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

BEFORE SHRI SHAMIM YAHYA, AM AND SHRI AMARJIT SINGH, JM

आयकर अपील सं/ I.T.A. No.2715/Mum/2019

(**निर्धारण वर्ष** / Assessment Year: 2013-14)

Dy. Commissioner of Income tax Central Circle 1(1) R. No. 903, 9th fl., Pratishtha Bhavan, M. K. Road, Mumbai-400020.	**बनाम**/ Vs.	Edelweiss Tokio Life Insurance Co. Ltd. 294/3, Edelweiss House, 4th Floor, Vidyanagari Marg, Off C. S. T. Road, Kalina, Santacruz (E), Mumbai-400098.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AACCE2709H		
(अपीलार्थी /**Appellant**)	..	(प्रत्यर्थी / **Respondent**)

Revenue by:	Shri Vijay Kumar Menon (DR)
Assessee by:	Shri Ravikanth Pathak

सुनवाई की तारीख / Date of Hearing: 21/01/2021

घोषणा की तारीख /Date of Pronouncement: 07/04/2021

आदेश / O R D E R

PER AMARJIT SINGH, JM:

The revenue has filed the present appeal against the order dated 22.02.2019 passed by the Commissioner of Income Tax (Appeals) -8, Mumbai [hereinafter referred to as the "CIT(A)"] relevant to the A.Y.2013-14.

2. The revenue has raised the following grounds: -

> " (1) Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) is correct in allowing exemption u/s 10(34) of the I. T. Act, 1961, on account of dividend income of

Rs.83,96,134/- denied by the AO, considering the fetters prescribed in Section 44 of the I. T. Act, 1961.

2. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) is correct in deleting the addition on account of negative reserves of Rs.5,40,08,000/- made by the AO without appreciating the provisions of Insurance Act, 1938 and Regulations."

3. The brief facts of the case are that the assessee filed its return of income on 28.11.2013 declaring total loss of Rs.64,98,65,416/-. The case was selected for scrutiny. Notices u/s 143(2) & 142(1) of the Act were issued and served upon the assessee. The assessee company was licensed by IRDA to carry on the business of Life Insurance. The assessee claimed the exemption on dividend income of Rs.83,96,134/- u/s 10(34) of the I. T. Act, 1961. The notice was given and after the reply of the assessee, the exemption was declined and the sum of Rs.83,96,134/- was added to the income of the assessee. On appraisal of the Form No.1, the negative reserves of Rs.5,40,08,000/- was found. The notice was given and after the reply of the assessee, the same was declined and added to the income of the assessee. The expenses u/s 14A r.w. Rule 8d was also computed in sum of Rs.4,12,710/- and added to the income of the assessee. The total income of the assessee was assessed to the tune of Rs.58,74,61,282/-. Feeling aggrieved, the assessee filed an appeal before the CIT(A) who allowed the claim of the assessee, therefore, the revenue has filed the present appeal before us.

ISSUE NO.1

4. Under this issue the revenue has challenged the allowance of claim of the assessee on account of dividend income of Rs.83,96,134/- u/s 10(34) of the I. T. Act, 1961. Before going further, we deem it necessary to advert the finding of the CIT(A) on record.:-

> *"3.2.3 I have perused the Assessment Order wherein AO has not allowed the exemption u/s 10(34) of the Act as discussed at para 5.1 to 5.6 on page 2 to 4 of assessment order. This issue had also come up before me in the appellant's appeal for A.Y.2012-13 wherein vide order No.CIT (A)-8/IT-217/2016/17 dated 20.08.2018, I have decided this issue in favour of the appellant. Relevant extract of my decision is reproduced hereunder.*
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> *The AO has stated that section 44 of the Act is a self-contained code for computing the income of insurance company which states that notwithstanding anything to the contrary, the Income from Other Sources earned by the Insurance Company has be computed as per section 44 of the Act Therefore, the dividend income earned by the appellant is taxable. I have also considered the written submission filed by the appellant wherein appellant submitted that the question of categorizing the income comes when the income forms part of the total income, however; when the income does not form part of total income then, the question of categorizing the same does not come. Admittedly, the appellant has earned dividend on shares and securities on which the investee companies have paid dividend distribution tax as per section 1150 of the Act Therefore, dividend earned by the appellant does not constitute income as per section 10(34) of the Act. I find force in the contention of the appellant that the income which is otherwise not*

taxable cannot be brought to tax unless specifically stated in the act I am of the view that dividend income on which dividend distribution tax is paid, does not form part of total income; hence, the same is not governed by section 56 of the Act (Income from other source). Only taxable income has to be opted as per section 44 of the Act notwithstanding anything stated in the Act Therefore, the dividend income which taxable under the Act cannot be taxed under the grab of section 44 of the Act. My above view is supported by Hon'ble Jurisdictional ITAT in the Life Insurance Corporation vs CIT (ITA No 6221/Mum/2012) wherein it has been held that:-

