



IN THE INCOME TAX APPELLATE TRIBUNAL
"G" BENCH, MUMBAI
BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER

ITA no.3092/Mum./2015
(Assessment Year : 2006-07)

Asstt. Commissioner of Income Tax
Circle-8(2), Mumbai Appellant

v/s

Ms. Katrina Rosemary Turcotte
34, 7th Floor, Guldev Sagar CHS
Waterfield Road, Bandra (West) Respondent
Mumbai 400 050 PAN – ADEPT7813P

ITA no.3093/Mum./2015
(Assessment Year : 2007-08)

Asstt. Commissioner of Income Tax
Circle-8(2), Mumbai Appellant

v/s

Ms. Katrina Rosemary Turcotte
34, 7th Floor, Guldev Sagar CHS
Waterfield Road, Bandra (West) Respondent
Mumbai 400 050 PAN – ADEPT7813P

ITA no.3094/Mum./2015
(Assessment Year : 2008-09)

Asstt. Commissioner of Income Tax
Circle-8(2), Mumbai Appellant

v/s

Ms. Katrina Rosemary Turcotte
34, 7th Floor, Guldev Sagar CHS
Waterfield Road, Bandra (West) Respondent
Mumbai 400 050 PAN – ADEPT7813P

Ms. Katrina Rosemary Turcotte

ITA no.3095/Mum./2015
(Assessment Year : 2009-10)

Asstt. Commissioner of Income Tax
Circle-8(2), Mumbai Appellant

v/s

Ms. Katrina Rosemary Turcotte
34, 7th Floor, Guldev Sagar CHS
Waterfield Road, Bandra (West) Respondent
Mumbai 400 050 PAN – ADEPT7813P

ITA no.3096/Mum./2015
(Assessment Year : 2010-11)

Asstt. Commissioner of Income Tax
Circle-8(2), Mumbai Appellant

v/s

Ms. Katrina Rosemary Turcotte
34, 7th Floor, Guldev Sagar CHS
Waterfield Road, Bandra (West) Respondent
Mumbai 400 050 PAN – ADEPT7813P

ITA no.3097/Mum./2015
(Assessment Year : 2011-12)

Asstt. Commissioner of Income Tax
Circle-8(2), Mumbai Appellant

v/s

Ms. Katrina Rosemary Turcotte
34, 7th Floor, Guldev Sagar CHS
Waterfield Road, Bandra (West) Respondent
Mumbai 400 050 PAN – ADEPT7813P

Assessee by : Dr. K. Shivaram, Sr. Counsel
Revenue by : Shri Abhijit Patankar

Date of Hearing – 11.09.2017

Date of Order – 11.10.2017

ORDER**PER BENCH**

Aforesaid appeals by the Revenue are directed against separate orders passed by the learned Commissioner (Appeals)-47, Mumbai, for the assessment years 2006-07, 2007-08, 2008-09, 2009-10, 2010-11 and 2011-12.

ITA no.3092/Mum./2015

2. In this appeal, the Revenue has raised seven grounds.
3. Ground no.1, is against deletion of addition of ₹ 2,00,000 on account of undisclosed income arising out of appearance fee in ICC Awards function.
4. Brief facts are, a search and seizure operation was conducted in assessee's case on 24th January 2011, under section 132 of the Income-tax Act, 1961 (for short "*the Act*"). In pursuance to the search and seizure operation, assessment proceedings were initiated by issuance of notice under section 153A of the Act. In response to the notice issued under section 153A of the Act, the assessee filed her return of income on 31st January 2012, declaring total income of ₹ 95,82,109. During the assessment proceedings, the Assessing Officer found that during the survey / search operation conducted at the premises of assessee's manager Ms. Sandhya Ramchandra, and
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assessee's agent Matrix India Entertainment Pvt. Ltd. (in short "*Matrix*") print outs were taken from the computer back-up impounded and seized which were marked as "*Annexure-A, B, C, D & E*" and were provided to the assessee to reconcile with her books of account. The Assessing Officer found that as per Annexure-B, there is a letter confirming appearance of the assessee as host of ICC Award in Sidney on 11th October 2005 and the fee collected to be paid to the assessee in cash was ₹ 2,50,000 plus service tax. Alleging that the assessee has not submitted any comment in this regard, the Assessing Officer treated 80% of the said amount worked out to ₹ 2,00,000 as income of the assessee. The assessee challenged the addition before the first appellate authority.

5. The learned Commissioner (Appeals), after considering the submissions of the assessee and going through the materials on record including the comments of the Assessing Officer in the remand report found that the document / letter on the basis of which addition of ₹ 2,00,000 was made was not found in the course of search on assessee but was found from the computer of Ms. Sandhya Ramchandra, who happened to be employee of Matrix. She also found that the so called document is nothing but a quotation of an assignment at Sidney for assessee as hostess prepared by the ex-employee of Matrix. From the verification of passport of the assessee, it was found that she did not

attend the event at Sidney for which she was supposed to receive the appearance fee. Further, the learned Commissioner (Appeals) also found that when the facts relating to receipt of fee of ₹ 2,00,000 was confronted to the assessee, she flatly denied of having either hosted the event or received the amount in question. She also referred to the Affidavit filed on behalf of Matrix stating that they have not received any cash on behalf of the assessee. Thus, on the basis of aforesaid evidences, the learned Commissioner (Appeals) deleted the addition.

6. Learned Departmental Representative submitted, documents found / seized during the search operation prima-facie indicate cash payment to assessee. Therefore, the learned Commissioner (Appeals) was not justified in deleting the addition.

7. Learned Authorised Representative strongly relying upon the observations of the learned Commissioner (Appeals) submitted that the document on the basis of which addition was made was not seized from the possession of the assessee but was found from a third party. He submitted, the passport of the assessee submitted before the Departmental Authorities clearly indicated that she had not undertaken any journey to Sidney to host the so called event. Further, the learned Authorised Representative submitted, Affidavit has been filed on behalf of Matrix denying cash payment to assessee. He, therefore submitted,

in the absence of any corroborative evidence to indicate that assessee has received cash payment of ₹ 2,00,000 addition cannot be made. In support of such contention, learned Authorised Representative relied upon the following decisions:-

- i) *Mehta Parekh & Co. v/s CIT, 30 ITR 181 (SC);*
- ii) *CIT v/s Devesh Agarwal, 81 taxmann.com 257 (Bom.); and*
- iii) *Common Cause v/s Union of India, 77 taxmann.com 245 (SC).*

