

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BENCH 'E' NEW DELHI**

**ITA No.1642/Del/2009  
Assessment Year: 2004-2005**

**MRG DEVELOPERS (P) LTD  
SAGAR COMPLEX, PLOT NO 5  
1ST FLOOR, L S C, NEW RAJDHANI ENCLAVE  
MAIN VIKAS MARG, NEW DELHI  
PAN NO:AADCM4743Q**

**Vs**

**INCOME TAX OFFICER  
WARD-5(4), NEW DELHI**

**ITA No.2712/Del/2009  
Assessment Year: 2004-2005**

**INCOME TAX OFFICER  
WARD-5(4), NEW DELHI**

**Vs**

**MRG DEVELOPERS (P) LTD  
SAGAR COMPLEX, PLOT NO 5  
1ST FLOOR, L S C, NEW RAJDHANI ENCLAVE  
MAIN VIKAS MARG, NEW DELHI**

**R P Tolani, JM and Shamim Yahya, AM**

**Dated: May 20, 2011**

**Appellant Rep by:** Shri Niraj Jain & P K Mishra CAs

**Respondent Rep by:** Shri K H L Dihana, CIT DR

**ORDER**

**Per: R P Tolani:**

These are cross appeals, one by assessee and the other by revenue, against the order of CIT(A) dated 20-3-2009 relating to A.Y. 2004-05. Both the appeals were heard together and are being disposed of by this common order for the sake of convenience. Respective grounds are as under:

ITA no. 1642/Del/09 (Assessee's appeal):

In this appeal, the only effective ground raised is as under:

*"That the learned Commissioner of Income-tax (Appeals) erred both in law and on the facts of the case in sustaining the addition of Rs. 66,00,000/- on account of alleged loan received from Smt. Indira Maharaj by treating the same as unexplained cash credit u/s 68 of the Income-tax Act, 1961."*

ITA no. 2712/Del/09 ( Revenue's appeal):

In its appeal the Revenue has raised various grounds, however, the only effective ground is as under:

*"On the facts and circumstances of the case, the Ld. CIT(A) has erred in deleting addition of Rs. 2,86,00,000/- made by the AO u/s 68 of the I.T. Act, 1961."*

2. Brief facts are: During the course of assessment proceedings the AO found that a commercial plot of land measuring 2691 sq. mts. For the purpose of construction of a Mall with multiplex was auctioned by DDA, which was allotted to assessee on 5-3-03. During the year under consideration the assessee paid a sum of Rs. 9,50,00,050/- to DDA and the land was registered in its name. No other business activity was carried out during the year. However, to meet the cost of land, assessee claimed to have received share application money amounting to Rs. 4,30,38,000/-. According to AO, most of the share application money was generated from the brief case companies operated by entry operators syndicate which included the names of Shri Surinder Pal Singh; Sh. Rajan Jassal; Sh. Mukesh Gupta; Sh. Anil Kumar Sharma; Sh. Mahesh Garg; and Sh. Balraj Jain etc. etc.; these and other names are mentioned in the assessment order. According to AO, the modus operandi involved in these entry accommodation arrangements followed a particular pattern. The beneficiary handed over the requisite cash along with commission to the entry operator. The same was deposited by the entry operator in a bank account in the name of his brief case company or front entity like - relative, friends or other persons, utilized for the purpose of this syndicate. The money was thus transferred by way of clearing into one or more stages. The beneficiary then deposits cash/DD/pay order in his bank account and the same was realized in its bank account in the form of gift/share application money/ loan etc. Clandestine facade was created to prove that the funds came through banking channels to enable the beneficiary to claim the authenticity of transactions. The front entities are maintained by operators by managing their audited accounts, assessment particulars, confirmations etc. In this case AO was of the view that the assessee has raised the share application amounts by such dubious means from following entities:

Sr. No.	Name	Amount
1.	Maruti Marketing P. Ltd.	2500000
2.	Shubhlagan Securities P. Ltd.	2100000
3.	Kumar Fincap P. Ltd.	3000000
4.	Maruti Software P. Ltd.	2000000
5.	Sun Star Commercials Ltd.	2500000
6.	Marathan Systems P. Ltd.	2500000
7.	Direct Sales P. Ltd.	2500000

8.	Minimax Finvest P. Ltd.	2500000
9.	S.N.G. Fincap P. Ltd.	8000000
10.	Vijay Foils P. Ltd.	1000000
11.	Ms. Indira Maharaj	6600000
	<b>Total</b>	<b>3,52,00,000</b>

2.1. AO thus called upon the assessee to establish the identity, genuineness of transaction and creditworthiness of share applicants. Assessee filed the confirmations, PAN nos. with explanations. Rejecting the explanation furnished by the assessee, the AO held that the ingredients of sec. 68 were not complied and added the aforesaid sum of Rs. 3,52,00,000/-as undisclosed income of the assessee u/s 68 of the I.T Act.

2.2. Aggrieved, assessee preferred first appeal before the CIT(A), who by order dated 16-3-2007 u/s 250(4) directed the AO to give an opportunity of cross-examination as requested by assessee in respect of persons who were alleged to be entry operators and whose statements were purported to be recorded by the ADIT. The AO filed a report dated 16-10-2007, relevant part of which reads as under:

*"None appeared on the given date before my predecessor Sh. Om Prakash, the then ITO ward 5(4). On the direction of the Addl. CIT, Range-5 again, I gave further opportunity and sent summons u/s 131 to all the persons.*

1. Sh. Bal Raj Jain	Speed post.
2. Sh. Narender Kumar Gupta	Speed post
3. Sh. Mahesh Garg	Speed post
4. Sh. Deepak Chhangia	Speed post
5. Sh. Anil Kumar Sharma	Speed post
6. Sh. Vinod Garg	Through notice server
7. Sh. Surinder Pal Singh	Through notice server
8. Sh. Mukesh Gupta	Through notice server
9. Sh. Rajan Jassal	Through notice server

*On the given date, one Sh. Vinod Garg attended in response to summons u/s 131 and none other attended for cross examination. The statement of Sh. Vinod Garg was recorded in the presence of the authorized representative of the assessee company. The address of Sh. Vinod Garg was obtained from the PAN director of the Department and who declined to have any knowledge about the said transaction or of the company. His name as well as his father's name was same of the one whose statement was recorded by the Investigation Wing.*

*Therefore, again, the Inspector of this Ward was deputed on the addresses provided by the Investigation Wing of Sh. Vinod Garg. The Inspector in his report dated 6.10.07 has mentioned that at the given address i.e. B-1155, Shastri Nagar, employee who left the service two years ago. Further, he also visited G- 8/94, Sector*

*15, Rohini, the said Janta Flat premises is now occupied by one Mrs. Kavita Tyagi. She also failed to provided any information about Sh. Vinod Garg. In this connection none attended in response to summons u/s 131 and the cross examination opportunity could not be provided."*

2.3. Thereafter, CIT(A) again made some inquiries, AO submitted a final report dated 5-2-09, which is considered by CIT(A) and is reproduced as under:

*"4.3.1 Interim Report dated 20.10.2008: In this report, the AO informed that for the companies mentio9ned at S. No. 1 to 7 above in para 4.2, there are common persons behind these concerns in the capacity of Directors/ proprietors/ partners namely Shri Dilip Jha, Shri K.N. Jha and Shri Kumud Ranjan Jha. Regarding these persons, it is submitted that:*

*"7. However in the available record, presently I could not find any statement of Sh. Dilip Jha, Sh. K.N. Jha and Sh. Kumud Ranjan Jha wherein the above referred persons have admitted that they are in the business of providing accommodation entries. I shall be needing assistance of my predecessors, to ascertain if any such statement was recorded by them during the course of assessment or subsequently, as the summons are found to have been issued in the names of the above persons during the course of assessment proceedings."*

*4.3.2. Final report dated 5.2.2009: In this report, the AO has not made comments on the facts mentioned by the appellant company stating it to repetition of facts and findings of the case. The contents of the report dated 16.10.2007 on the aspect of Principal of Natural justice have been reproduced. In this backdrop, on merits the AO has submitted as under:*

*"In the back drop of the above, the following is further submitted:*

*(a) The AO has framed assessment order of M/s MRG Developers Pvt. Ltd. strictly on the basis of information provided by the Addl. DIT Investigation Wing, Unit-I, New Delhi.*

*(b) The statement of the above mentioned nine persons were duly recorded on oath by the Investigation Wing in which they have admitted to have provided entries to different parties for certain consideration and a copy of such statement has already been provided to the assessee for his record.*

*(c) The company from whose accounts the credit contribution were brought to the account of the assessee company, was actually not carrying out any business and the main business was only providing such bogus entries.*

*(d) Such bogus entries have been acquired by certain other companies in which either the individuals have operated as directors or share holders. These companies have been mainly floated by certain individuals for the purpose of carrying on bogus entries activities.*

*(e) The company M/s MRG Developers Pvt. Ltd. took credit entries from such bogus companies and ultimately the assessee company became the beneficiary of such*

*entries. In order to make it appear that the said entries were genuine, the assessee company showed them as "Share Application money"*

*(i) As has been mentioned earlier, since these individuals had already accepted before the Investigation Authority that they were men of no means and whatever entry has been provided by them is purely an entry of facilitation for certain meager commission. Thus these people, had been only small pawns in the entire racket of ploughing into the system, unaccounted funds.*

*(ii) In this context and on the basis of record, I am of the humble opinion that since the statements of the above individuals already stands recorded on oath, by Investigation Wing of the Department, and the Individual as well as the Entry Providers & beneficiaries have understood the implication of the report of the investigation wing by this time, despite service of summons on them, they have simply not appeared before the AO during the remand proceedings.*

*In the light of the above submissions, it is requested that the Ld. CIT(A) may kindly consider the following core issues before deciding the appeal:*

*(i) The report of the Investigation Wing in respect of the Entry operators and their beneficiaries is an uncontroversial document on which the AO has based his findings in the Assessment order.*

*(ii) The request of the Assessee company that these individuals be allowed to be cross examined by them is also a very clear ploy, since they were, as ultimate beneficiaries, have not only managed these individuals and must have also ensured that they do not appear before the AO. They were very sure that the Department would not be able lead any evidence in this regard, during the course of assessment or any other subsequent proceeding.*

*(iii) It is pertinent to mention here, that though one of the individuals, Sh. Vinod Garg has attended the summons proceedings and has denied having invested in any of the companies, and the AR of the assessee who was given an opportunity for cross further to examine him.*

*(iv) As far as the case laws cited by the assessee, the Ld. CIT(A) may kindly consider the same in the light of the factual matrix of the case."*

*In respect of this office letter no.: CIT(A)-VIII/2008-09/148 dated 4.11.2008, the AO has submitted factual information about the details submitted before the AO during assessment proceedings. However, in respect of this office letter dated 15.9.2008), no further information or particulars have been submitted."*

2.4. Assessee vide letter dated 19-2-2009 filed counter comments on AO's report, particularly, on the following issues:

*(i) The above nine persons were departmental witnesses whose statements were relied on by the department. Despite directions, they were not produced by AO to cross-examine them. In their statements before ADIT, they have not directly named the share applicants as mentioned in assessee's case, therefore, department has not been able to prove the foundation of the case.*

*(ii) AO has not applied independent mind and merely followed the report of Investigation Wing.*

*(iii) The order is contrary to principle of natural justice. No opportunity of cross-examination of Shri Vinod Garg, who appeared before AO was given. Assessee has produced share application register, allotment register, share applicant's PAN nos.; confirmatory letters. Reliance was placed on Hon'ble Supreme Court judgment in the case of Divine Leasing & Finance Ltd. 216 CTR 195(SC; and Delhi High Court judgment in the case of Value Capital Services Pvt. Ltd. 307 ITR 334 (Del.*

2.5. CIT(A) deleted the additions in respect of first ten creditors/ share applicants, except Smt. Indira Maharaj, whose share application was confirmed by following observations:

*"5.9.2 In this backdrop, it is to be considered if the above can sway the findings in either way or not?*

*As is noticeable that the findings of the AO tabulated above does not establish that the undisclosed income of the appellant company has been received through the alleged accommodation entries. The case of the AO has been primarily that the money is paid by the appellant in cash to the so called 'entry operators/ providers' but it remains unsubstantiated and unproved by any manner whatsoever. The above decisions of the Delhi High Court and ITAT, Delhi Benches do lay down a ratio that the additional burden or onus was on the revenue to show that share applicant did not have the means to make such investments and the amount emanated from the coffers of the assessee. However, in the instant case the AO has not shifted the onus. Since, there is no specific evidence to establish or even circumstantial evidence to indicate that the appellant was having any financial irregularities in his accounts or bank statements, the conclusion of the AO merely on suspicion and without making any deeper investigation, does not appear to be justified.*

*Since, the AO had data and information regarding the AO's of the various companies from whom the share capital had been received by the appellant, further investigations could have been conducted for verification before arriving at an adverse inference. However, no such facts or adverse documents have actually been brought on record by the AO. The appellant had discharged its initial onus of establishing the identity of the parties and also submitted documents which prima facie prove the identity of the parties and also submitted documents which prima facie prove the creditworthiness and genuineness of the transactions. The AO cannot summarily reject all the documents without making deeper investigations and bringing on record specific findings which prove that amounts were not genuine deposits received towards share capital. In this context, it is relevant to quote from the decision of the Supreme Court in the case of CIT Vs. Lovely Export Pvt. Ltd. 216 CTR 195 in which Hon'ble Supreme Court held that:*

*"We find no merit in this special leave petition for the simple reason that if the share application money is received by the assessee company from alleged bogus share holders, whose names are given to the AO, then the department is free to proceed to re-open the individual assessments in accordance with law."*

5.10. *In view of the factual aspects of the case as also the application of the decisions discussed above systematically, I hold that the appellant performed its*

*duty of establishing the identity and creditworthiness of all the ten share-subscriber companies and the genuineness of the transaction and therefore, AO was not justified in applying the provisions of section 68 in this case thereby adding a sum of Rs. 2,86,00,000/- to the total income. The AO is directed to give relief to the appellant on this account. In the light of discussion made in para 5.9 above, the AO is directed to take the suitable action about such share subscriber companies and intimate their AO's of the aid investment made by them, if he still considers the share subscription made by these companies as made from unexplained sources.*

*6.1. Now, I am discussing the case of addition about the credit of share application money in the name of Ms. Indira Maharaj. The undisputed facts of the case as are evident from the assessment order and the submissions of the appellant company are that:*

*- Smt. Indira Maharaj is a non-resident Indian holding passport issued by West Indies.*

*- She applied for the equity shares of the appellant company and paid share application money of Rs. 66,00,000/- but shares were not allotted to her and the share application money was refunded to her in the next year i.e. in Assessment year 2005-06.*

*- The amount is paid out of the NRO account with UTI Bank Ltd., Rajouri Garden, New Delhi.*

*- The share application form of Ms. Indira Maharaj indicates that she is applying for the shares after reading the prospectus of the appellant company. In the said share application form, her status is shown as resident rather than non-resident.*

*- She is neither assessed to tax in India nor holds PAN.*

*In the light of these facts, it is to be decided if the said credit can be accepted as explained or not?*

*.....*

*.....*

*6.5. The appellant has also failed to explain how she got convinced to apply huge sum of Rs. 66 lacs in the appellant company, which was yet to start business contemplated by it. It is beyond comprehension why a non-resident would invest such large amount in a private limited company which has no credentials to boast of, no past history or antecedents of financial strength etc., rather than in a well established company with a track record of business and which may be listed on the stock exchange. In the case of large investments in unquoted companies, usually a non-resident investor calls for due-diligence report and credit rating from the Rating Agencies of repute, which is also absent in the case. Thus, the element of transparency is clearly absent in the said transaction from the perspective of a prudent investor who is stationed thousands of kilometers away from the company in which she is making investment. These facts are not only beyond the comprehension of human probability but also do not get well with the surrounding circumstances.*

*These aspects are of relevant in the light of the Supreme Court decision in the case of Sumati Dayal reported in 214 ITR 801.*

...

...

*In the instant case also, though the appellant company has proved the identity of Ms. Indira Maharaj through her passport, but the submission of copy of bank pass book (evidencing the transport of money through banking channels) or copy of tax return of a year filed abroad (which does not specify her profile & antecedents about making of such investments/ deposits, the true extent of her capital, extent of income earned regularly and her savings etc.) is not sufficient to prove her credit-worthiness. The appellant company has not submitted suitable documentary evidence which can establish beyond doubt that Ms. Indira Maharaj had enough funds to invest huge sum of Rs. 66 lacs, in the appellant company."*

Aggrieved, both the parties are in appeal on their respective grounds.

3. Learned counsel for the assessee contends that:

*(i) CIT(A) called three remand reports from the AO and directed him to give opportunity of cross-examination of the persons whose statements were being relied. The statements also were not recorded by AO himself only ADIT reports were relied upon. Thus, the AO instead of applying independent mind, relied on ADIT reports that too without caring to examine the evidence himself.*

*(ii) In the remand proceedings also no opportunity of cross examination was given by AO. The statement of one Shri Vinod Garg, though was taken in the presence of assessee representative, no opportunity of cross-examination was given.*

*(iii) During the course of assessment proceedings, assessee filed all relevant documents i.e. share application/ allotment register; confirmations of copies of bank a/c; PAN nos. of share applicants; their addresses. Assessee since discharged its preliminary burden cast by sec. 68 in respect of identity of share applicants through their confirmations, PAN nos., genuineness of transaction by banking channels and creditworthiness as AO himself has mentioned the credits/ sources in the books of share applicants, no addition can be made in the hands of the assessee but the same is to be examined in the hands of share applicants as directed by CIT(A) and as held by Hon'ble Supreme Court in the case of Divine Leasing & Finance Ltd. (supra) and Hon'ble Delhi High Court in the case of Value Capital Services Pvt. Ltd. (supra).*

3.1. Apropos Smt. Indira Maharaj, it is contended that a copy of passport of Ms. Indira Maharaj was furnished, which proves her identity and address. The photocopy of the passport itself shows that she is citizen of Republic of Trinidad & Tobago and maintaining bank account with UTI Bank Ltd. bearing no. 066010100083933 mentioning her Trinidad address. A copy of which has been furnished before AO. The immediate source of funds received by the assessee company is a deposit of US\$ 143288.25 on 18.07.2003 converted in India currency is Rs. 66,14,186/- out of which Rs. 66,00,000/- have been received by the assessee company. The banks are agents of RBI in respect of foreign exchange transactions and follow the procedures



laid down by the RBI. The handwritten items in the bank passbook are not relevant for the purposes of the case of the assessee company. The assessee company has no control over the other transactions mentioned in bank accounts of Ms. Indira Maharaj. Due to computerization the bank account number are exclusive and not branch dependent."

3.2. Learned counsel further contends that in respect of Ms. Indira Maharaj also assessee has discharged its onus. The amount having been received from NRI account, the same cannot be added in the assessee's case.

4. Learned DR, on the other hand, vehemently contends:

*(i) that the assessee's case involves uncanny number of co-incidents and preponderances. The assessee company had no business what so-ever, by an auction it received a commercial plot from DDA and attracted a surprising share capital without any market reputation. No. of companies, whose addresses are identical, like, Express Tower, Azadpur Commercial Complex and Ravinder Plaza, Karol Bagh etc., advanced huge amounts by way of share application to assessee company along with application itself.*

*(ii) The pattern is unusual inasmuch the alleged share applicants within a day or two prior to encashing of cheques by the assessee, received huge deposits from some other entities.*

*(iii) The assessee's business credentials in commercial circles to collect so much of share application money is nowhere mentioned. In share application form placed at paper book page 6, there is a reference to publication of company's prospectus, but copy of such prospectus is not seen the light of the day. If assessee had issued a prospectus, copy of that ought to have been given to AO.*

*(iv) In case of Ms. Indira Maharaj, an application for share allotment is given on 29-8-03 and the same day the amount is credited in assessee's bank account.*

*(v) In respect of other share applicants, copy of share applications are not on record and there are no particulars as to how the application was made, whether it was considered by the Board of Directors, the entire share application money was given in advance or it was given in instalments.*

*(vi) Whatever names of share applicants were given by the assessee, they were all found to be non-existent on the address and Shri Vinod Garg, only person who appeared before AO, denied having made any investment in the assessee company. Besides, while recording his statement, assessee's representative was present and no effort was made to ask for cross-examination. If the persons who are found to be king pins in the entry arrangements operating large number of entries do not appear and the one appearing refused to acknowledge the transaction, necessary inference on the basis of preponderance and probabilities is to be drawn. Learned CIT(A) himself has referred to Hon'ble Supreme Court judgment in the case of Sumati Dayal to point out inconsistencies and improbabilities in the case of Smt. Indira Maharaj, but similar surrounding circumstances human probabilities have not been considered in the cases of other share applicants for which relief is given.*

*(vii) So far none of the share applicants has ever appeared before AO or any other authority; except confirmations and some other documents which are maintained to create a façade for the front companies no worthwhile appearance has been demonstrated.*

*(viii) In the case of Smt. Indira Maharaj, CIT(A) has categorically held that she being NRI, unusually subscribed to an unlisted company. The same applies to other share applicants also . Without having any commercial credentials in favour of the company or any prospectus how these applicant companies who did not have their own funds and place of business, will buy the share of an unlisted company who did not have any business operations and the directors did not have any market recognition.*

4.1. Learned DR contends that AO was being asked to perform an impossible function inasmuch as the share applications are not appearing. There are too many notorious facts on record indicating systematic entry operation of dubious character resulting in creating bogus capital. It was pleaded that Hon'ble Supreme Court in the case of Sumati Dayal (supra) has emphasized the importance of taking into consideration vital aspects about the human conduct, surrounding circumstances and preponderance of probabilities. In the given facts and circumstances no genuine person will normally invest in such an unlisted company whose credentials are not known. In respect of which, the market credentials and good reputation of operators and directors is unknown. There seems to be a curious hurry in collecting money which points out towards an eventuality to get the DDA plot documents registered and managing capital requirements on paper. Investors did not have their own funds and in turn within a day or two some other entity provides transfers who also have common address and whose sources are unknown.

4.2. It is vehemently argued that in case of entry accommodation racket a paper trail is always created to by producing some identity papers. What section 68 requires is, to establish the identity, genuineness and creditworthiness of the depositors in a satisfactory manner. In this case the creditworthiness has not been explained in a satisfactory manner but additions have been deleted on the basis that AO failed to bring any adverse material on record. In view of Supreme Court judgment in the case of Sumati Dayal, the assessee has to establish the bona fides of such transactions and collection of money on the basis of reasonable human conduct.

4.3. A query was raised by the Bench about the assessments of persons (king pins) who have been searched by the I.T. Department. DR contends that since the simultaneous proceedings were going on, they may not have been finalized by the time of this assessment and therefore there is no reference available in this respect in assessment order or CIT(A)'s order.

5. We have heard rival submissions and have gone through the entire material available on record. As the facts emerge the transactions and manner of collection of huge share application money, by the assessee raises serious questions and surrounding circumstances do not appear to be normal. The assessee company had no market credential; copy of prospectus has not been supplied which is mentioned in the share application of Smt. Indira Maharaj. The prospectus will give company and directors profile, its objectives, potential which might be required by the company law provisions to apprise the investors about the health and status of the company they intend to invest in. Similarly, confirmations from all share applicants

have also not been filed in the paper book. Details about the dates of share applications, the deposit in the bank account is not before us. Generally the share application will enclose a cheque and the same will be encashed within 2-3 days, from the date of application. Besides, the Board resolution accepting share applications on different dates have not been filed.

5.1. Most important information will come from the assessment records of alleged king pins of entry operators whose names have been mentioned in assessment order and ADI reports. There is no reference to any action taken on record. Since search & survey operations were made and systematic operations were going on, department must have proceeded against all of them and framed assessments. It is alleged by the department itself that they were operating with network of fictitious and brief case companies whose existence on paper was there but physical operations were managed and the capital was created by transfer of money from one account to other. Proper ascertainment of facts cannot be made in such type of cases unless the action taken in parallel king pin cases is referred to. We are conscious of the fact that CIT(A) had directed the AO to afford their cross-examination, at the same time we understand the AO's handicap when none of them responded to the notice or summons and is found to be non-existent. In our view, AO and CIT(A) ought to have verified the record of parallel proceedings/ search proceedings in the case of king pins of entry operators and their network entities, which has not been referred to before us. The ITAT being a final fact finding authority, has to ensure that a proper assessment is made based on all material facts.

5.2. We are of considered opinion that there are many missing links which are important to decide case of such a magnitude and connected cases will form an important aspect of investigation and corroboration of facts. In view of the fore-goings, we are inclined to set aside the issues raised in assessee's and revenue's appeals both to the file of AO to decide the same afresh in the light of our above observations after giving the assessee reasonable opportunity of being heard and referring to record parallel assessments in connected cases.

6. In the result, both the appeals filed by the assessee as well as the revenue stand allowed for statistical purposes only.