"3.4. We find that the issue of admissibility of provisions of Section 10(34) has been considered by the 'F Bench of Mumbai Tribunal while deciding the appeals filed by the AO in the cases of lClCl Prudential Insurance (ITA No. 7765/Mum/2010 AY.2005-06 dt 14-09-2012). Ground No.3 filed by the AO reads as under

"On the facts and in the circumstances of the case and in law, the learned CIT(A)erred in allowing the dividend income of the assessee of Psi, 56,09,2221-as exempted under section 10(34) of the Income-tax Act,1961 ignoring the facts that dividend income is considered as part of Income of Life Insurance Business and is included as an income by the actuary."

While dealing with the issue, whether exemption u/s. 10 can be allowed to an Insurance company when income is computed u/s. 44 of the Act, Tribunal held that issue was covered in favour of the assessee and against the AO by the orders of the General Insurance Company of India in lT4r4c 33541Mum12011 where in*

the issue of deduction u/s. 10 of the Act was considered and allowed following the Hon'ble Bombay High Court Judgment in writ petition No. 2560 of 2011 dt. 01-12-2011. After referring to the order of the G1C of India, which in turn had relied upon the cases of LIC vs. CIT-Ill Bombay, C/T Vs. New India Assurance Co. Ltd., G/C of India vs. CIT(Supreme Court) Tribunal further held that assessee was entitled to exemption u/s. 10 including the dividend income i.e., exemption available u/s. 10(34) of the Act. We find that facts of the case under consideration are similar to the facts of /C/CI Prudential Insurance (supra), decided by the coordinating Bench. Here, we would also like to mention that Hon'ble Jurisdictional High Court in case of GIC of India has discussed and decided the issue as under:

"11. Section 44 of the Income Tax Act, 1961 stipulates as follows:

"44: 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", rev, in section 199 or in sections 28 to (43B), the profits and gains business of insurance, including any such business curried oil, a mutual insurance company or by a cooperative society, computed in accordance with the rules contained in the ,/ .b, First Schedule".

Section 44 provides that the profits and gains of any business of insurance of a mutual insurance company shall be computed in accordance with the rules in the First Schedule. Part 'A' of the First Schedule containing Rules I to 4 deals with profits of life insurance business while Part B consisting of Rule 5 deals with

computation of profits and gains of Other insurance business. Rule 5 provides as follows:

"5. The profits and gains of any business of insurance other than life insurance shall be taken to be the balance of the profits disclosed by the annual accounts, copies of which are required under the Insurance Act, 1938 (4 of 1938), to be furnished to the Controller of Insurance subject to the following adjustments:

(a)Subject to the other provisions of this rule, any expenditure or allowance (including any amount debited to the profit and loss account either by way of a provision for any tax, dividend, reserve or any other provision as may be prescribed) which is Not admissible under the provisions of section 30 to (43B) in computing the profits and gains of a business shall be added back;

(b)(....)

(c)Such amount carried over to a reserve for unexpired risks as may be prescribed in this behalf shall be allowed as a deduction". The Assessing Officer has in the reasons for reopening the assessment proceeded on the premise that in computing the profits and gains of business for an assessee who carries on general insurance business no other section of the Act would apply and that the computation could be carried out only in accordance with section 44 read with Rule 5 of the First Schedule. In Life Insurance Corporation of India, v. Commissioner of Income Tax Bombay City-Ill a Division Bench of this Court construed the provisions of section44 and of the First Schedule. The assessee in that case which carried on life insurance business had made a claim to

exemption under section 10(15) and section 19(1). In a reference before the Court, the questions referred included whether in computing the profits and gains of the business of insurance under section 44 read with the Schedule certain items-which were ordinarily not includible .,,....,

the total income were rightly included in- the taxable surplus. Division Bench of this Court held as follows: -

The question which essentially falls to be - determined in this reference is whether, in view of the provisions in section 44 or rule 2 of the first Schedule, - the Life Insurance Corporation will not be entitled to claim the deductions which a-i-c otherwise admissible in- the- case of an assessee, computation of whose income is go vented by the other provisions of the Act The argument of Mr. Kolah for the Life Insurance Corporation is that unless there are express provisions which disable the Corporation from claiming the deductions referred to above; the Corporation cannot be deprived of the benefit -of the provisions referred to in the questions Nos. 1 to 6. Section 44, which deals with computation of profits and gains of business of insurance, begins with a non obstante clause, the effect of which is that the provisions of the 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", do not apply in the case of computation of income from insurance business. The effect of the non-obstante clause so far as the earlier part of section 44 is concerned, therefore, is that the provisions of section 44 will prevail notwithstanding the fact that there are contrary provisions

in the Act relating to computation of income chargeable under the four heads mentioned in section 44. The only other overriding effect of section 44 is that its provisions operate notwithstanding the provisions of section 191 and of section 28 to 43A. Thus, the only effect of section 44 is that the operation of the provisions referred to therein is excluded in the case of an assessee who carried on insurance business and in - whose case the provisions of rule 2 of the First Schedule are attracted. If the deductions which are claimed by the assessee do not fall within the provisions which are referred to in section 44, it will have to be held that the applicability of those provisions in the case of an assessee whose assessment is governed by section 44 read with rule 2 in the First Schedule- is not excluded".

This judgment is sought to be distinguished by the Assessing Officer while disposing of the objections on the ground that the decision was rendered in the context of an assessee which- carried on life insurance business to whom Rules 1 to 4 of the First Schedule applied whereas in the case of the assessee in this case which carries on general insurance business Rule 5 could apply. According to the Assessing Officer, Rule 5 would not permit any adjustment to the balance of profit as per annual account prepared under the Insurance Act, and hence the 0dwpent would not be applicable. The Assessing Officer has clearly not noticed that the decision in Life Insurance Corporation (supra) though rendered in the context of an assessee which carries on life insurance business, followed an earlier decision of a Division Bench of this Court in Commissioner of Income-Tax v. New India Assurance Co Ltd. That was a case of an assessee which carried on non-life insurance

business. In New India Assurance Co. Ltd. the Division Bench dealt inter alia with the provisions-of section 1 9(7) of the Income Tax Act, 1922.

The questions referred to this Court included whether the assessee was entitled to claim an exemption from tax under section 15B and 15C (4) and in respect of interest on a government loan under a notification issued under section 60. Section 10(7) of the Income Tax Act, 1922 provided that notwithstanding anything to the contrary contained in section 8,9,10,12 or 18, the profits and gains of any business of insurance and the tax payable thereon shall be computed in accordance with the rules contained in the Schedule to the Act The Division Bench held that upon the language of sub-section (7) of section 10 read along with rule 6 it was impossible to hold that the provisions relating to exemptions stood excluded from operation. In that context the Division Bench held as follows:

"It is only after the profits and gains of a business are computed that any question of granting exemptions arises and if the latter stage were intended to be excluded by the law we should have thought that a clearer provision than is made in sub-section (7) of section 10 and in rule 6 would have been made". In the subsequent judgment of the Division Bench in C/T v. Insurance Corporation (supra), the Division Bench noted that there was a difference in the language of section 10(7) of the Act of 1922 when compared with section 44 of the Act of 1961 since section 44 does not refer to the computation of tax but merely to the computation of profits and gains in the business of insurance The Division Bench held that this would however riot make any difference to- the principle laid

down by the Court in the earlier decision in the case of New India Assurance Co. Ltd. Accordingly, the decision of Life Insurance Corporation (Supra)could not have- been ignored by the Assessing- Officer on the supposition that the decision was rendered in the context of an assessee who occupied on life insurance business and was, therefore, not to an assessee which carries on general insurance General Insurance Corporation of India v. Commissioner of ncome-Tax, the Supreme Court considered in an appeal arising out of a judgment of the High Court the issue as to whether a sum of Rs.3 crores, being a provision, for redemption of preference shares, was not liable to be added back in the total income of the assessee for AY 1977-78. The Supreme Court held that a plain reading of rule 5(a) of the First Schedule made it clear that in order to attract the applicability of the provision the amount should firstly be an expenditure or allowance and secondly it should be one not admissible under the provisions of section 30 to 43A.The Supreme Court held that the sum of Rs.3 crores in that case which was set apart as a provision for redemption of preference shares could not have been treated as an expenditure and hence could not have been added back under rule 5(a). In that context- the Supreme Court held as follows:

"There is another approach to the same issue. Section 44 of the Income-tax Act read with the rules contained in the First Schedule to the Act lays down an artificial computing the profits and gains of insurance business. For the purpose of income-tax, the figures in the accounts of the assessee drawn up in accordance with the provisions of the First Schedule to the Income-tax Act and satisfying the requirements of the Insurance Act are binding on the

Assessing Officer under the Income-tax Act and he has no general power to correct the errors in the accounts of an insurance business and under the entries made.

The question whether an assessee who carries on general insurance business would be entitled to avail of an exemption under section 10 did not arise. The issue as to whether the assessee which carries on the business of general insurance would be entitled to the benefit of an. exemption under clauses (10), (23G,) and (33) of section 10 is directly governed by the decision rendered by the Division Bench in. Life Insurance Corporation vs. Commissioner of Income-tax (Supra) following the earlier decision in Commissioner of Income-tax vs. New India Assurance Co. Ltd (supra). The Assessing Officer could not have ignored the binding precedent contained in the two Division Bench decisions of this Court. Moreover, the Assessing Officer in allowing the benefit of the exemption in the order of assessment under section 143(3) specifically relied upon the view taken by the CBDT in its communication dated 21 February 2006 to the an of IRDA. The communication clarifies that the exemption on available to any other assessee under any clauses of .1) C'alcii0 10 is also available to a person carrying on non-life Insurance business subject to the fulfillment of the conditions, if any, under a particular clause of section 10 under which exemption is sought. It needs to be emphasized that it is not the case of the Assessing Officer that the assessee had failed to fulfill the condition which attached to the provisions of the relevant clauses of section 10 in respect of which the exemption was allowed. This of course is apart-from clause (38) of section 10 where the Assessing Officer

had rejected the claim for exemption in the original order of assessment under section 143(3). The Assessing Officer above all was bound by the communication of the CBDT. Having followed that in the order under section 143(3) he could not have taken a different view while purporting to reopen the assessment. Having applied his mind specifically to the issue and having taken a view on the basis of the communication noted earlier, the act of reopening the assessment would have to be regarded as a mere change of opinion which has also not been based on any tangible material.

Consequently, we hold that the reopening of the assessment is contrary to law. The Petition would have, therefore, to be allowed".

Respectfully following the above, we hold that the assessee is entitled for exemption under section 10…"

Respectfully following the order of the Hon'ble jurisdictional High Court and taking note of the decision of the coordinating bench (F Bench in the case of ICICI Prudential Insurance Co.), we reverse the order of the FAA and decide Ground No.l in favour of the assessee.

My view is also supported by following decisions of Hon'ble Jurisdictional ITAT as well Hon'ble High Court:-

DCIT vs IDBI Federal Life Insurance Company Ltd [ITA 6282/Mum/2012]

General Insurance Corporation of India Vs. DCIT [342 ITR 0027 Bom)

CIT vs New Insurance Assurance Company Ltd [71 ITR 0761 Bom]

Life Insurance Corporation of India Ltd vs C/T [115 ITR 0045 Bom)

Respectfully following the decision of Hon'ble Jurisdictional ITAT as well as High Court, the AO's action of taxing the dividend income is held as unjustified and contrary to the provision of the Act. Therefore, addition made by the AO is deleted.

3.2.4 Since the facts and circumstances of the case are the same for this assessment year, except for the amount, following my own order for assessment year 2012-13 above, the addition made by the AO to the total income on this ground is deleted. This ground of appeal is allowed."

5. On appraisal of the above mentioned finding, we noticed that the CIT(A) has allowed the claim of the assessee on the basis of the finding of earlier assessment of the assessee for the A.Y. 2012-13. However, the CIT(A) has also relied upon the decision of the Hon'ble ITAT as well as Hon'ble High Court. There is no need to discuss these orders again because the same have been reflected above while reproducing the finding of the CIT(A). We also find that the revenue has challenged the decision of the CIT(A) before the Hon'ble ITAT for the A.Y. 2012-13 which has been decided by Hon'ble ITAT in favour of the assessee. The relevant finding has been given in para no. 4 which is hereby reproduced as under.:-

"4. Upon due consideration, it is quite evident that Ld. CIT(A) has relied upon host of binding decisions to arrive at the conclusion that exemption u/s 10(34) with respect to dividend income would be available to the assessee and further, the provisions of Sec. 14A would not apply to insurance company. No contrary decision has been placed before us. The Hon'ble Bombay High Court in the case of Pr. CIT V/s ICICI Prudential Life Insurance Co. Ltd. for AYs 2010-11 & 2011-12 (ITA Nos.1305 & 1306 of 2015 dated 03/07/2018) refused to admit the ground raised by revenue qua allowability of dividend income exemption u/s 10(34) wherein vide para-4, it was noted that revenue had raised similar grounds for AYs 2006-07 & 2008-09 but the same was not admitted vide ITA Nos.711 of 2013 & 688 of 2013 order dated 20/07/2015 and therefore, facts being similar, same view was to be taken in the matter. Respectfully following the same, we would hold that the exemption u/s 10(34) could not be denied to the assessee. Further, as held in the cited decisions, the provisions of Sec.14A would not apply to insurance company. Ground, thus, raised, stands dismissed."

6. Since the issue has duly been covered by the decision of the Hon'ble ITAT in the assessee's own case for the A.Y.2012-13 bearing ITA. No.6270/M/2018, therefore, we are of the view that the CIT(A) has decided the matter of controversy judiciously and correctly which is not liable to be

interfere with at this appellate stage. Accordingly, this issue is being decided in favour of the assessee against the revenue.

ISSUE NO.2

7. Under this issue the revenue has challenged the deleting the addition on account of negative reserves of Rs.5,40,08,000/-. Before going further, we deem it necessary to advert the finding of the CIT(A) on record.:-

> "3.3.3 I have perused the Assessment Order wherein addition of Rs.5,40,08,000/- is discussed at Pam 7.1 to 7.12 on Page 7 to 11 of Assessment order. This issue had also come up before me in the appellant's appeal for A.Y. 2012-13 wherein vide order No. CIT(A)-8/IT-217/2016-17 dated 20.08.2018, I have decided this issue in favour of the appellant. Relevant extract of my decision is reproduced hereunder:
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> The A0 has held that the negative reserves constitute income of appellant, receivable over the span of policy sold, therefore, the same is the income of the appellant. I have also perused the written submissions filed by the appellant wherein appellant has submitted that negative reserve is the net premium receivable by the insurance company coupled with uncertainty of receiving the same, therefore, the same cannot be considered as income unless there is some certainty of receiving the premium on insurance policy. I have considered the submission of appellant and agree that being an insurance company, its books of account are agreed to be maintained as per IRDA regulation and income is to be disclosed under section 44 of the Act. The insurance company also needs to take valuation report in accordance with Insurance Act, 1938. As per the Insurance Act, insurance company needs to obtain Actuarial Valuation Report disclosing the aggregate

amount of net premium receivable by the insurance company termed as negative reserve. For example, if an insurance company sells a policy in March, 2013 with the annual premium of Rs. 1,20,000/- payable on monthly basis for the period of five years and it received its first premium of Rs. 10,000/- in the month of March, 2013 then the balance amount of Rs. 5,90,000/- [(Rs. 1,20,000 X 5 years) — 10,000] shall be disclosed as negative reserve in Form I.

The negative reserve is nothing but the net premium receivable by the insurance company. Therefore, I am of the belief that negative reserve is nothing but premium receivable by the company. However, there is always a chance that the policyholder may not continue with the insurance policy bought by him which will result into non-receipt of premium which was otherwise receivable by the insurance companies. Thus, negative reserve is to be disclosed as required under Insurance Act Therefore, in view of the above facts and provision under the law, am of the view that the AO's action of taxing the negative reserves is grossly unjustified.

My above view is supported by following decision.

Life Insurance Corporation of India vs Addll CIT (ITA 6221/M/2012).

"4.3.1. We are of the opinion that treatment given to negative reserves by actuary cannot be disturbed by the AO. Here, it would be useful to understand meaning of negative reserve in simple terms. While making actuarial valuation, requirement of reserve to service insurance policies issued is ascertained. Such reserve called mathematical reserve or value of liability) is equal to value of future benefits payable and future expenses to be less present value of future premium receivable. When the present value of future premium is more than the present of future

benefits payable and future expenses to be incurred, this amount becomes negative, known as 'negative reserve'. In simple words, it means that the insurance contracts under consideration do not warrant any provision and is, in fact, an asset However, in certain circumstances, such as for following IRDA guidelines, insurers may not treat policies as assets and they set any negative reserves to zero.' For example, if an insurer had two policies, one with a reserve of 100 and the other with a reserve of - '10, it might think of its liabilities at 100 rather than 90 to take into account the eventuality in case the second policy lapsed. This process is called eliminating negative reserves. As mentioned earlier, a policy which has a negative reserve is in nature of an asset.

4.3.2. We find that in the case of ICICI Prudential Insurance Co.(supra) AO had disallowed negative reserve related to Life Insurance business of the assessee. In appellate proceedings FAA allowed the appeal of the assessee. AO challenged the order of the FAA before the Tribunal, as stated earlier. Disposing his appeal, Tribunal held as under:

"After considering the rival submissions and examining the method of accounting and the mandate given by regulations to appoint Actuarial on the concept of mathematical reserves we do not see any reason to interfere with the order of the CIT(A). The mathematical reserve is a pan of Actuarial valuation and the surplus as discussed in Form-I under Regulation to takes in to consideration this mathematical reserve also. Therefore, the order of the order of the CIT(A) is approved. Moreover, the Assessing Officer has no power to modify the amount after actuarial valuation was done, which was the basis for assessment under Rule 2 of 1st Schedule r.w.s.44 of the I.T. Act The principle laid down by the Hon'ble Supreme Court in LIC vs. CIT 51/ITR 773 about the power of the Assessing Officer also restricted the scope and adjustment by the AO. In

view of this uphold the order of the CIT(A) and dismiss the Revenue's ground."

Respectfully following the above order of the Coordinating Bench we decide Ground No.2 in favour of the assessee.

Identical view was taken in following cases of Hon'ble Mumbai IDBI Federal Life Insurance Company Ltd [ITA. 6282/M/2012]

ACIT vs Kotak Mahindra Old Mutual Life Insurance Ltd [ITA 5655/M/2015]

Respectfully following the decision of Hon'ble Jurisdictional ITAT, the addition of Negative Reserve made by the AO is deleted."

3.3.4 Since the facts and circumstances of the case are the same for this assessment year, except for the amount, following my own order for assessment year 2012-13 above, addition of Negative Reserve made by the AO is deleted. This ground of appeal is allowed."

8. On appraisal of the above mentioned finding, we noticed that the CIT(A) has allowed the claim of the assessee on the basis of the earlier assessment of the assessee for the A.Y. 2012-13. However, the CIT(A) has also relied upon the decision of the Hon'ble ITAT as well as Hon'ble High Court. There is no need to discuss again. We also find that the revenue has challenged the decision of the CIT(A) before the Hon'ble ITAT for the A.Y. 2012-13 which has been decided by Hon'ble ITAT in favour of the assessee in ITA. No.6270/M/2018 dated 22-10-2020. The Hon'ble ITAT has decided the issue in favour of the assessee. The relevant finding has been given in para no. 6 which is hereby reproduced as under.:-

"*6. We find that learned CIT(A) has clinched the issue in correct perspective. The factual matrix was squarely covered in assessee's favor by host of cited judicial decisions rendered in the case of similarly placed assessees. The Hon'ble Bombay High Court in the case of Pr. CIT V/s ICICI Prudential Life Insurance Co. Ltd. for AYs 2010-11 & 2011-12 (ITA Nos.1305 & 1306 of 2015 dated 03/07/2018) refused to admit the ground raised by revenue on this issue wherein vide para-4, it was noted that revenue had raised similar grounds for AYs 2006-07 & 2008-09 but the same was not admitted vide ITA Nos.711 of 2013 & 688 of 2013 order dated 20/07/2015 and therefore, facts being similar, same view was to be taken in the matter. The case laws being relied upon by Ld. CIT(A) were squarely applicable to the assessee's case. No contrary decision is on record. Therefore, respectfully following the same, we would concur with the adjudication of Ld. CIT(A) on this issue. This ground stand dismissed."*

10. Since the issue has duly been covered by the decision of the Hon'ble ITAT in the assessee's own case for the A.Y.2012-13 bearing ITA. No.6270/M/2018 dated 22-10-2020, therefore, we are of the view that the CIT(A) has decided the matter of controversy judiciously and correctly which is not liable to be interfere with at this appellate stage. Accordingly, this issue is decided in favour of the assessee against the revenue.

11. In the result, the appeal filed by the revenue is hereby dismissed.

Order pronounced in the open court on 07/04/2021

Sd/-	Sd/-
(SHAMIM YAHYA)	**(AMARJIT SINGH)**
लेखा सदस्य / ACCOUNTANT MEMBER	**न्यायिक सदस्य/JUDICIAL MEMBER**

मुंबई Mumbai; दिनांक Dated : 07/04/2021
Vijay Pal Singh (Sr. PS)
आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

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**