

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "F" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER) AND
SHRI AMARJIT SINGH (JUDICIAL MEMBER)**

**ITA No. 1883/MUM/2020
Assessment Year: 2011-12**

Vinod Parasmal Jain,
1302/A, Vikas Palms, Dr.
Ambedkar Road, Opp. Civil
Hospital,
Thane-400 601
PAN No. AAOPJ 9371 K
Appellant

Vs. DCIT, Circle 3, Thane,
6th floor, Ashar IT Park, Wagle
Industrial Estate, Road No. 16Z,
Thane(W)-400 604.

Respondent

Assessee by : Mr. Subhodh Ratnaparkhi, AR
Revenue by : Mr. S.N. Kabra, DR

Date of Hearing : 23/02/2022
Date of pronouncement : 16/03/2022

ORDER

PER OM PRAKASH KANT, AM

This appeal by the assessee is directed against order dated 14/09/2020 passed by the Ld. Commissioner of Income Tax (Appeals)-2, Thane [in short 'the Ld. CIT(A)'] for assessment year 2011-12, raising following grounds:

- 1. The Hon. CIT(A) erred in confirming the addition of Rs. 2,05,50,000/- by holding the consideration received on sale of share in agricultural land at village Vaitarna Nagar, Taluka Wada, Dist. Thane, to be in the nature of business income, ignoring the explanation and evidences furnished by the*

appellant and not appreciating that the land sold was agricultural land covered by exception contained in section 2(14) (in) of the IT. Act 1961 and accordingly the surplus arising on sale of such land was not liable to any tax in the hands of the appellant.

- 2. The Hon. CIT(A) while confirming the addition of Rs. 2,05,50,000/- erred in holding that the land at village Vaitarna Nagar, Taluka Wada, Dist. Thane, was not used for agricultural activities and was therefore non-agricultural land and that the sale proceeds therefrom were required to be taxed as business income, which being factually and legally incorrect, the addition is required to be deleted.*
- 3. The Hon. CIT(A) erred in not granting deduction of Rs.25,44,180/- being the cost of acquisition of the agricultural land at village Vaitarna Nagar, Taluka Wada, Dist. Thane, sold during the year, ignoring all the purchase agreements of land as well as details of payments placed on the record of the Id AO/Hon. CIT(A), which action being not correct by law and facts, the deduction for cost of acquisition may kindly be allowed.*

2. Briefly stated facts are that the assessee is an individual, having salary income from M/s Fulchand Gulabchand, a family jewellery business. For the year under consideration, the assessee filed return of income on 07/03/2012 declaring total income of ₹24,78,517/- which included salary income (₹2,80,000/-), income from house property (₹18,30,390/-) and income from other sources (₹4,68,127/-). During proceedings of the scrutiny of return of income filed by the assessee, the Ld. Assessing Officer observed one of the reasons for selection of the case for the scrutiny was to examine taxability of the

sale of property. From the submission filed by the assessee, the Assessing Officer observed sale of agricultural land by the assessee is co-owner. According to the assessee, the surplus from sale of such agricultural land was not taxable in the hands of the assessee and therefore no tax on said transaction was paid. However, the Assessing Officer rejected the contention of the assessee and in the assessment order dated 25/03/2014, he held the sale proceeds of ₹2,05,50,000/-as business income of the assessee. the Ld. Assessing Officer also denied benefit of cost of acquisition of the land. On further appeal, the Ld. CIT(A) upheld finding of the Ld. Assessing Officer. Aggrieved, the assessee is before the Tribunal by way of the raising grounds as reproduced above.

3. Before us, the assessee has filed a paper book containing pages 1 to 194.

3.1 The ground No. 1 & 2 of the appeal relates to addition of ₹2,05,50,000/-, holding the sale receipt of the land as business income in the hands of the assessee.

