

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'E' BENCH
MUMBAI**

**BEFORE: SHRI M.BALAGANESH, ACCOUNTANT MEMBER
&
SHRI AMARJIT SINGH, JUDICIAL MEMBER**

**ITA No.3632/Mum/2014
(Assessment Year :2010-11)**

**ITA No.941/Mum/2016
(Assessment Year :2011-12)**

**&
ITA No.942/Mum/2016
(Assessment Year :2012-13)**

M/s. Tata Advanced Systems Limited (Formerly known as TAL Manufacturing Solutions Ltd., now amalgamated with Tata Advanced Systems Ltd) SEZ Plot 1/A SY No.656 Aditya Nagar Adibatla (V), Ibrahimpatnam (M) Ranga Reddy (D) Hyderabad – 501 218	Vs.	Assistant Commissioner of Income Tax- 2(3) (1) 5 th Floor, Ayakar Bhawan Maharshi Karve Road, Mumbai – 400 020
PAN/GIR No. AABCT1342E		
(Appellant)	..	(Respondent)

**ITA No.1411/Mum/2016
(Assessment Year :2011-12)**

**&
ITA No.1412/Mum/2016
(Assessment Year :2012-13)**

Assistant Commissioner of Income Tax- 2(3)(1) Room No.552, 5 th Floor, Ayakar Bhawan Maharshi Karve Road, Mumbai – 400 020	Vs.	M/s. Tata Advanced Systems Limited (Formerly known as TAL Manufacturing Solutions Ltd., now amalgamated with Tata Advanced Systems Ltd) SEZ Plot 1/A SY No.656 Aditya Nagar, Adibatla (V), Ibrahimpatnam (M) Ranga Reddy (D) Hyderabad – 501 218
PAN/GIR No. AABCT1342E		
(Appellant)	..	(Respondent)

Assessee by	Shri Rajan Vora
Revenue by	Shri Sanjeev Kashyap
Date of Hearing	09/09/2021
Date of Pronouncement	27/10/2021

आदेश / ORDER

PER M. BALAGANESH (A.M.):

These appeals in ITA Nos.3632/Mum/2014, 941/Mum/2016, 942/Mum/2016, 1411/Mum/2016 & 1412/Mum/2016 for A.Y.2010-11, 2011-12 & 2012-13 arise out of the order by the Id. Commissioner of Income Tax (Appeals)-6 in appeal No. CIT(A)-6/IT.145/Rg.2(3)/12-13, CIT(A)-6/IT.09 & IT-153/2014-15 respectively dated 17/02/2014 & 11/12/2015 respectively (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 26/02/2013, 24/02/2014 & 27/02/2015 respectively by the Id. Asst. Commissioner of Income Tax-2(3)(hereinafter referred to as Id. AO).

Identical issues are involved in all these appeals and hence they are taken up together and disposed of by this common order for the sake of convenience. With the consent of both the parties, the appeal of the assessee for the Asst Year 2010-11 in ITA No. 3632/Mum/2014 is taken as the lead case and the decision rendered thereon would apply with equal force for other assessment years also in respect of identical issues, except with variance in figures.

2. The first identical issue to be decided in this appeal is with regard to taxability of compensation received by the assessee company from Boeing Co. during the Asst Year 2010-11 amounting to Rs 16,32,39,485/-. The inter connected issue involved thereon is as to whether the assessee was justified in claiming the expenses pertaining to Boeing project of Rs 3,75,34,846/- as revenue expenditure when the aerospace project had been suspended at the behest of Boeing Co.

