases of Sunflower Builders Vs. Dy.CIT, 1997 (61) ITD (Pune) 227, Asst.CIT Vs. Ruchika Chemicals & Investment (P) Ltd. 2004 (88) TJJ (Delhi) 85 and Asst.CIT Vs. Lala Murari Lal & Sons, 2004(2) SOT (Luck) 543 wherein it has been held journal entries in the book of accounts indicating deposit / loans will not fall foul of Section 269SS of the Act. Besides, the Delhi High Court in **Commissioner of Income Tax Vs. Noida Toll Bridge Co. Ltd. 262 ITR 260** inter alia held that payment of Rs.4.85 crores made by the assesses by a journal entry in its books of account by crediting the account of ILFS, would not fall foul of Section 269SS of the Act. This particularly in the absence of any payment being made in cash.*

(i) In the present facts, the period during which the journal entries were made by the respondents was in the previous year relevant to the Assessment Year 2009-10 i.e. Financial Year 2008-09. At that time, the decisions of the Tribunal in the cases of Triumph International (Supra) and decision of V.H. Parekh (P) Ltd., Ketan V Parekh, Sunflower Builders (supra), Ruchika Chemicals (supra), Lala Murari Lal (supra) and the decision of the Delhi High Court in Noida Toll Bridge Co. Ltd. (supra) were holding the field. Thus, not in breach of Section 269SS of the Act. In the above view, while agreeing with the submission of Mr. Mohanty, learned Counsel for the appellant that the decision of this Court in Triumph International Finance (supra) has only clarified / stated the position as always existing in law, the receiving of deposits / loans through journal entries would certainly be hit by Section 269SS of the Act. Nevertheless, prior to the decision of this Court in Triumph International Finance (supra), there was reasonable cause for respondents to receive deposit / loan through journal entries. This non-compliance with Section 269SS of the Act would certainly be a reasonable cause under Section 273B of the Act for non-imposition of penalty under Section 271D of the Act.

(j) *In the above circumstances, the view taken by the Tribunal in the impugned*

order holding that no penalty can be imposed upon the respondents as there was a reasonable cause in terms of Section 271B of the Act for having received loans / deposits through journal entries is at the very least is a possible view in the facts of the case.

(k) *Therefore, the question as posed does not give rise to any substantial question of law. Thus, not entertained.”*

9. Further co-ordinate Bench of the Tribunal in Assessee's group case in DCIT vs. Aashthavinayak Estate Company Ltd. (supra), while dealing with identical Ground of appeal held as under:-

“5. We have considered rival contentions and carefully gone through the orders of the authorities below. We have deliberated on the judicial pronouncements referred by lower authorities in their respective orders as well as cited by learned AR and DR during the course of hearing before us in the context of factual matrix of the case. We had also carefully gone through the orders of the Tribunal in the group cases of the assessee which was upheld by the Hon'ble Jurisdictional High Court as stated above.

6. From the record we found that AO has levied penalty u/s.271D for accepting loan by way of Journal entries. The Assessing Officer had placed reliance on the judgment of the Hon'ble jurisdictional High Court in the case of CIT v. Triumph International Finance (I) Ltd. (345 ITR 270) rendered on 12.06.2012. It is not disputed that in this judgment it was held that there was violation of the provisions of S. 269T of the Act in a case where the loan was repaid by way of a journal entry entailing levy of penalty u/s. 271E of the Act. However, at the same time it was also held that levy of penalty could be avoided on showing reasonable cause. In the premises, levy of penalty u/ss. 271D of the Act is not automatic, but the genuineness or otherwise of the reasons due to which repayment was made by journal entry has to be considered judiciously.

7. *In the order reported as Lodha Builders (P) Ltd. v. ACIT [2014] 163 TTJ 778 (Mum), a bunch of appeals belonging to Lodha group (to which the present assessee belongs) involving identical issue, was disposed of by the co-ordinate Bench in which levy of similar penalties was held to be not sustainable as there was a reasonable cause, copies of which have been placed on record. In deciding the dispute in favour of the assessee, the Hon'ble Tribunal had considered and applied the ratio laid down by the Hon'ble jurisdictional High Court in the case of CIT v. Triumph International Finance (I) Ltd. (345 ITR 270).*

