आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ , मुंबई ।

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

BEFORE SHRI C.N. PRASAD, JUDICIAL MEMBER AND

SHRI RAJESH KUMAR, ACCOUNTANT MEMBER

आयकर अपील सं/ I.TA No.4926/Mum/2014

(**निर्धारण वर्ष** / Assessment Year:2010-11

ACIT 1(3), Aayakar Bhavan, Mumbai-400 020	**बनाम**/ Vs.	General Insurance Corporation of India, "Suraksha", 170, J. Tata Road, Mumbai-400 020
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AAACG 0615N		
(अपीलार्थी /**Appellant**)	..	(प्रत्यर्थी / **Respondent**)

अपीलार्थी ओर से/ **Appellant by:**	Shri H.S. Singh
प्रत्यर्थी की ओर से/**Respondent by:**	Shri Farrokh V. Irani

सुनवाई की तारीख / **Date of Hearing :10.02.2016**

घोषणा की तारीख /**Date of Pronouncement :02.03.2016**

आदेश / O R D E R

PER C.N. PRASAD, JM:

This appeal is filed by the Revenue against the order of the Ld. CIT(A)-2, Mumbai dated 21.03.2014 pertaining to assessment year 2010-11.

2. The Revenue has raised following grounds in its appeal:

> *"1. On facts and in the circumstances of the case and in Law, the Ld.CIT(A) erred in holding that profit on sale of investment are not liable to be taxed in the hands of the assessee in the assessment year under consideration.*

On facts and in the circumstances of the case and in Law, the Ld.CIT(A) failed to appreciate that Clause (b) to Rule 5 of the First Schedule has been omitted by the Finance Act w.e.f. 01.04.1989.

` *2. "On facts and in the circumstances of the case and in Law, whether the Ld.CIT(A) was justified in deleting the disallowance made by the Assessing Officer on account of expenditure (incurred in relation to exempt income) u/s 14A of the Income Tax Act, 1961.*

3. On facts and in the circumstances of the case and in Law, the Ld.CIT(A) erred in allowing the club expenses without appreciating the fact that assessee failed to establish that these expenses are for business purposes.

4. On facts and in the circumstances of the case and in Law, the Ld.CIT(A) erred in holding that the provisions u/s 115JB of the I.T. Act are not applicable to the assessee for A.Y. 2010-11.

5. On facts and in the circumstances of the case and in Law, the Ld.CIT(A) erred in entertaining the ground of appeal regarding credit for Dividend Distribution Tax u/s 115-0 since the issue of credit of this tax is not emanating from the order of assessment and is not one of the specified issue u/s 246A on which appeal can be preferred and further also because tax as defined in Section 2(43) does not include Dividend Distribution Tax so as to make appeal permissible in terms of "Tax" appearing in Section 246A(1) of the Act. "

3. At the outset, the Ld. Counsel for the assessee submits that except ground No. 3 & 5 the issues in other grounds are decided in favour of the assessee in assessee's own case for earlier assessment years.

4. With respect to ground No. 1 i.e. whether profit on sale of investment is liable to be taxed in the hands of the assessee or not,

the Ld. Counsel for the assessee referring to page-1 of the compilation which is the order of the Co-ordinate Bench in assessee's own case for assessment years 2002-03 to 2004-05 in ITA Nos. 6500 to 6502/M/205 submits that the Co-ordinate Bench adjudicated the matter in favour of the assessee following the decision of the Pune Bench in the case of Bajaj Allianz General Insurance Company Limited Vs Addl CIT in ITA No. 1447/PN/07 & C.O. No. 57/PN/07 dated 31.8.2009 holding that profits on sale of investment prior to the assessment year 2011-12 are not taxable in the hands of the assessee. The Ld. Counsel for the assessee submits similar view has been taken by the Co-ordinate Bench for the assessment year 2005-06 to 2009-10.