8. We have heard rival contentions and perused the material available on record. Undisputedly, on the basis of a print out taken from the computer back-up of Ms. Sandhya Ramchandra, it was concluded by the Assessing Officer that the assessee has received an amount of ₹ 2,50,000 in cash for appearing as a host at an ICC event in Sidney. It is very much clear that apart from this document, there was no other evidence before the Assessing Officer to indicate that the assessee has received cash amount in question. It is a fact that in course of search as well as post search proceedings, the assessee was confronted with seized material and the assessee categorically stated to have neither appeared as a host in the said event nor received any cash from Matrix. In fact, an Affidavit was also filed on behalf of Matrix categorically stating that no such cash payment of ₹ 2,50,000 was made to the assessee. Thus, from the aforesaid facts, it is to be seen that the addition was made on the basis of a print out taken from the

computer of a third party who happened to be an employee of Matrix and there are no other corroborative evidence brought on record to prove the fact that the payment mentioned in the seized material was actually received by the assessee. On the contrary, the passport submitted by the assessee clearly established the fact that neither she had travelled to Sidney in relevant period nor hosted the ICC event for which she was supposed to receive cash payment. It is further relevant to observe, even Ms. Sandhya Ramchandra, from whose computer such print out was taken had stated before the Departmental Authorities that she was not aware of the fact mentioned in the said Annexure as it was for a period prior to her appointment in Matrix. In these circumstances, simply relying upon a untested / unverified document and without any other corroborative evidence to demonstrate that the assessee has actually received cash payment of ₹ 2,50,000 for hosting an event in Sidney, the addition, in our view, is unsustainable. Therefore, we uphold the order of the learned Commissioner (Appeals) on this issue by dismissing the ground raised.

9. In ground no.2, the Revenue has challenged the deletion of addition of ₹ 30,80,000 on account of cash receipts.

10. Brief facts are, during the assessment proceedings, the Assessing Officer found that as per Page no.D-59, D-60 of Annexure-D found and seized from the computer of Ms. Sandhya Ramchandra, assessee has received cash payment of ₹ 30,80,000 for various appearances and shows. The Assessing Officer observed, though the assessee had actually received cash payments for performance, however, she could not provide any details for reconciling these entries. He also observed, as per the seized documents, the cash receipt is to be shared at the ratio of 80% to the assessee and 20% to the agency. The Assessing Officer found that seized documents also mentioned cash expenditure of ₹ 16,17,100. After reducing the cash expenditure, the net amount payable to the assessee was found to be ₹ 30,80,000. Accordingly, he added back the amount to the income of the assessee. The assessee challenged the addition before the first appellate authority.

11. The learned Commissioner (Appeals) on the basis of facts and materials on record, found that the seized documents on the basis of which the addition was made was found from third parties and not the assessee. She also found that all professional assignments of the assessee are handled by Matrix. She also took note of the Affidavit filed on behalf of Matrix clearly stating that no cash amount was paid to the assessee in any assessment year. Thus, on the basis of the aforesaid evidence on record, the learned Commissioner (Appeals)

held that the amount of ₹ 30,80,000 cannot be added at the hands of the assessee. However, she observed, the entire amount of ₹ 30,80,000 representing cash receipts in the name of the assessee should be added at the hands of Matrix.

12. Learned Departmental Representative submitted, Ms. Sandhya Ramchandra, in her statement had accepted that she negotiates on behalf of the assessee and Matrix thereby, proving assessee's involvement in cash transaction. He submitted, Ms. Sandhya Ramchandra, was the manager of the assessee, therefore, the data found from Ms. Sandhya Ramchandra's laptop give a correct picture of assessee's dealings. He submitted, while the transaction routed through bank found in the seized material could be reconciled with assessee's books of account, only cash transactions remained un-reconciled. Therefore, it is not possible that some entries are known to the assessee and some are not. Learned Departmental Representative submitted, when there are specific evidences indicating cash payment to the assessee, the addition made by the Assessing Officer was justified.

13. Learned Authorised Representative submitted, the seized materials on the basis of which addition was made were not found in the search conducted in assessee's premises. He submitted, apart

from the documents seized from the laptop of Ms. Sandhya Ramchandra, there was no other proof to corroborate facts mentioned in the seized documents. He submitted, in an Affidavit filed on behalf of Matrix, it has been categorically stated that no cash payment was ever made to the assessee. Learned Authorised Representative submitted, Ms. Sandhya Ramchandra, from whose computer the document was found had also stated that she was not aware of the facts mentioned in the said documents as at that time she was not employee of Matrix. Strongly refuting allegation of the Assessing Officer that Ms. Sandhya Ramchandra, was an employee of the assessee, the learned Authorised Representative submitted at no point of time she was employee of the assessee, but, she was an employee of Matrix. Thus, the learned Authorised Representative submitted, on the basis of untested / unverified materials which are nothing more than dumb documents no addition can be made.

14. We have heard rival contentions and perused the material available on record. Undisputedly, the Assessing Officer has made the addition of ₹ 30,80,000 being of the view that as per the document found and seized from the computer of Ms. Sandhya Ramchandra, assessee was supposed to have received cash @ 80% of the amount mentioned therein and 20% has gone to Matrix. Undisputedly, the aforesaid seized documents was not found from the possession of the

assessee but from a third party. It is also a fact that apart from this seized material, there is no other corroborative material on record to demonstrate that the cash payment mentioned in the seized material was actually made to the assessee. On the contrary, the assessee when was confronted with the seized material had categorically denied of having received the cash payment. Further, an affidavit was also filed on behalf of Matrix India Entertainment Pvt. Ltd., stating that no cash payment was made to the assessee. In fact, Ms. Sandhya Ramchandra, in her statement also could not state anything about cash payment as it was prior to her employment. Thus, in the absence of any other corroborative evidence, except the seized material, which was found from a third party it cannot be presumed that the assessee has received the cash amount of ₹ 30,80,000. That being the case, we do not find any infirmity in the order of the learned Commissioner (Appeals) in deleting the addition. Ground no.2 is dismissed.

15. In ground no.3, Revenue has challenged the deletion of addition of ₹ 2,80,000 received as remuneration from Matrix India Entertainment Pvt. Ltd.

16. The Assessing Officer during the assessment proceedings found that as per Page no.D-63 of Annexure-D, the assessee had received in cash net amount of ₹ 2,80,000 as per income sharing ratio between

her and Matrix. Accordingly, he added back the amount to the income of the assessee.

17. Before the learned Commissioner (Appeals), it was explained by the assessee that the amount of ₹ 2,80,000, was received in cheque from Matrix India Entertainment Pvt. Ltd., vide cheque no.000470 dated 4th March 2006, and it has duly been accounted for in the books of account and offered as income. The learned Commissioner (Appeals) after verifying the fact that the assessee has offered an amount of ₹ 2,80,000 as income in the impugned assessment year deleted the addition.

18. We have heard rival contentions and perused the material available on record. As discussed by the learned Commissioner (Appeals), the assessee had received amount of ₹ 2,80,000 in cheque and has accounted for in her books of account. She has also offered it as income in the impugned assessment year. The aforesaid factual finding of the learned Commissioner (Appeals) has not been controverted by the learned Departmental Representative. Therefore, we uphold the order of the learned Commissioner (Appeals) on this issue. Ground raised is dismissed.

19. In ground no.4, the Revenue has challenged deletion of addition of ₹ 6,86,000 on account of various expenditure.

20. Brief facts are, during the assessment proceedings, the Assessing Officer found that as per Page no.D-64 of Annexure-D, Matrix India Entertainment Pvt. Ltd., has incurred cash expenditure of ₹ 6,86,000 on behalf of the assessee stating that such expenditure being neither part of books of account of the assessee nor reimbursed to Matrix has to be treated as unexplained expenditure and accordingly added back to the income of the assessee. While deciding the issue in appeal, the learned Commissioner (Appeals) held that as per the affidavit filed on behalf of Matrix the seized document does not belong to the assessee. She also found that the same amount was added in case of the assessee as well as in case of Matrix. Thus, the learned Commissioner (Appeals) ultimately held that since all professional assignments of the assessee were handled by Matrix and addition of the equal amount has been made in the hands of Matrix similar addition in the hands of the assessee should be deleted. Accordingly, she did so.

21. Learned Departmental Representative relied upon the observations of the Assessing Officer.

22. Learned Authorised Representative submitted that the seized material was not found from the possession of the assessee but from a third party. He submitted, apart from the seized material which is nothing but a dumb document, no proof of cash payment or any other

corroborative material has been brought on record. He submitted, an affidavit has also been filed on behalf of Matrix stating that no cash payment was accepted on behalf of the assessee. He submitted, since the addition of the amount has already been confirmed at the hands of Matrix, it cannot be added again at the hands of the assessee.

23. We have heard rival contentions and perused the material available on record. It is evident, except the print out taken from the computer of Ms. Sandhya Ramchandra, there is no other material before the Department to conclusively prove that expenditure of ₹ 6,86,000 was incurred in cash on behalf of the assessee by Matrix. In fact, in an affidavit filed on behalf of Matrix India Entertainment Pvt. Ltd., it has been categorically stated that no cash payment has been made to the assessee. It is also a fact that the amount in dispute was added at the hands of the Matrix India Entertainment Pvt. Ltd. as well. In view of the aforesaid, we uphold the order of the learned Commissioner (Appeals), ground raised is dismissed.

24. In ground no.5, Revenue has challenged deletion of addition of ₹ 57,00,000 on account of unexplained expenditure in purchase of house.

25. As observed by the Assessing Officer, as per Page no.E-11 and E-16 of Annexure-E, found from the laptop of Ms. Sandhya

Ramchandra, it was noticed that the assessee has paid cash of ₹ 55,00,000 apart from the amounts paid in cheque towards house purchase. In this context, he referred to four receipts marked as "E-12" and "E-15", evidencing cash payment of ₹ 50,00,000. He also referred to Page no.E-16, which is a letter for payment of ₹ 2,00,000 for interior designing. Alleging that the assessee could not reconcile the transactions shown in the seized documents with her books of account. The Assessing Officer added back an amount of ₹ 57,00,000 as unexplained expenditure on house purchase.

26. In appeal proceedings, the learned Commissioner (Appeals) after verifying the facts and material on record found that in post search proceedings when the assessee was confronted with the seized material she had categorically denied of making any cash payment. It was stated by her that entire sale consideration was paid by her in cheque and duly reflected in the books of account. She also stated that neither her signature is there in the cash receipt nor her name is mentioned. The receipts were not addressed to her. She also found that cash receipts for the amount of ₹ 45,00,000 have been prepared by one Shri Vijay Kandhari and is self-generated. The receipts were addressed to him and signed by him. As far as the balance amount of ₹ 2,00,000 is concerned, it was also found from a unsigned print out taken from the digital back-up. She also found that entire payment

made for purchase of house was through cheque. She, therefore, held that in the absence of any corroborative evidence, addition cannot be made in the hands of the assessee. However, she observed that the amount in dispute has to be dealt with in the case of Matrix.

27. Learned Authorised Representative submitted that the seized documents in no way implicate the assessee. He submitted, there is no evidence on record which establishes a link between the amount mentioned in the seized documents and the assessee. He submitted, the receipts found were prepared by a third party and assessee's name is not mentioned therein. He submitted, in the absence of any corroborative evidence that the assessee has paid the amount in question to the house owner addition made is not sustainable.

28. We have heard rival contentions and perused the material available on record. Undisputedly, the addition of ₹ 57,00,000 made on account of expenditure incurred in cash for purchase of house was made on the basis of certain documentary evidences seized from third parties, it is evident that the cash receipts have been generated by Shri Vijay Kandhari and were also signed by him. We fail to understand why Shri Vijay Kandhari, was not examined by the Department to find out the actual fact. Similarly, it is evident that the Assessing Officer has not made any enquiry with the house owner to

find out the exact amount received by him for selling the house to the assessee. Moreover, in an affidavit filed on behalf of Matrix, it was accepted that no cash was either paid or accepted on behalf of the assessee. It is also a matter of record that Ms. Sandhya Ramchandra, from whose computer some of the seized materials were found was never questioned on this issue. Therefore, in the absence of any direct and clinching evidence indicating incurring of cash expenditure of ₹ 57,00,000 for purchasing the house, addition cannot be made on mere presumption and surmises. Therefore, we uphold the order of the learned Commissioner (Appeals) on this issue.

29. In ground no.6, the Revenue has challenged deletion of addition of ₹ 1,43,928, on account of unexplained expenditure.

30. Brief facts are, from Page no.E-17 and E-18 of Annexure-E found from the computer of Ms. Sandhya Ramchandra, the Assessing Officer was of the view that the assessee has made cash payment of ₹ 1,43,928, for interior decoration. Accordingly, he added the amount to the income of the assessee.

31. In appeal proceedings, the learned Commissioner (Appeals) deleted the addition on the ground that, except the seized material found from third party, there are a no other corroborative evidence indicating payment of ₹ 1,43,928 by the assessee. Accordingly, she

deleted the addition. However, she was of the view that the issue has to be dealt with in case of Matrix.