8. *The aforesaid order of the Hon'ble Tribunal was approved by the Hon'ble jurisdictions! High Court in their judgment and order dated 06.02.2018 in the case of CIT v. Ajinath Hi-Tech Builders Pvt Ltd. and others, copies of which have also been placed on record. In this case, it was also held that prior to the judgment in CIT v. Triumph International Finance (I) Ltd. (345 ITR 270), there were series of orders on this point holding that journal entry would not fall foul of S. 269SS of the Act. Since the judgment in CIT v. Triumph International Finance (I) Ltd. (345 ITR 270) was rendered on 12.06.2012, it was held, that the assessee could have had a bonafide belief prior to that date that there was no violation of S. 269SS of the Act in accepting loan by journal entry.*

9. *While deciding the issue, the CIT(A) has also followed the decision of Jurisdictional High Court in case of group concern of the case. The facts and circumstances during the year under consideration are same, accordingly, we do not find any infirmity in the order of CIT(A) for deleting the penalty imposed u/s.271D by relying on the decision of Jurisdictional High Court in group case of the assessee.*

10. *In the result, appeal of the Revenue is dismissed."*

10. Considering the decision of Hon'ble Jurisdictional High Court in assessee group case in Ajinath Hi Tech Builder Pvt Ltd (supra), Triumph International Finance(I) Ltd (supra) dated 12.06.2012 and in Assessee's group case in DCIT vs. Aashthavinayak Estate Company Ltd. (supra) that there was reasonable cause for the assessee to receive deposits of

loan or repayment of loans through journal entries. Therefore, in our view the assessee's case squarely falls under a reasonable cause within the meaning of section 273B. The case is also covered by the decision of Hon'ble Jurisdictional High Court in assessee group case in Ajinath Hi Tech Builder Pvt Ltd (supra), DCIT vs. Aashthavinayak Estate Company Ltd. (supra). Therefore, we do not find any reason to interfere with the finding of Id. CIT(A).

11. In the result appeals of the revenue for AY 2007-08 in ITA No.139, 140/Mum/2017 are dismissed.

ITA No.141/Mum/2017 Assessment Year 2008-09
ITA No.142/Mum/2017 Assessment Year 2008-09
ITA No.110/Mum/2017 Assessment Year 2009-10
ITA No.111/Mum/2017 Assessment Year 2009-10
ITA No.135/Mum/2017 Assessment Year 2008-09
ITA No.6602/Mum/2016 Assessment Year 2011-12
ITA No.6603/Mum/2016 Assessment Year 2010-11
ITA No.6604/Mum/2016 Assessment Year 2011-12
ITA No.6605/Mum/2016 Assessment Year 2011-12
ITA No.6606/Mum/2016 Assessment Year 2011-12
ITA No.6612/Mum/2016 Assessment Year 2009-10

12. In all these appeals the revenue has raised identical Grounds of appeal for deleting the penalty u/s. 271D/271E. As we have already deleted the penalty on similar grounds in appeal for AY 2007-08, therefore, following the principle of consistency, all the appeals filed by the revenue are dismissed.

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13. With regard to the Grounds of cross objections, we note that the Grounds raised in cross objection have become academic as we have already dismissed the appeal of the revenue.

In the result, all the appeals filed by the revenue and cross objections raised by the assessee are dismissed.

Order pronounced in the open court on 30th July, 2018.

Sd/-

(N.K. PRADHAN)

लेखा सदस्य / ACCOUNTANT MEMBER
मुंबई Mumbai; दिनांक Dated: 30/07/2018
Jv.Sr.PS.

Sd/-

(PAWAN SINGH)

न्यायिक सदस्य / JUDICIAL MEMBER

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

- 1.Appellant /अपीलार्थी 2. Respondent /प्रत्यर्थी
- 3.The concerned CIT(A)/संबद्ध अपीलीय आयकर आयुक्त, 4.The concerned CIT /संबद्ध आयकर आयुक्त
- 5.DR “ A ” Bench, ITAT, Mumbai /विभागीय प्रतिनिधि, खंडपीठ,आ.अ.न्याया.मुंबई
- 6.Guard File/गार्ड फाईल

सत्यापित प्रति //True Copy//

आदेशानुसार/ **BY ORDER,**
उप/सहायक पंजीकार **Dy./Asst. Registrar**
आयकर अपीलीय अधिकरण, मुंबई /ITAT, Mumbai.