4. Brief facts qua, the issue in dispute are that the assessee had acquired contiguous parcel of agricultural land from other agriculturist in March/April 2008 for a sum of ₹25,18,060/-. The land was held along with another co-owner

Mr. Jitendra Awhad. The assessee claimed of carrying agricultural activity on the said land, however revenue has disputed this claim of the assessee. Subsequently, in the previous year corresponding to the assessment year under consideration, the assessee sold the land for a total consideration of ₹3,67,60,000/- to M/s Nirvana Realty ventures, Mumbai, out of which the assessee received ₹2,05,50,000/- for his share of land. The assessee claimed that land sold was agriculture in nature and therefore consideration from sale of such a land is agriculture income not taxable and therefore not shown in computation of the income. According to the Assessing Officer, large number of pieces of the land was purchased and aggregated with an intention to use commercially, which was evident that aggregated land was sold to Nirvana Realty ventures. The Assessing Officer further observed that no details of expenses towards agricultural activity was filed. Before the Ld. CIT(A) the assessee submitted that after purchase of the land in the year 2008, the land was utilized for raising agricultural crops like Rice and Grass, which was evident from 7/12 extracts annexed to registered purchase and sale documents. According to the assessee, the land was not a capital asset as the said agricultural land is covered by the exception contained in section 2(14)(iii) of the Act and gains arising on sale thereof do not lead to any income liable to

be taxed in the hands of the assessee. The assessee further submitted that lands were cultivated for raising agricultural produce mainly rice as well as grass for commercial sale with the help of a local farmer namely Shri Rakesh B Kulkarni of Village Kawad Tal. Bhiwandi, Distt. Thane. The assessee further submitted that the produce being very limited, was mainly used by the said farmer for services rendered and in view of no significant surplus generated from the agricultural activity, the assessee had not maintained record of production. He further submitted that the assessee had not undertaken any commercial activity on said land at any time prior to sale. The distance of the land from nearest notified municipality beyond 8 kms was not disputed by the Assessing Officer. The assessee also submitted that land was acquired from own sources and not borrowed funds. He submitted that addition made by the Assessing Officer on the intended future use of land by the purchaser was not justified as future use of the land by the purchaser was not relevant and materially affect the claim of the assessee with regard to sale of agricultural land. It was also contended on behalf of the assessee that no addition was made by the Income Tax Department in respect of sale of agricultural land in the hand of the other co-owner of the land. The Ld. CIT(A) called for remand report from the Assessing Officer, who deputed an Inspector of his office for visiting the land

and gathering information from land revenue department. A copy of the remand report received from the Assessing Officer was forwarded to the assessee. The Ld. CIT(A) after taking into consideration, the remand report and rejoinder by the assessee, concluded that no agricultural activity was carried out by the assessee on said land. The 7/12 extract of the land mentioned crop as “gavat” i.e. Grass, which according to the Ld. CIT(A) grows naturally on the soil and thus the assessee had not carried out cultivation on the said land. The Ld. CIT(A) relied on the decision of the Hon’ble Supreme Court in the case of **CIT Vs Raja Benoy Kumar Sahas Roy (1957) 32 ITR 466 (SC)** to emphasize as what constitute the term “agriculture”. According to him, the assessee did not carry out the basic operations of tilling of the land, sowing of the seeds, planting and similar operations on the land, which was required for cultivating of the land. The Ld. CIT(A) held that the grass i.e. main crop raised on the land, grows naturally, which does not require human efforts. The Ld. CIT(A) also observed that the assessee had not incurred a single penny of expenditure for growing grass and therefore he concluded that land was not used for agricultural activity and hence it cannot partake character of agricultural land. He accordingly upheld the action of the Assessing Officer of treating the sale proceeds of the land under the head income from business. The Ld. CIT(A) also

upheld the action of the Assessing Officer of not allowing cost of acquisition of the land against the business income. The relevant finding of Ld. CIT(A) is reproduced as under :

“7.7 Thus, from the above description of Supreme Court, it is clear as to what constitutes agricultural activities and what not. The Hon'ble Supreme Court has held that in order to acquire the characteristic of agricultural operations there must be basic activities such as tilling of the land, sowing of the seeds, planting and similar operations on the land which are required for cultivation of trees. After these basic operations, there requires the subsequent operations also which are absolutely necessary for the purpose of effectively raising the produce from the land. Thus, the Hon'ble Supreme Court has held that in order to qualify the activity as agricultural activity, there must be basic as well subsequent operations, which requires the expenditure of human skill and labour upon the land itself. However, in the present case, there is neither application of human skills nor involvement of labour. The grass grows by itself. It does not require human efforts. The appellant has also not incurred a single penny of expenditure for growing grass. Hence, it cannot be said that the appellant is agriculturist or any agricultural activity has been carried out on the land.

7.8 Thus, at the time of sale of land, the land was not used for agricultural activities and hence, it cannot partake the character of agricultural land and hence, the Ld. A has rightly considered the land as non-agricultural land and has taxed the sale proceeds of land under the head 'Income from business'

7.9 Under the circumstances, the action of the Ld. AO in bringing to tax ₹2,05,50,000/- being amount received on sale of land is confirmed and the grounds of appeal 1A, 1B and 1C are dismissed.”

5. Before us the Ld. counsel of the assessee submitted that no addition has been made in the case of co-owner by the Income Tax Department whereas addition has been made in the hands of the assessee for same transaction as business income. According to the Ld. counsel of the assessee contradictory views in respect of the same transaction cannot be held in each co-owner's case. In support of his claim, the Ld. counsel relied on the decision of the Tribunal Jaipur bench in the case of **Sita Rama Sharma versus ITO, 58 taxmann.com 180.**

5.1 He further submitted that concerned land was agricultural and as per land revenue records up to the date of the sale, which is supported by the 7/12 extracts of such land. He submitted that all the non-agricultural activity on said land reported in the remand report was after the date of the sale by the assessee and therefore not relevant for deciding the issue-in-dispute.

6. The Ld. counsel submitted that copies of 7/12 extract in respect of survey No. 132 (0.13.40 Hectatre), 105 (2.77.30 Hactare) and 138 (0.40.00), the crop raised was Rice (bhat). He further submitted that the Assessing Officer in the remand proceedings never examined the farmer Shri Rakesh B. Kulkarni, who was utilizing the land for raising crops for self-consumption. He further

submitted that “grass” was cultivated systematically for sale as animal fodder, particularly to milk dairies nearby.

6.1 The Ld. counsel further submitted that the assessee has not undertaken any commercial activity on the said land at any time up to the date of the sale and he never sought any permission for the use of said land for non-agricultural purposes under the Maharashtra land Revenue code, 1966.

6.2 The Ld. counsel also contested treating of the sale of land as business income and submitted that merely by acquiring a small parcel of the land from various farmers, the purchase and sale of the land does not become business activity. He submitted that the ownership of the land acquired by the assessee was fragmented and therefore assessee had to perforce acquire the land from the then existing owners for the purpose of carrying out agricultural activity.

6.3 He further submitted that assessee is an employee of a family concern engaged in the business of jewelry and he was not engaged in trading of the lands. According to him this was a solitary transaction and no such sale transactions have taken place in earlier or subsequent assessment years and therefore in such circumstances there was no reason to hold the income to be business income. The Ld. counsel in support of his contention relied on the

decision of Hon'ble Bombay High Court in the case of **CIT Vs Dhable Bobde, Kale, Lute & Chaudhari, 202 ITR 98 (Bom)** and decision of Hon'ble Gujarat High Court in the case of **PCIT Vs Heenaben Bhadresh Mehta 409 ITR 196**.

7. The Ld. Departmental Representative (DR) on the other hand relied on the order of the lower authorities and submitted that it was onus of the assessee to produce so-called farmer Shri Rakesh B. Kulkarni for verification by the Assessing Officer. The assessee cannot shift this responsibility on the Assessing Officer. According to him, the assessee has failed to substantiate claim of carrying out agricultural activity of producing rice and grass. He further submitted that no documentary evidence in the form of expenses incurred for producing rice or grass have been filed by the assessee. He also submitted that no evidence in support of the claim that grass was cultivated systematically for sale of animal fodder particularly for supplying to milk dairies situated nearby. He submitted that making a statement is not merely sufficient and the assessee has to substantiate his statement by way of documentary evidences. He also submitted that in view of the activity of multiple purchases and sales thereof the assessee was engaged in trading of land. According to him in view of the above, the Ld. CIT(A) is justified in holding the sale of agricultural land as business income in the hands of the assessee.

8. We have heard rival submission of the parties on the issue in dispute. The main issue of dispute in the instant case is whether the land sold by the assessee falls within the definition of the capital asset. The section 2(14)(iii) prescribe that agricultural land in India, situated beyond prescribed distance from municipality, will not constitute a capital asset. In the case, there is no dispute as regard to prescribed distance from the municipality limits. But whether the land was agricultural land as on date of sale is in dispute. The Tribunal in the order dated 30.08.2013 in the case of Rejender Pershad Tejpraksh v. ITO in ITA No. 1715/Hyd/2012 for AY 2009-10 has elaborately disclosed as what constitute "agricultural". The relevant finding is reproduced as under :

"41. We have heard both the parties and perused the material on record including written submission filed by the Ld. AR.

42. The question as to whether a land is agricultural land or not is essentially a question of fact. The question has to be answered in each case having regard to the facts and circumstances of that case. There may be factors both for and against a particular point of view. We have to answer the question on a consideration of all of them, a process of evaluation and the inference has to be drawn on a cumulative consideration of all the relevant facts. It may be stated here that not all the factors or tests would be present or absent in any case and that in each case one or more of the factors may make appearance and that ultimate decision will have to be reached on a balanced consideration of the totality of the circumstances.

43. The expression 'agricultural land' is not defined in the Act, and now, whether it is agricultural land or not has got to be determined by using the tests or methods laid down by the Courts from time to time.

44. The Hon'ble Supreme Court in the case of Smt. Sarifabibi Mohmed Ibrahim (204 ITR 631) has approved the decision of a Division Bench of the Hon'ble Gujarat High Court in the case of [CIT vs. Siddharth J. Desai](#) (1982) 28 CTR (Guj) 148 : (1983) 139 ITR 628 (Guj) and has laid down 13 tests or factors which are required to be considered and upon consideration of which, the question whether the land is an agricultural land or not has got to be decided or answered. We reproduce the said 13 tests as follows :

1. Whether the land was classified in the Revenue records as agricultural and whether it was subject to the payment of land revenue?
2. Whether the land was actually or ordinarily used for agricultural purposes at or about the relevant time?
3. Whether such user of the land was for a long period or whether it was of a temporary character or by any of a stopgap arrangement?
4. Whether the income derived from the agricultural operations carried on in the land bore any rational proportion to the investment made in purchasing the land?
5. Whether, the permission under s. 65 of the Bombay Land Revenue Code was obtained for the non-agricultural use of the land? If so, when and by whom (the vendor or the vendee)? Whether such permission was in respect of the whole or a portion of the land? If the permission was in respect of a portion of the land and if it was obtained in the past, what was the nature of the user of the said portion of the land on the material date?

6. *Whether the land, on the relevant date, had ceased to be put to agricultural use? If so, whether it was put to an alternative use? Whether such cesser and/or alternative user was of a permanent or temporary nature?*

7. *Whether the land, though entered in Revenue records, had never been actually used for agriculture, that is, it had never been ploughed or tilled? Whether the owner meant or intended to use it for agricultural purposes?*

8. *Whether the land was situated in a developed area? Whether its physical characteristics, surrounding situation and use of the lands in the adjoining area were such as would indicate that the land was agricultural?*

9. *Whether the land itself was developed by plotting and providing roads and other facilities?*

10. *Whether there were any previous sales of portions of the land for non-agricultural use?*

11. *Whether permission under s. 63 of the Bombay Tenancy and Agricultural Lands Act, 1948, was obtained because the sale or intended sale was in favour of a non-agriculturist? If so, whether the sale or intended sale to such non-agriculturists was for non-agricultural or agricultural user?*

12. *Whether the land was sold on yardage or on acreage basis?*

13. *Whether an agriculturist would purchase the land for agricultural purposes at the price at which the land was sold and whether the owner would have ever sold the land valuing it as a property yielding agricultural produce on the basis of its yield?"*

45. *A reference could be made to the case of CWT vs. Officer-in-charge (Court of Wards) (105 ITR 138) (SC) wherein the Constitution Bench of the Hon'ble*

Supreme Court stated that the term 'agriculture' and 'agricultural purpose' was not defined in the [Indian IT Act](#) and that we must necessarily fall back upon the general sense in which they have been understood in common parlance. The Hon'ble Supreme Court has observed that the term 'agriculture' is thus understood as comprising within its scope the basic as well as subsequent operations in the process of agriculture and raising on the land all products which have some utility either for someone or for trade and commerce. It will be seen that the term 'agriculture' receives a wider interpretation both in regard to its operation as well as the result of the same. Nevertheless there is present all throughout the basic idea that there must be at the bottom of its cultivation of the land in the sense of tilling of the land, sowing of the seeds, planting and similar work done on the land itself and this basic conception is essential sine qua non of any operation performed on the land constituting agricultural operation and if the basic operations are there, the rest of the operations found themselves upon the same, but if the basic operations are wanting, the subsequent operations do not acquire the characteristics of agricultural operations. The Constitution Bench of the Hon'ble Supreme Court in the aforesaid case observed that the entries in Revenue records were considered good prima facie evidence.

46. The Hon'ble Gujarat High Court in the case of [Dr. Motibhai D. Patel vs. CIT](#) (1982) 27 CTR (Guj) 238 : (1981) 127 ITR 671 (Guj) referring to the Constitution Bench of the Hon'ble Supreme Court had stated that if agricultural operations are being carried on in the land in question at the time when the land is sold and further if the entries in the Revenue records show that the land in question is agricultural land, then, a presumption arises that the land is agricultural in character and unless that presumption is rebutted by evidence led by the Revenue, it must be held that the land was agricultural in character at the time when it was sold. The Division Bench of the Hon'ble Gujarat High Court further held that there was nothing on record to show that

the presumption raised from the long user of the land for agricultural purpose and also the presumption arising from the entries of the Revenue records are rebutted.

47. The Hon'ble Bombay High Court in the case of CWT vs. H. V. Mungale (1983) 32 CTR (Bom) 301 : (1984) 145 ITR 208 (Bom) held that the Hon'ble Supreme Court had pointed out that the entries raised only a rebuttable presumption and some evidence would, therefore, have to be led before taxing authorities on the question of intended user of the land under consideration before the presumption could be rebutted. The Court further held that the Supreme Court had clearly pointed out that the burden to rebut the presumption would be on the Revenue. The Hon'ble Bombay High Court held that the ratio of the decision of the Supreme Court was that what is to be determined is the character of the land according to the purpose for which it was meant or set apart and can be used. It is, therefore, obvious that the assessee had abundantly proved that the subject land sold by them was agricultural land not only as classified in the Revenue records, but also it was subjected to the payment of land revenue and that it was actually and ordinarily used for agricultural purpose at the relevant time.

48. We may also refer to the case of [CIT vs. Manilal Somnath](#) (1977) 106 ITR 917 (Guj), wherein the Division Bench of the Hon'ble Gujarat High Court observed that the potential non-agricultural value of the land for which a purchaser may be prepared to pay a large price would not detract from its character as agricultural land on the relevant date of sale.

49. We may also refer to the case of [Gopal C. Sharma vs. CIT](#) (1994) 116 CTR (Bom) 377 : (1994) 209 ITR 946 (Bom), in which, the case of [Smt. Sarifabibi Mohamed Ibrahim & Ors. vs. CIT](#) (supra) was referred to and relied, amongst other cases. In this case, the Division Bench of the Bombay High Court has stated that the profit motive of the assessee selling the land without anything

more by itself can never be decisive for determination of the issue as to whether the transaction amounted to an adventure in the nature of trade. In other words, the price paid is not decisive to say whether the land is agricultural or not.

50. We may refer to a judgment of the Hon'ble Madras High Court in the case of CWT vs. E. Udayakumar (2006) 284 ITR 511 (Mad) where the Hon'ble Madras High Court has referred to the decision of the Hon'ble Punjab & Haryana High Court in the case of [CIT vs. Smt. Savita Rani](#) (2004) 186 CTR (P&H) 240 : (2004) 270 ITR 40 (P&H) and has observed and held as under :

"8. It is well settled in the case of [CIT vs. Smt. Savita Rani](#) (2004) 186 CTR (P&H) 240 : (2004) 270 ITR 40 (P&H), wherein it is held that the land being located in a commercial area or the land having been partially utilised for non-agricultural purposes or that the vendees had also purchased it for non-agricultural purposes, were totally irrelevant consideration for the purposes of application of [s. 54B](#).

9. In the above said case, the assessee an individual sold 15 karnals, 18 marlas of land out of her share in 23 karnals, 17 marlas land during the financial year 1990-91, relevant to the asst. yr. 1991-92, the sale was effected by three registered sale deeds. While filing her return of income, she claimed exemption from levy of capital gains under [s. 54B](#) of the Act on the ground that the land sold by her was agricultural land and the sale proceeds were invested in the purchase of agricultural land within two years. The AO rejected the claim of the assessee holding that the land sold by the assessee was not agricultural land and this was upheld by the CIT(A). On further appeal, the Tribunal accepted the claim of the assessee holding that the transaction in question duly fulfilled the conditions specified for relief. On further appeal to the High Court, the Punjab & Haryana High Court found that the finding that the land had been used for agricultural purposes was based on cogent and relevant material. The

Revenue record supported the claim. Even the records of the IT Department showed that the assessee had declared agricultural income from this land in her returns for the preceding two years. The land being located in commercial area or the land having been partially utilised for non-agricultural purposes or that the vendees had also purchased it for nonagricultural purposes, were totally irrelevant consideration for the purposes of application of [s. 54B](#).

