IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "B" BENCH
(Conducted Through Virtual Court)
Before: Shri P.M. Jagtap, Vice President
And Shri Siddhartha Nautiyal, Judicial Member

ITA No. 1366/Ahd/2015
Assessment Year 2009-10

Add CIT, Range-5, Ahmedabad (Appellant)	Vs	M/s. Reckitt Benchiser Healthcare India Ltd. RB House, Plot No. 48, Institution Area, Sector-32, Gurgaon, Haryana-122001 PAN: AAACP9268J (Respondent)

ITA No. 1780/Ahd/2015
Assessment Year 2010-11

ACIT, Cir-5, Ahmedabad (Appellant)	Vs	M/s. Reckitt Benchiser Healthcare India Ltd. RB House, Plot No. 48, Institution Area, Sector-32, Gurgaon, Haryana-122001 PAN: AAACP9268J (Respondent)

Assessee by: **Shri Dhinal Shah, A.R.**
Revenue by: **Shri Anshu Prakash, CIT-D.R.**

Date of hearing : 15-02-2022
Date of pronouncement : 16-03-2022

आदेश/ORDER

PER : SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER:-

ITA No. 1366/Ahd/2015 for Assessment Year 2009-10

This is an appeal against the order passed by Commissioner of Income Tax (Appeals)-9 in short "CIT(A)-9", Ahmedabad vide appeal No. CIT(A)-XI/166/ACIT.Cir-5/13-14 vide order dated 02-02-2015. The appeal has been filed at the instance of the Department. In the appeal before us, the Revenue has raised following grounds of appeal:-

> *"1. The ld. CIT(A) has erred in law and on facts in deleting the disallowance of Rs. 21,56,490/- made on account of product registration expense and not considering the findings of the AO.*
>
> *2. The ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.30,08,17,258/- made on account of reduction of the claim u/s. 80IC of the Act.*
>
> *3. The ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.1,32,64,686/- made on account of disallowance of deduction on foreign exchange gain u/s.80IC of the Act.*
>
> *4. The ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.35,59,463/- made on account of disallowance of deduction on exports benefits u/s.80IC of the Act.*
>
> *5. The ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.14,26,979/- made on account of disallowance of deduction on scrap value u/s.80IC of the Act.*

6. The ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.54,42,994/- made on account of disallowance of deduction u/s.80IC on expenses disallowed u/s. 40(a)(ia) of the Act.

7. On the facts and circumstances of the case, the Ld. Commissioner of Income tax (A) ought to have upheld the order of the Assessing Officer.

8. It is, therefore, prayed that the order of the Ld. Commissioner of Income tax (A) may be set-aside and that of the Assessing Officer be restored.

2. In the appeal before us, the Ahmedabad ITAT had earlier passed a consolidated order for assessment years 2008-09 to 2010-11 in ITA Nos. 1366 & 1780/Ahd/2015 in which ground nos. 1and 2 raised in the present appeal were considered but Hon'ble ITAT did not consider ground nos. 3,4,5 and 6 raised in the present appeal. Subsequently, the assessee filed a Miscellaneous Application No. 40/Ahd/2019 pertaining to assessment year 2009-10 which was allowed vide order dated 27-05-2019 and now the matter has been recalled to consider ground nos. 3 to 6 referred to above.

Ground No. 3 (Deletion of disallowance of Rs. 1,32,64,686/- on deduction of foreign exchange gain under 80IC of the Act)

3. The brief facts in connection with this ground are that the assessee manufactures various products in its Baddi unit which are exported in overseas market. With respect to products exported outside India, the assessee earned net realized/un-realized foreign exchange gains on sale of its products or trade receivables/payables amounting to Rs. 1,32,64,686/-. The

assessee claimed 80IC deduction on such foreign exchange gain on the ground that these had a direct and first degree nexus with the manufacturing activity of the assessee and accordingly eligible for deduction u/s. 80IC of the Act. The ld. Assessing Officer however disallowed 80IC deduction on foreign exchange gain by holding that foreign exchange gains do not satisfy the "derived from business" condition that the gains do not have immediate and direct nexus with the manufacturing activity of the assessee and hence the same are not eligible for deduction u/s. 80IC of the Act. The ld. Assessing Officer placed reliance on the Supreme Court decision in the case of **Liberty India 317 ITR 216** which held that the profits of the business of the undertaking will include only those streams of income which have immediate and direct nexus with the undertaking. In appeal before the ld. CIT(A), he allowed the assessee's appeal and held as below:-