5. The Ld. Departmental Representative vehemently supports the orders of the AO.

6. We have perused the orders of the Co-ordinate Bench in assessee's own case for assessment year 2002-03 to 2004-05. The Co. ordinate Bench following the decision of the Pune Bench in the case of Bajaj Allianz General Insurance Company Limited (supra) held that profits on sale of investment prior to the amendment which has come into effect for assessment year 2011-12 are not taxable on sale of investments. It was further held that the amendment in Rule 5(b)(i) of first Schedule to the Income Tax Act is

> *" In our considered view, the computation of taxable profits of an insurance company is governed by a specific legal provision, i.e. Section 44 read with First Schedule to the Income Tax Act. Under the said scheme of things envisaged by these provisions, only such adjustments can be made to the profits disclosed by the annual accounts drawn up under the Insurance Act, 1938, as are*

specifically provides for under clause 5 of the First Schedule. It is an admitted position that there are no specific provisions for making an adjustment on account of profits on sale of investment after removal of clause 5(b) with effect from 1st April 1989 and till clause 5(b)(ii) was inserted with effect from 1st April 2011. Accordingly, there is no occasion to make an adjustment of profit on sale of investments in the profit disclosed by the annual accounts drawn up as per the Insurance Act, 1938. It is important to bear in mind the legal position that the taxability of income in the case of the insurance companies is not on commercial profits but on such profits as are computed in accordance with the provisions of the Insurance Act, subject to, of course, permissible adjustments under the Income Tax Act. It is, therefore, futile to suggest, as has been suggested by the learned Departmental Representative, that the profits on sale of investments are taxable in the hands of the assessee unless there is a specific provision for exemption of such profits. The question of exemption only arises when something is taxable, but, as we have noted above, the taxability of profits in the hands of the insurance companies is confined to profits as per annual accounts of such insurance companies drawn up in accordance with the Insurance Act.

6. What is taxable in the case of the insurance companies is, as we have noted above, is not commercial profit as per the normal rules of computation of business 9 General Insurance Corporation of India income but the profit reflected by accounts drawn up as per the provisions of the Insurance Act. Any adjustment to such profits can only be made as per specific provisions in Clause 5 of First Schedule to the Income Tax Act. It is not the case of the revenue that, in accordance with the provisions of the Insurance Act, these profits were required to be reflected in the annual accounts of the assessee, or that there is a specific adjustment, duly sanctioned by law, which was required to be made to such book profits in respect of these book profits. On a plain reading of the provisions of the law, such profits cannot be brought to tax in the first place. When these profits cannot be taxed in the first place, there is no need of any specific exemption provision. The principle of casus ommisus is not, therefore, relevant in the present context.

7. In the case of Bajaj Allianz (supra), the coordinate bench has, inter alia, observed as follows:- "

6. The ld CIT (A) has called for a remand report from the AO. When the same was handed over to this assessee the point-wise contention were as follows:-

(a) The appellant is not a public financial institution as prescribed u/s 4(A) of the Companies Act hence, it was wrong on the part of the AO to allege that in addition to the insurance Business the assessee company has also acted as a Public Financial Institution u/s 4(A) of Companies Act. It was pleaded that as per the definition of a Insurance company under the Insurance Act the whole and sole purpose of a General Insurance Company is to carry on General Insurance Business.

(b) The allegation of the AO that transaction in share and securities was one of the normal business activity of the assessee hence, liable for taxation. The contention was that though it was one of the activity to earn profit on sale on investment but the respected Parliament in his wisdom has decided not to tax the same. In support it was cited that the Insurance Company are governed by Rule 5 of a Schedule. Reliance was placed on the decision of Supreme Court in the case of General Company of India 240 ITR 139 and Pandyne Insurance Company 55 ITR 716.

(c) The allegation of the AO was that any part of the profits and gains not attributable to the Insurance Business cold qualify for exemption and liable to be taxed. The contention of the assessee was that firstly the financial statements of an Insurance Company has to be finalized in accordance with the insurance regulatory and development authority. As per the said regulation profits earned by a General Insurance Company on sale of redemption of investment has to be credited to the profit and loss account and not to be shifted to the balance sheet directly. It was wrong on the part of the AO through a suggestion that had the assessee ever intended to claim the exemption then he could have reflected the profit on sale of investment in the balance sheet

directly instead of crediting in P & L account. The contention of the assessee was that such a method has not been prescribed by the designated regulatory authority.

(d) The applicability of provisions of sec 43(D) and section 36(1)(viia) have also been denied. The contention of the assessee was that these provisions are applicable to Public Financial Institutions (PFI) and the assessee company do not fall under that category.