2.1. We have heard the rival submissions and perused the materials available on record. We find that the assessee company is engaged in the business of manufacturing of machines, jigs, fixtures, equipment, material handling system, fluid power solutions etc having its existing manufacturing unit in Pune. As part of new business expansion plan, the assessee began setting up an infrastructure for providing aerospace solutions at MIHAN SEZ area in Nagpur in the year 2008. The project with Boeing Co. was entered into by assessee for expansion of its existing business, for which purpose, an agreement was entered in February 2008 for supply of floor beams (as per their specification) for the Dreamliner range of aircrafts launched by Boeing Co. The infrastructure for providing aerospace solutions was ready for production in March 2009. Till the time the commercial production could be started, all costs incurred by the assessee for the expansion project was directly capitalized as part of Work in Progress (WIP). Subsequently there was change in design by Boeing Co. because of which commercial production was delayed by the assessee on request of Boeing Co. Accordingly, the manufacturing operations of assessee for this expansion project were temporarily suspended. Since assessee had already made all the investments,

employed people for the said project and was ready to start production, assessee was provided compensation by Boeing Co. for such outlays of expenditures incurred. This fact has also been disclosed in the notes to the annual report vide page 18 of the factual paperbook dated 04/01/2018. The relevant extract is reproduced below:

"The major contract signed with The Boeing Company for supply of Hybrid Titanium Floor Beams for its new 787 Dreamliner airplanes has undergone some changes in the definition of the product requirements, due entirely to the Boeing Company. The Company is continuing to work on setting up the facilities as per their modified requirement, in line with Boeing's new changed product configuration.

This fact was also disclosed in the Director's report of the Financial Statements prepared for the year under consideration vide page 5 of the factual paperbook dated 04/01/2018). The relevant extract is reproduced below:

"As a part of a unique concurrent engineering work methodology, Boeing and TAL are working together to buildup the engineering technology, facilities and factory set-up to their new changed configuration. Though, Boeing have announced two set of delays and a new modified product configuration during the year, for their Dreamliner program, the current interactions indicate that there are no further major impacts on the program and the Company's supplies are expected to commence from 11-1-2012"

2.2. The assessee had made huge investments towards expansion of its business activities and total investment made in this project till 31/03/2010 was Rs. 113.58 crore. The assessee submitted the details of such capital investment before the Id AO vide letter dated 21/12/2012 as under:-

Sr. No.	Particulars	Amount (Rs)
1	Lease Hold Land - Nagpur (FA schedule 4A) (A)	16,20,70,296

2	Breakup of CWIP P&M Building Hardware & Software (B)	62,93,40,962 25,31,98,283 50,78,378 ----- 88,76,17,624
3	Incidental expenditure construction period pending Fixed Assets - Schedule 4B Statements during allocation to of Financial (C)	8,61,22,048
	Total Capital Investments as on 31.03.2010 (D=A+B+C)	1,13,58,09,968

2.3. Further, the assessee has also submitted before the Id. AO the reason for receiving the compensation and the treatment of compensation received in books of accounts of assessee vide its letter dated 08/01/2013 enclosed in pages 67 to 68 of the paper book. The Id AR before us also drew our attention to page 200 of the paper book filed for the AY 2012-13 to suggest that as per the terms of agreement with Boeing, Boeing is entitled to make modifications to project vide clause 10 of the agreement, or suspend the work vide clause 15 of the agreement and as per the said clauses, the seller may assess the cost incurred by it and make a claim for the same. The relevant extract from Clause 10 of the agreement is reproduced below:

"10.1.....

if such change increases or decreases the cost or time required to perform this contract, Boeing and Seller shall negotiate an equitable adjustment in the price or schedule, or both, to reflect the increase or decrease."

2.3.1. The Id AR also submitted that this was disclosed in Annual Report of the assessee at Page 18 of paper book as under:

"26. The Company is setting up a Greenfield facility at MIHAN SEZ area (Nagpur) for catering to manufacturing requirements of the long term supply contract executed with the Boeing Company, USA (Boeing) and towards this end the Company is incurring interalia borrowing cost and incidental expenses. The facility was expected to commence manufacture in April 2009, but has been delayed by almost two years due to delays at customer end. However, Boeing is compensating the Company for the delay in the overall project. Consequently, with effect from April 2009, the incidental expenses and borrowing cost on the facility are not capitalized but charged to the Profit and Loss account and the relevant compensation amounts credited to the Profit and loss account. "

2.4. The Id AR submitted that the compensation received from Boeing Co. was in connection with interest expenditure of Rs. 15,80,29,570/- and insurance related expenses of Rs52,09,915/- related to the said project. The said compensation figure was determined by Boeing Co. based on the borrowing costs at approximate rate of 12 to 13% of the investment and other costs incurred by the assessee company on the project in the normal course of its business. Hence it was pleaded that the assessee was reasonably compensated as per the prevailing terms of the agreement by Boeing for suspension of the aerospace project, which happened at the behest of Boeing Co. The assessee treated that receipt of aforesaid compensation as capital receipt as it was received from Boeing Co. due to suspension of operations at the behest of Boeing Co. Moreover, it was also pleaded that the interest cost and all other incidental expenses incurred by the assessee for the said project had been capitalized and hence the receipt of compensation would only go to reduce the cost of project of the assessee company.

2.5. The plea of the assessee that the compensation received would be capital receipt not chargeable to tax was rejected by the Id AO on the ground that the compensation received is akin to interest loss borne by the assessee for the delay in execution of the project by the Boeing Co. and accordingly the Id AO held that the said interest would be liable to be taxed separately under the head 'income from other sources'.

2.6. With regard to expenses pertaining to Boeing Project, the assessee had incurred expenditure amounting to Rs 4,79,10,331/- pertaining to Boeing Project, out of which, a sum of Rs 1,03,75,485/- was capitalised by the assessee comprising of interest of Rs 94,07,192/- and insurance of Rs 9,68,293/- and the balance sum of Rs 3,75,34,846/- pertaining mainly to employees and employee related expenses which were incurred in normal day to day basis towards business of the assessee company was claimed as revenue expenditure on the ground that they were incurred on routine manner. The Id AO however, disallowed the same on the ground that the said expenditure pertains to Boeing Project and since the project had not commenced during the year, he held that the said expenditure should be capitalized to the project.

2.7. The Id AR before us stated that both the receipt of compensation as well as the expenditure incurred for the Boeing Project need to be capitalized and should be included as part of work in progress. Per Contra, the Id DR vehemently supported the orders of the lower authorities by stating that the nature of receipt of compensation was not even established by the assessee company in the instant case and that the agreement with Boeing did not provide for payment of any

compensation, which makes the nature of receipt itself questionable. Accordingly he argued that the so called receipt of monies from Boeing Co. termed as compensation should be treated as interest earned prior to commencement of business and taxed separately under the head 'income from other sources' in the light of decision of Hon'ble Supreme Court in the case of Tuticorin Alkali Chemicals reported in 227 ITR 172 (SC).

2.8. It is not in dispute that the assessee had entered into aerospace project with Boeing Co. and started making investments in the said project. Though the assessee was ready to commence its activities from the said project during the year under consideration, the same got delayed at the behest of Boeing Co. as they were suggesting some modifications in the execution. Accordingly, Boeing Co. delayed the execution of the project and since the assessee had already spent substantial sums in the said project, Boeing Co. decided to compensate the assessee company reasonably. It is not in dispute that the entire interest expenditure together with insurance and other project related expenditure had been duly capitalized by the assessee to the cost of project and reflected as Capital Work in Progress. It is not in dispute that the aerospace project had indeed undergone lot of changes including change in product configuration at the behest of Boeing Co. These facts are duly reported in the Annual report of the assessee company. We find that the agreement entered into with Boeing Co. did indeed provide for compensation in a different way vide clause 10.1. thereon reproduced supra. Therefore, it would be incorrect to say that there is no basis for compensation received by the assessee. It should be appreciated that when such events occur between parties, there is a lot of negotiations and mutual understanding between the parties to the agreement and

basis the agreement and negotiations, the compensation, etc is decided. Accordingly, we do not find any abnormality in Boeing Co. coming forward to compensate the assessee company for the delay which happened at the behest of Boeing Co. and assessee could not be faulted at all for the same. What is relevant to decide is the nature of compensation received by the assessee. In the instant case, we find that the compensation so received by the assessee company from Boeing Co. would only go to reduce the cost of project as it is effectively meant to cover up for the expenses and investments incurred by the assessee for the said project. Hence we hold that the receipt of compensation would be capital in nature and would go to reduce the cost of project. The decision relied upon by the Id DR on Tuticorin Alkali Chemicals reported in 227 ITR 172 (SC) would not be applicable here as the said case pertains to interest earned from banks which were invested out of idle funds lying with the assessee prior to commencement of business. We find that the said decision of Hon'ble Supreme Court is completely on different facts wherein amount of share application money was invested in Fixed Deposits and the business was neither set up nor started. Whereas in the present case, the business of assessee was set up and had started and there was huge investment made by assessee and the project was only temporarily suspended by the Boeing Co. Therefore, the said case cannot be applied to the facts of the present case. Here what is received by the assessee is part of overall cost of project in the form of compensation from Boeing Co. which cannot be treated as interest. Accordingly, we hold that the compensation received in the sum of Rs 16,32,39,485/- would go to reduce the cost of aerospace project of the assessee company. Hence the Ground Nos. 1.1. to 1.8. raised by the assessee for the Asst Year 2010-11 are disposed of in the aforesaid manner.

2.9. With regard to the interconnected issue of claiming a sum of Rs 3,75,34,846/- as revenue expenditure by the assessee company, we find that the break up of the said expenditure are as under:-

Particulars	Actual Expense incurred for the period ended 31/03/2010
Personnel Expense	
- Salaries, Wages & Bonus	2,05,51,712
- Contributions to Provident and other funds	19,07,488
- Staff Welfare expenses	35,03,635
Travelling & conveyance	54,05,696
Cost of services procured	28,14,619
Postage & Telephone expenses	3,40,591
Miscellaneous expenses	13,74,030
Depreciation	16,37,074
Total	3,75,34,846

2.10. We find that the assessee had incurred expenses amounting to Rs. 4,79,10,331/- in relation to the Boeing project. Out of which, the assessee capitalized amount of Rs. 1,03,75,485/- (pertaining to the Interest component of Rs. 94,07,192 & insurance component of Rs. 9,68,293) relating to capital assets. The balance amount of Rs. 3,75,34,846/- which were recurring day-to-day expenses of the business were claimed as deduction while computing total income chargeable to tax. This was done by the assessee primarily on the ground that the business was already set up and ready for production but could not be taken forward due to product change configuration stated by Boeing Co. We find that the Id

DR tried to question the commercial rationale of such expenses incurred by the assessee. But we find from the orders of the lower authorities that nowhere they had doubted the commercial rationale of incurrance of such expenses for the Boeing project. The Id DR cannot improve the case of the revenue and cannot travel beyond what is stated in the orders of the lower authorities. The only limited argument of the revenue is that the said expenses should be treated as capital expenditure. As a result of the temporary suspension of Boeing project due to the delay at the end of Boeing Co., compensation of Rs. 5,67,13,338/- (over and above compensation given of Rs 16,32,39,485/-) was given towards day-to-day running expenses incurred by the assessee and the same were offered to tax in the return of income being expenses for recurring expenditure. We find that the Id AO had given a categorical finding in para 4.2. of his order , which remain uncontroverted by the Id AR before us, that the business in Boeing Project started from 10/09/2012 falling in Asst Year 2013-14 onwards. Hence all the expenditure and receipts upto 09/09/2012 pertaining to the project would have to be treated as capital in nature. Accordingly, we hold that the receipt of compensation of Rs 5,67,13,338/- should go to reduce the cost of project i.e Capital Work in Progress of the assessee company. Similarly all expenditure incurred by the assessee including Rs 3,75,34,846/- (which was claimed as revenue expenditure by assessee) should also be capitalized to the Capital Work in Progress. This treatment, in our considered opinion, would meet the ends of justice to both assessee as well as for the revenue. Accordingly, the Ground Nos. 2.1. to 2.5. raised by the assessee for the Asst Year 2010-11 are disposed of in the aforesaid manner.

