

**IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT**

**BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND  
DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER**

**ITA Nos. 156 & 157/SRT/2020  
(Assessment Years: 2013-14 & 2015-16)  
(Hearing in Virtual Court)**

D.C.I.T. Circle-1(1)(2), Surat.	Vs.	M/s J.K. Paper Ltd. P.O. Central Pulp Mill, Fort Songadh, Surat. <b>PAN : AACT 6305 N</b>
<b>APPELLANT</b>		<b>RESPONDEDNT</b>

**ITA No. 06/SRT/2021 (Assessment Year: 2016-17)**

D.C.I.T. Circle-1(1)(2), Surat.	Vs.	M/s J.K. Paper Ltd. P.O. Central Pulp Mill, Fort Songadh, District-Tapi, Surat. <b>PAN : AACT 6305 N</b>
<b>APPELLANT</b>		<b>RESPONDEDNT</b>

Department by	Shri H.P. Meena, CIT-DR
Assessee by	Shri Saurabh Soparkar, Senior Advocate with Ms. Urvashi Shodhan, Advocate
Date of hearing	27/04/2022
Date of pronouncement	06/05/2022

**Order under section 254(1) of Income Tax Act**

**PER PAWAN SINGH, JUDICIAL MEMBER:**

1. This set of four appeals by the Revenue are directed against the separate orders of the learned Commissioner of Income Tax (Appeals)-1, Surat (in short, the Id. CIT(A), dated 17/01/2020, 23/09/2020 and 28/01/2020 for the A.Y. 2012-13, 2013-14, 2015-16 and 2016-17 respectively. Out of four appeals, three appeals for the A.Y. 2013-14, 2015-16 and 2016-17 relates to quantum

assessment and ITA No. 181/Srt/2020 relates to penalty levied under Section 271(1)(c) of the Income Tax Act, 1961 (in short, the Act) for the A.Y. 2012-13.

2. In all the appeals for the quantum assessment, the Revenue has raised certain common grounds of appeal. Facts in all the years are almost similar except variation in additions or disallowances, therefore, with the consent of parties, all appeals were clubbed heard together and are being decided by this consolidated order to avoid the conflicting decision.

3. For appreciation of facts, the appeal for the A.Y. 2013-14 is treated as a "lead case". In this appeal, the Revenue has raised following grounds of appeal:

- "1. Whether on the facts and circumstances of case and in law, the Ld. CIT(A) is justified in directing to rework the disallowance made by the AO on account of social forestry expenses of Rs.88,48,552/- without appreciating the facts that the activities classified as social forestry were agriculture operations and the same was not allowable U/s 10(1) of the I.T. Act and the assessee failed to prove otherwise?"*
- 2. Whether on the facts and circumstances of case and in law, the Ld. CIT(A) is justified in deleting the addition made by the AO on account of unexplained creditors of Rs. 9,00,460/- as assessee failed to prove the bonafide of the transactions with the creditors and therefore, the AO has rightly invoked the provisions of section 41(1) of the Act?"*
- 3. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) is justified in deleting the addition of Rs. 10,28,530/- made by the AO on account of excess processed stock declared to the bank without appreciating the facts that the Assessing officer rightly made addition after finding difference in stock declared to the Bank with respect to the stock shown in the audited books of accounts?"*

4. *Whether on the facts and circumstances of cases and in law, the Ld. CIT(A) is justified in deleting the addition of Rs.4,20,000/- made on account of commission paid to non-executive directors other than managing directors, as they have no involvement in day to day activities of the company and as such, assessee failed to justify the commission payment to these directors?*
5. *Whether on the facts and circumstances of cases and in law, the Ld. CIT(A) is justified in deleting the addition of Rs.18,90,000/-made by the AO on account of commission paid on sale without appreciating the facts that the assessee failed to justify the expenses of commission supporting with documentary evidences regarding the nature of service rendered by them?*
6. *Whether on the facts and circumstances of cases and in law, the Ld. CIT(A) is justified in deleting the addition of Rs. 1,88,95,000/- made by the AO on account of 5% of other expenses without appreciating the facts that the assessee was unable to prove that the expenses claimed was wholly and exclusively incurred for business purpose and was revenue in nature?*
7. *Whether on the facts and circumstances of cases and in law, the Ld. CIT(A) is justified in deleting the addition of Rs.90,90,000/- made by the AO on account of 5 % of staff welfare and other benefits without appreciating that the assessee was unable to prove that the expenses claimed was wholly and exclusively incurred for business purpose and was revenue in nature?*
8. *Whether on the facts and circumstances of cases and in law, the Ld. CIT(A) is justified in deleting the addition of Rs. 13,32,300/- made by the AO being expenditure incurred for the purpose of exempted income while computing book profit U/s 115JB of the Act?*
9. *Whether on the facts and circumstances of cases and in law, the Ld. CIT(A) is justified in deleting the addition of Rs. 17,47,668/- made by the AO on account of non-deduction of tax on foreign remittance being agency commission payment to non-residents U/s 40a(i) of the IT Act without appreciating the provisions of the Act as also the CBDT Cir No.7 dated,22.10.2009?*

10. *Whether on the facts and circumstances of cases and in law, the Ld. CIT(A) is justified in deleting the addition of Rs.6,36,89,244/-made by the AO on account of MAT credit added to the Book profit?*
11. *Whether on the facts and circumstances of cases and in law, the Ld. CIT(A) is justified in deleting the addition of Rs.38,73,80,422/-made u/s 80IA of the IT act by the AO on account of downward adjustment in selling price of electricity supplied by the tax holiday undertaking of the assessee company?*
12. *On the facts and circumstances of the case, the Ld. CIT(A) ought to have upheld the order of the AO.*
13. *It is, therefore, prayed that the order of the Ld. CIT(A) may be set aside and that of assessing office may be restored to the above extent.*
14. *The appellant craves leave to add, alter, amend and/or withdraw any ground(s) of appeal either before or during the course of hearing of the appeal.*

4. Brief facts of the case are that the assessee is a company engaged in the business of manufacturing and trading of papers and generation of power for its own purpose. The assessee filed its Return of Income for relevant assessment year on 29/11/2013 declaring showing total income of Rs.10,24,26,390/-and book profit under section 115JB of the Act of Rs.38,23,57,964/-. The case of the assessee was selected for scrutiny and statutory notices were issued and served upon the assessee. Finally the assessment was completed under section 143(3) of the Act on 28.12.2016. The Assessing Officer (AO) while passing the assessment was order made a number of additions of the disallowances as mentioned on page no. 48 and 49 of the assessment order. The Assessing Officer also computed book profit of the assessee under Section 115JB of the Act and made

disallowance under Section 14A of the Act at Rs. 13,32,300/- and MAT Credit entitlement of Rs. 6,36,89,244/-.