32. We have heard rival contentions and perused the material available on record. It is evident, except the print out taken from the computer of Ms. Sandhya Ramchandra, there are no other evidence brought on record to corroborate the fact mentioned in the seized material. As it appears, the Assessing Officer has not made any enquiry with the concerned person supposed to have received the amount to found out the correctness of the seized document. Therefore, in the absence of any corroborative evidence except the computer print out taken from a third party, the addition made is unsustainable. Ground raised is dismissed.

33. In ground no.7, the Revenue has challenged the deletion of addition of ₹ 32,65,574, made on estimation / extrapolation.

34. Brief facts are, in the course of assessment proceedings, the Assessing Officer on the basis of material seized from a third party i.e., from the computer and mobile back up of Ms. Sandhya Ramchandran, was of the view that the assessee charges one and half times in cash over and above her remuneration in cheque. It was found that as per the evaluation sheet found from the computer of Ms. Sandhya

Ramchandra, assessee is earning 28% of the reported income in cash. Accordingly, he made addition of ₹ 32,65,574.

35. When the issue came up in appeal before the learned Commissioner (Appeals), she called for remand report from the Assessing Officer. After perusing the remand report, submissions of the assessee and other materials on record, she found that the estimated addition has been made merely on the basis of extrapolation without any evidence to substantiate receipt of cash by the assessee. No other documentary evidence has been brought on record to corroborate the fact that the assessee has received 28% of the reported cheque payment in cash. She also found that the assessee herself is showing a growth of 320% in return of income filed for seven assessment years. Accordingly, she deleted the addition made by the Assessing Officer. However, she opined that the cash component as found in the seized material has to be dealt with in case of Matrix in the relevant assessment year.

36. Learned Departmental Representative submitted, as per the evaluation sheet seized from the computer of Ms. Sandhya Ramchandra, cash payment made to the assessee was found. As per preponderance of probability, it has to be presumed that the assessee has received the cash as mentioned in the evaluation sheet.

37. Learned Authorised Representative supporting the findings of the learned Commissioner (Appeals) submitted that the evaluation sheet found from computer of Ms. Sandhya Ramchandra, on the basis of which addition has been made does not show any cash payment. He submitted, the said document was not found from the assessee. He submitted, the author of the document was not examined. Ms. Sandhya Ramchandra, in the statement recorded from her expressed her unawareness with regard to the facts mentioned in the said documents as she was not an employee of Matrix at the relevant time. He submitted, even an affidavit has been filed on behalf of Matrix denying any cash payment to the assessee. The assessee in a statement recorded has completely denied of having received any cash payment from Matrix. Therefore, the learned Authorised Representative submitted, without any evidence brought on record, the addition cannot be made on loose sheet / dumb documents, that too on the basis of estimation / extrapolation. In support of his contention, the learned Authorised Representative relied upon the following decisions:—

- i) Common Cause v/s Union Of India, 77 taxmann.com 245 (SC);*
- ii) CIT v/s Jayaben Ratilal Sarothiya, 222 taxman 64 (Guj.);*
- iii) Uday C. Thmhankan v/s DCIT, 174 TTJ 151 (Mum.); and*
- iv) Dr. M.K.E. Menon, 248 ITR 310 (Bom.).*

38. We have heard rival contentions and perused the material available on record in the light of the decisions relied upon. Undisputedly, on the basis of evaluation sheet found from the computer of Ms. Sandhya Ramchandra, the Assessing Officer has estimated income on cash component supposed to have been received by the assessee from Matrix. However, on a perusal of the evaluation sheet, a copy of which is at Page-110 to 114 of the paper book, though, it appears, amounts have been mentioned in cash and cheque beneath assessee's name, however, there is no evidence that cash was actually paid to the assessee. It is a fact that the assessee has acknowledged cheque payment of ₹ 2.07 crore. However, that does not mean cash amount of ₹ 58 lakh was also paid to the assessee. In any case of the matter, the Assessing Officer has not brought on record any clinching evidence on the basis of any enquiry made by him to demonstrate that the assessee has actually received any cash as per the evaluation sheet from Matrix. On the contrary, an affidavit has been filed on behalf of Matrix, stating that no cash was paid to the assessee. Therefore, in the absence of any direct evidence demonstrating that the assessee had received cash payment from Matrix, as shown in the evaluation sheet, no addition can be made merely on presumption and surmises and on estimate basis. For making the addition on account of cash component, it was the duty of

the Assessing Officer to bring on record corroborative evidence to establish the fact that the entries made in the evaluation sheet were correct. Therefore, in the absence of any evidence brought on record, the addition was rightly deleted by the learned Commissioner (Appeals). The decisions relied upon by the learned Authorised Representative also support the aforesaid view. Therefore, we uphold the order of the learned Commissioner (Appeals) on this issue by dismissing the ground raised by the Revenue.

39. In the result, Revenue's appeal is dismissed.

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40. In this appeal the Department has raised four grounds. Ground No. 1 is against deletion of addition of ₹ 2,00,000 on account of remuneration received in cash from M/s. Matrix. On the basis of page D-82 of the Annexure D of the seized documents the Assessing Officer found that it contains the details of remuneration received by the agent of the assessee for appearance of assessee in a particular event. As per the said seized document the remuneration supposed to have been received was ₹ 2,50,000. Alleging that the assessee did not provide any details or reconciliation of the entries found in the seized document the Assessing Officer added an amount of ₹ 2,00,000 being 80% of the total amount mentioned in the seized document at the

hands of the assessee and the balance amount at the hands of M/s. Matrix, assessee's agent. The assessee challenged the addition before the CIT(A).

41. Before the First Appellate Authority assessee submitted that the said seized document was found from a third party and in a statement recorded on oath by the AO, assessee has categorically disowned the contents of the seized document and denied having received any cash from M/s. Matrix for appearing in any event at Dubai for Wizcraft International. It was submitted, assessee has never visited Dubai in the month of June 2006. Hence, there is no question of receiving any amount in cash for appearance in the said event. In this context the assessee also relied upon the affidavit filed on behalf of M/s. Matrix stating that no cash was received on behalf of the assessee. On the basis of submissions made by the assessee, the learned CIT(A) called for a remand report and after perusing the remand report and other materials on record found that addition of ₹ 2,00,000 was made by the AO on the basis of a quotation of a photoshoot assignment prepared by an ex-employee of M/s. Matrix. She found that except the quotation there was no other documentary evidence indicating receipt of cash by the assessee. The learned CIT(A) observed, the quotation neither being an invoice nor a receipt cannot be relied upon to conclude that the assessee has received cash as mentioned therein. Moreover, she

found that the assessee's agent M/s. Matrix in an affidavit has also denied of having received any cash on behalf of the assessee. Accordingly she deleted the addition.

42. We heard the rival submissions and perused the material on record. Undisputedly, on the basis of a print out taken from the lap top of Ms. Sandhya Ramachandran, an employee of M/s. Matrix, the AO concluded that the assessee has received cash payment of ₹ 2,00,000 for appearing in a modelling event at Dubai. Except the aforesaid print out there is no other evidence brought on record to corroborate the fact that the contents of print out are correct. On the contrary, the assessee had demonstrated that she has not appeared in any modelling event in Dubai in the month of June, 2006. Further, the agent M/s. Matrix has also filed an affidavit stating therein that no cash was received on behalf of the assessee for any assignment. Moreover, Ms. Sandhya Ramachandran, from whose lap top the print out was taken, in her statement has stated that she was not aware of the content of the print out as it was prior to her appointment with M/s. Matrix. In the aforesaid facts and circumstances when the print out is only a quotation offering an assignment and there is no other evidence to demonstrate that the assessee has either appeared or has accepted any amount in cash, addition made purely on conjecture and

surmises is not sustainable. Accordingly, we upheld the order of the CIT(A) on this issue.

43. In ground No. 2 the Department has challenged the deletion of addition of ₹ 3,80,000 on account of remuneration received in cash for appearance/performance in certain events.

44. The AO relying upon page D-83 of Annexure D of the seized document added back an amount of ₹ 3,80,000 being 80% of ₹ 4,75,000 allegedly received by the assessee for appearance/performance in some events. Before the CIT(A) it was submitted by the assessee that the document was not seized from the assessee, that the assessee in the statement recorded on oath by the AO has completely denied of having received any cash, that the statement was prepared by some ex-employee of M/s. Matrix and the assessee is completely unaware of any such income or expenditure mentioned in the said document. Further explaining, the assessee submitted that as per the seized document remuneration is for appearance for the client Seven Heaven. However, the assessee stated, the said event did materialise through some other agent and the assessee received remuneration of ₹ 8,20,000 through cheque No.001131 on 05.10.2006 which has been duly accounted in her books of account and offered for tax. She submitted, this fact was also corroborated by the affidavit filed on behalf of M/s. Matrix that no cash payment was received by

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the assessee. The learned CIT(A) after considering the submissions of the assessee deleted the addition, since, the AO has not correctly verified the facts.

45. We heard the rival submissions and perused the material on record. As could be seen from the facts on record, the assessee did appear in the event for the client Seven Heaven and received remuneration of ₹ 8,20,000 through cheque and it has duly been reflected in her books of account and offered as income in the relevant previous year. Thus, nothing was received in cash by the assessee. This fact has been further corroborated on behalf of M/s. Matrix through an affidavit. In the absence of any material brought on record by the learned D.R. to controvert the aforesaid facts, we are inclined to uphold the order of the CIT(A) on this issue. Thus, the ground raised by the Revenue is dismissed.

46. In ground No. 3 the Department has challenged the deletion of addition of ₹ 51,486 being expenditure incurred in cash by M/s. Matrix on behalf of the assessee. On the basis of page D147 of Annexure D of seized document the AO added back an amount of ₹ 51,486 being cash expenditure incurred on behalf of assessee by M/s. Matrix which are out of booked expenditures. The assessee challenged the addition before the CIT(A). Learned CIT(A) on the basis of facts and material on record having found that no expenditure in cash was incurred on

behalf of the assessee which is also evident from the affidavit filed on behalf of Matrix, deleted the addition at the hands of the assessee while directing the entire addition to be made at the hands of M/s. Matrix.

47. We have heard rival contentions and perused the material on record. As can be seen, except the print out taken from the lap top of Ms. Sandhya Ramachandran there is no other material on record indicating that the expenditure of ₹ 51,486 was incurred on behalf of the assessee. In any case of the matter, the seized document on the basis of which the addition was made was not found from the possession of the assessee but from a third party. Not only the assessee has questioned the authenticity of the seized document but M/s. Matrix has also come forward with an affidavit denying incurring of any cash expenditure on behalf of the assessee. That being the case, in the absence of any other corroborative evidence to prove the correctness of the seized document, the addition made is unsustainable. Accordingly, we uphold the order of the CIT(A) on this issue by dismissing the ground.

48. In ground No. 4 the Department has challenged the deletion of addition of ₹ 52,68,388 made on estimate basis by the AO on account of alleged cash received by the assessee. In the course of search/survey operation in the case of Ms. Sandhya Ramachandran

and M/s. Matrix certain print outs were taken from the laptop/computer amongst which was an evaluation sheet, which according to the AO indicated cash payment to the assessee over and above the payments made in cheque by M/s. Matrix. On the basis of the evaluation sheet which was for the financial year 2005-06 and which suggested that the assessee in the said financial year received an amount of ₹ 2,07,00,000 through cheque and ₹ 58,00,000 through cash, the AO made addition of ₹ 58,00,000 in A.Y. 2006-07. Further, on the basis of the said seized document the AO made addition on estimate basis on account of cash payment supposed to have been received by the assessee in the subsequent assessment years. Thus, in the impugned assessment year the AO added back an amount of ₹ 52,68,388 as estimated cash income. The assessee challenged the addition before the CIT(A). Learned CIT(A), after considering the submissions of the assessee, called for a remand report from the AO. After perusing the remand report learned CIT(A) found that the basis of addition is Annexure G which is the evaluation sheet found for A.Y. 2006-07. Thus, having found that the estimated addition has been made by the AO merely on the basis of extrapolation of the figures mentioned in the seized document marked as Annexure G relating to A.Y. 2006-07, learned CIT(A) deleted the addition as there was no other documentary evidence or basis for making such addition. While

doing so, learned CIT(A) also observed that the assessee voluntarily has shown a growth rate of 320% in income in the subsequent years. Accordingly she deleted the addition.

