

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH : CHENNAI

श्री अब्राहम पी. जॉर्ज, लेखासदस्य एवं श्री जॉर्ज माथन, न्यायिक सदस्य के समक्ष
BEFORE SHRI ABRAHAM P. GEORGE, ACCOUNTANT MEMBER AND
SHRI GEORGE MATHAN, JUDICIAL MEMBER

आयकर अपील सं./I.T.A. No.2493/CHNY/2016

निर्धारण वर्ष /Assessment year : 2010-2011

Turbo Energy Private Limited, **Vs.** The Deputy Commissioner of
Income Tax,
67, Chamiers Road,
Chennai 600 028. Large Tax Payer Unit -1,
Chennai 600 034.

आयकर अपील सं./I.T.A. No.2494/CHNY/2016

निर्धारण वर्ष /Assessment year : 2010-2011

The Deputy Commissioner of **Vs.** Turbo Energy Private Limited,
Income Tax, 67, Chamiers Road,
Large Tax Payer Unit -1, Chennai 600 028.
Chennai 600 034.

[PAN AACT 2916R]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

Assessee by : Shri. R. Vijayaraghavan, Adv
Department by : Shri. S. Bharath, IRS, CIT.

सुनवाई की तारीख/Date of Hearing : 25-09-2018

घोषणा की तारीख /Date of Pronouncement : 01-10-2018

आदेश / ORDER

PER ABRAHAM P. GEORGE, ACCOUNTANT MEMBER:

These are appeals filed by the assessee and Revenue
respectively directed against an order dated 30.03.2016 of Id.

Commissioner of Income Tax (Appeals)-17, Chennai. Appeal of the assessee is taken up first for disposal.

2. Vide its ground No.1, assessee is aggrieved on disallowance of a claim for weighted deduction u/s.35(2AB) of the Income Tax Act, 1961 (in short "the Act") on a Revenue R & D expenditure of ₹28,33,318/-.

3. Ld. Counsel for the assessee submitted that assessee, a manufacture of turbochargers had claimed weighted deduction on R & D expenditure of ₹10,67,69,153/-. However, as per the Id. Authorised Representative, the claim was curtailed to ₹10,11,02,517/- by the Id. Assessing Officer citing a reason that DSIR approval was only for the latter sum. As per the Id. Authorised Representative, Id. Commissioner of Income Tax (Appeals) also confirmed such disallowance, upholding the view taken by the Id. Assessing Officer that amounts spent on in-house R & D was allowable only as per DSIR approval. Contention of the Id. Authorised Representative was that assessee had on 03rd May, 2012 addressed a letter to DSIR seeking enhancement of R& D expenditure and this was still to get a response. In any case, as per the Id. Authorised Representative this Tribunal in assessee's own case

for assessment year 2009-2010 in ITA No.317/Mds/2014 had allowed a similar claim.

4. Per contra, Id. Departmental Representative strongly supported the orders of the lower authorities.

5. We have considered the rival contentions and perused the orders of the authorities below. Claim u/s.35(2AB) of the Act was admittedly curtailed since DSIR had approved only a sum of ₹10,11,02,517/- against which actual revenue R & D expenditure incurred by the assessee came to ₹10,67,69,153/-. We find that there was a similar claim exceeding the amount approved by DSIR for assessment year 2009-2010 also. When the matter reached this Tribunal, it was held as under at paras 14 & 14.1 of its order dated 03.5.2017 in ITA No.317/Mds/2014:

“14.0 Ground No.3 in assessee’s appeal for the A.Y 2009-10 is disallowance of weighted deduction for scientific Research u/s.35(2AB) of IT Act. The AO disallowed a sum of Rs.1,13,05,335/- over and above the expenditure prescribed by the authority while issuing the approval for the scientific research. The Ld.CIT(A) confirmed the order of the AO. The assessee argued that the claim which is otherwise allowable cannot be restricted, merely because the amount is not originally included in the Annual Report. The due process of approval by DSIR require the reconciliation of amount of claim as certified by auditor and the amount

disclosed in the annual report. The restriction by DSIR overlooking the reconciliation is unjust and hence the claim as made by the appellant should have been allowed. The Ld.A.R relied on the following decisions:

- i. CIT vs Claris Life Sciences Ltd. 326 ITR 251(Guj)*
- ii. CIT vs.Wheels India Ltd 336 ITR 513 (Mad)*
- iii. Electronics Corporation of India Ltd.vs ACIT(ITA No.1106/Hyd/2011*