5. On appeal before the Id. CIT(A), the assessee was given substantial relief to the assessee. The addition made by the AO and on appeal deleting/restricting the various additions are summarized in the following chart:

Sr. No.	Nature Additions/disallowances	Addition by A.O. Rs.	Addition deleted/sustained by Id. CIT(A) to the extent of Rs.
1.	Social Forestry Expenses	Rs. 88,48,552/-	Deleted to the extent of Rs.71,31,552/-
2.	Adjustment u/s 145A of the Act (net)	1,09,99,111/-	Not under appeal.
3.	Unexplained creditors	Rs.9,00,460/-	Deleted/Allowed
4.	Excess process stock declare to bank	Rs. 10,28,530/-	Deleted/Allowed
5.	Disallowance u/s 14A of the I.T. Act	Rs. 13,32,200/-	Deleted/Allowed
6.	Bad debts written off	Rs. 13,22,310/-	Deleted/Allowed
7.	Scaling down of deduction u/s 80IA	Rs. 39,77,68,686/-	Deleted/Allowed
8.	Out of commission paid to Directors	Rs. 4,20,000/-	Deleted/Allowed
9.	Out of commission of sales	Rs. 18,90,000/-	Deleted/Allowed
10.	Out of Misc. Expenses	Rs. 1,88,95,000/-	Deleted/Allowed
11.	Out of Employees welfare expenses	Rs. 90,90,000/-	Deleted/Allowed
12.	Income from deployment of fund	Rs. 78,61,742/-	Not under appeal.
13.	Disallowance u/s 40(a)(ia) of the Act	Rs. 17,47,668/-	Deleted/Allowed
14.	MAT Credit entitlement	Rs. 6,36,89,244/-	Deleted/Allowed

6. Aggrieved by the order of Id CIT(A), the revenue has filed present appeal before this Tribunal.

7. We have heard the submissions of Sh H.P. Meena learned Commissioner of income tax-departmental representative (CIT-DR) for the revenue and the learned Senior Advocate Sh. Saurabh Suparkar, assisted by Ms Urvashi Sodhan Advocate, hereafter referred as learned Senior Counsel. At the outset of hearing the learned Senior Counsel for the assessee submits that all the grounds of appeals raised by the revenue are covered in favour of the assessee and against the revenue. The Id CIT(A) while granting relief to the assessee on various grounds of appeal relied on the decisions of Tribunal in earlier years. This fact is admitted by the revenue in its statement of facts filed with the grounds of appeal.

8. Ground No. 1 relates to deleting the disallowance of Social Forestry expenses and depreciation on at use for social forestry. The Id. Sr. Counsel for the assessee submits that similar issue arose in assessee's own case for A.Y. 2002-03 and the Tribunal while deciding by common order for A.Y. 2002-3 to 2004-05 decided the issue if favour of assessee. The Id.CIT(A) while granting relief to the assessee relied on the decision of Tribunal in assessee's own case for A.Y. 2002-03 in order dated 04.09.2009. The Id. Sr. Counsel further explained the facts that these expenses were incurred on growing saplings of land / operation on growing sapling after removal from land in pots and polythine packs and after plucking them from ground planted in such pots is an integrated activities which

is in conjunction with growing sapling on the land is agricultural expenses it has to be allowed. As stated earlier this issue was first time arose in assessee's own case for A.Y. 2002-03 and after detailed discussion it was decided in favour of assessee. These principles were followed in appeal for subsequent year in A.Y. 2010-11 to 2012-13 in order dated 04.11.2020. The Id.AR submits that order of Tribunal for A.Y. 2002-03 and 2010-11 to 2012-13 is placed on record, accordingly the Id.Counsel submits that the issue is squarely covered infavour of assessee.

9. On the other hand, the Id.CIT-DR for the Revenue submits that he strongly relied upon the order of AO.

10. We have considered the contention of both the parties and gone through the order of the Id. CIT(A). We have noted that Id. CIT(A) while passing the order followed the order of Tribunal in assessee's own case for A.Y. 2002-03 dated 09.04.2009. We have further noted that by following the order of Tribunal similar relief was granted to assessee in appeal for A.Y. 2010-11 to 2012-13 by passing the following order:

*" 8. We have considered the rival contention about the parties and have gone through the orders of authorities below. We have noted that similar additions were made against the assessee in assessment year 2002-03, 2003-04 and in 2004-05. The additions were upheld by learned CIT(A), however on appeal before Tribunal the assessee was granted relief vide order dated 4 September 2009. By following the decision for earlier years the coordinate bench in appeal for assessment year*

2009-10 in ITA No.511& 634/Ahd/2013, order dated 31.07.2013, granted similar relief to the assessee by passing the following order;

2. The facts of the case as emerged from the corresponding Assessment orders passed u/s. 143(3), dated 23.12.2011 were that the assessee company is engaged in the business of manufacturing and trading of Pulp and Board. The company has two paper mills. In respect of ground no.1, it was noted by the AO that the assessee had incurred an expenditure on Social Forestry at Rs.85,43,140/-. The assessee has claimed the deduction of the said expenditure. The explanation of the assessee was that since the assessee is manufacturing Pulp & Board, therefore, the bamboo and the hardwood are the major raw material required for the manufacturing. However, the AO was not convinced and following the past history of the case, the said expenditure was disallowed. When the matter was carried before the First Appellate Authority, learned CIT(A) has followed an order of the Tribunal and thereafter directed the AO to rework the disallowance in accordance with the directions laid down by the Tribunal. With these brief background, we have been informed that on identical facts ITAT 'C' Bench Ahmedabad for A.Y. 2008-09 in an appeal of the assessee bearing ITA No.2262/Ahd/2011 and Cross Appeal bearing ITA No. 2505/Ahd/2011 vide an order dated 24th of May, 2012 has held vide paragraph no.31 at page 9 that the ground is required to be decided against the assessee. Even the learned CIT(A) has followed an earlier order of the Tribunal dated 4.9.2009, wherein the quantification was made as under:

"Following out order for the assessment year 2002-03 only the expenses to the extent of Rs.15.15 lacs would be considered as agricultural expenses out of total claim of expense at Rs.80.95 lacs and would not be allowed. Against this the assessee has shown sale of agricultural produce (relatable to growing of saplings through land) at Rs. 5.72 lacs and sale of saplings not relatable to agricultural operations at Rs. 1.42 lacs. Therefore,

*agricultural loss would be only Rs.15.15 - 5.72 = 9.43 lacs. The sale of saplings at Rs.1.42 lacs would be non-agricultural receipts and therefore cannot be allowed to be adjusted against agricultural expenses. So far as the depreciation of Rs.4.32 lacs is concerned the same has been claimed on mist chambers other assets used in growing saplings through clonal routes which has been treated as non-agricultural operation in our discussion made in assessment year 2002-03 while disposing of similar ground. Thus, the disallowance is restricted to Rs. 9.43 lacs and accordingly assessee gets relief of Rs.78.13 - 9.43) = Rs.68.70 lacs."*

*2.1 In the light of the above discussion, we are of the considered opinion that this issue now stood covered by several decisions of the Tribunal pronounced in the past and learned CIT(A) has simply followed one of the said decision, hence, there was no fallacy in the judgment of learned CIT(A), thus required to be affirmed. Resultantly, we find no force in this ground of the assessee. Hence dismissed.*

*Considering the consistent decision of Tribunal on similar set of fact, we are in agreement with the submission of learned AR of the assessee that this ground of appeal is covered in favour of the assessee by the decision of Tribunal in earlier years. Hence, we affirm the order of Id. CIT (A). No contrary facts or law is brought to our notice to take the other view. Respectfully following the same, the ground of appeal raised by revenue is dismissed."*

11. Considering the consistent decisions of the Tribunal in assessee's own case and following the principal of consistency and more over the Ld. CIT(A) granting relief to the assessee by following the order of Tribunal, therefore, we do not find

any infirmity in the order passed by Ld.CIT(A). Hence, we affirm the order passed by Ld. CIT(A). In the result this ground of appeal is dismissed.

12. Ground No.2 relates to deleting the disallowance of Unexplained Creditors of Rs.9,00,460/-. The Id. Sr.Counsel for the assessee submits that Id.CIT(A) while granting relief to the assessee relied on the decision of Tribunal in assessee's own case for A.Y. 2005-06 in ITA No.4027 & 4080/Ahd/2008 dated 04.02.2011. These principles were followed in appeal for subsequent year in A.Y. 2010-11 to 2012-13 in order dated 04.11.2020 and it was lastly followed in 2014-15 in ITA No. 365/Srt/2017 dated 29/04/2021.

13. On the other hand, the Id.CIT-DR for the Revenue submits that he strongly relied upon the order of AO.

14. We have considered the contention of both the parties and gone through the order of the Id.CIT(A). We have noted that Id.CIT(A) while passing the order followed the order of Tribunal in assessee's own case for A.Y. 2005-06 dated 04.02.2011. We have further noted that by following the order of Tribunal similar relief was granted to assessee in appeal for A.Y. 2010-11 to 2012-13 by passing the following order:

*"11. We have heard the considered the submission of both the parties and have gone through the orders of lower authorities. We have noted that on almost similar fact on similar ground of appeal in appeal for assessment year 2009-10, the coordinate bench of Tribunal passed the following order;*

*"10. Ground No.2 is reproduced below:*

*"On the facts and circumstances of the case and in law, the Id. CIT(A) has erred in deleting the addition made of Rs.5,14,850/- on account of unexplained creditors as the assessee failed to prove the genuineness of the transactions with the creditors."*

*10.2 At the outset, we have been informed that on identical facts, the Tribunal in A.Y.2008-09 (supra) had held that there was no change in the facts of the case already considered in the past for A.Y. 2006-07 and 2007-08 by the Tribunal. On the same lines for A.Y. 2008-09, the ITA No.511 & 634/Ahd/2013 J.K. Paper Ltd. Vs ITO A.Y. 2009-10 Tribunal has decided the issues in favour of the assessee, relevant portion is reproduced below:*

*"2.4 Ground No.4 is as under:*

*"(4) On the facts and circumstances of the case and in law, the Ld.CIT(A)-I, Surat has erred in deleting the addition of Rs.4,95,000/-made on account of unexplained creditors without appreciating the fact the assessee failed to discharge the onus cast upon it to prove the genuineness of the creditors." 2.4.1 Regarding this issue, it was agreed by both the side that similar issue was raised by the revenue in earlier two years i.e. assessment year 2006-07 and 2007-08 as per ground I(d) and I(c) respectively and therefore, in the present year also, this issue may be decided on similar line. In those two years, this issue was decided by the tribunal in favour of assessee as per para 15.2 of the tribunal order of earlier two years which is reproduced below: "15.2 We have considered the rival submissions, perused the material on record and have gone through the orders of authorities below.. We find that this is an admitted fact in both these years that in the books of the assessee, the amount in question is shown as liability and it was not written back by the assessee by way of credit*

*to the P & L account. In the light of these facts, when we examine the provisions of Section 41(1) of the Income tax Act, 1961, we find that as per Explanation (1) inserted in Section 41(1) by the Finance (No.2) Act 1996 w.e.f. 01.04.1997, if the assessee has written back the liability then it will amount to remission or cessation of liability for the purpose of invoking Section 41(1). As per the judgment of Hon'ble Apex Court rendered in the case of Sugauli Sugar Works as reported in 236 ITR 518 (S.C.) and in the case of Kesaria Tea Co. Ltd. reported in 254 ITR 434 (S.C.), even a unilateral entry passed by the assessee by writing back the liability will not amount to cessation of liability. However, after the amendment of Section 41(1) by way of insertion of Explanation to this extent, these two judgments of Hon'ble Apex Court will not be applicable where the assessee has written back the liability but where assessee has not written back the liability in the books, Section 41(1) cannot be invoked as per those judgment of Hon'ble Apex Court even after the insertion of Explanation (1) in Section 41(1). These two judgments of Hon'ble Apex Court will not be applicable where the assessee has written back the liability but where assessee has not written back the liability in the books Section 41(1) cannot be invoked as per these two judgments of Hon'ble Apex Court even after the insertion of Explanation (1) to Section 41(1) of the Act. Since in the present case, assessee has not written back the liability in question, provisions of Section 41(1) cannot be invoked and hence, we decline to interfere in the order of Id. CIT(A) on this issue. Ground No.1 (d) of the assessment year 2006-07 and ground No.1 (c) for assessment year 2007-08 are rejected."*

*2.4.2 Since no difference in the fact could be pointed out by the Id.DR. in the present year also, we decide this issue in favour of the assessee by respectfully following the Tribunal order in earlier two years as per the relevant para reproduced above. Accordingly, this ground of the revenue is also rejected."*

*12. Considering the consistent decision of Tribunal on similar set of fact, we are in agreement with the submission of learned AR of the assessee that this ground of appeal is covered by the decision of Tribunal in earlier years. Hence, we affirms the order of Id CIT(A). No contrary facts or law is brought to ournotice to take the other view. Respectfully following the same, the ground ofappeal raised by revenue is dismissed.”*

15. We find that the aforesaid orders were followed in ITA No. 365/Srt/2017 in appeal for A.Y. 2014-15. Considering the consistent decisions of the Tribunal in assessee’s own case and following the principal of consistency and more over the Ld. CIT(A) granting relief to the assessee by following the order of Tribunal, therefore, we do not find any infirmity in the order passed by Ld.CIT(A). Hence, we affirm the order passed by Ld. CIT(A). In the result this ground of appeal is dismissed.

16. Ground No.3 relates to deleting the disallowance on excess process stock declared to bank. The Id. Sr. Counsel for the assessee submits that Id. CIT(A) while granting relief to the assessee relied on the decision of Tribunal in assessee’s own case for A.Y. 2002-03 in order dated 04.09.2009. These principles were followed in appeal for subsequent year in A.Y. 2010-11 to 2012-13 in order dated 04.11.2020. The Id. Sr. AR submits that order of Tribunal for A.Y. 2002-03 and 2010-11 to 2012-13 is placed on record, accordingly the Id. Counsel submits that the issue is also squarely covered in favour of assessee.

17. On the other hand, the Id.CIT-DR for the Revenue submits that he strongly relied upon the order of AO.

18. We have considered the contention of both the parties and gone through the order of the Id. CIT(A). We have noted that Id. CIT(A) while passing the order followed the order of Tribunal in assessee's own case for A.Y. 2002-03 dated 09.04.2009. We have further noted that by following the order of Tribunal similar relief was granted to assessee in appeal for A.Y. 2010-11 to 2012-13 by passing the following order :

*"15. We have heard the considered the submission of both the parties and have gone through the orders of lower authorities. We have noted that on almost similar fact on similar ground of appeal in appeal for assessment year 2005-06, in order dated 04.09.2009, the coordinate bench of Tribunal passed the following order;*

*"31.5 we have considered the rival submissions and produce the material on record. It is not known what basis the assessing officer and the learned CIT(A) has given the funding that there is a difference interms of quantity in a stock a statement submitted to the bank and what is recorded in the books. We however, restore the matter to the file of assessing officer to verify the statements J-1,J-4&J-7 and any other statement which is in the possession of AO pointing out the difference in a stock in terms of quantity. If there is no such statement depicting difference in terms of quantities, no addition is called for but where there is any document in possession of AO showing stock inquantity on a particular date and on comparison with the books it result in unfavorable difference against the assessee, the same will beshown to the assessee and after confronting him the difference inquantities will be worked out. Stock in terms of quantity will be*

*compared as on the same date. Thereafter, the difference if any will be valued at cost or market price whichever is low as per accounting policy followed by the assessee for valuation of stock. With these remarks we set aside this ground to the file of AO.”*

*16. We have further noted that the assessing officer, while giving effect to the order of learned CIT(A), in his order dated 11<sup>th</sup> April 2014, deleted the entire addition. Considering the consistent decisions of Tribunal on similar set of fact in earlier years, we are in agreement with the submission of learned AR of the assessee that this ground of appeal is covered by the decision of Tribunal in earlier years. Hence, we affirm the order of Id CIT(A). No contrary facts or law is brought to our notice to take the other view. Respectfully following the same, this ground of appeal raised by revenue is dismissed.”*

19. Considering the consistent decisions of the Tribunal in assessee's own case and following the principles of consistency and more over the Ld. CIT(A) granting relief to the assessee by following the order of Tribunal, therefore, we do not find any infirmity in the order passed by Ld. CIT(A). Hence, we affirm the order passed by Ld. CIT(A). In the result this ground of appeal is dismissed.

