

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH 'C' : MUMBAI

**BEFORE SHRI D.K. AGARWAL, (JM) AND SHRI PRAMOD KUMAR,(AM)**

**ITA No.523/Mum/2009**  
Assessment Year : 2004-05

Piem Hotels Limited  
Taj President  
90, Cuffe Parade, Colaba  
Mumbai-400 005.  
P.A. No.(**AAACP 8376 M**)

.....(*Appellant*)

Vs.

Dy. Commissioner of Income tax  
Range-3(2)  
Mumbai. ....(*Respondent*)

Appellant by : Shri Sunil M. Lala  
Respondent by : Shri Ajit Kumar Sinha

**O R D E R**

**Per D.K. AGARWAL (JM).**

This appeal preferred by the assessee is directed against the order dated 5.11.2008 passed by the Id. CIT u/s.263 of the Income tax Act, 1961 (the Act) for the Assessment Year 2004-05.

2. Briefly stated facts of the case are that the assessee company is engaged in the business of hotel and catering services. The return was filed declaring total income of ₹ 12,35,81,952/- . However, the assessment was completed at an income of ₹ 13,17,06,100/- vide order dated 8.12.2006 passed u/s.143(3) of the Act. Subsequently,

the Id. CIT, in exercise of his powers u/s.263 of the Act observed that the assessee had claimed depreciation u/s.32(1)(ii) amounting to ₹ 80,90,318/- on goodwill of ₹ 3,69,84,311/-. The clause (b) to Explanation (3) to section 32(1)(ii) of the Act defines Block of Assets to mean Intangible assets being know-how, patents, copy rights, trade marks, licenses, franchises or any other business or commercial rights of similar nature. The order passed by the Assessing Officer allowing depreciation on goodwill was prima-facie erroneous and also prejudicial to the interests of revenue as there is no mention of such asset as 'goodwill' in the said provisions. The Assessing Officer had allowed the depreciation without application of mind as the order was completely silent about this aspect. Hence he issued a notice for revision u/s.263 of the Act, dated 11.02.2008 to show cause as to why the assessment order dated 08.12.2006 passed u/s.143(3) of the Act should not be revised or cancelled or modified within the terms of sec.263 of the Act. The assessee vide letter dated 05.05.2008, contended that the issue regarding depreciation on goodwill was specifically raised by the Assessing Officer during the assessment proceedings vide question No.3 of the questionnaire dated 24.10.06, for which the assessee filed written submission vide letter dated 22.11.2006 and since the issue was already examined by the Assessing Officer, it was contended that the assessment order passed

u/s.143(3) dated 08.12.2006 is not erroneous u/s.263 and would fall outside the scope of jurisdiction of sec.263 of the I.T. Act. It was further contended that value of goodwill of ₹ 3,69,84,311/- is, infact, value of various intangible assets acquired in the form of valuable licenses/permissions etc., though the same was recorded as 'Goodwill' in the books of account. The assessee has also submitted details of licences/approvals/registrations required for operating hotels which were treated as goodwill by the assessee in Annexure to the letter dated 28.07.2008. The learned CIT after considering the assessee's submissions observed that on perusal of the list of the assets which were treated as goodwill by the assessee on which depreciation was claimed are of the nature of the approvals taken from the Government bodies which are Registration of Employees under PF Act, Family Pension, State Insurance Act, Payment of Wages Act, Bonus Act, Contract & Labour Act, Industrial & Employment Act etc. including approval for lift licence, calibration of weights & measures, NOC from PWD, Liquor etc. for service tax, TAN registration etc. He further observed that the Assessing Officer has not applied his mind whether these licenses/ approvals bring into existence of any new asset or not. Moreover the details of nature licences/approvals granted and its item wise valuation was not verified by him and the same was also not submitted before the Assessing Officer. Therefore, the issue as to

whether these approvals/registrations etc. amounts to intangible assets was not examined by the Assessing Officer. Hence, the order passed by the Assessing Officer is erroneous and prejudicial to the interest of the revenue and accordingly he set aside the order passed by the Assessing Officer to be made afresh after giving proper opportunity to the assessee.

3. Being aggrieved by the order of the Id. CIT the assessee is in appeal before us taking following grounds of appeal.

"1. On the facts and in the circumstances of the case, the Id. CIT-3 has legally erred in assuming jurisdiction under section 263 of the Income tax Act, 1961 ('the Act').

2. On the facts and in the circumstances of the case, the Id. CIT has legally erred in holding that the order passed by the Id. Assessing Officer is erroneous and prejudicial to the interest of the revenue.

3. On the facts and in the circumstances of the case, the Id. CIT has legally erred in passing the impugned order in violation of the principles of natural justice."

4. At the time of hearing the Id. Counsel for the assessee at the outset submits that in the year under consideration the assessee has claimed depreciation ₹ 19,62,53,970/- including depreciation ₹ 80,90,318/- @ 25% u/s.32(1)(ii) on intangible assets on opening WDV of ₹ 3,23,61,272/- vide chart of computation appearing at page-88, 89, notes to the return of income at page-98 (item No.4) of the

assessee's paper book. He further submits that in the immediately preceding year i.e. Assessment Year 2003-04 the similar claim was made vide chart of computation of income appearing at page-5, 6, notes to the return of income at page-16 (item No.12) of the assessee's paper book. He further submits that in the immediately preceding year i.e. for Assessment Year 2003-04 the Assessing Officer has issued a questionnaire annexed to notice u/s.142(1) of the Act dated 16.8.2005 wherein in point No.24 the Assessing Officer observed that "as per para-12 of notes of return of income there is a claim of depreciation of ₹ 46,23,039/- on goodwill being intangible asset held by you acquired from Hotel Blue Diamond. You are requested to (i) to provide the address from whom it has been acquired with the confirmation of having received of goodwill and offered for Tax; (ii)Please state when it was acquired; (iii) Copy of Agreement in support of the same and (iv) How the Goodwill is an asset qualifying for Depreciation." In response, the assessee filed reply dated 26.12.2005 wherein in point No.9 the assessee has explained the claim of depreciation on goodwill, copy of questionnaire and assessee's reply are appearing at page 17 to 27 of assessee's paper book. He further submits that the assessee has also filed copy of sale and purchase agreement dated 26.3.2003 appearing at page-36 to 63 of assessee's paper book. He further submits that the

Assessing Officer after considering the assessee's submissions accepted the claim of depreciation including depreciation on goodwill by making no disallowance on this account, vide assessment order for Assessment Year 2003-04 dated 31.1.2006 passed u/s.143(3) of the Act copy of which is appearing at page- 64 to 83 of the assessee's paper book. He further submits that for the year under consideration i.e. for Assessment Year 2004-05 the Assessing Officer issued a questionnaire dated 24.10.2006 wherein in point No.3 the Assessing Officer asked the assessee to justify the claim of depreciation of intangible assets with detailed working and in response the assessee filed his reply dated 22.11.2006 interalia stating that the depreciation has been claimed @ 25% on opening WDV of ₹ 3.23,61,272/- and the copy of the questionnaire and assessee's explanation are appearing at pg-103 to 111 of assessee's paper book. He further submits that the Assessing Officer after considering the assessee's explanation has accepted the claim of depreciation including depreciation on goodwill, vide impugned assessment order for Assessment Year 2004-05 dated 8.12.2006 passed u/s.143(3) of the Act. He further submits that since the claim of depreciation has been accepted by the Assessing Officer after due examination, therefore, the assessment order passed by the Assessing Officer is neither erroneous nor prejudicial to the interests of the revenue. He further submits that since the depreciation on

goodwill has already been allowed for the Assessment Year 2003-04 and in the year under consideration the claim of depreciation on goodwill was made on opening WDV which has been allowed by the Assessing Officer after due examination.

5. On the allowability of depreciation on goodwill the Id. Counsel for the assessee submits that as table and chair form part of the furniture on which depreciation is allowable likewise all these items which have been mentioned by the Id. CIT in para-5 of his order do constitute intangible asset being goodwill as provided u/s.32(1)(ii) of the Act on which the depreciation was claimed and allowed by the Assessing Officer. He, therefore, submits that the assessee's case falls outside the jurisdiction of sec.263 of the Act.