14.1 We have heard both the parties and perused the materials placed on record. The act does not place any restrictions to incur the expenditure. The expenditure incurred for the purpose of scientific research required to be allowed as deduction u/s.35(AB) subject to complying the conditions laid down in Rule 6. The expenditure was incurred by the assessee which is certified by the tax audit report. There is no dispute regarding the actual amount incurred by the assessee. The assessee relied on the jurisdictional High Court decision supra. The decisions relied upon by the Ld.AR are not directly related to the issue of R&D expenditure incurred over and above the specified limit of DSIR. However, the essence of the judgments relied upon by the Ld.AR suggests to allow the actual expenditure. There is no dispute regarding the genuineness of expenditure. Therefore, we hold that the assessee is entitled for the weighted average deduction on the amount actually spent. Accordingly, the appeal of the assessee is allowed'.

Respectfully following the Co-ordinate Bench order, we allow the claim of the assessee for the impugned assessment year also. Ground No.1 of the assessee stands allowed.

6. Vide its ground No.2, assessee is aggrieved on a disallowance made u/s.14A of the Act.

7. Ld. Authorised Representative submitted that he was not pressing the said ground. Accordingly, ground No.2 is dismissed as not pressed.

8. Vide its ground No.3, grievance raised by the assessee is on non adjudication of an issue relating to computation of deduction made u/s.10B of the Act with regard to interpretation of the term "total turnover".

9. Ld. Counsel for the assessee did not address any argument on the ground before us. The said ground does not find a place in the chart of issues submitted by the Ld. Authorised Representative, also. Accordingly, ground No.3 is dismissed as not argued.

10. Vide its ground No.4, grievance raised by the assessee is on disallowance of carry forward additional depreciation of ₹1,02,18,216/- in respect of assets acquired in the preceding assessment year.

11. Ld. Counsel for the assessee submitted that the claim was on additional depreciation for plant and machinery acquired during the

previous year relevant to assessment year 2009-2010. According to the Id. Authorised Representative, 50% of the additional depreciation alone was allowed in the said year and assessee was therefore eligible for claiming the balance 50% of the additional depreciation in the impugned assessment year. Reliance was placed on the judgment of Hon'ble Jurisdictional High Court in the case of *Brakes India Ltd vs. DCIT (T.C.A.No.551 of 2013, dated 14th March, 2017)*.

12. Per contra, Id. Departmental Representative strongly supported the orders of the lower authorities.

13. We have considered the rival contentions and perused the orders of the authorities below. It is not disputed that the claim of the assessee was on the balance of the additional depreciation remaining after what was availed on assets acquired during the preceding assessment year. What was held by their lordships in the case of *Brakes India Ltd (supra)* at paras 5 to 9 are reproduced hereunder:-

'5.In order to appreciate the aforesaid submissions, the following facts are required to be noticed:

5.1.The Assessee had claimed additional depreciation under Section 32(1)(iia) amounting to Rs.1,89,67,159/- during the relevant assessment year, i.e., AY 2006-07.

5.2.The additional depreciation was claimed at the rate of 7.5% being 50% of the prescribed rate, which was 15%.

5.3.The depreciation was claimed at the said rate as the subject asset was used for less than 180 days.

5.4.The said depreciation was claimed in the preceding assessment year, i.e., AY 2005-06, which is, when the asset was installed and put to use.

5.5.In the relevant assessment year i.e., AY 2006-07, the Assessee sought to claim the balance depreciation equivalent to 7.5%. The Assessing Officer, however, rejected the claim made by the Assessee qua the balance additional depreciation.

5.6.Being aggrieved, the Assessee carried the matter in appeal to the Commissioner of Income Tax (Appeals) [in short, CIT(A)]. The CIT(A) sustained the order of the Assessing Officer. The Tribunal, did likewise and therefore, the Assessee, is in appeal, before us.

6.As indicated right at the outset, the issue is covered in favour of the Assessee, by virtue of our judgment in the matter of Commissioner of Income Tax, Madurai Vs. M/s.Shri T.P.Textiles Private Limited. As noticed above, the Karnataka High Court in CIT V. Rittal India (P.) Ltd., [2016] 66 taxmann.com 4 (Karnataka), has also taken the same view.

6.1.We are informed that the Revenue has not assailed the judgment of the Karnataka High Court.