> *"5.2 I have carefully considered the rival contentions. As regards, foreign rate fluctuations gains, it-is undisputed fact that the foreign rate fluctuation gain was earned by the assessee on the import in the course of business. When the purchase price of the product was reduced due to the application of rate fluctuation then it has a direct nexus with the business activity of the assessee undertaking and is eligible for deduction under section 80IC. In the case of ONGC V/s CIT (supra), the Hon. Supreme Court has held as under:*
>
> > *"13. We are of the opinion that the ratio of the said decision with which we are in respectful agreement , squarely applied to the facts at hand, and therefore, the loss claimed by the assessee on account of fluctuation in the rate of foreign exchange as on the date of balance sheet is allowable as expenditure under sect ion 37(1) of the Act"*

In view of decisions of various courts in assesses favour I am inclined to agree with the contention of appellant and accordingly hold that foreign exchange fluctuation is part of business activities and income derived from it is allowable for deduction. Accordingly the appellant is eligible for deduction u/s 80 1C."

4. Before us, the Department placed reliance on the observations of the assessment order and relied on the case of **Liberty India (supra)** which has held that profits of the business undertaking will be exempt for those streams of income which have immediate and direct nexus with the undertaking. Since foreign exchange gains does not satisfy the "derived from" business condition, therefore, the same are not eligible for deduction u/s. 80IC of the Act.

4.1 The ld. Authorized Representative of the assessee in response submitted that profits that arise from foreign exchange gains in respect of exports represents sale proceeds from the export of various products manufactured and therefore have a direct and first degree nexus with the manufacturing activity and accordingly eligible for deduction u/s. 80IC of the Act. The ld. Authorized Representative placed reliance in the case of **CIT vs. Priyanka Gems 367 ITR 575 (Gujarat High Court)** in which the High Court held that foreign exchange gain arising out of fluctuation in the rate of foreign exchange cannot be divested from the export business of the assessee. Any fluctuation in foreign exchange must be said to have arisen out of the export business and is accordingly eligible for deduction u/s. 80HHC of the Act. The assessee has also placed reliance in the case of **Metropolis Chemical Industries 79 taxman.com (Gujarat)**. The Hon'ble

High Court of Gujarat in this case held that foreign exchange fluctuation is an income derived from industrial undertaking and is hence eligible for deduction u/s. 80-I & 80IA of the Act.

5. We have heard the rival contentions and perused the material on record. We are in agreement with the submissions of the assessee that foreign exchange gains are inextricably linked to export of goods and hence have a direct and first degree nexus with the manufacturing activity. The assessee is accordingly eligible for deduction u/s. 80IC on such foreign exchange gain. It would also be useful to refer to the following decisions which have held that foreign exchange gains are eligible for deduction u/s. 80IC of the Act. In the case of **DCIT v. Ansysco [2017] 88 taxmann.com 768 (Chandigarh - Trib.) (UO)**, the ITAT held that where foreign exchange fluctuations related to export activity carried out by assessee, income earned by assessee on account of foreign exchange fluctuations was to be treated as its trading receipts/receipts from manufacturing activity carried out by it and thereby entitling assessee to claim deduction under section 80-IC on same. Also, in the case of **Quadrant EPP Surlon Uttranchal (P.) Ltd. v ITO [2017] 88 taxmann.com 261 (Delhi - Trib.)**, the Tribunal held that since foreign exchange fluctuation arose on account of trading transactions and excess amount received due to upward revision of foreign exchange rate was part of sale proceeds only, said fluctuation was eligible for section 80-IC deduction. We, therefore, find no infirmity in the order of the ld. CIT(A) whereby the disallowance on foreign exchange gain has been deleted.

6. In the result, this ground of appeal of the revenue is dismissed.

Ground No. 4 (deletion of disallowance of Rs. 35,59,463/- made on account of disallowance of deduction of export benefits u/s. 80IC of the Act)

7. The brief facts of this ground of appeal are that the assessee during the year had received export benefit which are in the nature of excise duty refund, as its Baddi unit is eligible for outright excise duty exemption and same do not constitute independent source of income. The assessee claimed deduction u/s. 80IC of export benefits of Rs. 35,59,463/- representing refund of excise duty paid on material and other items purchased for manufacturing purposes for its Baddi unit. The ld. Assessing Officer disallowed the 80IC claim in the assessment order and held that the excise duty refund does not represent income with first degree of nexus with the manufacturing profits. Accordingly, following the Apex Court judgment in the case of Liberty India (supra) the excise duty refund was disallowed while computing deduction u/s. 80IC of the Act.