6. The reliance was also placed in DCIT vs. Hindustan Coca Cola Beverages (P.) Ltd. 34 SOT 171 (Del.), for the proposition that Assessing Officer has not discussed the claim of depreciation on goodwill in the assessment order even though the same claim was allowed in the earlier years and he had before him detailed explanation in support of legal claim, therefore, it cannot be inferred that the Assessing Officer did not apply his mind to the matter. It is well settled in law that when Assessing Officer takes a possible view of the matter on merits, his order cannot be subjected to review merely

because other view is possible. Therefore, the CIT erred in exercising his revision jurisdiction to disallow the depreciation allowed by the Assessing Officer.

7. The reliance was also placed in The A.P. Paper Mills Ltd. vs. ACIT 128 TTJ 596 (Hyd.) for the proposition that goodwill is a commercial right of similar nature as enumerated in sec.32 and thus, Assessing Officer was justified in allowing depreciation on such goodwill, and CIT was not correct in invoking the provisions of sec.263. The reliance was also placed in ACIT vs. M/s. CLC Global Ltd. ITA No.2288(Del.) 2008 for the proposition that once the Assessing Officer, on exactly similar facts, had allowed depreciation on goodwill in the immediately preceding year, there was no reason to take a different stand for the year under consideration and to disallow the depreciation claimed.

8. The reliance was also placed in Kotak Forex Brokerage Ltd. vs. ACIT 33 SOT 237 (Mum.) for the proposition that sec. 32 allows depreciation on both tangible and intangible assets and clause (ii) of section 32(1) thereof enumerates the intangible assets on which depreciation is allowable. Any right which is obtained for carrying on the business effectively and profitably has to fall within the meaning of intangible asset. Goodwill is also an intangible asset of similar nature

referred to in clause (ii) of section 32(1) and therefore depreciation is allowable on the same.

9. He also placed reliance on the decisions in CIT vs. Gabriel India Ltd. 203 ITR 108(Bom.); Mrs. Khatiza S. Oomerbhoy vs. ITO 101 TTJ 1095; Salora International Ltd. vs. Addl. CIT 2 SOT 705 (Del.); Addl. CIT vs. Shipra Estate Ltd. 35 SOT 256(Del.) and Chroma Business Ltd. vs. DCIT 82 TTJ 540 (Kol.) for the proposition that if the query has been raised by the Assessing Officer on the issue in dispute in respect of which assessee has given its representations and details of the claim before the Assessing Officer, revision by the CIT u/s. 263 on the same issue is bad in law. Further, mere lack of discussion of the issue in the assessment order would not render the said order erroneous. Merely because Assessing Officer does not meticulously deal with the issue, merely because the assessment order is brief, the said order cannot be treated as erroneous.

10. Reliance was also placed on the decisions in CIT vs. Max India Limited (2004)268 ITR 128 (P&H) affirmed by the Hon'ble Apex Court in (2007) 295 ITR 282(SC) and Malabar Industrial Co. Ltd. vs. CIT (2000) 243 ITR 83(SC) for the proposition where two views are possible and Assessing Officer has taken one view with which the CIT does not agree, it can not be treated as erroneous order prejudicial to

the interest of the Revenue. He therefore, submits that in the light of the above facts and law, the Id. CIT was not justified in setting aside the assessment order passed by the Assessing Officer to be made afresh and, therefore, the order passed by the Assessing Officer be restored.

11. On the other hand, the Id. DR while relying on the order of the Id. CIT submits that at no stage during the course of assessment proceeding the Assessing Officer has not obtained bifurcation and details of the assets on which depreciation on goodwill was claimed and allowed, therefore, the Id. CIT for making appropriate enquiry at the end of the Assessing Officer, set aside the assessment order and hence the order passed by the Id. CIT is valid in law and be upheld.

12. We have carefully considered the submissions of the rival parties and perused the material available on record.

13. Section 32(1) reads as under :

"32. Depreciation.--(1) In respect of depreciation of--

(i) buildings, machinery, plant or furniture being tangible assets ;

(ii) know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets acquired on or after the 1st day of April, 1998,

owned, wholly or partly, by the assessee and used for the purposes of the business or profession the following deductions shall be allowed—“

The two requisites for depreciation allowance are (i) that the depreciable asset is owned wholly or partly by the assessee and (ii) that it is used for the purpose of assessee's business or profession, subject, however, to the provisions of sec.34. For and from Assessment Year 1999-2000, depreciation is allowable on both tangible and intangible assets as referred to in sec.32(1). The relevant amendment has been explained in a Board Circular No.772 dated 23.12.1998 as under :-

"15. Depreciation to be allowed on tangible assets -  
15.1 Under the existing provisions of section 32 of the Income tax Act, depreciation is allowable only on tangible assets, being buildings, machinery, plant or furniture. The Act amends this section to widen its scope by providing that depreciation will also be allowable in respect of intangible assets, being know-how, patents, copyrights, trade marks, licences or franchises or any other business or commercial rights of similar nature, acquired on or after the 1<sup>st</sup> day of April, 1998. The Act also amends the definition of the term "block of assets" so as to include these intangible assets within the meaning of block of assets. The rate of depreciation in respect of these intangible assets has since been prescribed at 25 percent vide Notification S.O. No. 781(E), dated September 4, 1998."

14. In Malabar Industrial Co. Ltd. vs CIT (2000)243 ITR 83 (SC)

Their Lordships under para 10 of the judgment have taken the view that "The phrase "prejudicial to the interests of the Revenue" has to be read in conjunction with the expression "erroneous" order passed by the Assessing Officer. Every loss of revenue as a consequence of an order of the Assessing

Officer cannot be treated a prejudicial to the interests of the Revenue. For example, when an Income tax Officer adopted one of the courses permissible in law and it has resulted in loss of revenue; or where two views are possible and the Income tax Officer has taken one view with which the Commissioner does not agree, it cannot be treated as an erroneous order prejudicial to the interests of the Revenue, unless the view taken by the Income tax Officer is unsustainable in law.....”

15. Keeping in mind the interpretation of the Hon'ble Apex court (supra), it is necessary to go into the factual aspects of the matter. We are reproducing the order passed by the revisional authority, the relevant para is as under :-

“5. The explanation filed by the representative of the assessee was carefully considered. On perusal of the list of these assets which were treated as goodwill by the assessee on which depreciation was claimed it is seen that these are of the nature of the approvals taken from the Government bodies which are Registration of Employees under PF Act, Family Pension, State Insurance Act, Payment of Wages Act, Bonus Act, Contract & Labour Act, Industrial & Employment Act etc. It also includes approval for lift licence, calibration of weights & measures, NOC from PWD, Liquor etc. for service tax, TAN registration etc. On perusal of these lists it is seen that the Assessing Officer has not applied his mind whether these licenses/ approvals bring into existence of any new asset or not. Moreover the details of nature licences/approvals granted and its item wise valuation was not verified by him and the same was also not submitted before the Assessing Officer. Therefore, the issue as to whether these approvals/registrations etc. amounts to intangible assets was not examined by the Assessing Officer. Thus, the Assessing Officer has not applied his mind with respect to the examination and verification regarding allowability of depreciation of assets claimed as intangible assets. Thus, the Assessing Officer

has committed a mistake of lapse in this regard. Hence, the order passed by the Assessing Officer is erroneous and prejudicial to the interest of the revenue."

16. Here it is also necessary to take note of the Tribunal decisions relied on by the Id. Counsel for the assessee.

17. In DCIT vs. Hindustan Coca Cola Beverages (P.) Ltd. supra it has been held (headnote):

"The fact that there are no elaborate discussions about a claim of deduction cannot, in the light of the decision of a Co-ordinate Bench in the case of Mrs. Khatiza S. Oomerbhoy vs. ITO (2006) 101 TTJ (Mumbai) 1095: (2006) 100 ITD 173 (Mumbai), be a good ground for assuming jurisdiction under s. 263. In these circumstances, from the fact that the AO has not discussed the claim of depreciation on goodwill in the assessment order even though the same claim was allowed in the earlier years and even though the AO had before him detailed explanation in support of legal claim, it cannot be inferred that the AO did not apply his mind to the matter. His decision to accept the submission of the assessee may have been incorrect, but right now that is not the issue before us. The AO decided not to reject the claim, admittedly after having had an opportunity to peruse the detailed submissions, and this stand by itself cannot imply that there was no application of mind. It is well-settled in law that when AO takes a possible view of the matter on merits, his order cannot be subjected to review merely because other view is possible.