49. The learned D.R. relying upon the observations of the AO pleaded for restoring the addition.

50. The learned A.R. submitted that for the impugned assessment year there is no material before the AO to show that the assessee has received payment in cash from M/s. Matrix. He submitted, simply relying upon a document which pertained to A.Y. 2006-07 addition cannot be made on estimate basis without bringing any other evidence on record to indicate cash payment to the assessee. In support of his contention the learned A.R. relied upon the following decisions: -

- i. Common Cause vs. Union of India (2017) 77 taxmann.com 245 (SC)*
- ii. CIT vs. Dayaben (2014) 222 taxmann.com 64 (Guj)*
- iii. Uday C Tamhankar Uday C Tamhankar vs. CIT (2015) 174 TTJ 151*
- iv. Dr. M.K.E. Memon (2000) 248 ITR 310 (Bom)*

51. We have heard rival submissions and perused the material on record in the light of the decisions relied upon. Undisputedly, no incriminating material/evidence was found as a result of search/survey for making the addition on estimate basis for cash payment supposed to have been made to the assessee. It is evident that the AO has made addition on the basis of an evaluation sheet found from a third

party marked as Annexure G. It is also an undisputed fact that the said Annexure G mentioning payment to the assessee of ₹ 2,07,00,000 by cheque and ₹ 58,00,000 by cash pertains to financial year 2005-06. In fact, during the appellate proceedings before the CIT(A) when the AO was directed to offer his comments in respect of this particular addition he stated as under: -

"Apart from evidences as discussed in Para 5 above, Annexure G was provided to the assessee which is an evaluation with effect from 1.4.2005. As per this document, Katrina Kaif Turcotte received Rs.2,07,00,000/- by cheque and Rs.58,00,000/- by cash. The AO came to the conclusion that the assessee was receiving 28% of the amount by cash and accordingly, the AO estimated/extrapolated cash receipts for different years and added to the total income of the assessee in respective years. As the evidence in the form of Annexure G was found for the F.Y. 2005-06 only, the AO estimated cash receipts for various years for the reasons discussed in the assessment order."

52. Even, in the second remand report dated 09.03.2015 the AO had categorically stated that on the basis of the said seized document which pertained to A.Y. 2006-07, the AO has made addition on estimate basis in subsequent assessment years following his order for A.Y. 2006-07. Thus, from the aforesaid facts it is patent and obvious that the estimated addition made in the impugned assessment year is without any evidence and merely on the basis of the document which pertained to a different assessment year, i.e. A.Y. 2006-07. As far as the impugned assessment year is concerned, no incriminating material has been found by the AO indicating cash payment over and above the

payments made through cheques. Moreover, the affidavit filed on behalf of Matrix also corroborate the stand of the assessee. Even otherwise also, while dealing with similar issue in Departmental appeal in ITA No. 3092/Mum/2015 we have affirmed the order of the CIT(A) on this issue. In view of the aforesaid we uphold the order of the CIT(A) on similar issue. Ground raised is dismissed.

53. In the result, appeal filed by the Revenue is dismissed.

ITA Nos. 3095, 3056 & 3096/Mum/2015

54. The only issue raised in these appeals relates to deletion of addition made by the AO on estimate basis on account of cash payments supposed to have been made by Matrix to the assessee. This issue is identical to similar issue raised in ground No. 7 of ITA No. 3092/Mum/2015 and ground No. 4 of ITA No. 3093/Mum/2015. Following our decision in paras 38 & 51 of this order, we uphold the order of the CIT(A) on this issue by dismissing the grounds raised by Revenue.

55. In the result, appeals filed by the Revenue are dismissed.

ITA No.3097/Mum/2015

56. In this appeal the Department has raised six grounds. In ground No. 1 the Department has challenged deletion of addition of ₹

20,00,000. As stated by the AO page E-2 of Annexure E of the seized document is a print out taken from the Blackberry Mobile Digital Data Backup of Ms. Sandhya Ramachandran found during the search operation on her. It was noted by the AO that said document revealed cash transaction of ₹ 25,00,000 involving the assessee. The AO alleged since, Ms. Sandhya Ramachandran happened to be the business assistant of the assessee, the transaction relates to the assessee. Accordingly he called upon the assessee to explain why it should not be treated as her income from professional fees. Alleging that the assessee did not offer any explanation he added back the amount of ₹ 20,00,000 being 80% of the amount mentioned in the print out as income of the assessee. The assessee challenged the addition before the CIT(A). Learned CIT(A) found that except the print out of conversation taken from the Blackberry Mobile Digital Backup of Ms. Sandhya Ramachandran, who was an employee of M/s. Matrix there is no other evidence brought on record by the AO to indicate cash receipt of ₹ 20,00,000. Accordingly, she deleted the addition at the hands of the assessee while directing addition of the said amount at the hands of M/s. Matrix.

57. We heard the rival submissions and perused the material on record. Undisputedly, the seized documents on the basis of which the addition was made by the AO is a conversation between Ms. Sandhya

Ramachandran and one of the clients of M/s. Matrix. Except the document containing conversation between two third parties there is no other evidence brought on record by the AO to indicate cash payment to the assessee. In fact in the course of assessment proceedings when the assessee was confronted with the seized document she flatly denied of having received any cash from Matrix. Further, an affidavit was also filed on behalf of Matrix stating that no cash was either accepted on behalf of the assessee or paid to her. Thus, when no corroborative evidence has been brought on record indicating cash payment, merely relying upon some conversation between two third parties it cannot be concluded that the assessee has received cash payment of ₹ 20,00,000. Therefore, the addition made on pure guess work, conjecture and surmises cannot be sustained. We therefore, uphold the order of the CIT(A) on this issue. Ground raised by the Department is dismissed.

58. In ground No. 2 the Department has challenged the deletion of addition of ₹ 48,00,000 made on the basis of printout taken from mobile data backup of Ms. Sandhya Ramachandran.

59. Briefly the facts are, during the assessment proceedings the AO noticed that page No. E-3 of Annexure E is a printout of Blackberry mobile data backup of Ms. Sandhya Ramachandran containing conversation between her and some other indicating that certain

amounts were received in cheque and cash. Since, such conversation was recovered from the mobile of M/s. Sandhya Ramchandran, who according to the AO is the business assistant of the assessee, he called upon the assessee to explain as to why the receipt of professional fees in cash should not be treated as income of the assessee. Alleging that the assessee did not submit any explanation he added an amount of ₹ 48,00,000 to income of the assessee. Learned CIT(A) after considering the submissions of the assessee found that except the conversation between Ms. Sandhya Ramachandran and some other client of M/s. Matrix on the basis of which the addition was made by the AO, there was no other evidence brought on record to indicate cash payment of ₹ 48,00,000. Accordingly, she deleted the addition made at the hands of the assessee. However, taking note of the observations of the AO in the remand report, learned CIT(A) directed addition of the said amount at the hands of Matrix.

60. We heard the rival submissions and perused the material on record. Undisputedly, except the transcript of conversation between Ms. Sandhya Ramachandran and some other client of M/s. Matrix no other evidence has been brought on record by the AO to indicate cash payment of ₹ 48,00,000 made to the assessee. In fact, the said conversation also does not mention the name of the assessee. Further, an affidavit has been filed on behalf of Matrix denying any cash

payment to the assessee. In fact, Ms. Sandhya Ramachandran in a statement has denied any cash payment made by Matrix to assessee. In the remand report the AO has also not referred to any adverse material indicating cash payment of ₹ 48,00,000 to the assessee. In view of the aforesaid, the addition made was rightly deleted by the CIT(A). This ground is dismissed.

61. In ground No.3 the Department has challenged the deletion of addition of ₹ 24,00,000.

62. Briefly the facts are, on the basis of page NO. E-10 of the seized matter marked as Annexure-E, the AO found that the printout taken from the laptop of Ms. Sandhya Ramachandran contains details of certain agreement and related payments. He found that as per the seized document the assessee had received cash of ₹ 5,00,000 from Bramha Builders over and above the agreement value of ₹ 6,00,000. He also observed that Matrix has received ₹ 25,00,000 in cash from Anchor-Dyna Soap over and above the agreement value or ₹ 10,00,000. On the basis of this document the AO presumed that such cash payments were received by M/s. Matrix on behalf of the assessee and the amount was shared between the assessee and M/s. Matrix at the ratio of 80:20. Accordingly, he added back an amount of ₹ 24,00,000 at the hands of the assessee.

63. The assessee challenged the addition before the CIT(A). Before the CIT(A) it was submitted that the documents on the basis of which addition was made was not seized from the assessee but from a third party. It was also submitted, in a statement recorded the assessee had categorically denied of having received any cash from the concerned party. On the basis of the submissions made by the assessee the learned CIT(A) called for a remand report from the AO. On the basis of the observations of the AO in the remand report and other material on record the learned CIT(A) found that, except, the print out taken from the digital data backup of Ms. Sandhya Ramachandran's laptop no other evidence has been brought on record by the AO to indicate that the cash payment in question was either received on behalf of the assessee or a part of it was paid to the assessee. She also found that the printout taken from the laptop of Ms. Sandhya Ramachandran is nothing but a conversation between her and an employee of some other client of M/s. Matrix. She also found that the affidavit filed on behalf of M/s. Matrix specifically denied of having received or paid any cash on behalf of the assessee or to the assessee. Finally, she found that in the remand report the AO has categorically stated that the cash payment in dispute pertains to the period 31.10.2005 to 31.10.2007, hence not for the impugned assessment year. On the basis of the aforesaid factual analysis learned

CIT(A) deleted the addition while directing the addition of an amount of ₹ 30,00,000 at the hands of Matrix in A.Y. 2006-07.

64. We heard the rival submissions and perused the material on record. Undisputedly, the AO has made the addition of ₹ 24,00,000 simply relying upon the printout taken from the digital data backup of Ms. Sandhya Ramachandran's laptop. It is also a fact on record that except the aforesaid printout there are no other corroborative evidence brought on record by the AO to demonstrate that M/s. Matrix has made any cash payment to the assessee. Moreover, the learned CIT(A) has recorded a finding of fact that the printout is nothing but a conversation between the Ms. Sandhya Ramachandran and an employee of some other client of M/s. Matrix. Thus, there is no direct link between the contents of the printout and the assessee. Even otherwise also in an affidavit filed on behalf of the M/s. Matrix it has been stated that no cash payment has been made to the assessee. It is also relevant to note in the remand report dated 24.02.2015 submitted before the First Appellate Authority the AO while dealing on this issue has observed as under: -

"The AO made addition of Rs. 4,00,000 (Brahma Buildes) & 20,00,000 (Anchor – Dyna Soap) in the AY 2001-12 on the basis of Annexure E4. However, it is seen that the entry of Rs.4,00,000 of Brahma Builders is for the period 22.07.2005 to 21.07.2006 and entry of Rs.20,00,000/- of Anchor Dyna Soap is for the period 31.10.2005 to 31.10.2007. Hence, these entries do not pertain to

F.Y. 2010-11. You are requested to take cognizance of these entries in the relevant Assessment Years."

65. Thus, as could be seen from the observations of the AO in the remand report the transaction in question as found mentioned in the seized document even does not pertain to the impugned assessment year. That being the case, learned CIT(A) was justified in deleting the addition.

66. In ground No. 4 the Department has challenged the deletion of addition of ₹ 25,28,571 on account of fees received from Multi Screen Media P. Ltd.

67. Briefly the facts are, the AO observed, during the search proceedings and post search enquiries it was found that assessee's mother is a Managing Trustee of a charitable organisation in the name and style of Relief Project India and the assessee has made contributions to the said trust. He, therefore, called upon the assessee to furnish the details of payments made to the said charitable trust by the assessee. From the details submitted by the assessee the AO found that the assessee appeared as guest in the TV show "Dus ka Dum" along with Akshay Kumar to promote their film "Singh is King". A sum of ₹ 11,00,000 was declared as prize money and amount of ₹ 3,30,000 was deducted towards tax. The said prize money was sponsored by Multi Screen Media P. Ltd. He further found that an

amount of ₹ 11,00,000 was received from Gitanjali Gems P. Ltd. by Relief Project India on 05.02.2011. The AO was of the view that the amounts received by Relief Project India from Multi Screen Media P. Ltd. and Gitanjali Gems P. Ltd. were at the instruction of the assessee and they were actually payments due to be received by the assessee in pursuance to contract for certain performance. He, therefore, was of the view that the payments made by the concerned parties to Relief India Project are diversion of assessee's income. The AO observed, had such amount been routed through assessee's return of income, the assessee would have been eligible to claim deduction @50% as per section 80G, whereas by diverting such income by way of donation to the trust the assessee has availed 100% benefit. Accordingly he added back an amount of ₹ 14,28,571 and ₹ 11,00,000 aggregating to ₹ 25,28,571 to the income of the assessee. The assessee challenged the addition before the CIT(A).

68. Before the CIT(A) it was submitted by the assessee that the prize money of ₹ 11,00,000 won by the assessee on "Dus ka Dum" was directly donated by Multi Screen Media P. Ltd. to the Relief Project India. It was submitted, the payer also deducted tax at source amounting to ₹ 4,28,571 on the gross amount of ₹ 15,28,571 and donated the net amount of ₹ 11,00,000 to Relief Project India. Thus, it was submitted, the tax due on the income has fully been paid by way

of TDS. It was further submitted, to avoid any dispute in the return of income filed in response to notice under section 153A, though, assessee offered the amount of ₹ 11,00,000 as income, she did not claim any deduction under section 80G nor she claimed credit for the TDS amount. As far as the donation from Gitanjali Gems P. Ltd. is concerned, it was submitted that the assessee entered into a two year contract with Gitanjali Brand in February 2010 and charged an amount of ₹ 1,25,00,000 for such contract. It was submitted, during the same period the assessee had charged an amount of ₹ 1,20,00,000 to another client for the same two year contract. Thus, it shows that there was no diversion of income by paying donations to Relief Project India. It was submitted, the donation by Gitanjali Gems Ltd. to Relief Project India has no connection with the assessee as it was done one year after the endorsement contract between the assessee and Gitanjali Gems Ltd. was executed. The learned CIT(A) after considering the submissions of the assessee in the context of the facts and material on record found that as far as the amount of ₹ 11,00,000 paid by Multi Screen Media P. Ltd. is concerned, the assessee has offered the said amount of ₹ 11,00,000 in the return of income filed in pursuance to notice under section 153A of the Act and has neither claimed deduction under section 80G on the said amount nor claimed credit for the TDS of ₹ 4,28,571. She also found that the AO in the

remand report has also accepted these facts. Accordingly, she held that the amount of ₹ 11,00,000 from Multi Screen Media P. Ltd. cannot be added to the income of the assessee again. As far as the amount of ₹ 11,00,000 from Gitanjali Gems Ltd. the learned CIT(A) confirmed the addition. She also confirmed the addition of TDS amount of ₹ 4,28,571. However, she directed the AO to grant credit for the TDS as well as allow deduction under section 80G after verifying the facts and in accordance with the provisions of law.

69. We have heard rival submissions and perused the material on record. As can be seen from the order of the CIT(A), though, the AO has made the addition of ₹ 25,28,571 she has reduced the said addition to ₹ 14,28,571. Therefore, the amount mentioned in ground No. 4 by the Department is not correct. Be that as it may, the actual relief granted to the assessee amounting to ₹ 11,00,000 pertains to the donation made by Multi Screen Media P. Ltd. to Relief Projects India. However, as found from the facts on record, the assessee has offered the net amount of ₹ 11,00,000 as income in the return of income filed in pursuance to notice issued under section 153A. That being the case, further addition of the said amount cannot be made. Therefore, we do not find any infirmity in the order of the CIT(A) on this issue. Ground raised is dismissed.

70. In ground No. 5 the Department has challenged the deletion of addition of ₹ 60,00,000 on account of alleged cash payment received by the assessee from the performance at an event in Dhaka.

71. Briefly the facts are, during the course of survey conducted in the case of M/s. Matrix India Entertainment P. Ltd. on 24.11.2011 a loose paper was found revealing cash transactions of ₹ 75,00,000 and cheque transactions of ₹ 50,00,000 involving the assessee. When the aforesaid fact was confronted to one of the Directors of M/s. Matrix India Entertainment P. Ltd. he submitted that on some occasions they receive offers from companies wanting to make part payments in cash. He further submitted, though, they make a note of the conversation but they do not accept cash offers. He also submitted that the scribbling in the loose paper is one such offer but it cannot be said that such offer was accepted. The AO found that apart from the loose paper the Blackberry mobile backup of Ms. Sandhya Ramachandran also revealed SMS conversation depicting the aforesaid transactions. He, therefore, held that receipt of cash by the assessee cannot be ruled out. Accordingly, he called upon the assessee to submit her reply. As alleged by the AO, the assessee failed to respond to the query raised. Therefore a statement was recorded from Ms. Sandhya Ramachandran wherein she categorically stated of not being aware of any cash transaction involving the assessee. As far as the performance at Dhaka

event is concerned, she stated that the said event did not materialise. The AO observed, though, Ms. Sandhya Ramachandran denied that Dhaka performance did not materialise, it did happen in February, 2011. Therefore, he held that the facts stated in the incriminating material found during the survey are correlated. Accordingly, he added back 80% of the cash payments mentioned in the loose paper amounting to ₹ 60,00,000 to the income of the assessee. The assessee challenged the addition before the CIT(A).

72. Before the CIT(A) it was submitted that the Dhaka performance materialised through another organization, namely, M/s. ATN Records Ltd. who paid the fees amounting to ₹ 45,51,750 net of TDS, fully by cheque and it was reflected in the return of income filed for A.Y. 2011-12. Therefore, it was submitted, there is no question of receiving the amount of ₹ 60,00,000 from M/s. Matrix India Entertainment P. Ltd. as held by the AO relying upon the loose paper found at the time of survey. The learned CIT(A) after considering the submissions of the assessee found that as per the material on record, though, the event at Dhaka did materialize, however it was through another agency, M/s. ATN Records Ltd. and the assessee received her fees in cheque which was offered as income. Since, the event did not materialize through Matrix, the amount mentioned in the seized document cannot be

added to the income of the assessee. Accordingly, she deleted the addition made by the AO.

73. We have heard rival submissions and perused the material on record. From the assessment order it is very much clear that during survey on Matrix a loose paper was found containing details of certain transactions both in cheque and in cash. However, when the loose paper was confronted to the Director of M/s. Matrix India Entertainment P. Ltd. during survey, he had categorically stated that it was only in the nature of an offer received from some party but it has not been accepted. Similarly, when such evidence was confronted to Ms. Sandhya Ramachandran she also denied of knowing any such cash transaction and also stated that the event in Dhaka did not materialize through them. Though it may be a fact that the Dhaka event did take place in February, 2011, but as stated by the assessee it was through another agency, M/s. ATN Records Ltd. and not through M/s. Matrix India Entertainment P. Ltd. Therefore there is no material in the possession of the AO to demonstrate that the assessee has received any amount in cash from M/s. Matrix India Entertainment P. Ltd. For Dhaka event. On the contrary, the evidences on record do indicate, though, the assessee appeared in the Dhaka event conducted through M/s. ATN Records Ltd., however, she has received her fees fully in cheque and has offered it as income in the relevant assessment

year. As no material has been brought before us by the Revenue to controvert the aforesaid facts we are inclined to affirm the order of the CIT(A) on this issue by dismissing the ground raised by the Revenue.

74. In ground No. 6 the Department has challenged the deletion of addition of ₹ 3,99,53,661 representing the addition made on estimate basis on account of fees supposed to have been received on cash basis. This issue is identical to the issue raised in ground No.7 of ITA No.3092/Mum/2015 and ground No.4 of ITA No.3092/Mum./2015. Following our decision in respect of these grounds in paragraphs 38 & 51 of this order we uphold the order of the CIT(A) in deleting the addition made by AO. This ground is dismissed.

75. In the result, all the appeals of the Revenue are dismissed.

Order pronounced in the open Court on 11.10.2017

Sd/-
RAJESH KUMAR
ACCOUNTANT MEMBER

Sd/-
SAKTIJIT DEY
JUDICIAL MEMBER

MUMBAI, DATED: 11.10.2017

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The CIT(A);*
- (4) *The CIT, Mumbai City concerned;*
- (5) *The DR, ITAT, Mumbai;*
- (6) *Guard file.*

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

(Dy./Asstt. Registrar)
ITAT, Mumbai