20. Ground No.4 relates to deleting the addition of Rs. 4,20,000/- made on account of commission paid to non-executive directors other than Managing directors. The Id. Sr. Counsel for the assessee submits that this issue is covered by the decision of the Tribunal for the A.Y. 2012-13 in order dated 04.11.2020 passed in ITA No. 1610/Ahd/2016. The Id. Sr. AR submits that order of Tribunal for A.Y. 2012-13 is placed on record, accordingly the Id. Counsel submits that the issue is also squarely covered in favour of assessee.

21. On the other hand, the Id.CIT-DR for the Revenue submits that he strongly relied upon the order of AO.

22. We have considered the contention of both the parties and gone through the order of the Id. CIT(A). We have further noted that this Bench of the Tribunal in assessee's own case for the A.Y. 2012-13 have granted relief to the assessee by passing the following order :

*"22. We have considered the rival submission of the parties and have gone through the orders of the authorities below. We have noted that the assessing officer made ad-hock disallowances on the doubt of genuineness of the commission expenses. The assessing officer not accepted the contention of the assessee. The learned CIT(A) granted relief to the assessee by taking view that expenses were incurred in accordance with the provisions of Companies Act. The commission expenses were paid by passing the Board's resolution. And in earlier years such commission expenses were claimed and allow to the assessee. The assessing officer made disallowance on ad-hock basis which is not permissible. Before us, no contrary fact or law is brought to our notice, therefore, we do not find any justification to interfere with the order of learned CIT(A), which we affirm. In the result this ground of appeal is also dismissed."*

23. Considering the consistent decision of the Tribunal in assessee's own case for the A.Y. 2012-13, we do not find any infirmity in the order passed by Ld. CIT(A). Hence, we affirm the order passed by Ld. CIT(A). In the result this ground of appeal is dismissed.

24. Ground No.5 relates to deleting the addition made on account of commission paid on sale of Rs.18,90,000/-. The Id. Sr. Counsel for the assessee submits that Id. CIT(A) while granting relief to the assessee by taking view that adhoc disallowance by A.O. is not justified. The Id. Sr. Counsel further submits that in assessee's own case for A.Y. 2011-12 in ITA No. 2905/Ahd/2014, similar ground of appeal was dismissed in order dated 04.11.2020. Accordingly the Id. Sr. Counsel submits that the issue is also squarely covered in favour of assessee.

25. On the other hand, the Id.CIT-DR for the Revenue submits that he strongly relied upon the order of AO.

26. We have considered the contention of both the parties and gone through the order of the Id.CIT(A). We have noted that Id. CIT(A) while passing the order held that that ad-hoc disallowance by A.O. is not justified. We have further on similar ground of appeal in assessee's own case similar relief was granted to assessee in appeal for A.Y. 2010-11 to 2012-13 by passing the following order:

*"25. We have considered the submission of both the parties and gone through the orders of authorities below. We have noted that the assessing officer made ad-hock disallowance. The contention of assessee that similar commission expenses were allowed in earlier years was not examined or discarded by the assessing officer. The assessee provided the complete details regarding sale and the commission paid to the dealers as recorded by learned CIT(A) in para 12.2 of his order. The genuineness of the expenses was not doubted by the assessing officer. Considering the fact that genuine business expenses are allowable, and the learned CIT(A) after considering the fact that in earlier years similar commission*

*expenses were allowed, allowed relief to the assessee. Before us no contrary fact or evidence is brought to take other view. Therefore, we do not find any reason to interfere with the order of learned CIT(A), which we affirm. In the result this ground of appeal is dismissed.”*

27. Considering the consistent decisions of the Tribunal in assessee's own case and following the principles of consistency and more over the Ld. CIT(A) granting relief to the assessee by following the order of Tribunal, therefore, we do not find any infirmity in the order passed by Ld. CIT(A). Hence, we affirm the order passed by Ld. CIT(A). In the result this ground of appeal is dismissed.

28. Ground No.6 relates to deleting the addition made on account of Other Expenses of Rs.1,88,95,000/-. The Id. Sr.Counsel for the Revenue submits that that Id. CIT(A) while granting relief to the assessee by taking view that ad-hock disallowance by A.O. is not justified. The Ld. Sr Counsel further submits that in assessee's own case for A.Y. 2011-12 in ITA No. 2905/Ahd/2014, similar ground of appeal was dismissed in order dated 04.11.2020. Accordingly the Id. Sr. Counsel submits that the issue is also squarely covered in favour of assessee.

29. On the other hand, the Id.CIT-DR for the Revenue submits that he strongly relied upon the order of AO.

30. We have considered the contention of both the parties and gone through the order of the Id. CIT(A). We have noted that Id. CIT(A) while passing the order followed the order of Tribunal in assessee's own case for A.Y. 2002-03 dated

09.04.2009. We have further noted that by following the order of Tribunal similar relief was granted to assessee in appeal for A.Y. 2010-11 to 2012-13 by passing the following order :

*“26. Ground No. 8 relates to deleting the disallowance of 5% of various expenses of ₹ 1.29 Crore. The learned DR for the revenue submits that the assessee debited ₹ 2593.05 lakhs under the heads Bank charges, transport, Clearing and Forwarding charges, travelling and other miscellaneous expenses. The assessee was asked to provide ledger accounts of these expenses and vouchers relating to travelling and other miscellaneous expenses. The assessee claimed that expenses are revenue in nature and pertain to the business operation of the assessee. The assessee could not prove the entire expenses being wholly and exclusively incurred for the purpose of business. The assessing officer reasonably disallowed only 5% of the total expenses treating same as non-business expenditure and added to the total income of the assessee. Accordingly, the learned DR prayed that disallowance was made on reasonable basis and are required to be upheld by reversing the order of learned CIT(A) and by restoring the order of assessing officer.”*

31. Considering the consistent decisions of the Tribunal in assessee's own case and following the principles of consistency and more over the Ld. CIT(A) granting relief to the assessee by following the order of Tribunal, therefore, we do not find any infirmity in the order passed by Ld. CIT(A). Hence, we affirm the order passed by Ld. CIT(A). In the result this ground of appeal is dismissed.

32. Ground No.7 relates to deleting the addition made on account of Employee Welfare Expenses of Rs.90,90,000/-.The ld. Sr. Counsel for the assessee submits that ld. CIT(A) while granting relief to the assessee by taking view that adhoc

disallowance by A.O. is not justified. The Ld. Sr. Counsel further submits that in assessee's own case for A.Y. 2010-11 to 2012-13 i.e. in ITA No. 1100/Ahd/2014, 2905/Ahd/2014 and 1963/Ahd/2016, similar ground of appeal was dismissed in order dated 04.11.2020. Accordingly the Id. Sr. Counsel submits that the issue is also squarely covered infavour of assessee.

33. On the other hand, the Id.CIT-DR for the Revenue submits that he strongly relied upon the order of AO.

34. We have considered the contention of both the parties and gone through the order of the Id.CIT(A). We have noted that Id.CIT(A) while granting relief to the assessee by taking view that ad-hoc disallowance by A.O. is not justified. We have further noted similar ground of appeal that raised by the revenue was dismissed by Tribunal in appeal for A.Y. 2010-11 to 2012-13 by passing the following order :

*"31. We have considered the rival submission of both the parties and perused the record carefully. We have noted that the assessing officer has not examined the details furnished by the assessee. The assessing officer has not find any defects in the books of account maintained by assessee. The assessing officer has not specified even a single discrepancy either in the documents or in the reply furnished by assessee. The learned CIT(A) while granting relief to the assessee recorded that the assessing officer has not doubted that these expenses were not genuine. Even before us no contrary fact or law is shown to take other view except to raise the plea that the disallowances were made on reasonable basis. Therefore, we do not*

*find any infirmity in the order passed by learned CIT(A), which we affirm. In the result this ground of appeal is also failed.”*

35. Considering the consistent view of the Tribunal in assessee's own case in appeal for AY 2010-11 to 2012-13 and following the principles of consistency and by following the order of Tribunal, therefore, we do not find any infirmity in the order passed by Ld. CIT(A). No contrary fact or law is brought to our notice to take other view. Hence, we affirm the order passed by Ld. CIT(A). In the result this ground of appeal is dismissed.

36. Ground No.8 relates to deleting the addition of Rs. 13,32,300/- under section 14A and added in Book Profit computation under section 115JB. The learned Sr. Counsel for the assessee submits that assessee was allowed relief by the Id. CIT(A) by following order of Tribunal in assessee's own case for assessment year 2014-15. Further similar grounds of appeal was dismissed by the Tribunal in Revenue's appeal for A.Y. 2010-11 to 2012-13.

37. On the other hand, the Id. CIT-DR for the Revenue supported the order of the Assessing Officer.

38. We have considered the submissions of both the parties and gone through the assessment order and order passed by Id. CIT(A). We find that the Id. CIT(A) while granting relief to the assessee, followed the orders of the earlier years. We further find that in assessee's own case in A.Y. 2014-15 in ITA No. 365/Srt/2017, we have passed the following order:

“33. We have considered the contention of both the parties and gone through the assessment order and the order passed by Id.CIT(A). We have noted that Id. CIT(A) while passing the order followed the order of Tribunal in assessee’s own case for earlier years as A.Y. 2002-03 to 2004-05 dated 09.04.2009. We have further noted that by following the order of Tribunal similar relief was granted to assessee in appeal for A.Y. 2010-11 to 2012-13 by passing the following order :

“37. We have considered the rival submissions of the parties and perused the order of the lower authorities. The assessing officer made adjustment by taking view that there is no provision for any adjustment in respect of MAT credit to the profit and loss accounts and the same is required to be reduced from the net profit for computing book profit and accordingly added to the book profit. The Id CIT(A) granted relief to the assessee by following the order of his predecessor for AY 2009-10.

38. The Special Bench of Delhi Tribunal in ACIT Vs Vireet investment [2017] 82 taxmann.com 417 (Delhi- Tribunal SB) held that computation under clause (f) of Explanation 1 to section 115JB(2), is to be made without resorting to computation as contemplated under section 14A. Considering the aforesaid discussions, we do not find any merit in this ground of appeal. In the result this ground of appeal is also dismissed.”

34. Considering the consistent view of the Tribunal in assessee’s own case in appeal for A.Y. 2002-03 to 2004-05 dated 09.04.2009, which was again followed in AY 2010-11 to 2012-13 and thereby following the principles of consistency and by following the order of Tribunal, therefore, we do not find any infirmity in the order passed by Ld. CIT(A). No contrary fact or law is brought to our notice to take other view. Hence, we affirm the order passed by Ld. CIT(A). In the result this ground of appeal is dismissed.”

39. Considering the consistent view of the Tribunal in assessee’s own case in appeal for AY 2010-11 to 2012-13 and 2014-15 and following the principles of consistency and by following the order of Tribunal, therefore, we do not find any

infirmary in the order passed by Ld. CIT(A). No contrary fact or law is brought to our notice to take other view. Hence, we affirm the order passed by Ld. CIT(A). In the result this ground of appeal is dismissed.

40. Ground No.9 relates to deleting the addition made on account of Non deduction of tax on foreign remittance of Rs.17,47,668/-. The Ld. Sr. Counsel for the assessee submits that Ld.CIT(A) while granting relief to the assessee followed the decision of Hon'ble Supreme Court in CIT Vs Toshoku Ltd (125 ITR 525 SC) and further Tribunal in assessee's own case for A.Y. 2010-11 to 2012-13 in order dated 04.11.2020 allowed similar relief to the assessee by dismissing the identical ground of appeal. The Ld. Counsel further submits that in A.Y. 2014-15, similar issue was decided in favour of assessee in ITA No. 365/Srt/2017.

41. On the other hand, the Ld.CIT-DR for the Revenue submits that he strongly relied upon the order of AO.

42. We have considered the contention of both the parties and gone through the orders of lower authorities. We have noted that Ld.CIT(A) while passing the order followed the order of his predecessor for AY 2012-13, wherein it was held that commission paid to non-resident for services rendered outside India cannot be deemed to be income accrued or arisen in India. And followed the decision of Hon'ble Supreme Court in CIT Vs Toshoku Ltd (supra). We have further noted that in appeal for AY 2010-11 to 2012-13, similar relief was granted by Tribunal to

assessee by dismissing the similar ground of appeal raised by revenue by passing the following order :

*“49. We have considered the rival contention of both the parties and perused the order of lower authorities. During the assessment of the assessing officer noted that assessee made foreign remittance of ₹7,100,00/- to non-resident on account of export commission, on which notax was deducted at source as required under section 195 of the Act. The assessee was issued show cause notice as to why a disallowance under section 40 a (i) should not be made. The assessing officer after considering the submission of assessee made disallowance of ₹ 71 lakhs on account of non-deduction of tax at source. During the appellate proceeding before learned CIT(A) the assessee contended that the issue regarding the non-withholding tax on commission paid to non-resident is now settled by honorable Supreme Court in case of CIT versus Toshoku Limited (supra), wherein it has been held by the Apex Court that commission amounts, which were earned by the non-resident for services rendered outside India cannot be deemed to be income which has neither accrued nor arise in India. The non-resident to whom such commissions were paid in the year under consideration does not have any business connection or permanent establishment in India and therefore, no income accrue or arise or deem to arise in India in terms of section 9(1)(i) of the Act. Such income is not chargeable to tax India as per section 195 of the Act. The learned CIT(A) following the decision of honorable Supreme Court in CIT versus Toshoku Limited (supra) deleted the entire disallowance. No contrary fact or law is brought to notice to take any other view, thus we affirm the order of learned CIT(A). In the result this ground of appeal is dismissed.”*

43. We further find that on similar set of fact, similar relief was granted to the assessee in A.Y. 2014-15 in ITA No. 365/Srt/2017 by passing the following order:

“37. We have considered the contention of both the parties and gone through the orders of lower authorities. We have noted that Id.CIT(A) while passing the order followed the order of his predecessor for AY 2012-13, wherein it was held that commission paid to non-resident for services rendered outside India cannot be deemed to be income accrued or arisen in India. And followed the decision of Hon'ble Supreme Court in CIT Vs Toshoku Ltd (supra). We have further noted that in appeal for AY 2010-11 to 2012-13, similar relief was granted by Tribunal to assessee by dismissing the similar ground of appeal raised by revenue by passing the following order:

“49. We have considered the rival contention of both the parties and perused the order of lower authorities. During the assessment of the assessing officer noted that assessee made foreign remittance of ₹ 7,100,00/- to non-resident on account of export commission, on which no tax was deducted at source as required under section 195 of the Act. The assessee was issued show cause notice as to why a disallowance under section 40 a (i) should not be made. The assessing officer after considering the submission of assessee made disallowance of ₹ 71 lakhs on account of non-deduction of tax at source. During the appellate proceeding before learned CIT(A) the assessee contended that the issue regarding the non withholding tax on commission paid to non-resident is now settled by honorable Supreme Court in case of CIT versus Toshoku Limited (supra), wherein it has been held by the Apex Court that commission amounts, which were earned by the non-resident for services rendered outside India cannot be deemed to be income which has neither accrued nor arise in India. The non-resident to whom such commissions were paid in the year under consideration does not have any business connection or permanent establishment in India and therefore, no income accrue or arise or deem to arise in India in terms of section 9(1)(i) of the Act. Such income is not chargeable to tax in India as per section 195 of the Act. The learned CIT(A) following the decision of honorable Supreme Court in CIT versus Toshoku Limited (supra) deleted the entire disallowance. No contrary fact or law is

*brought to notice to take any other view, thus we affirm the order of learned CIT(A). In the result this ground of appeal is dismissed.”*

38. *Considering the consistent view of the Tribunal in AY 2010-11 to 2012-13 and thereby following the principles of consistency and by following the order of Tribunal, therefore, we do not find any infirmity in the order passed by Ld. CIT(A). No contrary fact or law is brought to our notice to take other view. Hence, we affirm the order passed by Ld. CIT(A). In the result this ground of appeal is also dismissed.”*

44. Considering the consistent view of the Tribunal in AY 2010-11 to 2012-13 and 2014-15 thereby following the principles of consistency and by following the order of Tribunal, therefore, we do not find any infirmity in the order passed by Ld. CIT(A). No contrary fact or law is brought to our notice to take other view. Hence, we affirm the order passed by Ld. CIT(A). In the result this ground of appeal is also dismissed.

45. Ground No. 10 of the appeal relates to deleting the addition of Rs. 6,36,89,244/- made on account of MAT credit. The Id. Sr. Counsel for the assessee submits that the Id. CIT(A) while deciding the issue followed the order of Tribunal for A.Y. 2012-13 in ITA No. 1963/Ahd/2016 dated 04/11/2020.

46. On the other hand, the Id.CIT-DR for the Revenue submits that he strongly relied upon the order of AO.

47. We have considered the rival submissions of both the parties and seen the orders of the lower authorities carefully. We find that on similar grounds of appeal in assessee's own case for A.Y. 2012-13, we have passed the following order:

*"34. We have considered the rival submissions of the parties and perused the order of the lower authorities. The assessing officer made adjustment by taking view that there is no provision for any adjustment in respect of MAT credit to the profit and loss accounts and the same is required to be reduced from the net profit for computing book profit and accordingly added to the book profit. The Id. CIT(A) granted relief to the assessee by following the order of Tribunal for AY 2002-03 to 2004-05 dated 04<sup>th</sup> September, 2009. The Tribunal in appeal for AY 2002-03 to 2004-05 in its order dated 04<sup>th</sup> September, 2009 clearly held that no disallowance can be made beyond the adjustment provided under section 115JB. Further we have noted that similar adjustment while computing book profit was made in AT 2006-07 and 2008-09, however, on appeal before Tribunal the same was deleted. Before us no contrary facts or law is brought to our notice except making submissions that decision of the Tribunal has been challenged by the department before Gujarat High Court and the final outcome is pending. Therefore, we do not find any good reason to interfere with the order of If. CIT(A), which we affirms. In the result this ground of appeal is also dismissed."*

48. Considering the consistent decision of Tribunal for A.Y. 2002-03 to 2004-05 and in A.Y. 2006-07 and 2008-09 which was followed in A.Y. 2012-13 in ITA No. 1963/Ahd/2016 dated 04/11/2020 and following the principles of consistency, we

do not find any merit in the ground of appeal raised by the Revenue. In the result, ground No. 10 of the appeal is dismissed.

49. Ground No. 11 of the appeal relates to deleting the addition of Rs. 38,73,80,422/- made under Section 80IA of the Act. Learned Sr. Counsel for the assessee submits that the Assessing Officer made disallowance in pursuance of order passed by Transfer Pricing Officer (TPO) under Section 92CA(3) dated 28/3/2016. The Id. Sr. Counsel submits that the price charged by Captive Power Project (CPP) Unit from paper and board units does not exceed price charged by Gujarat Electricity Board (GEB) from assessee company. The Id. CIT(A) while granting relief to the assessee, followed the decision of Gujarat High Court in CIT Vs Shah Alloys Limited (Tax Appeal No. 2092/2010 dated 22/11/2011) wherein the Hon'ble Court held that marker value of electricity supplied by CPP Unit to general unit is the price at which the GEB sold the electricity to its customers. Similar view was taken in subsequent decision by Hon'ble High Court in CIT Vs Alembic Limited (Tax appeal No. 1133/2011 dated 20/07/2016). The Id. Sr. Counsel submits that in fact, this issue is also covered in favour of assessee by the aforesaid decisions of the Hon'ble Jurisdictional High Court.

50. On the other hand, the Id. CIT-DR for the Revenue supported the order of Assessing officer.

51. We have considered the rival submissions of parties and have gone through the orders of lower authorities. We find that during the assessment, the

Assessing Officer noted that assessee has in its Audit report reported Specified Domestic Transaction (SDT) as defined under Section 92BA. Accordingly, the Assessing office made reference to TPO under Section 92CA(1) for computation of Arm's Length Price (ALP). The TPO passed order under Section 92CA(3) dated 28/10/2016 and recommended downward adjustment of Rs. 38,73,80,422/- with regard to selling price of electricity by eligible unit (Tax Holiday Undertakings) Unit, Songadh to non-tax holiday unit. On the basis of adjustment suggested by the TPO, the Id. Assessing Officer reduced the eligible deduction under Section 80IA to the extent of Rs. 38,73,80,422/-. Before Id. CIT(A), the assessee submitted that paper and board manufacturing division had purchased electricity from eligible unit at a price lower than the price paid to domestic non-related enterprises i.e. Dakshin Gujarat Vij Corporation Limited and accordingly, claimed that the transaction was at Arm's Length. The assessee also furnished details of electricity purchased and average rate of unit of electricity paid to State Electricity Board. The Id. CIT(A) after considering the submission of assessee find that only dispute is whether to take market value of electricity produced at value determined by TPO or at the price Gujarat Electricity Regulatory Commission (GERC) sales to the assessee. The Id. CIT(A) noted that the issue has been settled by Hon'ble Gujarat High Court in case of Shah Alloys Ltd. (supra) wherein it was held that market value of electricity supplied by CPP unit to general unit would be the same being charged by GEB from the consumers. The Id. CIT(A) also relied upon the decision of Hon'ble Chhattisgarh High Court in the case of

CIT Vs Godavari Power & Ispat Limited 2014, 42 Taxmann.com 551 (Chhattisgarh) wherein it was held that where the assessee had established a capital power plant in State of Chhattisgarh to supply electricity to its steel division for purpose of Section 80IA deduction, market value of power supplied by assessee to steel division should be computed considering the rate of power charged by Chhattisgarh State Electricity Board for supply of electricity to industrial consumers. Further the Id. CIT(A) held that same view has been taken by the Hon'ble Gujarat High Court in CIT Vs Pragati Glass Works P Ltd. (TA No. 1493/2011 dated 30/01/2012). We find that the Id. CIT(A) granted relief to the assessee by following the decision of Jurisdictional High Court and directed to delete the downward adjustment suggested by TPO. In view of aforesaid discussion, we do not find any reason to deviate from the order of Id. CIT(A), which we affirm. No contrary facts or law is brought to our notice to take other view. In the result, ground No. 11 of revenue's appeal is also dismissed.

52. Ground No. 12 and 13 are general in nature and needs to specific adjudication.

53. In the result, this appeal of the Revenue for Assessment Year 2013-14 is dismissed.

54. Now we take ITA No. 157/Srt/2020 by Revenue for the A.Y. 2015-16 wherein following grounds have been taken:

- “1. *Whether on the facts and circumstances of case and in law, the Ld. CIT(A) is justified in directing to rework the disallowance made by the AO on account of social forestry expenses of Rs. 1,05,93,945/- without appreciating the facts that the activities classified as social forestry were agriculture operations and the same was not allowable U/s 10(1) of the I.T.Act and the assessee failed to prove otherwise?*
2. *Whether on the facts and circumstances of case and in law, the Ld. CIT(A) is justified in deleting the addition made by the AO on account of unexplained creditors of Rs. 15,20,458/- as assessee failed to prove the bonafide of the transactions with the creditors and therefore, the AO has rightly invoked the provisions of section 41(1) of the Act?*
3. *Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) is justified in deleting the addition of Rs.34,00,000/- made by the AO on account of excess processed stock declared to the bank without appreciating the facts that the Assessing officer rightly made addition after finding difference in stock declared to the Bank with respect to the stock shown in the audited books of accounts?*
4. *Whether on the facts and facts and circumstances of the case and in law, the Ld CIT(A) is justified in restricting the addition to the extent of exempt income earned by relying the case law of Maxopp Investment Ltd Vs CIT (Civil appeal No. 104-109 of 2015) (9 ITaxmann.com 154) of the apex court, ignoring that in the said decision the Hon'ble Apex Court has not decided the issue of disallowance U/s 14A r.w. Rule 8D to be restricted to the quantum of exempt dividend income earned. Further this issue has not reached to finality in any other decision as well?*
5. *Whether on the facts and circumstances of cases and in law, the Ld. CIT(A) is justified in deleting the addition of Rs.25,10,000/-made by the AO on account of commission paid on sale without appreciating the facts that the assessee failed to justify the expenses of commission supporting with documentary evidences regarding the nature of service rendered by them?*
6. *Whether on the facts and circumstances of cases and in law, the Ld. CIT(A) is justified in deleting the addition of Rs.2,87,90,000/- made by the AO on account of 5% of other expenses without appreciating the facts that the*

*assessee was unable to prove that the expenses claimed was wholly and exclusively incurred for business purpose and was revenue in nature?*

7. *Whether on the facts and circumstances of cases and in law, the Ld. CIT(A) is justified in deleting the addition of Rs.83,40,000/- made by the AO on account of 5 % of staff welfare and other benefits without appreciating that the assessee was unable to prove that the expenses claimed was wholly and exclusively incurred for business purpose and was revenue in nature?*
8. *Whether on the facts and circumstances of cases and in law, the Ld. CIT(A) is justified in deleting the addition made by the AO U/s 14A of the IT Act, being expenditure incurred for the purpose of exempted income while computing book profit U/s 115JB of the Act?.*
9. *Whether on the facts and circumstances of cases and in law, the Ld. CIT(A) is justified in deleting the addition of Rs.89,65,180/- made by the AO on account of non-deduction of tax on foreign remittance being agency commission payment to non-residents U/s 40a(i) of the IT Act without appreciating the provisions of the Act as also the CBDT Cir No.7 dated 22.10.2009.*
10. *On the facts and circumstances of the case, the Ld. CIT(A) ought to have upheld the order of the AO.*
11. *It is, therefore, prayed that the order of the Ld. CIT(A) may be set aside and that of assessing office may be restored to the above extent.*
12. *The appellant craves leave to add, alter, amend and/or withdraw any ground (s) of appeal either before or during the course of hearing of the appeal."*

55. Ground No. 1 of the appeal relates to deleting the addition of Rs. 1,05,93,945/- made on account of social forestry expenses. We find that this ground of appeal is similar to ground No. 1 in appeal for Assessment Year 2013-14, which we have already dismissed by following the order of earlier years. Therefore, following the principle of consistency, this ground of appeal raised by

the Revenue is dismissed with similar direction as recorded in ITA No. 156/Srt/2020 for the A.Y. 2013-14. Accordingly, this ground of revenue's appeal is dismissed.

56. Ground No. 2 of the appeal relates to deleting the addition of Rs. 15,20,458/- made on account of unexplained creditors. We find that this ground of appeal is similar to ground No. 2 in appeal for Assessment Year 2013-14, which we have already dismissed by following the order of earlier years. Therefore, following the principle of consistency, this ground of appeal raised by the Revenue is dismissed with similar direction as recorded in ITA No. 156/Srt/2020 for the A.Y. 2013-14. Accordingly, this ground of revenue's appeal is dismissed.

57. Ground No. 3 of the appeal relates to deleting the addition of Rs. 34,00,000/- made on account of excess processed stock declared to the bank. We find that this ground of appeal is similar to ground No. 3 in appeal for Assessment Year 2013-14, which we have already dismissed by following the order of earlier years. Therefore, following the principle of consistency, this ground of appeal raised by the Revenue is dismissed with similar direction as recorded in ITA No. 156/Srt/2020 for the A.Y. 2013-14. Accordingly, this ground of revenue's appeal is dismissed.

58. Ground No. 4 of the appeal relates to restricting the disallowance of Section 14A to the extent of exempt income earned. The Id. Sr. Counsel submits that the Id. CIT(A) while granting relief to the assessee has followed the decision

of Hon'ble Supreme Court in the case of Maxopp Investment Ltd. Vs CIT (Civil appeal No. 104-109 of 2015) and also the decision of Hon'ble Gujarat High Court in the case of Jivraj Tea Ltd. The Id. Sr. Counsel further submits that the Hon'ble Supreme Court in Maxopp Investment Ltd. Vs CIT (Supra) has held that the disallowance u/s 14A of the Act is to be restricted to the amount of exempt dividend income earned. The Id. Sr Counsel further submits that during the year under consideration, the assessee had shown exempted dividend income of Rs. 4,55,385, and no expenditure was shown related with this income, therefore, the decision of the Hon'ble Supreme Court in Maxopp Investment Ltd. Vs CIT (Supra) is fully applicable on the case of the assessee.

59. On the other hand, the Id. CIT-DR has vehemently supported the order of the A.O. and submits that the ratio laid down in Maxopp Investment Ltd. Vs CIT (Supra) is not applicable to the facts of the present case for the reason that in the said case, the Hon'ble Apex Court has not held that the disallowance under Section 14A r.w. Rule 8D is to be restricted to the exempt dividend income earned. The Id. CIT-DR for the Revenue further submits that the Hon'ble Apex Court only ruled that the expenditure alone which had been incurred in relation to the income which is not includible in total income.

60. We have considered the rival contentions of parties and have perused the material placed on record. From perusal of the record, we noted that, as per the Assessing officer, the assessee had shown exempted dividend income of Rs.

4,55,385/- for the year under consideration and no expenditure was shown related with this income. The Id. CIT(A) in the impugned order has held that the Ahmedabad Bench of the Tribunal and the various High Courts have held that the disallowance under Section 14A cannot exceed the exempt income for the year by following the decisions in the case of Jivraj Tea Ltd 41 CCIT 47 (Ahd. Trib) which has been upheld by the Hon'ble Gujarat High Court in TA No. 185 of 2015 dated 09/04/2015, Harish M Kukreja in ITA No. 3508/Ahd/2016 dated 29/01/2019, State Bank of Patiala 393 ITR 476 and the SLP dismissed by the Hon'ble Supreme Court in Diary No. 24323 of 2018 dated 08/10/2018. We also noted that in the case of in Maxopp Investment Ltd. Vs CIT (Supra), the Hon'ble Supreme Court has held that the disallowance under Section 14A r.w. Rule 8D is to be restricted to the amount of exempt dividend income earned. In the present case, the exempt income earned during the year by the assessee is Rs. 4,55,385/-, therefore, considering the totality of the facts and circumstances of the case as well as by following the decision of the Hon'ble Supreme Court in the case of in Maxopp Investment Ltd. Vs CIT (Supra), we do not find any reason to deviate from the findings so recorded by the Id. CIT(A) which we affirm. In this result, this ground of appeal is dismissed.

61. Ground No. 5 of the appeal relates to deleting the addition of Rs. 25,10,000/- made on account of commission paid on sale. We find that this ground of appeal is similar to ground No. 5 in appeal for Assessment Year 2013-

14, which we have already dismissed by following the order of earlier years. Therefore, following the principle of consistency, this ground of appeal raised by the Revenue is dismissed with similar direction as recorded in ITA No. 156/Srt/2020 for the A.Y. 2013-14. Accordingly, this ground of revenue's appeal is dismissed.

62. Ground No. 6 of the appeal relates to deleting the addition of Rs. 2,87,90,000/- made on account of 5% of other expenses. We find that this ground of appeal is similar to ground No. 6 in appeal for Assessment Year 2013-14, which we have already dismissed by following the order of earlier years. Therefore, following the principle of consistency, this ground of appeal raised by the Revenue is dismissed with similar direction as recorded in ITA No. 156/Srt/2020 for the A.Y. 2013-14. Accordingly, this ground of revenue's appeal is dismissed.

63. Ground No. 7 of the appeal relates to deleting the addition of Rs. 83,40,000/- made on account of 5% of staff welfare expenses. We find that this ground of appeal is similar to ground No. 7 in appeal for Assessment Year 2013-14, which we have already dismissed by following the order of earlier years. Therefore, following the principle of consistency, this ground of appeal raised by the Revenue is dismissed with similar direction as recorded in ITA No. 156/Srt/2020 for the A.Y. 2013-14. Accordingly, this ground of revenue's appeal is dismissed.

64. Ground No. 8 of the appeal relates to deleting the adjustment of addition under Section 14A of the Act to the Book Profit under section 115JB. We find that this ground of appeal is similar to ground No. 8 in appeal for Assessment Year 2013-14, which we have already dismissed by following the order of earlier years. Therefore, following the principle of consistency, this ground of appeal raised by the Revenue is dismissed with similar direction as recorded in ITA No. 156/Srt/2020 for the A.Y. 2013-14. Accordingly, this ground of revenue's appeal is dismissed.

65. Ground No. 9 of the appeal relates to deleting the addition of Rs. 89,65,180/- made on account of non-deduction of tax on foreign remittance. We find that this ground of appeal is similar to ground No. 9 in appeal for Assessment Year 2013-14, which we have already dismissed by following the order of earlier years. Therefore, following the principle of consistency, this ground of appeal raised by the Revenue is dismissed with similar direction as recorded in ITA No. 156/Srt/2020 for the A.Y. 2013-14. Accordingly, this ground of revenue's appeal is dismissed.

66. Grounds No. 10 and 11 of the appeal raised by the Revenue are general in nature and does not require any adjudication.

67. Now we take ITA No. 06/Srt/2021 for the A.Y.2016-17 wherein the Revenue has raised following grounds of appeal:

- “1. Whether on the facts and circumstances of case and in law, the Ld. CIT(A) is justified in directing to rework the disallowance made by the AO on account of social forestry expenses of Rs. 1,80,43,284/- without appreciating the facts that the activities classified as social forestry were agriculture operations and the same was not allowable U/s 10(1) of the I.T.Act and the assessee failed to prove otherwise?*
- 2. Whether on the facts and circumstances of cases and in law, the Ld. CIT(A) is justified in deleting the addition of Rs.63,97,448/- made by the AO on account of non-deduction of tax on foreign remittance being agency commission payment to non-residents U/s 40a(i) of the IT Act without appreciating the provisions of the Act as also the CBDT Cir No.7 dated 22.10.2009.*
- 3. Whether on the facts and circumstances of cases and in law, the Ld. CIT(A) is justified in deleting the addition or Rs. 3,82,000/- made by the AO being expenditure incurred for the purpose of exempted income while computing book profit U/s 115JB of the Act?*
- 4. On the facts and circumstances of the case, the Ld. CIT(A) ought to have upheld the order of the AO.*
- 5. It is, therefore, prayed that the order of the Ld. CIT(A) may be set aside and that of assessing office may be restored to the above extent.*
- 6. The appellant craves leave to add, alter, amend and/or withdraw any ground (s) of appeal either before or during the course of hearing of the appeal.”*

68. Ground No. 1 of the appeal relates to deleting the addition of Rs. 1,80,43,284/- made on account of social forestry expenses. We find that this ground of appeal is similar to ground No. 1 in appeal for Assessment Year 2013-14, which we have already dismissed by following the order of earlier years. Therefore, following the principle of consistency, this ground of appeal raised by the Revenue is dismissed with similar direction as recorded in ITA No.

156/Srt/2020 for the A.Y. 2013-14. Accordingly, this ground of revenue's appeal is dismissed.

69. Ground No. 2 of the appeal relates to deleting the addition of Rs. 63,97,448/- made on account of non-deduction of tax on foreign remittance. We find that this ground of appeal is similar to ground No. 9 in appeal for Assessment Year 2013-14, which we have already dismissed by following the order of earlier years. Therefore, following the principle of consistency, this ground of appeal raised by the Revenue is dismissed with similar direction as recorded in ITA No. 156/Srt/2020 for the A.Y. 2013-14. Accordingly, this ground of revenue's appeal is dismissed.

70. Ground No. 3 of the appeal relates to deleting the addition of Rs. 3,82,000/- made by the Assessing officer being expenditure incurred for the purpose of exempted income while computing book profit under Section 1115JB of the Act. We find that this ground of appeal is similar to ground No. 8 in appeal for Assessment Year 2013-14, which we have already dismissed by following the order of earlier years. Therefore, following the principle of consistency, this ground of appeal raised by the Revenue is dismissed with similar direction as recorded in ITA No. 156/Srt/2020 for the A.Y. 2013-14. Accordingly, this ground of revenue's appeal is dismissed.

71. Grounds No. 4 and 5 of the appeal raised by the Revenue are general in nature and does not require any adjudication.

72. In the result, all these three appeals of the Revenue are dismissed.

Order pronounced on 06/05/2022, in open court and result was also placed on notice board.

**Sd/-**  
**(Dr. ARJUN LAL SAINI)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(PAWAN SINGH)**  
**JUDICIAL MEMBER**

Surat, Dated: 06/05/2022

*\*Ranjan*

Copy to:

1. Assessee –
2. Revenue -
3. CIT(A)
4. CIT
5. DR
6. Guard File

By Order

Sr. Private Secretary, ITAT Surat