We are in considered agreement with the view of the Co-ordinate Bench. As for learned Departmental Representative's contention that the CIT cannot be a silent spectator to such a wrong grant of depreciation and that the CIT must safeguard the interest of the Revenue, all we can say is that, on the facts of the present case and particularly when the CIT has withdrawn depreciation on goodwill on the ground that such a claim is patently inadmissible, we are unable to approve his stand on merits and we must also follow the Co-ordinate Benches which have decided the same issue, on materially identical facts, in favour of the assessee. In view of the

above discussions, and for the detailed reasons set out above, CIT indeed erred in invoking jurisdiction under s. 263. The impugned order is, therefore, set aside."

18. In The A.P. Paper Mills Ltd. *supra*, it has been observed and held as under :-

"As per scheme of amalgamation assessee company has taken over the assets of CLP at Rs.10,488.95 lacs and liability of Rs.9,772 lacs for which assessee paid consideration of Rs.2,590.92 lacs. Though the assessee has taken the net assets at Rs. 716.95 lacs, it has paid Rs.2,590.92 lacs. This difference i.e. excess consideration represents the goodwill at Rs.1,933.97 lacs as per argument of the assessee's counsel..... Further, the assessee got various infrastructural advantages like CPL has almost all infrastructure capability like captive power plant of 5.74 MW, coal fired boiler, DM plant, effluent treatment plant, and also benefit of sales-tax deferment loan for 14 years upto 30<sup>th</sup> June, 2013. Further, the assessee acquired on operating mill, no gestation/stabilization period was required when compared to new green field or brown field venture. The above advantages which accrued to the assessee are nothing but various intangible assets and business advantages. This is nothing but intangible asset as enumerated in s. 32. All the rights are similar to the rights mentioned in s.32. Thus goodwill is a business or commercial right of similar nature and the assessee is benefited by amalgamation by acquiring that commercial value being intangible assets which the assessee has paid on amalgamation i.e. excess consideration over and above the excess of assets over liabilities is a goodwill which is an asset entitled for depreciation under s. 32. As such, AO is justified in granting the depreciation on goodwill while completing the assessment under s. 143(3) and CIT is not justified in invoking of provisions of s. 263 on this issue. Further, the provision of s. 263 could be invoked by the CIT if the circumstances specified therein viz. (1) the order is erroneous (2) by virtue of the order being erroneous, prejudice has been caused to the interest of the Revenue, exist. For invoking the provision s. 263, both the conditions precedent for exercising the jurisdiction are conjunctive or not disjunctive. In the instant case, the AO followed one course of action which is permitted by law and that resulted in loss to the

Revenue, that cannot be said erroneous so far as prejudicial interest of the Revenue....."

19. In M/s. CLC Global Ltd. supra, it has been held as under :-

"6. We have heard the parties and perused the material on record. The issue is as to whether the depreciation claimed on goodwill has rightly been allowed by the learned CIT(A). The learned CIT(A), while allowing the claim of depreciation, held that the AO, after having allowed the claim of depreciation in the assessment year 2002-03, could not have taken a different stand in the succeeding assessment year. It was observed that in the preceding assessment year, the AO had accepted the goodwill per se as a block of assets, on which, depreciation was allowed at Rs.1,87,50,000/- and that thus, the written down value of the assets at the beginning of the year under consideration was Rs.5,62,50,000/-. It was also observed that the assessee had acquired licence, goodwill, contracts, stock, as a result of demerger of the Textile division of M/s. CLC & Sons (P) Ltd. with Apro Biochem & Engg. Ltd., as the assets and liabilities of M/s. CLC & Sons taken over by the assessee company.

7. We do not find any error in the order of the Id. CIT(A). Firstly, in the immediately preceding assessment year, i.e. A.Y. 2002-03, the assessee claimed depreciation on goodwill acquired by the assessee company as a result of demerger of the Textile division of M/s. CLC & Sons (P) Ltd. This claim of Rs.1,87,50,000/- was allowed. As a result, the net block of goodwill at the end of 2002-03 became Rs.5,62,50,000/-, on reducing the depreciation claim of Rs.1,87,50,000/- from goodwill of Rs.7,50,00,000/-. It was, therefore, that in the year under consideration, the assessee claimed depreciation on the written down value of Rs. 5,62,50,000/-, equivalent to Rs.14,06,25,000/-. Once the AO, on exactly similar facts, had allowed depreciation in the immediately preceding year, there was no reason to take a different stand for the year under consideration and to disallow the depreciation claimed.