6.2.In our judgment in the matter of Commissioner of Income Tax, Madurai Vs. M/s.Shri T.P.Textiles Private Limited, we have noticed the aforementioned judgment of the Karnataka High Court.

7.In so far as the first submission advanced by Mr.Ravi is concerned, according to us, the same is completely untenable.

7.1.The judgment of the Division Bench of this Court in M.M.Forgings Limited Vs. Additional Commissioner of Income Tax, did not deal the issue, which is at hand.

7.2.The issue, in hand, is as to whether balance additional depreciation could be carried forward to the year, following

the previous year, in which, additional depreciation was claimed.

7.3.The Division Bench in M.M.Forgings case the said case was not concerned with the issue, with which, we are faced, that is, the right to carry forward the balance additional depreciation. Therefore, the judgment is completely distinguishable.

8.The second submission of Mr.Ravi, that Circular no.8 of 2002 dated 27.08.2002 and Circular no.281 dated 29.11.1979, have not been taken note of, in our judgment rendered in Commissioner of Income Tax, Madurai Vs. M/s.Shri T.P.Textiles Private Limited, according to us, will not impact, either the reasoning or the conclusion reached by us, in the said matter.

8.1.It is pertinent to note that the Circular no.281 dated 29.11.1979, pre-dates the insertion of the relevant provision, i.e., second clause to Section 32 (1) (ia). The said clause (ia), admittedly, was inserted by virtue of the Finance (No.2) Act, 2002, with effect from 01.04.2003.

8.2.In so far as the second Circular is concerned, i.e, Circular no.8 of 2002 dated 27.08.2002, in our view, in no way, helps the case of the Revenue. The Circular does not dwell on the point which we are confronted with.

8.3.In any case, according to us, the Circulars are not binding on the Court, though, they may be binding on the Revenue. [See CIT V. Hero Cycles Pvt. Ltd., (1997) 228 ITR 463 (SC)].

9.The last submission that Mr.Ravi advanced, was, in fact, predicated on the reasoning given by the Assessing Officer, which, according to us, is misconceived, as the manner of calculation of depreciation, cannot, to our minds, impede the claim of the Assessee for balance additional depreciation, in the year following the previous year, in which, the said asset is installed and put to use”.

Respectfully following the above judgment of the Hon'ble Jurisdictional High Court, we direct the Id. Assessing Officer to allow the claim of the

balance additional depreciation of ₹1,02,18,216/-. Ground No.4 of the assessee stands allowed.

14. Vide its ground No.5, assessee is aggrieved that additional depreciation was not allowed on electrical installation in the nature of air circulator installed in its factory.

15. Ld. Counsel for the assessee submitted that the claim of additional depreciation of ₹21,395/- on an air circulator was disallowed by the lower authorities considering it to be electrical installation. According to him, air circulator was part of the plant and machinery, and eligible for additional depreciation.

16. Per contra, Id. Departmental Representative strongly supported the orders of the lower authorities.

17. We have considered the rival contentions and perused the orders of the authorities below. There is nothing on record to show that electrical installation on which additional depreciation was claimed by the assessee was an air circulator which could be construed as plant and machinery. Accordingly, we are of the opinion that lower authorities were justified in denying the claim of additional depreciation on the said item. We do not find any reason to interfere

with the orders of the lower authorities. Ground No.5 of the assessee stands dismissed.

18. Now, we take up appeal of the Revenue.

19. Revenue has taken altogether five grounds of which grounds 1 & 5 are general, needing no specific adjudication.

20. Vide its ground No.2, Revenue is aggrieved that Id. Commissioner of Income Tax (Appeals) deleted proportionate disallowance made by the Id. Assessing Officer on the deduction claimed by the assessee u/s.10B of the Act.

21. Ld. Departmental Representative submitted that Id. Commissioner of Income Tax (Appeals) had relied on the judgment of Hon'ble Karnataka High Court in the case of CIT vs. Yogakawa India Ltd, 341 ITR 385 while allowing the claim. However, as per the Id. Departmental Representative, R & D expenditure, considered by the Id. Assessing Officer for set-off, was not relatable to any separate independent unit. Therefore, as per the Id. Departmental Representative, Id. Assessing Officer was justified in charging part of such R & D expenses to the income of unit on which deduction u/s.10B of the Act was claimed.

22. Per contra, Id. Authorised Representative strongly supported the order of the Id. Commissioner of Income Tax (Appeals).

23. We have considered the rival contentions and perused the orders of the authorities below. Ld. Assessing Officer had during the relevant previous year charged a part of the R & D expenditure to the units on which assessee was claiming deduction u/s.10B of the Act. However, the claim of the assessee was that R & D unit was a separate one and its expenses could not be charged to the units on which deduction was claimed u/s.10B of the Act. The question whether there can be set off between loss/expenses of a unit not claiming deduction u/s.10B of the Act, with profits of a unit on which deduction u/s.10B of the Act is claimed, was considered by the Hon'ble Karnataka High Court in the case of *Yogakawa India Ltd (supra)*. This judgment of Hon'ble Karnataka High Court was carried in further appeal before the Hon'ble Apex Court. Hon'ble Apex Court in *(2017) 145 DTR 1*, affirmed the judgment of Hon'ble Karnataka High Court observing as under:-

'12. We have considered the submissions advanced and the provisions of Section 10A as it stood prior to the amendment made by Finance Act, 2000 with effect from 1.4.2001; the amended Section 10A thereafter and also the amendment made by Finance Act, 2003 with retrospective effect from 1.4.2001.

13. *The retention of Section 10A in Chapter III of the Act after the amendment made by the Finance Act, 2000 would be merely suggestive and not determinative of what is provided by the Section as amended, in contrast to what was provided by the un-amended Section. The true and correct purport and effect of the amended Section will have to be construed from the language used and not merely from the fact that it has been retained in Chapter III. The introduction of the word 'deduction' in Section 10A by the amendment, in the absence of any contrary material, and in view of the scope of the deductions contemplated by Section 10A as already discussed, it has to be understood that the Section embodies a clear enunciation of the legislative decision to alter its nature from one providing for exemption to one providing for deductions.*

14. *The difference between the two expressions 'exemption' and 'deduction', though broadly may appear to be the same i.e. immunity from taxation, the practical effect of it in the light of the specific provisions contained in different parts of the Act would be wholly different. The above implications cannot be more obvious than from the case of Civil Appeal Nos. 8563/2013, 8564/2013 and civil appeal arising out of SLP(C) No. 18157/2015, which have been filed by loss making eligible units and/or by non-eligible assesseees seeking the benefit of adjustment of losses against profits made by eligible units.*

15. *Sub-section 4 of Section 10A which provides for pro rata exemption, necessarily involving deduction of the profits arising out of domestic sales, is one instance of deduction provided by the amendment. Profits of an eligible unit pertaining to domestic sales would have to enter into the computation under the head "profits and gains from business" in Chapter IV and denied the benefit of deduction. The provisions of Sub-section 6 of Section 10A, as amended by the Finance Act of 2003, granting the benefit of adjustment of losses and unabsorbed depreciation etc. commencing from the year 2001-02 on completion of the period of tax holiday also virtually works as a deduction which has to be worked out at a future point of time, namely, after the expiry of period of tax holiday. The absence of any reference to deduction under Section 10A in Chapter VI of the Act can be understood by acknowledging that any such reference or mention would have been a repetition of what has already been provided in Section 10A. The provisions of Sections 80HHC and 80HHE of the Act providing for somewhat similar deductions would be wholly irrelevant and redundant if deductions under Section 10A were to be made at the stage of operation of Chapter VI of the Act. The*

retention of the said provisions of the Act i.e. Section 80HHC and 80HHE, despite the amendment of Section 10A, in our view, indicates that some additional benefits to eligible Section 10A units, not contemplated by Sections 80HHC and 80HHE, was intended by the legislature. Such a benefit can only be understood by a legislative mandate to understand that the stages for working out the deductions under Section 10A and 80HHC and 80HHE are substantially different. This is the next aspect of the case which we would now like to turn to.

16. From a reading of the relevant provisions of Section 10A it is more than clear to us that the deductions contemplated therein is qua the eligible undertaking of an assessee standing on its own and without reference to the other eligible or non-eligible units or undertakings of the assessee. The benefit of deduction is given by the Act to the individual undertaking and resultantly flows to the assessee. This is also more than clear from the contemporaneous Circular No. 794 dated 9.8.2000 which states in paragraph 15.6 that, "The export turnover and the total turnover for the purposes of sections 10A and 10B shall be of the undertaking located in specified zones or 100% Export Oriented Undertakings, as the case may be, and this shall not have any material relationship with the other business of the assessee outside these zones or units for the purposes of this provision."

17. If the specific provisions of the Act provide [first proviso to Sections 10A(1); 10A (1A) and 10A (4)] that the unit that is contemplated for grant of benefit of deduction is the eligible undertaking and that is also how the contemporaneous Circular of the department (No.794 dated 09.08.2000) understood the situation, it is only logical and natural that the stage of deduction of the profits and gains of the business of an eligible undertaking has to be made independently and, therefore, immediately after the stage of determination of its profits and gains. At that stage the aggregate of the incomes under other heads and the provisions for set off and carry forward contained in Sections 70, 72 and 74 of the Act would be premature for application. The deductions under Section 10A therefore would be prior to the commencement of the exercise to be undertaken under Chapter VI of the Act for arriving at the total income of the assessee from the gross total income. The somewhat discordant use of the expression "total income of the assessee" in Section 10A has already been dealt with earlier and in the overall scenario unfolded by the provisions of Section 10A the aforesaid discord can be reconciled by understanding the expression "total income

of the assessee” in Section 10A as ‘total income of the undertaking’.

18. For the aforesaid reasons we answer the appeals and the questions arising therein, as formulated at the outset of this order, by holding that though Section 10A, as amended, is a provision for deduction, the stage of deduction would be while computing the gross total income of the eligible undertaking under Chapter IV of the Act and not at the stage of computation of the total income under Chapter VI. All the appeals shall stand disposed of accordingly”.

Considering the judgment of Hon’ble Apex Court, we find no infirmity in the directions of Id. Commissioner of Income Tax (Appeals). Ground No.2 of the Revenue is dismissed.

24. Vide its ground No.3, grievance raised by the Revenue is on deletion of a disallowance made by the Id. Assessing Officer u/s.40(a)(i) of the Act on logistic service charges paid by the assessee to one M/s. Sonima Logistics, Germany.

25. Ld. Departmental Representative submitted that logistic service charges were paid to a Non Resident and therefore assessee ought have deducted tax thereon. According to him, assessee having failed to do so, Id. Assessing Officer was justified in making the disallowance.

26. Per contra, Id. Authorised Representative strongly supporting the order of the Id. Commissioner of Income Tax (Appeals) submitted that logistic service charges were paid to M/s. Sonima Logistics, Germany for providing warehousing facilities to the assessee, for goods exported by it. According to him, whether tax was required to be deducted on such services was an issue which came up before this Tribunal in assessee's own case for assessment years 2007-08 to 2009-10 in ITA Nos.629/Mds/13, 204 & 205/2014, dated 03.05.2017. As per the Id. Authorised Representative, the question was decided in favour of the assessee.

27. We have considered the rival contentions and perused the orders of the authorities below. What was held by this Tribunal in assessee's own case for assessment years 2007-08 to 2009-2010, in its order dated 03.05.2017 is reproduced hereunder:-

'8.2 We heard the rival submissions and perused the material placed on record.

The assessee has produced the copy of the agreement before the Ld.CIT(A). The Ld.CIT(A) examined the Explanation of the assessee and the document placed before the CIT and concluded that the services rendered by the non-resident do not fall under the category of technical or managerial services. Ld.CIT(A) further stated that the services are rendered outside India and there is no permanent establishment or business connection to the non-resident in India. This fact has not been disputed by the Revenue. The profits of the

services rendered outside India cannot be taxed in India unless the non-resident has permanent establishment/or business connection in India as envisaged in Sec.9(1) of IT Act. The Ld.CIT(A) deleted the addition relying on the decision of the Hon'ble Apex Court in the case of GE Technological Centre Pvt. Ltd. v. CIT 327 ITR 456. The findings and conclusions arrived in earlier ground in respect of payment made to M/s.Biggleswade Ltd., are squarely applicable to this ground also. Therefore, we do not find any infirmity in the order of the Ld.CIT(A) and the same is upheld. The Revenue's appeal on this issue for the A.Ys 2007-08, 2008-09 and A.Y 2009-10 are dismissed".

There is no dispute that the payments made by the assessee during the relevant previous year was also based on the same agreement considered by the Tribunal in the appeals for the assessment years 2007-08 to 2009-2010. Following the above decisions, we hold that Id. Commissioner of Income Tax (Appeals) was justified in deleting the disallowance made u/s.40(a)(i) of the Act. Ground No.3 of the Revenue stands dismissed.

28. Vide its ground No.4, grievance of the Revenue is on the direction of Id. Commissioner of Income Tax (Appeals) to allow depreciation at the rate of 60% on UPS.

29. Ld. Counsel for the assessee submitted that the issue was covered in favour of the assessee, through an order dated 03.05.2017

in in ITA Nos.351/Mds/13, 204 & 205/Mds/2014 for assessment years 2007-08 to 2009-10 of this Tribunal in assessee's case.

30. The question whether UPS could be given depreciation @60% allowable to computer system had come up before this Tribunal in assessee's own case for assessment years 2007-08 to 2009-2010. What was held by this Tribunal in para 11 to 11.2 are reproduced hereunder:-

11.0 *The next issue in Ground No.2 is disallowance of depreciation on UPS. Both the assessee and Revenue have filed appeal on this issue. The assessee filed appeal for the AY 2007-08 and the Revenue has filed appeal for the AY 2008-09 and 2009-10. This issue is involved for the AYs 2007-08, 2008-09 & 2009-10. The AO disallowed a sum of Rs.1,26,086/- for the A.Y 2007-08, Rs.3,75,082/- for the AY 2008-09 and Rs.6,29,235/- for the A.Y 2009-10. The assessee claimed the depreciation @80% on UPS stating the UPS being an automatic voltage controller as well as power saving equipment is a energy saving device and claimed the depreciation @80% in accordance with Appendix-I to Income-Tax Rules. Reliance is also placed on the decision of ITAT's Order in DCIT v Surface Finishing Equipment (2003) 81 TTJ 448. The AO examined the explanation of the assessee and held that the UPS is neither a part of the computer nor a energy saving device but it is only as an uninterrupted power supply equipment for all the electrical appliances. The AO relied on the decision of Hon'ble ITAT Delhi in the case of Nestle India Limited Vs. DCIT [111 TTJ 498], wherein it was held that UPS is not an integral part of computer and allowed depreciation as a part of general plant and machinery. Accordingly, the excess*

depreciation claimed by the assessee is disallowed and added to the total income.

11.1 *During the appeal hearing the Ld.AR of the assessee argued that energy saving devices being automatic voltage controllers are the equipment eligible for claiming depreciation @80%. It was the contention of the Ld.AR that the UPS has inbuilt automatic voltage regulator which is capable of regulating the incoming voltage to feed stabilizer output voltage to the connected instrument in addition to the uninterrupted power supply during the power failure with the help of batteries. The Ld.AR also relied on the following decisions:*

- *Sundaram Asset Management (2013) 145 ITD 17 (Chennai)*
- *Godrey Phillips India Ltd.*
- *DCIT vs. Surface Finishing Equipment*

11.2 *Though there are decisions in favour of assessee the claim of the assessee that the UPS as an energy saving device is not acceptable. It is only an equipment for uninterrupted power supply to all the electrical appliances as held by the Ld.AO. However ITAT'C' Bench, Chennai in ITA No1774/Mds/2012 in the case of Sundaram Asset Management Co.Ltd vs DCIT held that UPS is an part integral of computer and eligible for Depreciation @60%. Therefore, we are unable to accept the contention of the Ld.AR that UPS is eligible for 80% depreciation. Following the decision of this tribunal in the case cited (Supra) we uphold the order of the Ld.CIT(A) and direct the AO to allow the depreciation @60%. In the result, the assessee's appeals as well as Revenue's appeals are dismissed".*

Accordingly, we hold that Id. Commissioner of Income Tax (Appeals) was justified in allowing the claim of depreciation at the rate of 60% on UPS. Ground No.4 of the Revenue stands dismissed.

31. In the result, appeal of the assessee is partly allowed whereas that of the Revenue is dismissed.

Order pronounced on Monday, the 1st day of October, 2018, at Chennai.

Sd/-

(जॉर्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-

(अब्राहम पी. जॉर्ज)

(ABRAHAM P. GEORGE)

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai

दिनांक/Dated:1st October, 2018.

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|--------------------------|------------------------------|-------------------------|
| 1. अपीलार्थी/Appellant | 3. आयकर आयुक्त (अपील)/CIT(A) | 5. विभागीय प्रतिनिधि/DR |
| 2. प्रत्यर्थी/Respondent | 4. आयकर आयुक्त/CIT | 6. गार्ड फाईल/GF |