

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"C" Bench, Mumbai**  
**Before Shri P.M. Jagtap, Accountant Member**  
**and Shri Vivek Varma, Judicial Member**

**ITA No. 5986/Mum/12**  
(Assessment Year: 2009-10)

ITO 12(3)(3) R. No. 123, 1 <sup>st</sup> Floor Aayakar Bhavan, Mumbai-400 020.	Vs.	CCI Chambers Co-Op Housing Society Ltd. Ground Floor, Dinshaw Wachha Marg. Churchgate, Mumbai-400 020.
(Appellant)		(Respondent)

P.A. NUMBER : AAAJC 0006 E

Assessee by	:	Ms. Mrugakshi K. Joshi
Revenue by	:	Shri Sanjiv Jain

Date of hearing	:	28/11/2013
Date of Pronouncement	:	29/11/2013

**ORDER**

**Per P.M. Jagtap, Accountant Member:**

This appeal preferred by the Revenue is against the order of the Id. CIT(A)-23, Mumbai, dated 27/07/2012, and the solitary issue involved therein is relating to deletion made by the Id. CIT(A) of the addition made by Assessing Officer on account of transfer fees received by the Assessee society by its members which is raised by taking the following grounds:-

“1. On the facts and in the circumstances of the case and in law, whether the Ld.CIT(A) erred in deleting the addition of Rs.44,89,634/- on account of transfer fees received by the assessee from two members without appreciating the fact that the receipt of transfer fees in the guise of voluntary contribution.

2. *On the facts and in the circumstances of the case whether the Ld.CIT(A) erred in appreciating the fact that the assessee has violated the limitation of transfer fee amount of Rs.25,000/- fixed by the Notification of Govt. of Maharashtra, and the AO has rightly taxed the amount, as it was not covered under the principles of mutuality.*

3. *On the facts and in the circumstances of the case whether the Ld.CIT(A) failed to appreciate the facts and Revenue has challenged the decision of the Hon'ble Bombay High Court in the case of Mittal Court Premises Co-op Housing Society Ltd. 320 ITR 414 (BOM) on the identical issue by filing SLP and the issue is pending before the Hon'ble Supreme Court."*

2. As agreed by the ld. representatives of both the sides, the solitary issue involved in this appeal of the Revenue is squarely covered in favour of the Assessee by the decision of the Tribunal in Assessee's own case for the immediately preceding year i.e. assessment year 2008-09 rendered by its order dated 29/08/2012 in ITA No.6509/Mum/2011 wherein a similar issue was decided by the Tribunal in favour of the Assessee for the following reasons given in para-3 of its order.

*"3. We have heard the arguments of both the sides and also perused the relevant material on record. As agreed by the learned representatives of both the sides, the issue involved in this appeal of the Revenue is squarely covered in favour of the assessee by the decision of Hon'ble High court in the case of Mittal Court Premises Co-op Society Ltd. (supra) and Sind Co-op. Housing Society (supra) relied upon by the learned CIT(Appeals) in his impugned order. As further pointed out by the learned counsel for the assessee, the co-ordinate bench of this Tribunal in assessee's own case for assessment year 2005-06 has decided a similar issue in favour of the assessee by an order dated 14-10-2011 passed in ITA No.2494/Mum/2010 following the said decision of Hon'ble jurisdictional High Court. The issue involved in this appeal of the Revenue thus is squarely covered in favour of the assessee by the decision of coordinate bench of this Tribunal in assessee's own case as well as by the decision of Hon'ble Jurisdictional High Court in the case of Mittal*

*Court Premises Co-op Society Ltd. (supra) and Sind Co-op. Housing Society (supra). Respectfully following the said judicial pronouncements, we uphold the impugned order of the learned CIT(Appeal s) deleting the addition of Rs.46,00,000/- made by the AO on account of transfer fees received by the assessee society from its two members and dismiss this appeal of the Revenue.*

2.1 Respectfully following the decision of the co-ordinate bench of this Tribunal rendered in Assessee's own case for the assessment year 2008-09 on similar issue, we uphold the impugned order of the ld. CIT(A) deleting the addition made by AO on account of transfer fees received by the Assessee society from its members.

3. In the result, appeal of the Revenue is dismissed.

**Order pronounced in the open court on 29<sup>th</sup> November, 2013.**

**Sd/-**  
**(VIVEK VARMA )**  
JUDICIAL MEMBER

**Sd/-**  
**(P.M. JAGTAP )**  
ACCOUNTANT MEMBER

Mumbai, Dated: 29/11/2013.  
Jv.

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

True Copy

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.