3. The Ground Nos. 3.1. to 3.3. raised by the assessee are challenging the disallowance of expenses incurred on account of repairs to buildings amounting to Rs 47,45,546/-, correct figure being Rs 17,76,404/-.

3.1. We have heard the rival submissions and perused the materials available on record. We find that the assessee entered into a license agreement with Tata Motors Ltd , wherein a plot of land along with buildings located in Pune-Chinchwad was leased to the assessee company for a period of 60 months. The assessee during the year under consideration operated from the said rented premises. As per the terms of the said agreement, the assessee at its own cost, was responsible:

a) to keep the interiors of the said premises in good condition and routine maintenance ;

b) to keep and maintain the said premises (i.e internal roads, painting of premises internal / outside, drainage lines, storm waterlines, etc) as also the drains, outlets and things appurtenant thereto in proper and good condition; and

c) to execute necessary repairs (viz. civil works , flooring inside/outside); Accordingly, the assessee company incurred an amount of Rs 17,76,404/- towards current repairs (though the Id AO erroneously took the figure of Rs 47,45,546/-) to the said rented premises and claimed the same as allowable deduction u/s 30 of the Act. We find that the Id AO had adopted the figure of repairs to others of Rs 47,46,546/- instead of repairs to buildings of Rs 17,76,404/- from the financial statements. The Id AO observed that since the supporting evidences were not submitted by the assessee, the said expenditure remains unproved and accordingly disallowed the sum of Rs 47,45,546/- in the assessment. This action of

the Id AO was upheld by the Id CIT(A). We find that the assessee had furnished the details of repairs together with the sample invoices before the Id CIT(A) which had been completely ignored. The explanation given in this regard before the Id CIT(A) was noticed by us and we find from the sample invoice enclosed in pages 93 & 94 of the paper book, that the assessee company had incurred repairs towards reconditioning / painting/ repair/ plumbing / civil maintenance work at the premises taken on lease which does not give any enduring benefit in the capital field to the assessee company as they are routine maintenance expenditure. These expenses were incurred by Tata Motors Ltd on behalf of assessee and were later on billed to the assessee. We also find that similar disallowance made by the lower authorities in assessee's own case for the Asst Year 2009-10 had been deleted by this Tribunal in ITA Nos. 3847 & 4083/Mum/2014 dated 28/12/2017 by placing reliance on the decision of Hon'ble Jurisdictional High Court in the case of CIT vs HEDE Consultancy Ltd reported in 258 ITR 380 (Bom). In view of the aforesaid observations and also by placing reliance on the judicial precedent relied upon hereinabove, we direct the Id AO to delete the disallowance made towards repairs to buildings at Rs 47,45,546/- . Though the correct figure is Rs 17,76,404/-, since the Id AO had already disallowed Rs 47,45,546/-, this specific direction is given. Accordingly, the Ground Nos. 3.1. to 3.3. raised by the assessee for the Asst Year 2010-11 are allowed.

4. The Ground No. 4 raised by the assessee is challenging the disallowance of commission paid of Rs 7,45,031/-.

4.1. We have heard the rival submissions and perused the materials available on record. During the year under consideration, the assessee

*ITA No.3632/Mum/2014 and other appeals
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incurred commission expenditure amounting to Rs. 43,33,367/- in order to increase its sales and hence the assessee claimed that such expenditure should be allowed considering section 37(1) of the Act. The details of such commission paid together with names and addresses of payees and purpose of commission were furnished before the Id AO vide letter dated 25/02/2013 as is evident from pages 79 to 80 of the paper book filed before us. The details filed are as under:-