8. Further, the other contention of the assessee has also been correctly appreciated by the CIT(A) to the effect that what the assessee acquired was licence, continuance of agreement with mills, contracts, etc. These assets,

even though they are termed as 'goodwill' cannot be said not to be intangible assets as specified in section 32(1)(ii) of the Act. It was also so opined by the report prepared by M/s. Sunil Jain & Co. The AO did not bring any material on record to the contrary. The assets acquired by the assessee company were thus business and commercial rights in accordance with section 32(1) of the Act. These are definitely depreciable assets and depreciation has to be allowed thereon."

20. Bearing in mind the provisions of section 263 read with section 32(1) of the Act in the light of the interpretation of the Hon'ble Apex Court and the decisions of the Tribunal supra, if one turns to the order of the Id. CIT, passed u/s.263 of the Act, it would be clear that no finding is recorded by the revisional authority to show as to how the assessment order passed by the Assessing Officer is erroneous and prejudicial to the interest of the revenue. Merely because according to the revisional authority the approvals / registrations etc. amounts to intangible assets was not examined by the Assessing Officer and the Assessing Officer has not applied his mind with respect to the examination and verification regarding allowability of depreciation of assets claimed as intangible assets does not mean that the order passed by the Assessing Officer is erroneous and prejudicial to the interests of the revenue. It is not the case of the revisional authority that no depreciation is allowable on such items of intangible assets or the depreciation allowed by the Assessing Officer on such assets is not permissible under the law or such items do not fall either under the

category of revenue expenditure or capital expenditure. It is also not the case of the revenue that the said items are personal in nature. Further, in the case of M/s. CLC Global Ltd. supra, it has also been observed and held by the Tribunal in that case that what the assessee acquired was licence, continuation of agreement with mills, contract etc. These assets, even though they are termed as 'goodwill' cannot be said not to be intangible assets as specified in sec.32(1)(ii) of the Act. This being so we are of the view that the approvals/registrations etc. amount to intangible assets entitled for depreciation u/s.32(1) (ii) of the Act.

21. In this connection, it is useful to the analogous provision contained in the Central Excise and Salt Act (1 of 1944). The Hon'ble Supreme Court while considering the above said provision held that the authority while exercising such power cannot direct the lower authority to complete the assessment in particular manner. The observation of the Hon'ble Apex Court in the case of Union of India vs. Tata Engineering and Locomotives Co. Ltd. reported in AIR 1998 SC 287 is as follows (page 288) :

"4. In our view, this writ petition should not have been entertained by the High Court at all. The Assistant Collector is entitled to complete the assessment as he thinks fit in exercise of the judgment and according to his understanding of the law and facts. For this purpose, he can call for and examine whatever documents he considers relevant. If the Assistant Collector fails to follow any judgment of the High Court or this Court, the

assessee had adequate statutory remedies by way of an appeal and revision against the assessment order. The court should not try to control the mode and manner in which an assessment should be made. If the Assisstant Collector is of the view that enquiries are necessary to be made as to the price at which trucks were sold at the Regional Sales Offices, the court cannot stop him from making such enquiries."

22. A reading of the above said judgment would clearly show that while remanding the matter, the Commissioner of Income tax ought not to have given a specific direction to complete the assessment in a particular manner.

23. In this view of the matter we are of the opinion that the view taken by the Assessing Officer was a possible view in allowing depreciation and the Id. CIT was not justified in setting aside the order passed by the Assessing Officer. Accordingly we uphold the order passed by the Assessing Officer and quash the order passed by the Id. CIT. The grounds taken by the assessee are, therefore, allowed.

24. In the result, assessee's appeal stands allowed.

**Order pronounced in the open court on 13.8.2010.**

**Sd/-**  
**(PRAMOD KUMAR )**  
ACCOUNTANT MEMBER

**Sd/-**  
**( D.K. AGARWAL )**  
JUDICIAL MEMBER

Mumbai, Dated: 13.8.2010.  
Jv.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The CIT(A) Concerned, Mumbai  
The DR " " Bench

True Copy

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.