10. It is seen from the aforesaid decision that the agricultural land sold by the assessee with an intent to purchase another land within two years had also been permitted to claim exemption under [s. 54B](#) of the IT Act, 1961. In the instant case, even though there was no sale as such, the assessee owned agricultural land within the limits of Tirunelveli Corporation and he had not put up any construction thereon, the assessee is entitled to claim exemption from the WT Act for the assessment of wealth-tax. That the land in question is adjacent to the hospital is totally irrelevant."

8.1 Thus one of the conditions for excluding the land from the definition of the capital asset is that said land should be used for agriculture activity immediately before the sale. In the instant case before us 7/12 extracts of the land shows that mainly the "grass" was produced, leaving a small amount of rice produce. The contention of the assessee that said land was cultivated by a local farmer namely Shri Rakesh B. Kulkarni and he used the produce for self-consumption. Regarding the grass, it is submitted that it was a systematic production and produce was sold as animal fodder to be used by the nearby dairies. But we find that neither the assessee has produced Shri Rakesh B. Kulkarni for verification before the Assessing Officer nor furnished any

evidence in support of expenses incurred or sale of animal fodder to nearby dairies.

8.2 The decision of Tribunal in the case of Sita Ram Sharma (supra) relied upon, the Bench followed the decision in the case of Smt. Kamala Devi Sharma dated 23.03.2011 and the no addition in the case of co-owner was only factual observation. Thus ratio of said decision does not apply over facts of the case. During the course of the hearing before us, the Ld. counsel of the assessee was specifically asked, whether the assessee can produce Shri Rakesh B. Kulkarni before the Assessing Officer for verification. He agreed for producing Shri Rakesh B. Kulkarni before the Assessing Officer for verification of agricultural activity carried out by him. The Ld. counsel also agreed for furnishing other documentary evidence in support of expenses and sale of grass. In our opinion these evidence goes to the root of the issue whether in agricultural activity was carried on such land. Therefore, in the interest of substantial justice, we feel it appropriate to restore this issue to the file of the Ld. Assessing Officer for deciding afresh. The assessee is directed to comply as per the undertaking given by the Ld. counsel of the assessee for producing Shri Rakesh B. Kulkarni before the Assessing Officer and file documentary evidence in support of expenses incurred for carrying out agricultural activity and sale proceeds from sale of the

grass to nearby dairies. The Assessing Officer may also carry out any other enquiry which he deems fit in the facts and circumstances of the case so as to satisfy the conditions of constituting agricultural land as laid in decision discussed in above paras including decision of Hon'ble Supreme Court in Smt. Sarifabibi Mohmed Ibrahim (supra) and Raja Benoy Kumar Sahas Roy (supra). Accordingly, the ground No. one and two of the appeal of the assessee allowed for statistical purposes.

8.3 The ground No. 3 of the appeal relates to not allowing cost of acquisition of land against the business income. We are of the opinion that the issue whether the land in question is capital asset or not has been restored back to the file of the Ld. Assessing Officer and therefore subsequent treatment of the said sale falling under the head "capital gain" or "business income" will be decided by the Assessing Officer after deciding the issue of land is capital asset or not and he may consider allowing the cost of acquisition of the land either under the head capital gain or under the head profit and gains of the business in accordance with law. As per the provisions of the Act cost of acquisition is allowable while computing capital gain as well as while computing profit on sale transactions under the head "profit and gain of business". Since the ground No. 1 & 2 of the appeal have been restored back to the file of the Assessing

Officer, this ground of the appeal is also restored back to the file of the Assessing Officer for deciding afresh.

9. In the result, the appeal of the assessee is allowed for a statistical purposes.

Order pronounced in the open Court on 16/03/2022.

Sd/-
(AMARJIT SINGH)
JUDICIAL MEMBER

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Mumbai;
Dated: **16/03/2022**
Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Sr. Private Secretary)
ITAT, Mumbai