Name of the Party	Amount Rs.	Address
New Cast India Private Limited	705,000	168, Kandaswamy Layout Sivanandha Colony, By-Pass Road, Coimbatore- 641 012
S Banjan & Co. India Pvt. Ltd.,	40,379	Shop No.3, Gauri Co-op Housing Society, 275, Shaniwar Peth, Pune – 411 030
Sri Maha Ganapathy Marketing	614,351	168, Kandaswamy Layout, Sivanandha Colony, By-pass Road, Coimbatore – 641 013
Hitech Agencies Pvt. Ltd.,	76,000	Flat No.16, 1 st Floor, 40 DLF, Industrial Area, Kirti Nagar, New Delhi – 110 015
Meprind Tech-Services	157,024	No.2, 10 th Cross, Prashant Nagar, Vijaynagar North, Bangalore – 560 079
Hi-tech CNC Marketing & Services	981,537	Old No.56E, New No.49, Sidco Industrial Estate, Near Aavin Dairy, Ambattur Chennai – 600 098
Kriyas Engineering Works	588,007	12, 1 st Floor, Nandi Building, Shivdham Complex, Ambarnath (E), Ambarnath –

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		421501
Unique Tooling Solutions	414,031	Opp. Jiffco Resorts, VPO Nandpur, G.T. Road, Sahnewal, Ludhiana
S S Associates	233,150	3E-16, B.P. NIT, Faridabad – 121 001
Shree Ram Marketing	489,662	134, Ellisbridge Shopping Centre, Opp. Town Hall, Ahram Road, Ellisbridge, Ahmedabad – 380 006
Synise Technologies Limited	34,226	64, Adhyapak Soccity, Near Vidya School, Sahakar Nagar, Pune – 411 030
Grand Total	4,333,367	

4.2. We find that the assessee had furnished a copy of sample agreement entered into with MeprindTex Services before the Id CIT(A), which is enclosed in pages 95 to 100 of the paper book filed before us. The Id. AO had issued notice under section 133(6) of the Act during the course of assessment proceedings for AY 2009-10 to all commission agents to whom commission was paid during AY 2009-10. However, barring three parties (i.e. Havian Merchantile, Kriyas Eng. Works and Meprind Tech Services) all parties to whom commission was paid, responded to the said notices. Hence, the learned AO disallowed the commission paid to these parties during AY 2009-10. The Id AO observed that from the above list, two parties to whom commission was paid by the assessee also figured in Asst Year 2009-10 and hence by following his order for Asst Year 2009-10, proceeded to disallow the commission paid to them as unproved as under:-

Meprind Tech Services (AGBPG1991K)	- Rs 1,57,024
Kriyas Engineering Works (AAAPE8353L)	- Rs 5,88,007
	----- Rs 7,45,031

4.3. This action of the Id AO was upheld by the Id CIT(A). We find that the assessee had given an explanation that it had entered into agreement with those parties and commission is paid only if such agent solicits business for the assessee. The assessee also pointed out that due deduction of tax at source was made in accordance with provisions of Chapter XVIIB of the Act while making payment of such commission and payment made through regular banking channels. We find that the Id AO had merely followed his finding in Asst Year 2009-10 and made the disallowance for this year also in respect of the aforesaid two parties. No examination in any manner known to law was made by him for the year under consideration. We find that similar issue came up for consideration in the assessee's own case for the Asst Year 2009-10 by this tribunal ITA Nos. 3847 & 4083/Mum/2014 dated 28/12/2017, wherein after considering the details furnished by assessee like copies of agreements, invoice copies, relevant extract of bank statements, TDS certificates, etc, the same issue was decided in favour of the assessee and against the revenue by holding that merely non furnishing of information by the third party cannot be sole criteria for disallowance, when it is provided that expenses per se had been incurred in the normal course of business. Respectfully following the same, the Ground No. 4 raised by the assessee for the Asst Year 2010-11 is allowed.

5. The Ground No. 5 raised by the assessee for the Asst Year 2010-11 with regard to chargeability of interest u/s 234B of the Act is consequential in nature and does not require any specific adjudication.

6. The Ground No. 6 raised by the assessee for the Asst Year 2010-11 with regard to chargeability of interest u/s 234C of the Act. We find that the law is very well settled that interest u/s 234C of the Act could be levied only on the returned income and not on the assessed income. Reliance in this regard has been rightly placed on the decision of Hon'ble Rajasthan High Court in the case of CIT vs SmtPremlataJalani reported in 264 ITR 744 (Raj). Accordingly, the Ground No. 6 raised by the assessee for the Asst Year 2010-11 is allowed.

7. In the result, the appeal of the assessee in ITA No. 3632/Mum/2014 for the Asst Year 2010-11 is partly allowed.

ITA No. 941/Mum/2016 – Asst Year 2011-12 – Assessee Appeal

8. The Ground Nos. 1.1. to 1.5. raised by the assessee for the Asst Year 2011-12 are identical to Ground Nos. 1.1. to 1.8. raised by the assessee for the Asst Year 2010-11 and the decision rendered thereon would apply with equal force for Asst Year 2011-12 also except with variance in figures.

9. The Ground No. 2 raised by the assessee for the Asst Year 2011-12 is identical to Ground No. 4 raised by the assessee for the Asst Year 2010-11 and the decision rendered thereon would apply with equal force for Asst Year 2011-12 also except with variance in figures.

10. In the result, the appeal of the assessee in ITA No. 941/Mum/2016 for the Asst Year 2011-12 is partly allowed.

ITA No. 1411/Mum/2016 – Asst Year 2011-12 – Revenue Appeal

11. The Ground No. 1 raised by the revenue is general in nature and does not require any specific adjudication.

12. The Ground No. 2 raised by the revenue for the Asst Year 2011-12 is identical to Ground Nos. 2.1. to 2.5. raised by the assessee for the Asst Year 2010-11 and the decision rendered thereon would apply with equal force for Asst Year 2011-12 also except with variance in figures.

13. In the result, the appeal of the revenue in ITA No. 1411/Mum/2016 for the Asst Year 2011-12 is allowed.

ITA No. 942/Mum/2016 – Asst Year 2012-13 – Assessee Appeal

14. The Ground Nos. 1.1. to 1.5. raised by the assessee for the Asst Year 2012-13 are identical to Ground Nos. 1.1. to 1.8. raised by the assessee for the Asst Year 2010-11 and the decision rendered thereon would apply with equal force for Asst Year 2012-13 also except with variance in figures.

15. In the result, the appeal of the assessee in ITA No. 942/Mum/2016 for the Asst Year 2012-13 is partly allowed.

*ITA No.3632/Mum/2014 and other appeals
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ITA No. 1412/Mum/2016 – Asst Year 2012-13 – Revenue Appeal

16. The Ground No. 1 raised by the revenue is general in nature and does not require any specific adjudication.

17. The Ground No. 2 raised by the revenue for the Asst Year 2012-13 is identical to Ground Nos. 2.1. to 2.5. raised by the assessee for the Asst Year 2010-11 and the decision rendered thereon would apply with equal force for Asst Year 2012-13 also except with variance in figures.

18. In the result, the appeal of the revenue in ITA No. 1412/Mum/2016 for the Asst Year 2012-13 is allowed.

19. To Sum Up

Sr. No.	ITA No.	AY	Appeal By	Result
1.	3632/Mum/2014	2010-11	Assessee	Partly Allowed
2.	941/Mum/2016	2011-12	Assessee	Partly Allowed
3.	1411/Mum/2016	2011-12	Revenue	Allowed
4.	942/Mum/2016	2012-13	Assessee	Partly Allowed
5.	1412/Mum/2016	2012-13	Revenue	Allowed

Order pronounced on 27/10/2021 by way of proper mentioning in the notice board.

Sd/-
(AMARJIT SINGH)
JUDICIAL MEMBER

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Mumbai; Dated 27/10/2021
KARUNA, sr.ps

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Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai