

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

(Through Virtual Court)

BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI S. S. VISWANETHRA RAVI, JM

आयकर अपील सं. / ITA Nos.2751 & 2752/PUN/2016
निर्धारण वर्ष / Assessment Years : 2011-12 & 2012-13

ACIT, Central Circle- 2(1),
Pune.

.....अपीलार्थी / Appellant

बनाम / V/s.

M/s. ISMT Limited,
2nd Floor, Lunkad Towers,
Viman Nagar, Pune-411014.

PAN : AAACJ9917A

.....प्रत्यर्थी / Respondent

आयकर अपील सं. / ITA Nos.2783 & 2784/PUN/2016
निर्धारण वर्ष / Assessment Years : 2011-12 & 2012-13

M/s. ISMT Limited,
2nd Floor, Lunkad Towers,
Viman Nagar, Pune-411014.

PAN : AAACJ9917A

.....अपीलार्थी / Appellant

बनाम / V/s.

DCIT, Central Circle- 2(1),
Pune.

.....प्रत्यर्थी / Respondent

Revenue by : Shri Deepak Garg
Assessee by : Shri Rajan Vora
Shri Rajendra Agiwal

सुनवाई की तारीख / Date of Hearing : 29.10.2021

घोषणा की तारीख / Date of Pronouncement : 06.12.2021

आदेश / ORDER

PER INTURI RAMA RAO, AM:

These are the cross appeals filed by the Revenue as well as by the assessee directed against the common orders of Id. Commissioner of Income

Tax (Appeals)- 12, Pune ('CIT(A)' for short) dated 26.09.2016 for the assessment years 2011-12 and 2012-13 respectively.

2. Since the identical facts and issues are involved in both the cross appeals, we proceed to dispose of the same by this common order.

3. For the sake of convenience and clarity, the facts relevant to the cross appeals in ITA No.2751/PUN/2016 filed by the Revenue and ITA No.2783/PUN/2016 filed by the assessee are stated herein.

4. Briefly, the facts of the case are as under :-

The appellant is a public limited company engaged in the business of manufacturing of seamless tubes. There was a search and seizure action u/s 132 of the Income Tax Act, 1961 ('the Act') in the business premises of the appellant on 09.08.2011. During the course of search proceedings, certain documents and papers were seized and based on such documents and papers, the statement of the CEO of the assessee's company, namely, Shri Salil Taneja was recorded u/s 132(4) of the Act. During the course of statement recorded, the CEO of the assessee's company, namely, Shri Salil Taneja, made a declaration of additional income of Rs.65.02 crores under the normal provisions of the Act for the assessment years 2006-07 to 2012-13. The CEO of the assessee's company, Shri Salil Taneja also agreed to add such additional income to book profits of the relevant years for the purpose of computing the tax liability u/s 115JB of the Act. A notice u/s 153A was issued to the assessee-company on 28.12.2012. In response to the same, the return of income was filed on 01.02.2013 declaring total income of Rs.Nil. It must be stated here that the amount of declaration made u/s 132(4) of Rs.65.02 crores was offered to tax under the normal provisions of the I.T. Act

spread over a period commencing from the assessment years 2006-07 to 2011-12 as extracted by the Assessing Officer vide para 2 of the assessment order. The declaration of Rs.65.02 crores pertains to the following three items :-

- “(a) Rs. 42.52 crores on account of expenses debited to profit & loss account before Commencement of commercial production for the period from 8th May 2010 to 31st December 2010 i.e. pre-operative expenses to be considered as part of fixed assets.*
- (b) Disclosure on account of valuation difference in case of scrap / seconds of Rs. 11.74 crores.*
- (c) Disclosure on account of disallowance of expenses booked in the regular books of accounts as expenses or capitalized amounting to Rs. 12.37 crores.”*

5. While filing the return of income in response to notice u/s 153A, the assessee-company had adhered to the disclosure made with regard to the pre-operative expenses of Rs.42.52 crores. As regards to the disclosure pertaining to the difference in the valuation of sale of scrap/seconds etc, the assessee-company had not adhered to the disclosure, by stating that on the reconciliations of quantitative details of internal use of scrap and external sale of scrap, it is found that there was no difference. Accordingly, no additional amount was offered to tax in the return of income filed in response to notice u/s 153A of the Act. Similarly, the assessee-company had also not adhered to the disclosure made u/s 132(4), insofar as, it relates to the adding back additional income to book profits for the purpose of computing the tax liability u/s 115JB of the Act.

6. Against the said return of income, the assessment was completed by the Deputy Commissioner of Income Tax, Central Circle-2(1), Pune (the Assessing Officer) vide order dated 31.03.2015 passed u/s 143(3) r.w.s. 153A of the Act for the assessment year 2011-12 by adding back the income disclosed u/s 132(4) for the purpose of assessment of book profits for the

purpose of computing the tax liability u/s 115JB of the Act, the Assessing Officer made addition of Rs.11,76,53,788/- after setting off of the brought forward losses of Rs.85,17,68,907/- and computed the total taxable income was at Rs.Nil under the normal provisions of the I.T. Act. The Assessing Officer had also rejected the book results vide para 6 of the assessment order. The relevant observation of para 6 of the assessment order is reproduced hereunder :-

“In the case of the assessee as a result of search, various discrepancies were detected. There had been wrong claim of depreciation due to wrong claim of put to use of the asset-PQF Mill, wrong claim of expenses which were admittedly non genuine and inflated/ not incurred and unaccounted income not credited in the books arising out of misclassification/ under invoicing of scrap as discussed in detail above. Such discrepancies were not permitted by the accounting policies, the accounting standards adopted for preparing such accounts including P&L a/c and the methods and rates adopted for calculating the depreciation in accordance with the provisions of sec.210 of the Companies Act. On these issues the books of accounts of the assessee have been rejected u/s. 145(3) r.w.s.144 of the IT Act. Accordingly, the claim of the assessee is rejected on this issue and addition on account of undisclosed income of Rs.8.83 crores is being made to the book profit also and this income is being brought to tax under MAT i.e., sec. 115JB of the Act.”

7. Being aggrieved by the above action of the Assessing Officer, an appeal was filed before the Id. CIT(A). It is contended before him that the difference in valuation of sale of scrap could only be to the extent of external sale of scrap and there cannot be any profit element in respect of scrap transfer from Baramati Plant to Jejuri Plant for re-processing. It is further contended that the assessee-company filed retraction statement on 09.11.2011 immediately after 3 months of the statement given u/s 132(4) of the Act. The assessee-company also filed a statement giving details about the total scrap/seconds generated, transfer to other units and sale to outsiders from both plants which are extracted by the Id. CIT(A) vide para 32.4 of his order. It was further contended that the price difference between the scrap sales/seconds sales to outside parties was only Rs.5004 per MT for financial year 2010-11 and Rs.5223 per MT for the assessment year 2011-12. The Id. CIT(A),

considering the explanation and the evidence filed before him, held that 50% of the total scrap generated was considered as misclassification. Accordingly, confirmed the addition to the extent of 50% of the scrap generated with difference pricing of Rs.10,000 per MT to the extent of Rs.2,30,76,600/- as against the total addition of Rs.8,83,00,000/-. While partly allowing the appeal, ld. CIT(A) had upheld rejection of book results.

8. As regards to the addition to the book profits is concerned, ld. CIT(A) after making references to several decisions held that the amount of additional income disclosed under the normal provisions of the I.T. Act need not be added back to the book profits for the purpose of computing the tax liability u/s 115JB of the Act. The relevant observation of ld. CIT(A) are as under :-

“33.4 I have considered the submissions filed by the appellant and the case laws relied upon in the support of proposition that if the accounts were adopted before the AGM, no subsequent revision in book profit was possible. I agree with the contention of the appellant that once books of accounts have been prepared as per Companies Act, certified by the auditors and adopted at the AGM, the revision of book profit by the company was not permissible. As held by various High Courts and by Apex Court in case of Apollo Tyres (Supra), the adjustments which have been provided within section 115JB(1) can only be made by the AO. In the present case, suppression of income quantified on account of misclassification of scrap was quantified at Rs 8.83 cr and same has been upheld only to the extent of Rs 2.3 cr, the appellant had not accepted the same and therefore, no entry was passed in the books of account. The books of accounts have been certified by the Auditors and adopted at the AGM, the same cannot be subjected to revision as contended by the appellant. Only the adjustment provided within the section 115JB(1) can be made. No such adjustment is possible on account of the addition made for misclassification of scrap. Therefore, the AO was not justified in increasing the book profit on this account. No adjustment in the book profit is warranted on the addition made under normal provisions of the Act. The AO is directed to delete the addition made u/s 115JB of the Act. Ground raised by the appellant is hereby allowed.”

9. Being aggrieved by that part of decision of the ld. CIT(A) which is against the Revenue, the Revenue is in appeal in ITA No.2751/PUN/2016 and the assessee is in appeal in ITA No.2783/PUN/2016 aggrieved by that part of order of ld. CIT(A) which is against the assessee.

ITA No.2783/PUN/2016, A.Y. 2011-12 – By Assessee

10. Now, we shall take up the assessee's appeal in ITA No.2783/PUN/2016 for the assessment year 2011-12 for adjudication.

11. The ground of appeal no.1 challenges the decision of the Id. CIT(A) sustaining the addition of Rs.2,30,00,000/- on account of scrap out of the total disclosure of Rs.8,83,00,000/- made on account of alleged difference in valuation of scrap.

12. We have carefully gone through the orders of the lower authorities as well as the written submissions filed before us. We consider it not necessary to dwell into the rival submissions made by both the parties as we find the approach of both the authorities is totally flawed for the reason that when the books of accounts stood rejected by both the authorities and when the assessee not challenged the action of the lower authorities rejecting the books of accounts then the only course of action available to the Assessing Officer is to determine the profits by application of flat rate of profits by taking into consideration the business conditions of the assessee and compare it from the profits disclosed by the assessee in the similar line of businesses. In this connection, reference can be made to the following decisions :-

- (i) CIT vs. K.Y. Pilliah & Sons, 63 ITR 411 (SC);
- (ii) Dabros Industrial Co. (P.) Ltd. vs. CIT, 108 ITR 424 (Cal.);
- (iii) Badrinath Agarwal vs. CIT, 65 ITR 242 (All.); and,
- (iv) Shri Venkateshwar Sugar Mills vs. CIT, 341 ITR 588 (All.).

13. It is also settled position of law that the Assessing Officer cannot rely on the same books of accounts which are rejected for the purpose of making any other additions as held by the Hon'ble Andhra Pradesh High Court in the

case of Indwell Constructions vs. CIT, 232 ITR 776 (Andhra Pradesh), Hon'ble Rajasthan High Court in the case of Malpani House of Stones vs. CIT, 395 ITR 385 (Rajasthan) and Hon'ble Punjab & Haryana High Court in the case of CIT vs. Gian Chand Labour Contractors, 316 ITR 127 (P&H).

14. In the present case, having rejected the books of accounts maintained by assessee, Assessing Officer cannot rely upon on the same books of account for the purpose of making addition in respect of sale of scrap etc.

15. Thus, in the light of the above settled legal position, the approach of both the authorities is totally flawed and cannot be sustained in the eyes of law. Thus, the addition made by the Assessing Officer under the normal provisions of the I.T. Act as confirmed by the ld. CIT(A) cannot be sustained under the law. Accordingly, ground of appeal no.1 raised by the assessee stands allowed.

16. The ground of appeal no.2 challenges the decision of the ld. CIT(A) not deleting the income disclosed on account misclassification of scrap from excluding the book profits for the purpose of computing the tax liability u/s 115JB of the Act. The issue on hand relates to whether the income surrendered to tax under the normal provisions of the I.T. Act/addition made to returned income is required to be added back to book profits for the purpose of computing the tax liability under the provisions of section 115JB of the Act or not?. The amount of disclosure made under the normal provisions of the I.T. Act is not in dispute. The dispute is only with regard to whether the amount so declared under the normal provisions of the I.T. Act is required to be added back to the book profits for the purpose of computing the tax liability u/s 115JB of the Act or not?. The provision of section 115JB is a separate code by itself and it overrides all other of the provisions of the

Income Tax Act. The provisions of sub-section (2) of section 115JB requires an assessee to prepare a proper Profit & Loss Account and Balance Sheet in accordance with the provisions of Schedule III of the Companies Act, 2013 as adopted by the members of the company in general board of meeting. The term 'books profits' has been defined to mean that the books profit as disclosed in the Profit & Loss Account as increased or decreased of the items mentioned in the Explanation 1 to section 115JB of the Act. The Hon'ble Supreme Court in the case of Apollo Tyres Ltd. vs. CIT, 255 ITR 273 (SC) clearly held that for the purpose of computation of the book profits u/s 115JB, the Assessing Officer should adopt the profits as per the Profit & Loss Account. The Assessing Officer should not go behind the profit shown in Profit & Loss Account except to the extent provided u/s 115JB of the Act. The relevant observation of the Hon'ble Supreme Court in the case of Apollo Tyres Ltd. (supra) is reproduced as under :-

"The above speech shows that the income-tax authorities were unable to bring certain companies within the net of income-tax because these companies were adjusting their accounts in such a manner as to attract no tax or very little tax. It is with a view to bring such of these companies within the tax net that section 115J was introduced in the Income-tax Act with a deeming provision which makes the company liable to pay tax on at least 30 per cent. of its book profits as shown in its own account. For the said purpose, section 115J makes the income reflected in the company's books of account the deemed income for the purpose of assessing the tax. If we examine the said provision in the above background, we notice that the use of the words "in accordance with the provisions of Parts II and III of Schedule VI to the Companies Act" was made for the limited purpose of empowering the assessing authority to rely upon the authentic statement of accounts of the company. While so looking into the accounts of the company, an Assessing officer under the Income-tax Act has to accept the authenticity of the accounts with reference to the provisions of the Companies Act which obligates the company to maintain its account in a manner provided by the Companies Act and the same to be scrutinised and certified by the statutory auditors and will have to be approved by the company in its general meeting and thereafter to be filed before the Registrar of Companies who has a statutory obligation also to examine and satisfy that the accounts of the company are maintained in accordance with the requirements of the Companies Act. In spite of all these procedures contemplated under the provisions of the Companies Act, we find it difficult to accept the argument of the Revenue that it is still open to the Assessing Officer to rescrutinise this account and satisfy himself that these accounts have been maintained in accordance with the provisions of the Companies Act. In our opinion, reliance placed by the Revenue on sub-section (1A) of section 115J of the Income-tax Act in support of the above contention is misplaced. Sub-section (1A) of section 115J does not empower the Assessing Officer to embark upon a fresh inquiry in regard to the entries made in the books of account of the company. The said

sub-section, as a matter of fact, mandates the company to maintain its account in accordance with the requirements of the Companies Act which mandate, according to us, is bodily lifted from the Companies Act into the Income-tax Act for the limited purpose of making the said account so maintained as a basis for computing the company's income for levy of income-tax. Beyond that, we do not think that the said sub-section empowers the authority under the Income-tax Act to probe into the accounts accepted by the authorities under the Companies Act. If the statute mandates that income prepared in accordance with the Companies Act shall be deemed income for the purpose of section 115J of the Act, then it should be that income which is acceptable to the authorities under the Companies Act. There cannot be two incomes one for the purpose of the Companies Act and another for the purpose of income-tax both maintained under the same Act. If the Legislature intended the Assessing Officer to reassess the company's income, then it would have stated in section 115J that "income of the company as accepted by the Assessing Officer". In the absence of the same and on the language of section 115J, it will have to held that view taken by the Tribunal is correct and the High Court has erred in reversing the said view of the Tribunal.

Therefore, we are of the opinion, the Assessing Officer while computing the income under section 115J has only the power of examining whether the books of account are certified by the authorities under the Companies Act as having been properly maintained in accordance with the Companies Act. The Assessing Officer thereafter has the limited power of making increases and reductions as provided for in the Explanation to the said section. To put it differently, the Assessing Officer does not have the jurisdiction to go behind the net profit shown in the profit and loss account except to the extent provided in the Explanation to section 115J."

17. Further, the Hon'ble Bombay High Court in the case of CIT vs. Adbhut Trading Co. (P.) Ltd., 338 ITR 94 reiterated the same position following the ratio of the decision of the Hon'ble Supreme Court in the case of Apollo Tyres Ltd. (supra). The relevant observation of the Hon'ble Bombay High Court in the case of Adbhut Trading Co. (P.) Ltd. (supra) is as under :-

"1. In the present case, the Income-tax Appellate Tribunal has confirmed the order of the Commissioner of Income-tax (Appeals) in deleting the addition of Rs. 1.98 crores made by the Assessing Officer while computing the book profit under section 115JB of the Income-tax Act, 1961, by following the decision of the apex court in the case of Apollo Tyres Ltd. v. CIT [2002] 255 ITR 273 (SC). According to the Revenue, the assessee has intentionally prepared a wrong profit and loss account. Once the accounts including the profit and loss account are certified by the authorities under the Companies Act it is not open to the Assessing Officer to contend that the profit and loss account has not been prepared in accordance with the provisions of the Companies Act, 1956.

2. In these circumstances, the deletion of the addition by the Tribunal by following the decision of the apex court in the case of Apollo Tyres Ltd. [2002] 255 ITR 273 (SC) cannot be faulted. In the result, we see no merit in the appeal. The appeal is accordingly dismissed with no order as to costs."

18. Further, the decision of the Hon'ble Karnataka High Court in the case of CIT vs. Gokaldas Images (P.) Ltd., 122 taxmann.com 160 (Kar.) is on the same lines of judgment following the ratio of the decision of the Hon'ble Supreme Court in the case of Apollo Tyres Ltd. (supra). The relevant observation of the Hon'ble Karnataka High Court in the case of CIT vs. Gokaldas Images (P.) Ltd. (supra) is as under :-

“10. The Commissioner of Income-tax (Appeals) has held that as per section 115JB of the Act, the assessee being a company is liable to tax on book profits in accordance with the aforesaid provision and there is no exemption granted to the non-dividend company in this regard. However, the tribunal by placing reliance on decision of the Supreme Court in Apollo Tyres v. CIT [2002] 122 Taxman 562/255 ITR 273 has held that Assessing Officer while determining book profits under section 115JB of the Act cannot tamper with the profits as per profit and loss account prepared in accordance with the Companies Act except in the manner provided in Explanation 1 to section 115JB of the Act. Thus, it has been held that the additions made by the Assessing Officer while determining the book profits under section 115JB of the Act cannot be sustained. Any disallowance computed under section 14A of the Act pertain to computation of income under normal provisions of the Act and cannot be read into the provisions of section 115JB of the Act pertaining to computation of book profits by levy of Minimum Alternate Tax (MAT) and there is no express provision in clause (f) of Explanation 1 to section 115JB of the Act to that extent. For the aforementioned reasons, the third substantial question of law is answered against the revenue and in favour of the assessee.”

19. Admittedly, in the present case, the additional income disclosed for the purpose of computing the tax liability under the normal provisions of the I.T. Act does not fall any of the items mentioned in clauses (a) to (j) of the Explanation. We have carefully perused the audited financial statements wherein we find no qualification by statutory auditors on financial statements. Further, we note that financial statements were duly approved in Annual body of the company. Therefore, the Assessing Officer is not justified in adding back the additional income offered to tax under normal provision of Act to book profits for the purpose of computing the tax liability u/s 115JB of the Act.

20. We will be failing in our duty, if we don't deal with contention of Department that when an assessee himself offered to tax particular income, the same cannot be excluded from taxable income u/s 115JB of the Act. No doubt an admission made by an assessee is a good, relevant and substantial piece of evidence that can be used against him, but that is not conclusive, but it is open to an assessee to show that it was incorrect and was given under some erroneous impression as held by the Hon'ble Supreme Court in the case of Pullangode Rubber Produce Co. Ltd. vs. State of Kerala, 91 ITR 18 (SC). The relevant observation of the Hon'ble Supreme Court in the case of Pullangode Rubber Produce Co. Ltd. (supra) is reproduced as under :-

"It is no doubt true that entries in the account books of the assessee amount to an admission that the amount in question was laid out or expended for the cultivation, upkeep or maintenance of immature plants from which no agricultural income was derived during the previous year. An admission is an extremely important piece of evidence but it cannot be said that it is conclusive. It is open to the person who made the admission to show that it is incorrect."

21. The fact that an assessee himself admitted to offer the income declared u/s 132(4) to book profits for the purpose of computing tax liability u/s 115JB cannot form the basis of assessment in view of well settled position of law by the Hon'ble Kerala High Court in the case of M.K. Mohammad Kunhi vs. CIT, 92 ITR 341 (Ker.). The following judicial precedents are also as same line of proposition of law :-

- (i) CIT vs. Bharat General Reinsurance Co. Ltd., 81 ITR 303 (Delhi).
- (ii) R.B. Jessa Ram Fateh Chand vs. CIT, 81 ITR 409 (All.)
- (iii) Abdul Qayume vs. CIT, 184 ITR 404 (All.).
- (iv) Krishan Lal Shiv Chand Rai vs. CIT, 88 ITR 293 (P&H).
- (v) CIT vs. Mrs. Doris S. Luiz, 96 ITR 646 (Ker.).
- (vi) Satinder Kumar (HUF) vs. CIT, 106 ITR 64 (HP).
- (vii) Isawardin Mewalal vs. CIT, 169 ITR 584 (MP).
- (viii) Greenview Restaurant vs. ACIT, 263 ITR 169 (Gau.).

22. The relevant observation of the decision of the Hon'ble Allahabad High Court in the case of Abdul Qayume vs. CIT, 184 ITR 404 (All.) is as under :-

“An admission or an acquiescence cannot be a foundation for an assessment where the income is returned under an erroneous impression or misconception of law. It is always open to an assessee to demonstrate and satisfy the authority concerned that a particular income was not taxable in his hand and it was returned under an erroneous impression of law.”

23. There is yet another reason to hold that mere admission in the statement recorded u/s 132(4) cannot form the basis of addition. As discussed by us supra, addition of income disclosed under normal provisions of Act to book profits for the purpose of computing tax liability u/s 115JB is a pure question of law. The Hon'ble Supreme Court in the case of CIT vs. V. Mr. P. Firm, Muar, 56 ITR 67 laid down that if a particular income is not taxable under the Act, it cannot be taxed on the basis of doctrine of estoppels, i.e. there is no estoppels against law/provisions of Statute. Therefore, in the light of settled position of law that mere admission of assessee cannot form the basis of assessment, addition of income disclosed under normal provisions of the Act, cannot be added back to book profits for the purpose of computing tax liability u/s 115JB of the Act. Thus, the ground of appeal no.2 raised by the assessee stands allowed.

24. In the result, the appeal filed by the assessee in ITA No.2783/PUN/2016 for the assessment year 2011-12 stands allowed.

ITA No.2751/PUN/2016, A.Y. 2011-12 - By Revenue .

25. Now, we shall deal with the Revenue's appeal in ITA No.2751/PUN/2016 for the assessment year 2011-12.

26. The ground of appeal no.1 raised by the Revenue challenges the decision of the Id. CIT(A) deleting the addition partly on account of the difference in the misclassification of scrap.

27. Since in the assessee's appeal for the reasons stated therein, we hold that the addition cannot be made once the books result stood rejected except by applying the flat rate of profit, this ground of appeal no.1 raised by the Revenue stands dismissed.

28. The ground of appeal nos.2 and 3 raised by the Revenue challenges the decision of the Id. CIT(A) deleting the additional income offered u/s 132(4) under the normal provisions of the I.T. Act to book profits for the purpose of computing the tax liability u/s 115JB of the Act.

29. Since in the assessee's appeal for the reasons stated therein, we hold that the Assessing Officer cannot go behind the profit as shown in the Profit & Loss Account except under the circumstances mentioned under clauses (a) to (j) of Explanation. Therefore, the finding of the Id. CIT(A) that the additional income offered to tax under the normal provisions of the I.T. Act is not required to be made to book profits for the purpose of computing the tax liability u/s 115JB is sustained. Accordingly, the ground of appeal nos.2 and 3 raised by the Revenue stand dismissed.

30. In the result, the appeal filed by the Revenue in ITA No.2751/PUN/2016 for the assessment year 2011-12 stands dismissed.

ITA No.2784/PUN/2016, A.Y. 2012-13 – By Assessee**ITA No.2752/PUN/2016, A.Y. 2012-13 – By Revenue**

31. Since, the facts and issues involved in both the cross appeals are identical, therefore, our decision in cross appeals vide ITA No.2783/PUN/2016 (filed by the assessee) and ITA No.2751/PUN/2016 (filed by the Revenue) for the assessment year 2011-12 shall apply *mutatis mutandis* to the remaining cross appeals filed by the assessee in ITA No.2784/PUN/2016 as well as by the Revenue in ITA No.2752/PUN/2016 for the assessment year 2012-13 respectively. Thus, the appeal filed by the assessee in ITA No.2784/PUN/2016 is allowed as well as the appeal filed by the Revenue in ITA No.2752/PUN/2016 is dismissed.

32. Resultantly, both the appeals filed by the assessee are allowed as well as the cross appeals filed by the Revenue are dismissed.

Order pronounced on this 06th day of December, 2021.

Sd/-

(S. S. VISWANETHRA RAVI)
न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-

(INTURI RAMA RAO)
लेखा सदस्य/ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 06th December, 2021.

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-12, Pune.
4. The Pr. CIT Central, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.