7.1 During the course of appeal before CIT(A), the assessee submitted that the Baddi unit is eligible for outright excise duty exemption of purchases of goods. When the assessee makes the payment towards excise duty on input material utilized during the manufacturing process, the same is refunded by the Government. Accordingly, the same does not constitute an independent source of income. Therefore, excise duty refund has a direct and first degree nexus with the manufacturing activity of the assessee since there was no levy of excise duty on manufactured products and subsequent refund was just an administrative mechanism for reducing purchase cost of

input materials used for the manufacturing process of various products at Baddi unit, the same is eligible for deduction u/s. 80IC of the Act. The ld. CIT(A) allowed relief to the assessee by observing as under:-

> *"I have carefully considered the rival submissions. The issue has recently been decided in the case-of ITA 282/K/2010 Brahmaputra Carbon Ltd.. A.Y. 05-06 wherein the Hon'ble ITAT held*
>
> > *"9. We have heard rival submissions and gone through facts and circumstances of the case. We find that the Assessing Officer as well as CIT(A) after considering the decision of Hon'ble Calcutta High Court in the case of CIT Vs. Andaman Timber Industries Ltd. (2000) 242 ITR 204 (Cal) treated the excise duty refund as not derived from industrial undertaking of the assessee and not eligible for deduction u/s. 80IC of the Act. We find that as referred by Ld. Counsel for the assessee, this issue is squarely covered in favour of assessee and against the revenue by the decision of Hon'ble Guwahati High Court in the case of CIT Vs. Meghalaya Steels Ltd. (2011) 332 ITR 91 (Gau) wherein it has been held as under:*
> >
> > *"The Central Board of Excise and Customs in its circular dated December 19, 2002 clarified that the refund is not on account of excess payment of excise duty but is basically designed to give effect to the exemption and to operationalise the exemption given by the notifications. In that sense, the Central excise duty refund does not appear to bear the character of income since what is refunded to the assessee is the amount paid under the modalities provided by the Department of Revenue for giving effect to the exemption notifications. There is also nothing to suggest that the assessee has recovered or passed on the excise duty element to its customers.*
> >
> > *Even assuming the refund does amount to income in the hands of the assessee, it is a profit or gain directly derived by the assessee from its industrial activity. The payment of Central excise duty has a direct nexus with the manufacturing activity and similarly, the refund of the Central excise duty also has a direct nexus with the manufactuing activity. The issue of payment of Central excise duty would not arise in the absence of any industrial activity. There is, therefore, an inextricable link between the manufacturing activity, the payment of Central excise duty and its refund. In the circumstances, we are of the opinion that question No. 2 must be answered in the affirmative in favour of the assessee and against the Revenue."*
> >
> > *As the issue is squarely covered in favour of assessee, we allow the claim of assessee. This ground of assessee's appeal is allowed.*
> >
> > *In this regard, reliance is placed on the decision of the Delhi High Court in 7 case of CIT vs Dharam Pal Prem Chand Ltd (2009) (189 taxmann*

> *557), wherein it was held that the refund of excise duty was pivoted on the manufacturing activity carried on by the assessee at ITAT in the case of ITO v Electro Ferro Alloys Ltd (25 taxmann.com 458)*
>
> *The payment of central- excise duty has a direct nexus with the manufacturing activity and similarly, the refund of the Central excise duty also has a direct nexus with the manufacturing activity. The issue of payment of Central excise duty would not arise in the absence of any industrial activity. There is, therefore, an inextricable link between the manufacturing activity, the payment of central excise duty and its refund. Consequently, it is "derived" from the industrial undertaking and 'eligible for s. 80-IB deduction (CIT vs. Meghalaya Steels 332 ITR 91 (Gau) and J.K. Aluminium vs. ITO (ITAT Delhi) followed. Refer, ACIT v The Total Packaging services (Mumbai ITAT). Accordingly the addition on this ground is directed to be deleted. The appellant gets relief on the issue of foreign exchange gain of Rs.35,59,463/-."*

8. Before us, the ld. Departmental Representative placed reliance on the observations made by the Assessing Officer in the assessment order and submitted that in view of the decision of Supreme Court in the case of **Liberty India 317 ITR 216**, since excise duty does not represent the income with first degree of nexus with manufacturing profits, the same is not eligible for deduction u/s. 80IC of the Act.

8.1 The ld. Authorized Representative of the assessee placed reliance on the observations made by Hon'ble Gauhati High Court in the case of **Dharampal 187 taxmann.com 557** wherein it was held that since transport subsidy, power subsidy, interest subsidy, and insurance subsidy reduce cost of production of an industrial undertaking, there is first degree nexus between said subsidy and profits and gains derived by industrial undertakings and therefore deduction u/s. 80IB and 80IC has to be granted in respect of subsidies so received. The said decision has been upheld by the Hon'ble Supreme Court in the case of **CIT vs. Meghalaya Steels Ltd. 67**

taxmann.com 158. The assessee further placed reliance on the case of **CIT Vs. Dharampal 187 taxman 557** in support of his contentions.

9. We have heard rival contentions and perused the material on record. The Supreme Court in the case of **CIT vs. Meghalaya Steel Ltd**. *(supra)* has given a categorical finding that where assessee received (a) transport subsidy; (b) interest subsidy; (c) power subsidy; and (d) insurance subsidy which were reimbursements of manufacturing cost incurred by assessee, deduction of said subsidies was allowed under sections 80-IB and 80-IC Accordingly, in our view, in the facts of the present case and in light of various decisions cited before us, the CIT(A) has not erred in granting 80IC deduction to the assessee in respect of its export benefits representing refund of excise duty paid u/s. 80IC of the Act. We therefore hold that the assessee is eligible for deduction on export benefits on account of refund of excise duty under section 80IC of the Act.

10. In the result, this ground of appeal of the revenue is dismissed.

Ground No. 5 (Deletion of Rs. 14,26,979/- on account of deduction of scrap value u/s. 80IC of the Act)

11. The brief fact relating to this ground of appeal are that during the year under consideration the assessee had claimed deduction u/s. 80IC of the Act on income of Rs. 14,26,979/- on scrap generated from manufacturing process. The ld. Assessing Officer in his assessment order held that scrap income does not represent the income with first degree of nexus with the manufacturing profits and accordingly disallowed the claim of the assessee.

The ld. Assessing Officer placed reliance on the Supreme Court decision in the case of Liberty India 317 ITR 216.

12. Before the ld. CIT(A), the assessee submitted that scrap is generated from the manufacturing activity carried by the respective units. The scrap generally does not have any alternative use and hence the same is disposed off. The income generated from sale of scrap reduces the actual cost of production and hence is considered as derived from profits by the units from its business of manufacture for deduction u/s. 80IC of the Act. Accordingly, since scrap income has accrued directly in the course of the manufacturing business, the same is liable to be allowed as deduction u/s. 80IC of the Act. The assessee placed reliance on several decisions in support of its contention.

12.1 The ld. CIT(A) allowed the claim of 80IC deduction on scrap income in the following words.

> *"7.2 I have carefully considered the rival contentions. In the case of CIT v Sadhu Forgings Ltd, 57 DTR 194/242 CTR 158 (Delhi) the Hon'ble Delhi High court has held*
>
> > *"Activity of forging which involves heat treatment of material to produce automobile parts is "manufacture " and therefore , labour charges and job work charges earned by the assessee for doing the job of forging for customers are gains derived from industrial undertakings and the same are entitled for deduction under section 80IB. Sale of scrap which generated in the process of manufacturing activity and proximate there to constitute gains derived from Industrial undertaking for the purpose of computing deduction under section 80IB."*
>
> *In view of several decisions relied upon by appellant, according to me there is no ambiguity in the law on this issue. Accordingly I direct AO to delete this disallowance on account of deduction under section 80IC on sale of scrap."*

13. Before us, the ld. Departmental Representative placed reliance on the observations of the ld. Assessing Officer in the assessment order. In response thereto, the ld. Authorized Representative of the assessee placed reliance on the decisions of Hon'ble Gujarat High Court in the cases of **Shreeram Multi-Tech Ltd. (22 taxman.com 194) & Nirma Industries Ltd. Vs. DCIT (283 ITR 402)**.

14. We have heard the rival contentions and perused the material on record. We observed that the Calcutta High Court in the case of **Reckitt Benckiser Healthcare (I) Ltd. reported in 56 taxmann.com 415** has held that profits and gains from scraps resulting in manufacturing process were eligible for deduction u/s. 80IC. Again, the Gujarat High Court in the case of **CIT vs. Shreeram Tech Ltd. 33 taxmann.com 194** has held that compensation received by industrial undertaking from insurance companies on account of loss raw materials and finished products in fire, would be eligible for deduction u/s. 80IA of the Act. In view of the above, we do not find any infirmity on the order of ld. CIT(A) in allowing the claim of deduction u/s. 80IC of the Act on scrap income. We accordingly hold that the assessee is eligible for deduction u/s. 80IC of the Act on income from sale of scrap. In effect, the ground no. 5 of the revenue is dismissed.

15. In the result, ground no. 5 of the revenue is dismissed.

Ground No. 6 (Deletion of disallowance of Rs. 54,42,994/- made on account of expenses disallowed u/s. 40(a)(ia) of the Act)

16. The facts of this ground are that during the year under consideration, the assessee has claimed deduction u/s. 80IC of the Act on expenditure disallowed u/s. 40(a)(ia) of the Act of Rs. 54,42,994/-. The ld. Assessing Officer in his assessment order relied upon the decision in the case of **Rameshbhai C. Prajapati passed by ITAT Ahmedabad in ITA No. 226/Ahd/2010 dated 21-09-2012** disallowed deduction u/s. 80IC of the Act on account of amount disallowed u/s. 40(a)(ia) of the Act. In the said decision, the Ahmedabad ITAT had held that the deeming fiction created by section 40(a)(ia) of the Act cannot be imported into the beneficial provisions of section 80IB (10) of the Act. The ld. ITAT Ahmedabad held that the legal fiction by virtue of section 40(a)(ia) cannot be extended to determine the profits of the business for the purpose of computing deduction u/s. 80IC(10) of the Act.

16.1 Before the ld. CIT(A), the assessee submitted that it is eligible for claiming deduction u/s. 80IC to the extent of 100% earned from Baddi unit if addition is made u/s. 40(a)(ia) of the Act. The assessee submitted that total income of the assessee will increase to that extent and consequential deduction u/s. 80IC of the Act is required to be enhanced to that extent. The ld. CIT(A) relying upon the decision in the case **of M/s. Meha Medicare vs. ITO (ITA no. 3420/Mum/2021)** and **M/s. Jitsan Enterprise vs. ITO 1652/Ahd/2009** in his order deleted the disallowance of deduction made by the ld. Assessing Officer u/s. 80IC of the Act on account of amount disallowed u/s. 40(a)(ia) of the Act.

16.2 Before us, the assessee submitted that if any disallowance is made u/s. 40(a)(ia) of the Act, the total income of the assessee will increase to the extent of addition made and consequential deduction u/s. 80IC of the Act is required to be enhanced to the extent of addition made. The assessee placed reliance on the CBDT circular No. 37/2016 dated 2nd Nov, 2016 wherein the CBDT has accepted that when profit of an eligible undertaking from business are enhanced due to disallowance of an expense u/s. 40(a)(ia) of the Act or any specific disallowance relates to the business activity of eligible undertaking or business, deduction under chapter VI-A is admissible on such enhanced profit. Accordingly, vide this circular the CBDT had directed the tax authorities not to file any further appeal on this issue and appeals already filed should be withdrawn or not to be pressed. The assessee further placed reliance on the case of Ahmedabad Tribunal in the case of DCIT vs. Ascendum Solution India (Pvt.) Ltd. 86 taxmann.com 114 and the Hon'ble Mumbai Tribunal in case of ITO vs. Anthelio Business Technologies Pvt. Ltd. (78 taxmann.com 203) in support of his contention.

17. We have heard rival contentions and perused the material on record. In view of the circular no. 37/2016 dated 2nd Nov, 2016 and the decision in the case **of DCIT vs. Ascendum Solutions Pvt. Ltd**. wherein the Ahmedabad ITAT Tribunal has held that where disallowance results in an enhancement of business profit, but such an enhancement is revenue neutral in as much as relates to business profits are eligible for disallowance under chapter VI. The Tribunal in the above decision made following relevant observation:-

> *What has been accepted by the CBDT, as learned counsel rightly points out, is the principle that when a disallowance results in an enhancement of business profits but such an enhancement is revenue neutral inasmuch as related business profits, in totality, are eligible for deduction under chapter VI, such appeals need not be pursued. The reference to Section 40(a)(ia) is no more than illustrative in nature, and what holds good for disallowance under section 40(a)(ia) applies, in principle, equally to disallowance under section 40(a)(i) as well. In this view of the matter, in terms of the CBDT circular (supra), the appeal filed by the Assessing Officer, on this point, is indeed not maintainable.*

In view of the above and the language of CBDT Circular No. 37 dated 2nd Nov, 2016, we are of the view that CIT(A) has not erred in deleting the addition made on account of disallowance u/s. 40(a)(ia) of the Act. Accordingly, the ground no. 6 of the Revenue is dismissed. We are of the view that the assessee is eligible to claim deduction u/s. 80IC of the Act in respect of disallowance made u/s. 40(a)(ia) of the Act on account of non-deduction of TDS.

18. In the result, this ground of appeal of the revenue is dismissed.

ITA No. 1780/Ahd/2015 A.Y. 2010-11 filed by revenue:

19. This is an appeal against the order passed by Commissioner of Income Tax (Appeals)-9 in short "CIT(A)-9", Ahmedabad vide appeal No. CIT(A)-

CIT(A)-XI/134/ACIT.Cir-5/14-15 vide order dated 30-03-2015. The appeal has been filed at the instance of the Department. In the appeal before us, the Revenue has raised following grounds of appeal:-

> *"1. The ld. CIT(A) has erred in law and on facts in deleting the disallowance of Rs.1,89,08,188/- made on account of product registration expense and not considering the findings of the AO.*
>
> *2. The ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.37,17,58,440/- made on account of reduction of the claim U/S.80IC of the Act.*
>
> *3. The ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.27,26,726/- made on account of disallowance of deduction on scrap value u/s. 80IC of the Act.*
>
> *4. The ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.1,28,98,950/- made on account of disallowance of deduction u/s.80IC on expenses disallowed u/s,40(a)(ia) of the Act.*
>
> *5. On the facts and circumstances of the case, the Ld. Commissioner of Income tax (A) ought to have upheld the order of the Assessing Officer.*
>
> *6. It is, therefore, prayed that the order of the Ld. Commissioner of Income tax (A) may be set-aside and that of the Assessing Officer be restored."*

20. In the appeal before us, the Ahmedabad ITAT had earlier passed a consolidated order for assessment years 2008-09 to 2010-11 in ITA Nos. 1366 & 1780/Ahd/2015 in which ground nos. 1and 2 raised in the present appeal were considered but Hon'ble ITAT did not consider ground nos. 3 & 4 raised in the present appeal. Subsequently, the assessee filed a Miscellaneous Application No. 41/Ahd/2019 pertaining to assessment year

2010-11 which was allowed vide order dated 27-05-2019 and now the matter has been recalled to consider ground nos. 3 to 4 referred to above.

Ground No. 3 (deleting the addition of Rs.27,26,726/- made on account of disallowance of deduction on scrap value u/s. 80IC of the Act.

21. As the fact and issue involved in this ground of appeal is similar to that of ground no. 5 of ITA No. 1366/Ahd/2015, so after applying the decision of ground no. 5 vide ITA 1366/Ahd/2015, this ground of appeal of the revenue is dismissed.

Ground No. 4 (deleting the addition of Rs.1,28,98,950/- made on account of disallowance of deduction u/s. 80IC on expenses disallowed u/s,40(a)(ia) of the Act.

22. As the fact and issue involved in this ground of appeal is similar to that of ground no. 6 of ITA No. 1366/Ahd/2015, so after applying the decision of ground no. 6 vide ITA 1366/Ahd/2015, this ground of appeal of the revenue is dismissed.

23. In the result, both the appeals of the revenue are dismissed.

Order pronounced in the open court on 16-03-2022

Sd/-	**Sd/-**
(P.M. JAGTAP)	**(SIDDHARTHA NAUTIYAL)**
VICE PRESIDENT	**JUDICIAL MEMBER**

Ahmedabad : Dated 16/03/2022

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद