

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH “J”, MUMBAI
Before Shri R.C. Sharma (A.M.) & Shri Pawan Singh (JM)
ITA No. 4911/Mum/2018(Assessment year: 2010-11)

Shell India Markets Pvt Ltd Trent House, First Floor, G-Block, Plot No.C-60, Bandra Kurla Complex, Bandra (E) Mumbai-400 051 PAN : AAICS1404P	vs	Commissioner of Income-tax- large tax units (LTU) Mumbai
APPELLANT		RESPONDEDNT

Appellant by	Shri Madhur Agarwal Advocate
Respondent by	Shri A. Mohan CIT-DR
Date of hearing	07. 01-2020
Date of pronouncement	15-01-2020

ORDER

Per Pawan Singh, JM :

1. This appeal by assessee under section 253 of Income tax Act (Act), is directed against the order of learned Commissioner of Income Tax- Large tax Unit (CIT)(LTU) passed under section (u/s) 263 dated 25-06-2018 for assessment year 2010-11.
2. Brief facts of the case are that assessee is a company engaged in business of retailing of supply of lubricants, filed its return of income for relevant assessment year on 30-09-2010 declaring loss of Rs.52.46 Crore . Subsequently, the assessee revised its return of income on 20-03-2012 declaring loss of Rs.35.62 crores. On reporting certain international transactions, reference was made to Transfer Pricing

Officer (TPO) for computation of Arms Length' s Price (APL) of the international transaction with its Associated Enterprises (AE). On receipt of TPO, the assessing officer (AO) passed assessment order u/s 143(3) r.w.s. 144C(13) on 27-07-2015 determining income at Rs.159.85 crores and after set off of brought forward losses of Rs.159.85 crores, the income was assessed at Nil.

3. Thereafter, the case was reopened u/s 147 by issuing notice u/s 148 on 30-03-2016. The assessment was reopened on the basis of information from investigation wing of revenue Calcutta that assessee has taken accommodation entries from Tara Trading Company and Annapurna Company. The assessment was completed u/s 143(3) r.w.s. 147 on 29-12-2017 by making additions on account of the alleged bogus entry. Thereafter, the assessment order dated 29-12-2017 revised by Ld. CIT(LTU) vide order dated 25-06-2018. While revising the assessment order, the Ld. CIT(LTU) held that scrutiny of computation of deduction u/s 10B revealed that while computing profit of unit eligible, the assessee company had added back deemed mark up of Rs.56.75 crores in respect of transaction with overseas related parties. This addition was on account of deemed mark up of 18% on non E&P services and P&T unit made by assessee to bring the international transaction within arm' s length price (ALP). Such

additions are governed by the provisions of section 92C. As per proviso of section 92C(4), the addition of Rs.56.75 crores made to the ALP does not qualify for deduction u/s 10B. Thus, the inclusion of this income while computing deduction u/s 10B was irregular *ab-initio*. That after exclusion of this deemed income; the deduction admissible u/s 10B was worked out to Rs.46.66 crores. Accordingly assessee got excess deduction u/s 10B of Rs.46.66 crores (Rs. 90.21 crores -43.55 crores). Resultantly under assessment of income and the order passed by AO was erroneous and prejudicial to the interest of revenue. On the basis of aforesaid observation, the Ld. CIT (LTU) issued show cause notice to the assessee u/s 263 vide notice dated 01-02-2018.

4. The assessee filed its reply dated 22-02-2018. In the reply the assessee, besides other contentions stated that in the draft assessment order dated 30-05-2014, certain addition / disallowance was proposed which consisted of certain transfer pricing adjustment to the total income. The AO in the draft assessment order held that tax holiday benefit u/s 10B should be restricted to the assessee's gross business income. The AO computed tax holiday benefit u/s 10B of Rs.69.46 crores (excluding TP adjustment) instead of Rs.90.21 crores as claimed by the assessee in its return of income. Against the proposed

addition, the assessee filed objection before DRP, which was disposed of vide direction dated 09-06-2015. In the said direction, apart from other directions, the DRP directed to allow deduction u/s 10B as claimed by assessee in its return of income. Accordingly, final assessment order dated 27-07-2015 was passed u/s 143(3) r.w.s. 144C (13) wherein income assessed was Rs.159.85 crores after allowing deduction of Rs. 69.46 Crore in place of Rs. 90.21 crores u/s 10B, as claimed in the return of income. Since the assessee has not accepted the additions / disallowances and filed appeal before Tribunal. The revenue has also filed its cross appeal on which certain relief was granted by DRP and that appeals are pending before Tribunal. The assessee further stated that the re-assessment proceedings were initiated by AO on issues other than tax holiday benefit claimed by assessee. It was further stated that during the course of re-assessment proceedings, the AO vide order sheet noting dated 07-12-2017 as well as show cause notice dated 08-12-2017 asked the assessee as to why tax holiday benefit claimed on *suo moto* transfer pricing adjustment should not be denied to the assessee. The said show cause notice was replied by assessee vide reply dated 18-12-2017. The assessee explained in its reply that in the draft assessment order held that the tax holiday benefit under section 10B should be restricted to the gross

total business of the assessee. Accordingly the AO computed tax holiday benefit under section 10B. The assessee also filed copy of the reply dated 18.12.2017 and other related documents. In the re-assessment order dated 29-12-2017, the contention of assessee with regard to the tax holiday benefit was accepted by AO. The assessee also stated that the order passed by AO is neither erroneous nor prejudicial to the interest of revenue. The order is passed in accordance with the provisions of law. The assessment order was passed after making necessary enquiries and verification of facts. It was specifically submitted that wherever two opinions are possible and the AO has taken a possible view, the same cannot be controverted u/s 263. The assessee prayed that revision proceedings initiated u/s 263 is not valid and should be dropped.

5. The contention of assessee was not accepted by Ld. CIT (LTU). He took the view that the contention of assessee that the DRP has considered the issue is incorrect. The applicability of Proviso to sub section (4) of section 92C was not considered by DRP while deciding the objection raised by the assessee. The AO while following the direction of DRP was required to take cognizance of statutory provisions of section 92(4) along with its Proviso and not doing so, the order passed by AO is clearly erroneous and prejudicial to the interest

of revenue. The ld. CIT (LTU) further took her view that as per Proviso to section 92C(4), no deduction u/s 10A (or 10AA or 10B or under Chapter VIA) shall be allowed in respect of amount of income by which total income of assessee is enhanced after computation of income under this sub section. The Ld. CIT(LTU) referred the decision of Tribunal in Agiligys I.T. Services India (P) Ltd (2015) 58 taxmann.com 284 (Mumbai-Trib.) and Deloitte Consulting India Pvt Ltd.(ITA 157/Mum/2012). On the basis of aforesaid observation, the Ld.CIT (LTU) directed the AO to withdraw the deduction u/s 10B.

6. Aggrieved by the order of CIT(LTU), the assessee has filed the present appeal before this Tribunal, by raising the following grounds of appeal:-

“Appeal under section 253(1) of the Income-tax Act, 1961 ('Act') against the order dated 25 June 2018 (received by the Appellant on 2 July 2018) passed under section 263 by the Commissioner of Income-Tax, Large Taxpayer Unit, Mumbai ('CIT').

“All Grounds of Appeal are independent and *without prejudice* to the other grounds

GROUND OF APPEAL

1. Re: Validity of Order under section 263

1.1 On the facts and in the circumstances of the case and in law, the learned CIT has erred in assuming jurisdiction under section 263 of the Act.

1.2 The learned CIT has failed to appreciate that the assessment order under section 143(3) r.w.s. 147 passed by the Assessing Officer ('AO') was neither erroneous nor **3. Re: Direction to delete deduction of Rs.**

46,66,16,931 under section 10B of the Act on suo-moto Transfer Pricing adjustments made by Appellant

3.1 On the facts and circumstances of the case and in law, the CIT erred in holding that deduction under section 10B of the Act is not allowable on *suo-moto* Transfer Pricing adjustments.

3.2 On the facts and in the circumstances of the case and in law, the learned CIT has erred in deciding the issue on the merits against the Appellant without dealing with the decision of *CIT v. I-Gate Global Solutions Ltd. (ITA No. 453/2008) dated 17 June 2014* decided by the *Hon 'ble Karnataka High Court*.

3.3 The learned CIT has failed to appreciate that the decision of I-Gate (*supra*) has not been litigated further by the Income-tax department.

4. Initiation of penalty proceedings under section 271(l)(c) of the Act

4.1 On the facts and in the circumstances of the case and in law, the learned CIT has erred in directing the AO to initiate penalty proceedings under section 271(l)(c) for furnishing inaccurate particulars of income.

4.2 The learned CIT has further failed to appreciate the fact that the Appellant has not furnished inaccurate particulars of income in its Return of Income prejudicial to the interest of the revenue. The learned CIT failed to appreciate that the issue involved is debatable and has been examined by the AO.

1.3 On the facts and in the circumstances of the case and in law, the learned CIT has erred in exercising jurisdiction under section 263 of the Act, without giving any finding that the assessment order sought to be revised by the learned CIT is erroneous and prejudicial to the interest of the revenue.

1.4 On the facts and in the circumstances of the case and in law, the learned CIT erred in exercising jurisdiction under section 263 of the Act, on an issue which was not the basis of reopening, while revising an order passed under section 143(3) r.w.s. 147 of the Act.

2. Re: Violation of natural justice

2.1 On the facts and in the circumstances of the case and in law, the learned CIT has erred in not passing an order disposing the objections filed by the Appellant against the proceedings under section 263 thereby not granting an opportunity of making submissions on the merits of the case.”

7. We have heard the submission of learned authorised representative (Ld.AR) of the assessee and learned departmental representative (Ld. DR) for revenue and perused the material available on record. The Ld. AR of the assessee submits that the re-assessment order dated 29-12-2017 passed by AO is not erroneous. The issue raised by Ld. CIT (LTU) in her show cause notice u/s 263 with regard to allowance / disallowance of deduction u/s 10B is a debatable issue. The issue related with the deduction under section 10B was examined by assessing officer while passing the Draft assessment order and certain disallowance, which was objected the assessee by filing objections before DRP. Again this issue was examined by AO in re-assessment order and after considering and examining the fact no additions was made. The ld AR for the assessee submits that the proviso with section 92C(4) is not attracted, when the assessee suo moto transfer pricing adjustment, the proviso will be apply only in cases where adjustment has been made by the AO/TPO. The Hon’ ble Karnataka High Court in the case of M/s. I. Gate Global Solutions Ltd in ITA No.452/2008 dated 17-06-2014 while considering the question of law

whether Tribunal was correct in holding that deduction u/s 10A is allowable in respect of income computed at arm's length price by ignoring the Proviso to section 92C(4) of the Act. The Hon'ble High Court held that the said provision applied to the case where arm's length price was determined by AO, that mistake has been corrected by the Tribunal by setting aside the order passed by the commissioner as well as AO.

8. The Ld.AR further submits that besides the decision of Hon'ble Karnataka High Court in I.GATE Global Solutions Ltd (supra), there are several decisions of Tribunal in favour of assessee wherein similar relief was granted by Tribunal by taking view that provisions of section 92C(4) will not be applicable wherein the pricing adjustment has been made voluntarily by assessee and income has been offered to tax which forms part of profit of the business and deduction u/s 10B / 10A cannot be denied. In support of his submissions the ld AR for the assessee relied on the following decisions:-

- A.T. Kearney India Pvt Ltd vs ACIT(ITA No.2623/Del/2015),
- M/s Austin Medical Solutions Pvt Ltd vs ITO, I.T.(T.P.) A.No.542/Bang/2012,
- Sumtotal System India (P) Ltd Vs DCIT [2017] 88 taxmann.com 897 (Hyd Trib),
- Approva Systems Pvt Ltd Vs DCIT (ITA No.1051/PUN/2015) and

- Karnataka High Court in CIT Vs I Gate Global Solution Ltd (ITA No. 452/2008 dated 17th June 2014)
9. The Ld. AR further submits that the decision of Tribunal in Deloitte Consulting India Pvt. Ltd Vs ITO in ITA No.157/MUM/2012 and Agiligys I.T. Services India Ltd, the Tribunal has not considered the decision of Karnataka High Court in I. Gate Global Solutions Ltd (supra) wherein it was held that assessee is entitled to claim the deduction u/s 10A on additional income offered on account of suo moto adjustment on account of transfer pricing provisions and accordingly the Proviso to section 92C(4) is not attracted.
10. The Ld.AR further submits that during the re-assessment proceedings, the AO vide notice dated 09-12-2017 raised queries with regard to the provisions of section 10B by referring the Proviso to section 94C(4).
11. The Ld.AR of the assessee invited our attention to question No.1 as mentioned in notice dated 08-12-2017, copy of which is placed on record as page 262 of the paper book wherein the AO raised the following quarry:-
- (i) As per provisions of section 10B of the Act, the profit & gains derived by newly established 100% export oriented undertaking from export of article or thing or computer software is eligible for deduction at prescribed rate subject to certain conditions specified therein. Further proviso to section 92C(4) provides that deduction under section 10A / 10B / 10AA is not admissible on income enhanced due to transfer pricing addition. Further, the*

ITAT 'K' Bench Mumbai vide order dated 15-07-2015 in the case of Deloitte Consulting India Pvt Ltd vs ITO -2(2)(3) Mumbai [ITA No.157/Mum/2012] has held that the suo motu enhancement or adjustment made to arm's length price made by the assessee is not eligible for 10A deduction."

12. The Ld.AR further submits that the assessee filed detailed reply to the show cause notice dated 08-12-2017 vide its reply dated 18-12-2017 and explained that in the draft assessment order, the AO held that tax holiday benefit u/s 10B should be restricted to the gross total business income and it was explained that the AO computed tax holiday benefit u/s 10B of Rs.69.46 crores instead of Rs.90.21 crores as claimed by assessee in its return of income. Against this proposed addition the assessee filed objection before the DRP. The objection was disposed of vide direction dated 09-06-2015 wherein the DRP directed the AO to admit the claim of deduction u/s 10B. The Ld.AR further submits that after considering the explanation furnished by assessee, the contention of assessee was accepted by AO in re-assessment order as no adjustment was made by AO in assessment order dated 29-12-2017 passed u/s 143(3) r.w.s. 147. The Ld.AR submits that the AO, after considering the explanation furnished by the assessee has passed the assessment order after his full satisfaction though there is no reference about the examination of issue in the assessment order. The Ld.AR

submits that once the AO raised query, queries raised by AO was duly replied and AO passed the assessment order, the assessment order cannot be branded as erroneous or not in accordance with law when it was passed after due enquiry and full satisfaction by AO.

13. In support of his submission, the Ld.AR of the assessee also relied upon the decision of Hon' ble Apex Court in case of Malabar Industrial Co. Ltd reported vide 243 ITR 83(SC); decision of Bombay High Court in CIT Vs Gabriel India Ltd reported vide 203 ITR 108 (Bom), decision of Karnataka High Court in CIT Vs M/s I.Gate Global Solutions (P) Ltd (supra).

14. On the other hand, the Ld. DR for the revenue supported the order of Ld. CIT (LTU). The Ld. DR further submits that the ratio of decision in Deloitte Consulting India Pvt. Ltd (supra) is fully applicable in the facts of the present case. The AO while passing the assessment order dated 29-12-2017 has not considered the Proviso to section 92C(4) and the order passed by AO is erroneous as the same is passed without making necessary enquiries. The order is prejudicial to the interest of revenue. By allowing deduction u/s 10B by the AO, the department has suffered loss of revenue and accordingly the assessment order is not only erroneous but also prejudicial to the interest of revenue.

15. We have considered the rival submissions of the parties and have gone through the orders of authorities below. The Hon'ble Supreme Court in the case of Malabar Industrial Co. Ltd. (supra) and Hon'ble Jurisdictional High Court in case of Gabriel India Ltd. (supra) and has laid down the following broader principle to examine the action of CIT taken under section 263:

- The CIT must record satisfaction that the order of the Assessing Officer is erroneous and prejudicial to the interest of the revenue. The twin conditions must be fulfilled.
- Section 263 cannot be invoked to correct each and every type of mistake or error committed by the Assessing Officer and it was only when an order is erroneous that the section will be attracted.
- An incorrect assumption of facts or an incorrect application of law will suffice the requirement of order being erroneous.
- If the order is passed without application of mind, such order will fall under the category of erroneous order.
- Every loss of revenue cannot be treated as prejudicial to the interests of the revenue and if the Assessing Officer has adopted one of the courses permissible under law or where two views are possible and the Assessing Officer has taken one view with which the CIT does not agree, it cannot be treated as an erroneous order, unless the view taken by the Assessing Officer is unsustainable under law.
- If while making the assessment, the Assessing Officer examines the accounts, makes enquiries, applies his mind to the facts and circumstances of the case and determine the income, the CIT, while exercising his power under section 263 is not permitted to substitute his estimate of income in place of the income estimated by the Assessing Officer.

- The Assessing Officer exercises quasi-judicial power vested in his and if he exercises such power in accordance with law and arrives at a conclusion, such conclusion cannot be termed to be erroneous simply because the CIT does not feel satisfied with the conclusion.
- The CIT, before exercising his jurisdiction under section 263 must have material on record to arrive at a satisfaction.
- If the Assessing Officer has made enquiries during the course of assessment proceedings on the relevant issues and the assessee has given detailed explanation by a letter in writing and the Assessing Officer allows the claim on being satisfied with the explanation of the assessee, the decision of the Assessing Officer cannot be held to be erroneous simply because in his order he does not make an elaborate discussion in that regard."

16. In the light of aforesaid principals, now we shall examine the facts of the present case. During the course of hearing the ld AR for the assessee vehemently submitted the assessee made suo moto disallowance of the deduction under section 10B, the assessing officer while passing the assessment order AO computed tax holiday benefit u/s 10B of Rs.69.46 crores instead of Rs.90.21 crores as claimed by assessee in its return of income, against this proposed addition the assessee filed objection before the DRP. The objection was disposed of vide direction dated 09-06-2015 wherein the DRP directed the AO to admit the claim of deduction u/s 10B. Further, the ld AR for the assessee to show us the questionnaire raised by the Assessing Officer during the reassessment proceedings, on the issues taken up by the Learned

Commissioner in section 263 proceedings. We have seen the reply furnished by the assessee filed in response to the questions raised by the assessing officer during the re-assessment copy of which is available at page No. 264 to 283 of PB. In our view the AO must have gone through the records relevant to all the issue as no addition was made on this issue. We are also of the view that when the Assessing Officer examines the raised issue and made inquiry applies his mind then Learned Commissioner would not be justified to substitute his estimate of income in place the income estimated by the AO. The application of mind at the end of the AO can be ascertained either from the discussion available in the assessment order or from the questionnaire issued by him on the specific issues and replies submitted by the assessee. The explanation submitted by the assessee should be plausible one and in consonance with the query of the Assessing Officer. In the reply the assessee has clearly explained that while passing the draft assessment the AO computed tax holiday benefit u/s 10B of Rs.69.46 crores instead of Rs.90.21 crores as claimed by assessee in its return of income, against the suo moto disallowance of the assessee on account of deduction under section 10B.

17. There is no dispute that initially assessment was completed u/s 143(3) r.w.s. 144C13) on 27-07-2015 making various additions / adjustments

with regard to the ALP of international transactions reported by assessee. Subsequently, the assessment was reopened u/s 147. Notice u/s 148 was issued on 30-03-2016. The assessment was reopened on the basis of information received from DGIT(Inv), Calcutta that the assessee has availed accommodation entries from Tara Trading Company and M/s Annapurna Company. It was informed to the AO that Investigation Wing of Calcutta conducted enquiries and recorded the statement of proprietor of Tara Trading Company & Annapurna Company about the accommodation entries provided by them. In the re-assessment order passed u/s 144 r.w.s.147, the AO made addition u/s 68 of Rs.24,19,212/-.

18. At the cost of repetition, we may note that the Ld.AR of the assessee vehemently argued that during re-assessment, the AO made necessary enquiries with regard to the applicability of Proviso to section 92C(4) in respect of deduction u/s 10A / 10B / 10AA. We have noted that the AO vide question No.1 in Annexure to notice dated 08-12-2017 raised the similar question as raised by Ld.CIT(LTU) in her show cause notice u/s 263. The assessee filed its reply vide reply dated 08-12-2017, copy of which is filed at pages 264 to 270 of the paper book. In the reply, the assessee stated that in the draft assessment order, certain additions / disallowances were proposed, including transfer pricing

adjustment to the total income of the assessee. In the draft assessment order it was held that tax holiday benefit u/s 10B should be restricted to the gross total business income. It was also explained that AO computed tax holiday benefit u/s 10B of Rs.69.46 crores instead of Rs.90.21 crores as claimed by the assessee, in its return of income which was again subject to the objection filed before the Dispute Resolution Panel (DRP) and the DRP directed the AO to delete the restricted denial of deduction u/s 10B. We have noted that there is no reference regarding the queries raised by AO and the explanation furnished by assessee, in the re-assessment order dated 29-12-2017. We have further noted that in the reply to show cause notice vide reply dated 22-02-2018 issued by Ld.CIT(LTU), the assessee has brought all these facts. Copy of reply of assessee dated 22-02-2018 in response to the show case notice u/s 263 is placed on record at pages 284 to 291 of the paper book.

19. We have noted that the Ld.CIT(LTU) has not discussed the contents of reply / explanation furnished by the assessee to the show cause notice u/s 263. The Ld.CIT (LTU) simply concluded that the contention of assessee that DRP has considered the issue is incorrect. The DRP has not considered the Proviso to sub section (4) of section 92C. The AO

while following the direction of DRP have not taken cognizance of statutory provision of section 92CA(4).

20. It is pertinent to note here that the Ld.CIT(LTU) issued show cause notice for revision of assessment order dated 29-12-2017 passed u/s 143(3) r.w.s. 147. However, at para 6 of the impugned order, the Ld.CIT(LTU) discussed the contents of draft assessment order passed in pursuance of direction of DRP though it was not the subject matter of show cause notice. Before us, the Ld.AR of the assessee vehemently submitted that Hon' ble Karnataka High Court in the case of I Gate Global Solutions Ltd (supra) while considering the question of law whether the Tribunal was correct in holding that deduction u/s 10A is allowable in respect of income computed on ALP by ignoring Proviso to section 92C(4) held that the Proviso applied to the cases where ALP was determined by assessing authority. Further, the Delhi Tribunal in A.T. Kearney India Pvt Ltd (supra) while considering similar ground of appeal held that the Proviso to section 92C(4) of the Act would not be attracted on voluntary transfer pricing adjustment made by the assessee and Proviso was to apply only in cases where adjustment has been made by AO / TPO. It was further held that once the assessee has voluntarily offered the income to tax, it forms part of the profit of the business and deduction u/s 10A cannot

be denied. Further, the Bangalore Tribunal in M/s Austin Medical Solutions Pvt Ltd (supra) while relying upon the decision of I Gate Global Solutions Ltd (supra) while referring the decision of Tribunal and Hon' ble Karnataka High Court held that once the assessee suo moto allowed the deduction u/s 10A in the return of income while determining the ALP, the revenue cannot deny the deduction u/s 10A. Similar view was taken by Hyderabad Tribunal in Sumtotal Systems India (P) Ltd Vs DCIT (2017) 88 taxmann.com 897 (Hyderabad-Trib.) while relying upon the decision of Karnataka High Court in I Gate Global Solutions Ltd (supra).

21. The Ld.CIT (LTU) revised the assessment order by referring the decision of Deloitte Consulting India Pvt Ltd (supra) and Agilisys IT Services India (P) Ltd Vs ITO (supra), in our view the said decision will not stand because of the decision of Hon' ble Karnataka High Court in CIT Vs I Gate Solutions (supra), on the similar issue on similar facts. We are conscious of the facts that the decision is of non-jurisdictional High Court is binding on Tribunal as held by Hon' ble Bombay High Court in CIT Vs Godavaridevi Saraf (1978) 113 ITR 589 (Bom). Now contrary decision on the issue by jurisdictional High Court is brought to our notice by either party. Therefore, considering

the fact that during the re-assessment the AO raised necessary queries, the assessee furnished detailed submission, which was accepted by the AO though no reference about the consideration of such issue in the assessment order. Considering the aforesaid legal discussion, we are of the considered view that the view taken by the AO in accepting the explanation furnished by assessee in response to the show cause notice dated 18-12-2017 during re-assessment was one of the possible views and the order dated 29-12-2017 is not erroneous though may be prejudicial to the interest of revenue. Thus, the twin conditions as enumerated in section 263 is not fulfilled, hence, the revision of the assessment order is not justified. More over the issue on which the order is revised is debatable issue. Considering the fact that twin conditions as enunciated in section 263 are not satisfied, therefore, the revision order passed u/s 263 dated 25-06-2018 is set aside / quashed.

22. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 15-01-2020.

Sd/-

Sd/-

(R.C. Sharma)	(Pawan Singh)
ACCOUNTANT MEMBER	JUDICIALMEMBER

Mumbai, Dt : 15th January, 2020

Pk/-

Copy to :

1. Appellant

2. Respondent
 3. CIT(A)
 4. CIT
 5. DR
- /True copy/

By order

Asstt. Registrar, ITAT, Mumbai