7. In addition to the above contentions there was no dispute that the independent code is enacted by the introduction of sec 44 in IT Act which independently prescribed the mode and manner for assessment of Insurance Business. This section since contains non-obstante clause therefore notwithstanding anything contained in any of the sections of the Act, the profits and gains of Insurance Business including any such business carried on by a Mutual Insurance Company or by an Co-operative Society shall be computed in accordance with the rules contained in First Schedule. Accordingly, there could not be any other Income taxable other hand Insurance Business because section 44 over-rules all other provisions of the IT Act.

8. A conclusion can be drawn on the basis of the above elaborate discussion that the deletion of sub-rule (b) from Rule 5 of the first Schedule was with a specific purpose. This schedule not only prescribe the method of computation of income of Insurance Business in Part (A) but also prescribe the method of computation of other Insurance Business in Part (B). Rule 5 is within Part (B) and earlier it was prescribed the method of taxation of profit on sale of investments which was later on scraped. Even by applying a reverse logic we must arrive at the same conclusion that had the impugned income was earlier taxable under one specific clause but even on its deletion no clause was introduced or replaced to prescribe the method of taxation of such income; therefore the

Revenue Department has no right to tax such an income in the absence of any enabling provision. Naturally, such a deletion cannot be treated a superfluous action but this change had to give a definite judicial meaning. We have to ascribe a logical conclusion to the said deletion of sub rule (b) from Rule 5 and the natural meaning is that after the deletion the income described therein is out of the purview of computation of Insurance Business from the First Schedule therefore consequently cannot be taxed u/s 44 of I T Act." 11 General Insurance Corporation of India

8. We have also noted that the legislature has now brought in a prospective amendment, with effect from assessment year 2011-12, in Rule 5(b)(i) of first Schedule to the Income Tax Act. By the virtue of this amendment, profits on sale of investments, in the case of insurance companies will be taxable w e f 2011-12. Since the amendment so made in the statute, which cannot be inferred to be a superfluous amendment, is with effect from 2011-12, the conclusion arrived at by the Pune bench stands further fortified. This further fortifies the stand taken by the co ordinate bench in the case of Bajaj Allianz General Insurance Co Ltd (supra).

9. In view of these discussions, as also following the coordinate bench decision in the case of Bajaj Allianz General Insurance Company Limited (supra), we uphold the grievance of the assessee. The profits on sale of investment in the years before us, which are year prior to the years with effect from which prospective amendment is made, are not taxable in the hands of the assessee. The taxability of income of insurance companies under the head 'income from business and profession' as governed by provisions of section 44 read with first schedule to the Income Tax Act, does not extend to taxability of profits on sale of investments – So far as the assessment years before us are concerned.

10. For the reasons set out above, we direct the Assessing Officer to exclude profits on sale of investments from income of the assessee liable to be taxed. The assessee gets the relief accordingly".

Respectfully following the said decision, we direct the AO to exclude profit on sale of investments from income of the assessee as not liable to be taxed.

7. With respect to ground No. 2 i.e. deleting the disallowance made by the AO on account of expenditure u/s. 14A of the Act, the Ld. Counsel for the assessee referring to page-117 of the compilation submits that the issue has been decided in favour of the assessee in assessee's own case for assessment year 2006-07 in ITA No. 6260/M/08 dated 10.12.2010.

8. We have perused the orders of the Co-ordinate Bench in assessee's own case for assessment year 2006-07 and we find that the Co-ordinate Bench decided the issue in favour of the assessee following various decisions of the Tribunal observing as under:

> *Grounds of appeal no.4 regarding the expenditure u/s 14A.*
>
> *8. We have heard the rival contentions and perused the relevant record. We note that this issue has been considered and decided by the Pune Bench of this Tribunal in the case of Bajaj Allianz General Insurance Company limited V/s Add. CIT in ITA No.1447/PN/2007 for the assessment year 2003-04 order dated 31.08.2009. This Tribunal in the case of JCIT V/s M/s Reliance General Insurance co. in ITA No.3085/Mum/2008 for the assessment year 2005-06 vide order dated 26.2.2010 has considered this issue and decided in favour of the assessee. This order was followed by this Tribunal while deciding the issue in ITA No.781/Mum/2007 vide order dated 30.4.2010. Thus, this issue has been consistently decided in favour of the assessee and against the revenue by this Tribunal. The Pune Bench of this Tribunal in the case of Bajaj Allianz General Insurance Company limited V/s Add. CIT (supra) has decided this issue in paragraphs 17 to 20 as under*
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> *"17. Finally the question to be answered is about the applicability of s. 14A in respect of sale of investment which is not taxed under the special circumstances of deletion of a sub-rule*

from the statute. It is not questioned that the impugned profit was non-taxable per se rather the accepted legal position is that the impugned profit was very much taxable in the past. Now it has been informed that this controversy in respect of insurance company set at rest by a decision of Tribunal, Delhi Bench verdict in the case of Oriental Insurance Co. Ltd. (ITA Nos. 5462 & 5463/Del/2003) assessment years 2001-02 and 2001-02 order dt. 27th Feb., 2009 [reported as Oriental Insurance Co. Ltd. v. Asstt. CIT [2010] 130 TTJ (Delhi) 388 : [2010] 38 DTR (Delhi) 225—Ed.]. Therefore considering the vehement reliance of learned Authorised Representative it is worth to mention at the outset itself that the issue now stood resolved by this latest decision of Delhi, Tribunal in the case of Oriental Insurance Co. Ltd. (supra), the relevant portion reproduced below :

"17. We have heard rival submissions of the parties and have gone through the material available on record. Identical issue arose in assessee's own case for asst. yr. 1985-86. The Tribunal accepted the plea of the assessee and in fact the issue went up to the Hon'ble Delhi High Court in asst. yrs. 1986- 87 to 1988-89, which is reported as CIT v. Oriental Insurance Co. Ltd. [2003] 179 CTR (Delhi) 85 : [2002] 125 Taxman 1094 (Delhi), decided the issue in favour of the assessee by holding that s. 44 of the Act is a special provision dealing with the computation of profits and gifts of business of insurance. It being a non obstnate provision, has to prevail over other provisions in the Act. It clearly provides that income from insurance business has to be computed in accordance with the rule contained in the First Schedule. It is not the case of the Revenue that the assessee has not computed the profits and gains of its insurance business in accordance with the said rules. Reliance was placed on the scope of s. 144, as held in the case of General Insurance Corporation of India v. CIT [1999] 156 CTR (SC) 425 : [1999] 240 ITR 139 (SC), wherein their Lordships of the apex Court have categorically held that the provisions of s. 44 being a special provision govern computation of taxable income earned from business of insurance. It mandates the tax authorities to compute the taxable income in respect of insurance business in accordance with the provisions of the First Schedule to the Act. In the light of these, their Lordships of Delhi High Court have held that no question of law, much less a substantial question of law survives for their consideration. In other words, order of the Tribunal has been affirmed. Following the same reasoning, addition made by the AO is deleted.

22. We have considered the rival contentions and gone through the records. The provisions of s. 44 read as under :

> *'44. Insurance business.—Notwithstanding anything to the contrary contained in the provisions of this Act relating to the computation of income chargeable under the head 'Interest on securities'. 'Income from house property', 'Capital gains' or 'Income from other sources', or in s. 199 or in ss. 28 to 43B, the profits and gains of any business of insurance, including any such business carried on by a mutual insurance company or by a co-operative society, shall be computed in accordance with the rules contained in the First Schedule.*
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> *' 23. The above provision makes it very clear that s. 44 applies notwithstanding anything to the contrary contained within the provisions of the IT Act relating to computation of income chargeable under different heads. We agree with the learned counsel that there is no requirement of head-wise bifurcation called for while computing the income under s. 44 of the Act in the case of an insurance company. The income of the business of insurance is essentially to be at the amount of the balance of profits disclosed by the annual accounts as furnished in the Controller of Insurance. The actual computation of profits and gains of insurance business will have to be computed in accordance with r. 5 of the First Schedule. In the light of these special provisions coupled with non obstante clause the AO is not permitted to travel beyond these provisions.*
>
> *24. Sec. 14A contemplates an exception for deductions as allowable under the Act are those contained under ss. 28 to 43B of the Act. Sec. 44 creates special application of these provisions in the cases of insurance companies. We therefore, agree with the assessee and delete the act as according to us, it is not permissible to the AO to travel beyond s. 44 and First Schedule of the IT Act."*

18. It may not be out of place to mention that the respected Co-ordinate Bench has duly taken the note of an earlier decision of that very Bench decided in the case of that very assessee vide order dt. 29th Sept., 2004 bearing ITA Nos. 7815/Del/1989, 3607 to 3609/Del/1990; 5035/Del/ 1998 and 3910/Del/2000 named as Dy.

CIT v. Oriental General Insurance Co. Ltd. [2005] 92 TTJ (Delhi) 300. As seen from the paras reproduced above on due consideration of the relevant provisions as applicable to resolve this issue a conclusion was drawn that since the Courts have held, s. 44 creates a special provision in the cases of assessment of insurance companies therefore it was not permissible to the AO to travel beyond s. 44 of First Schedule of IT Act.

18. The next common dispute relates to the order of the CIT(A) in sustaining the action of AO in allowing only 50 per cent of the management expenses by invoking the provisions of s. 14A of the Act. The addition is made by the AO on the plea that the provisions of s. 14A was inserted by Finance Act, 2001 w.e.f. 1st April, 1962. It is stated that the investments made by the assessee are both taxable as well as tax free. An estimated disallowance of 50 per cent out of the management expenses incurred and as claimed in the P&L a/c is treated as expenses incurred in connection with the looking after tax-free investment.

19. The learned counsel for the assessee vehemently argued that the income of the assessee is to be computed under s. 44 r/w r. 5 of Sch. 1 of the IT Act. Sec. 44 is a non obstante clause and applies notwithstanding anything to the contrary contained within the provisions of the IT Act relating to computation of income chargeable under different heads, other than the income to be computed under the head 'Profit and gains of business or profession'. For computation of profits and gains of business or profession the mandate to the AO is to compute the said income in accordance with the provisions of ss. 28 to 43B of the Act. In the case of the computation of profits and gains of any business of insurance, the same shall be done in accordance with the rules prescribed in First Schedule of the Act, meaning thereby ss. 28 to 43B shall not apply. No other provision pertaining to computation of income will become relevant. According to the learned counsel, two presumptions that follow on a combined reading of ss. 14, 14A, 44 and r. 5 of the First Schedule are :

> *(a) That no head-wise bifurcation is called for. The income, inter alia, of the business of insurance is essentially to be at the amount of the balance of profits disclosed by the annual accounts as furnished to the Controller of Insurance under the Insurance Act, 1938. The said balance of profits is*

subject only to adjustments thereunder. The adjustments do not refer to disallowance under s. 14A of the Act.

(b) Profits and gains of business as referred to in (a) above have only to be computed in accordance with r. 5 of the First Schedule.

22. Sec. 44 creates a specific exception to the applicability of ss. 28 to 43B. Therefore, the purpose, object and purview of s. 14A has no applicability to the profits and gains of an insurance business.

21. The learned Departmental Representative strongly justified the action of the AO and that of the CIT(A) in the light of the clear provisions of s. 14A of the Act.

Since the view has already been expressed by respected Co-ordinate Bench therefore, we have no reason to take any other view except to follow the same. With the result we hereby accept the argument of learned Authorised Representative to the extent that in the present situation the provisions of s. 14A need not to apply while granting exemption to an income earned on sale of investment primarily because of the reason of the withdrawal or deletion of sub-r. 5(b) to First Schedule of s. 44 of IT Act. Once we have taken this view therefore the enhancement as proposed by learned CIT(A) is reversed and the directions in this regard are set aside. Resultantly ground No. 1 is allowed consequent thereupon ground No. 2 automatically goes in favour of the assessee.

9. Accordingly, by following the earlier orders of this Tribunal, we decide this issue in favour of the assessee".

Respectfully following the order of the Co-ordinate Bench in assessee's own case we decide this issue in favour of the assessee.

9. The next issue in the appeal of the Revenue is that the Ld. CIT(A) erred in allowing club expenses without appreciating the fact that assessee failed to establish that these expenses are for business purposes.

10. The AO while completing the assessment disallowed club expenses holding that assessee has not incurred these expenses for the purpose of business. The Ld. CIT(A) deleted the disallowance.

11. The Ld. DR vehemently supports the order of the A.O on disallowing the club expenses. The Ld. Counsel for the assessee supports the order of the Ld. CIT(A) and further placing reliance on the decision of the Hon'ble Bombay High Court in the case of Otis Elevator Co (India) Ltd Vs CIT (195 ITR 682) submits that the club expenses incurred by the assessee enables to improve the relations and prospects. The Ld. Counsel submits that it is impossible to keep record of every person visiting to the club and what kind of business dealings have been made from the visits of the club. Therefore, he submits that the expenses are definitely business expenses.

12. Heard both sides and perused the orders of the lower authorities. The case of Otis Elevator Co (India) Ltd (supra), the Bombay High Court held that the lower authorities categorically found that the payment of club fees was with a view to enable the assessee to improve its business relations and prospects. Therefore the payment of club fees was business expenditure not falling u/s. 40(a)(v) of the Act.

13. The Hon'ble High Court of Delhi in the case of CIT Vs Samtel Color Ltd (326 ITR 425) has held that admission fee paid to Corporate Membership was an expenditure incurred wholly and exclusively for the purposes of business and not towards capital account as it only facilitated the smooth and efficient running of a business enterprise and did not add to the profit earning apparatus

of a business enterprise. Similar view has been taken by the Full Bench of of Punjab & Haryana High Court in the case of CIT Vs Groz Beckert Asia Ltd (351 ITR 196). In this case it was held that the Corporate Membership to Golf club that was obtained for running the business with a view to produce profit therefore the Corporate Membership fee paid to Golf club is a revenue expenditure. In view of the above decisions, we uphold the order of the Ld. CIT(A) deleting the disallowance.

14. The next issue is whether the provisions of Sec. 115JB of the Act are applicable to the assessee or not. The Ld. Counsel for the assessee referring to page-194 of the compilation submits that in assessee's own case for the assessment year 2007-08, the Co-ordinate Bench held that the MAT provisions are not applicable to the assessee, the General Insurance Company.

15. We have perused the orders of the Co-ordinate Bench for the assessment year 2007-08 in ITA No. 354 of 2011 dated 15.2.2012 and we find that the Co-ordinate Bench following the decision in the case of Krung Thai Bank PCL Vs DIT in ITA No. 3390 of 2009 directed the AO to exempt the assessee from the applicability of provisions of Sec. 115JB of the Act. Respectfully following the Co-ordinate Bench decision in assessee's own case for A.Y. 2007-08, we affirm the order of the Ld. CIT(A) on this issue.

16. Last issue in the appeal of the Revenue is that the Ld. CIT(A) erred in entertaining the ground of appeal regarding credit for Dividend Distribution Tax u/s. 115-0.

16.1. The Ld. DR submits that the issue of credit for Dividend Distribution Tax is not emanating from the order of assessment and is not one of the specified issue u/s. 246A on which appeal can be preferred.

16.2. The Ld. Counsel for the assessee submits that assessee has paid Dividend Distribution Tax of Rs. 58,00,00,000/- and the AO has given credit to the extent of Rs. 48,00,00,000/-. Further referring to the order of the Ld. CIT(A), he submits that Ld. CIT(A) has directed the AO to verify the contention of the assessee that in terms of provisions of Sec.115-O , the liability for Dividend Distribution Tax of Rs. 58.56 crores was paid vide challan dated 21.9.2010 and grant credit for Dividend Distribution Tax paid by the assessee company. Therefore, the Ld. Counsel further referring to the provisions of Sec. 115-O submits that in addition to Income tax chargeable in respect of the total income of a domestic company and if such company distributes profits by way of dividend, such profits/dividend shall be charged to additional income tax. Therefore, he submits that an appeal can be filed before the Ld. CIT(A) against the assessment order where the assessee denies its liability to be assessed or to the amount of tax determined.

17. Heard both sides, perused the orders of the lower authorities. We find considerable force in the contention of the assessee. It is the submission of the assessee that it had paid Dividend Distribution tax to the extent of Rs. 58.56 crores out of which Rs. 47 crores have been given credit. The Ld. CIT(A) directed to verify the contention of the assessee that it had paid dividend distribution tax of Rs. 58.56 crores and it should be given credit. We do not find any infirmity in the

order of the Ld. CIT(A) in directing the AO to give credit for the Dividend Distribution tax paid by the assessee.

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

Order pronounced in the open court on 2nd March, 2016.

Sd/- Sd/-

(RAJESH KUMAR) **(C.N. PRASAD)**

लेखा सदस्य / ACCOUNTANT MEMBER न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated : 2nd March, 2016

व.नि.स./ *Rj* , Sr. PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार

(Dy./Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई **/ ITAT, Mumbai**