

IN THE INCOME TAX APPELLATE TRIBUNAL
"H" BENCH, MUMBAI

BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER AND
SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA no.5386/Mum./2012
(Assessment Year : 2007-08)

Hikal Limited
717/718, Maker Chambers-V
Nariman Point, Mumbai 400 021
PAN – AAACH0383A

..... Appellant

v/s

Dy. Commissioner of Income Tax
Circle-3(1), Mumbai

..... Respondent

Assessee by : Shri Sanjay Parikh
Revenue by : Shri Tejinder Pal Singh Anand

Date of Hearing – 11.04.2022

Date of Order – 20/06/2022

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The present appeal has been filed by the assessee against impugned order dated 03/04/2012 passed under section 250 of the Income Tax Act, 1961 ("*the Act*") by the learned Commissioner of Income Tax (Appeals) – 7, Mumbai ("*learned CIT(A)*"), for the assessment year 2007-08.

2. The assessee, in the present appeal, has raised following grounds:-

1. The Learned commissioner of income tax (Appeals) erred in confirming the exemption u/s 10B amounting to Rs. 25,11,55,516/- only as against Rs. 29,20,37,176/- claimed in the return of income.

2. The Learned Commissioner of Income Tax (Appeals) erred in confirming the allocation of all the expenses including depreciation of incineration plant of Dombivali unit amounting Rs. 50,82,383/- to Taloja EOU unit and thereby reducing the amount of exemption u/s 10B of the Income Tax Act.

3. The Learned Commissioner of Income Tax (Appeals) failed to appreciate that the incinerator plant at Dombivali unit is stand alone and independent unit and not a part of the Taloja unit.

4. The Learned Commissioner of Income Tax (Appeals) erred in upholding the el allowance in respect of expenditure of Research and Development Centre u/s 35(i)(vi) to the extent of Rs. 8,20,950/- in respect of Non-EOU unit instead of Rs. 2,49,50,202/- claimed in the return of income.

5. The Learned Commissioner of Income Tax (Appeals) erred in confirming the allocation of the Research & Development expenditure incurred at Bangalore of Rs. 2,02,26,011/- to the income of EOU units instead of Non EOU units.

6. The Learned Commissioner of Income Tax (Appeals) erred in confirming the addition of Rs. 1,38,90,413/- u/s 14A of the Income Tax Act which was computed based on the investments which are not tax free and does not enter the computation formula prescribed under Rule 8D of the Income Tax Rules.

7. The Learned Commissioner of Income Tax (Appeals) erred in rejecting the ground of appeal (Ground no-1) and treating it as infructuous ground of appeal being the ground of setting off of losses of Non-EOU units against the profit of the EOU units which is governed by exemption section 10B of the Income Tax Act.

8. The Learned Commissioner of Income Tax (Appeals) erred in setting off of the losses of non EOU units against the profits of the EOU units which is governed by exemption under section 10B of the Income-Tax Act and thereby not granting carry forward of losses of EOU units restricting the exemption u/s 10B of the Income Tax Act.

9. The appellant company prays that-

i. The exemption u/s 10B be granted at Rs. 29,20,37,176/- as claimed in the return of income.

ii. The order confirming the reduction of the deduction u/s IOB by Rs. 50,82,383/- in respect of Taloja unit may be set aside as being

passed without considering the submission made by the appellant company during the course of the appellate proceedings.

iii. The deduction of expenditure u/s 35(1)(vi) be allowed at Rs.2,49,50,203/- as claimed in the return of income.

iv. The expenditure of Research & Development amounting to Rs. 2,02,26,011/- be allocated to the income of non EOU units instead of EOU units.

v. The exemption under section 10B in respect of EOU units should be allowed without setting off of losses of Non EOU units.

vi. The disallowance u/s 14A of Rs. 1,38,90,413/- be deleted.

vii. Any other relief your honor may deem fit.”

3. The issue arising in grounds No. 2 and 3, raised in assessee's appeal, is pertaining to allocation of all expenses of non-EOU unit to EOU unit, whereby the exemption claim under section 10B of the Act was reduced.

4. The brief facts of the case pertaining to this issue, as emanating from the records are: The assessee is engaged in business of manufacturing of agrochemical and Pharma products. For the year under consideration, assessee filed its return of income on 30/10/2007 declaring net loss at Rs. 2,06,12,394. The assessee is having its administrative office at Navi Mumbai. In addition, the assessee has manufacturing units situated at various locations including at Taloja, Panoli and Bangalore, which are EOU units and are eligible for deduction under section 10B of the Act. The assessee has other manufacturing units, which are non-EOU units.

5. During the assessment proceedings, the assessee was asked to show cause as to why the expenses incurred at incinerator plant at Dombivali should not be allocated to the Talaja unit, which is basically an EOU unit. In reply, assessee submitted that its incineration unit at Dombivali was set up with a view to reduce the environmental impact due to generation of waste chemicals by the chemical units. The said unit was set up to carry out work for customers besides assessee's own requirements in Talaja and Mahad unit. The assessee further submitted that after setting up the unit, the Maharashtra Pollution Control Board set up their own incineration unit offering service at much lower cost via its central effluent treatment plant. In addition, the sharp increase in fuel oil prices made such unit uneconomical to run.

6. The Assessing Officer vide order dated 31/12/2009 passed under section 143(3) of the Act, inter-alia, after noting that as Dombivali incinerator plant was providing its services to Talaja unit and there is loss in Dombivali unit during the year, the assessee must allocate such expenses to the Talaja unit, while computing deduction under section 10B of the Act. Accordingly, Assessing Officer allocated total expenses amounting to Rs. 50,82,383 of Dombivali plant to EOU Talaja unit.

7. The learned CIT(A) vide impugned order dated 03/04/2012 dismissed the appeal filed by the assessee on this issue following its order

in assessee's own case for assessment year 2002-03 and 2003-04. Being aggrieved, assessee is in appeal before us.

8. During the course of hearing, learned Authorised Representative ("*learned AR*") submitted that Dombivali unit was an independent unit set up with an incinerator plant, which after setting up of similar unit by Maharashtra Pollution Control Board and increase in price of the fuel become uneconomical to operate. Accordingly, since past 3 years the Dombivali unit was non-operational. However, certain expenses were incurred for keeping the plant running so that if the unit is required in future the same can be used, as restarting of completely shutdown unit will require incurring of more cost by the assessee. The learned AR further submitted that the learned CIT(A) orders in preceding assessment years were quashed by the Co-ordinate Bench of Tribunal on the issue of invocation of jurisdiction under section 147 of the Act and therefore there is no findings on fact by the Tribunal. The learned AR also submitted that only in assessment years 2002-03, 2003-04 and 2004-05 addition on this issue was made by the Assessing Officer pursuant to the reassessment proceedings, which were ultimately set aside by the Tribunal. And, no addition has been made on this issue in assessment years 2005-06, 2006-07 and 2008-09.

9. On the other hand, learned Departmental Representative ("*learned DR*") vehemently relied upon the orders passed by the lower authorities.

10. We have considered the rival submissions and perused the material available on record. As per the assessee, the Dombivali unit was designed to cater to the needs of various chemical industry clients as an independent unit. The Dombivali unit not only undertook the work of outside customers but also rendered services to the units of the assessee. As per the assessee, the work carried out for the other units of the company have been charged at the prevailing market price. Further the income of the Dombivali unit was accounted and shown separately, as separate books of account were maintained at the Dombivali unit. The income of Dombivali unit consists of service invoices raised on the customer as well as the other units of the assessee. The expenditure incurred by the Dombivali unit consists of basic establishment and operation expenditure to run the factory. As the Dombivali unit was running as a separate and independent unit, therefore, the assessee has computed division-wise profitability also in respect of Dombivali unit. Thus, as per the assessee, the profit/loss of Dombivali unit, accordingly, merged with the aggregate profit/loss account of the company.

11. On 07/03/2007, survey was conducted at the premises of the assessee with respect to the enquiry for research and development work carried out at the Research and Development (R&D) unit of the assessee. During the course of survey proceedings, a specific question was raised regarding Dombivali unit, which reads as under:

"Q.14 - It is seen that in Dombivali unit you don't have any substantial income. It is understood that this unit was started as an incineration unit for all your Talaja and Mahad units. Is it not fair if the net expenses of this unit is a portion on turnover basis to these two units?"

In reply, the Director of the assessee company submitted that the unit was set up to carry out the work for customers besides assessee's own requirement in EOU Talaja unit and after setting up the unit by Maharashtra Pollution Control Board and increase in fuel price, it became uneconomical to run the unit. Based on the survey proceedings, the Assessing Officer, in the present case, allocated total expenses amounting to Rs. 50,82,383 of Dombivali unit to Talaja EOU unit. In appeal, learned CIT(A) also upheld the addition made by the Assessing Officer on this issue.

12. In the present case, it is not in dispute that assessee is having manufacturing units in respect of agrochemicals as well as Pharma products, which are EOU as well as non-EOU units. As is evident from the copy of assessment order for assessment year 2002 – 03, forming part of the paper book, the incinerator plant at Dombivali was set up in financial year 2001–02. Further, from the statement of profit and loss account for the year ending 31/03/2002, at page No. 195 of paper book, it is also evident that services were availed by Non-EOU Mahad unit and EOU Talaja unit from the Dombivali unit in respect of which internal unit transfers were made and income was earned by the Dombivali unit. Further, from the perusal of profit and loss account for the year ending

31/03/2003, at page 217 of paper book, it is evident that similar transactions were made between aforesaid 2 units with the Dombivali unit. For assessment year 2004- 05, learned AR has placed reliance upon the order passed by the Co-ordinate Bench of Tribunal, wherein, following observations are made:

"on the contrary, there was sufficient material on record to show that Dombivali unit was fully operational in the AY 2004 – 05 which is evident from various invoices and bills raised by the Dombivali unit to various 3rd parties pertaining to this..."

Apart from the said statement, details similar to year ending 31/03/2002 and 31/03/2003 are not available on record for assessment year 2004-05.

13. In the present case, it has not been disputed by the assessee that the Dombivali unit was set up to carry out work including for assessee's own units. On one hand, it is the case of the assessee that in case the operations in Dombivali unit is restarted, assessee would incur much higher losses than what it is incurring at present and therefore expenditures are incurred for keeping the Dombivali plant running. While, on the other hand it is the case of the assessee that as the Dombivali unit was non-operational and thus no services were rendered to the Talaja EOU unit, the expenditure incurred for keeping the Dombivali unit running cannot be allocated to the EOU unit. At this stage, it is also pertinent to note that even Revenue has not denied that the Dombivali unit had also rendered services to outside customers and non-EOU units prior to the

said unit become non-operational. Thus, if we assume that in case the assessee restarts its Dombivali unit, the same will cater to its own units apart from other outside customers and therefore assessee's own units will also have the benefit and for this reason expenditure was incurred for keeping Dombivali unit running. However, such a presumption cannot be extended to lead to the conclusion that whatever expenditure was incurred for purpose of keeping the Dombivali unit in running condition can be allocated to the EOU of the assessee, even when no services were rendered to EOU. As it has not been denied by the Revenue that the Dombivali unit had catered to both outside customers as well as EOU and non-EOU units of the assessee, the expenditure incurred on Dombivali unit cannot be allocated to only EOU Toluja unit without any basis or sufficient material available on record. In the present case, during survey proceedings assessee was asked if the net expenses of Dombivali unit can be apportioned on turnover basis to Taloja and Mahad units. However, the Assessing Officer vide assessment order allocated expenses of Dombivali unit only to Taloja EOU unit without any basis. Even if, expenditure is sought to be allocated on the basis of turnover such reasoning cannot justify allocation of expenditure only to EOU, as when the said unit was in operation, services were claimed to have been rendered to units other than EOU units as well. Further, even if Revenue allocates expenditure of Dombivali unit to EOU on basis of turnover such expenditure can neither similarly be allocated to other outside customers,

to whom the services were earlier rendered and income was earned by the Dombivali unit, nor such outside customers will be ready to pay to the assessee proportionate expenditure, particularly, in a situation when no services were availed by them, during the year under consideration. In such a situation, similarly, when no such services, as claimed by the assessee, were availed by the EOU, no expenditure can be allocated to it.

14. Further, it has been claimed by the assessee that even prior to setting up of the Dombivali unit, EOU unit was finding ways to other units for incineration and discontinuation of Dombivali unit would not affect EOU as it can still send waste to other units and also to Maharashtra Pollution Control Board's incineration unit. However, there is no examination by the Assessing Officer whether the EOUs were utilising the services of the other units or of Maharashtra Pollution Control Board for incineration process during the period Dombivali unit was non-operational. Further, if that be the case then allocation of expenditure of Dombivali unit to EOU, without availing any service, will result in additional allocation of expenditure to the EOU of the assessee. Thus, we are of the considered view that all the aspects in respect of this issue have not been examined by any of the lower authorities and in such a scenario, the impugned allocation of expenditure of Dombivali unit only to the Taloja EOU of the assessee, while computing deduction under section 10B of the Act, is set aside. We, further, deem it appropriate to remand this issue to the file of Assessing Officer for *de novo* adjudication after

examination of all the aspects as mentioned above. If upon fresh examination, it is found that any service was rendered by the Dombivali unit to EOU Taloja unit then the expenditure, to the extent, same pertain to such services shall be allocated to EOU Taloja unit. However, if upon examination it is found that the EOU Taloja unit of the assessee has not availed any service from Dombivali unit and rather the service of incineration were availed from any other units or from Maharashtra Pollution Control Board's incineration unit, during the year under consideration, and in respect of same, expenditure has already been incurred by the EOU unit then no additional expenditure is required to be allocated to the Taloja EOU of the assessee. As a result, grounds No. 2 and 3 raised in assessee's appeal are allowed for statistical purpose.

15. The issue arising in grounds No. 4 and 5, raised in assessee's appeal, is pertaining to allocation of R and D expenditure to EOU units.

16. The brief facts of the case pertaining to this issue, as emanating from the record are: During the course of assessment proceedings, it was observed that assessee is carrying in-house R&D for Pharma products at Bangalore (R&D) unit. It was also observed that assessee is allocating 5% of total expenses of this unit to Bangalore EOU unit. The assessee was asked to show cause as to why R&D expenses and depreciation in regard to R&D, i.e. total expenses of Bangalore (R&D) unit should not proportionately be allocated between Pharma EOU on basis of turnover.

In reply, assessee submitted that in changing competitive scenario and in process of getting the better process of manufacturing APIs, a R&D unit was established by the assessee at Bangalore for development of various Pharma products for our own Pharma plant and also developing know-how for outside parties on project basis. The assessee further submitted that the R&D centre is a standalone unit generating income itself by sales of products developed and by transferring the know-how developed by it. The Assessing Officer vide order passed under section 143(3) of the Act after noting that the assessee is manufacturing Pharma APIs at Bangalore and Panoli units, which are 100% EOUs and assessee's main business of manufacturer of pharmaceuticals and R&D is an integral part of its production process, held that it is difficult to accept that only 5% of R&D expenditure can be allocated to EOUs and accordingly, allocated the R&D expenditure to Pharma EOU and Bangalore R&D proportionate to their turnover. In appeal, learned CIT(A) upheld the findings of Assessing Officer. Being aggrieved, assessee is in appeal before us.

17. During the course of hearing, learned AR submitted that similar issue has been decided in favour of the assessee by Co-ordinate Bench of Tribunal in assessee's own case for preceding assessment year. On the other hand, learned DR vehemently relied upon the orders passed by the lower authorities.

18. We have considered the rival submissions and perused the material available on record. We find that the Co-ordinate Bench of Tribunal in assessee's own case in M/s Hikal Ltd. vs ACIT, in ITA No. 5385/Mum./2012, vide order dated 31/03/2021, for assessment year 2006-07, while deciding similar issue in favour of assessee, observed as under:

"4.3. We find that these submissions did not hold any water and the Id AO observed that assessee was not allocating expenses of R&D unit to EOU unit in order to claim higher deduction u/s 10B of the Act. We find that the Id AO also did not accept the Bangalore R &D unit as a standalone unit as assessee had claimed deduction u/s 35(2AB)(1) of the Act and in the opinion of the Id AO, the deduction u/s 35(2AB) of the Act could be claimed only by a company manufacturing or producing any drugs etc. The Id AO further noted that the Bangalore R&D unit had generated revenue of Rs. 4,09,20,348/- against claim of deduction u/s 35(1)(iv) of the Act for Rs. 1,47,44,014/- and deduction u/s 35(2AB) of the Act for Rs.4,30,14,243/-. Accordingly, the Id AO held that the Bangalore R &D unit was not a standalone unit and allocated expenses to the extent of Rs.2,86,76,162/- to different EOU units. We find that the Id AO further held that deduction u/s 35(1)(iv) of the Act with respect to R&D expenses of Rs.1,47,44,014/- and deduction u/s 35(2AB) of the Act of Rs.4,30,14,243/- was to be reduced from the profits of EOU units. This action of the Id AO was confirmed by the Id CITA.

4.4. We find from the perusal of the financial statements of the assessee enclosed in the paper book filed before us, R & D unit is an independent unit having its own separate plant and situated in a different location. The activity carried out in the said R&D unit is totally different from that carried out at the other units i.e research for developing new products and processes. The said R&D unit has a separate electric meter, has independent staff, unit requires independent inputs or raw materials etc. Separate books of accounts are maintained for this R &D unit so as to deduce the division wise profitability. The said unit does not need any support from any of the other units and can function independently having its own customers and capable of generating independent revenue on its own. Hence expenditure of R&D unit cannot be apportioned to EOU units which has no connection with R&D unit.

4.5. We further find that similar claim of the assessee was accepted by the revenue in the past scrutiny assessments. The details of the same are as under:-

"Asst Year 2002-03 – 143(3) dt 18.2.2005 – Pg 227 of Paper Book

We find that the Id AO had accepted R& D Unit at Bangalore as a separate unit and deduction u/s 10B of the Act was not disturbed by the Id AO except for other income and miscellaneous income.

Asst Year 2002-03 - 143(3) rws 147 dt 31.12.2009- Pg 235 of paper book

We find that in this assessment, deduction claimed u/s 10B of the Act was adjusted only in respect of Taloja unit of the assessee which has nothing to do with the Bangalore Pharma unit and R &D unit apart from making disallowance u/s 14A of the Act.

Asst Year 2003-04 – 143(3) dt 10.1.2006 – Pg 245 of Paper Book

The division wise profitability statement is enclosed in page 244 of the paper book filed before us. We find that the Id AO had accepted R& D Unit at Bangalore as a separate unit and deduction u/s 10B of the Act was not disturbed by the Id AO except for other income and miscellaneous income.

Asst Year 2003-04- 143(3) rws 147 dt 31.12.2009 – Pg 249 of Paper book

We find that in this assessment, deduction claimed u/s 10B of the Act was adjusted only in respect of Taloja unit of the assessee which has nothing to do with the Bangalore Pharma unit and R &D unit apart from making disallowance u/s 14A of the Act.

Asst Year 2004-05 – 143(3) dt 23.2.2006 – Pg 258 of Paper Book

We find that the Id AO had accepted R& D Unit at Bangalore as a separate unit and deduction u/s 10B of the Act was not disturbed by the Id AO except for other income and miscellaneous income.

Asst Year 2004-05 - 143(3) rws 147 dt 31.12.2009 – Pg 261 of paper book

We find that in this reopened assessment, the Id AO sought to make allocation of total expenses of R&D unit to Bangalore EOU after observing that assessee itself had allocated 5% of total expenses thereon. Accordingly, the Id AO made adjustment of allocation of expenses by allocating Bangalore R&D Unit expenses, deduction u/s 35(1)(iv) of the Act expenses between Pharma EOUs and Bangalore R&D unit on the basis of turnover. But we find that this entire reopened assessment was ultimately quashed by this tribunal, against which, according to Id AR, no further appeal was preferred by the revenue before the Hon'ble High Court. The Id DR also was not able to provide any evidence in this regard before us. Hence the entire allocation of expenses made by the Id AO stood ultimately quashed by the tribunal and had reached finality thereon.

Asst Year 2005-06 – 143(3) dt 31.12.2007 – Pg 276 of Paper Book

We find that the Id AO had accepted R& D Unit at Bangalore as a separate unit and deduction u/s 10B of the Act was not disturbed by the Id AO except for other income and miscellaneous income."

4.5.1. We find from the past behaviour of the department in the income tax scrutiny assessments of the assessee, the revenue had not sought to disturb the contentions of the assessee with regard to this impugned issue. No addition or disallowance could be made merely based on the concession given by the assessee on without prejudice basis that 5% of R &D expenses could be allocated to other units. There is no estoppel against the statute. There is no basis also for the said allocation to be carried out.

No contrary evidence has been brought on record by the Id DR before us at the time of hearing. Hence we are not inclined to accede to the request of the Id DR that atleast 5% of expenses should be subject matter of allocation to other units. There is absolutely no change in the facts and circumstances of the case during the year under consideration and hence the revenue having accepted the stand of the assessee in earlier years has to strictly abide by the principle of consistency. Reliance in this regard has been rightly placed by the Id AR on the following decisions :-

a) Decision of Hon'ble Jurisdictional High Court in the case of CIT vs Macbrout Engineering (P) Ltd reported in 232 Taxman 406 (Bom) ;

b) Decision of Hon'ble Delhi High Court in the case of CIT vs EHPT India P Ltd reported in 350 ITR 41 (Del) which is directly addressed on the method of allocation of expenses based on manpower deployed in each unit;

c) Decision of Hon'ble Gujarat High Court in the case of CIT vs Torrent Pharmaceuticals Ltd reported in 393 ITR 625 (Guj) which is directly addressed on the point of independent research centre and also on the point of expenditure of R&D unit which is eligible for deduction u/s 35(1)(iv) of the Act need not be reduced from profits ;

d) Decision of Hon'ble Jurisdictional High Court in the case of Zandu Pharmaceuticals Works Ltd vs CIT reported in 350 ITR 366 (Bom)

4.5.2. Respectfully following the aforesaid decisions, we hold that there is no need to allocate expenses of Rs 2,86,76,162/- to EOU units and that assessee would be eligible for deduction u/s 35(1)(iv) of the Act of Rs 1,47,44,014/- and the same need not be allocated to EOU units."

19. The learned DR could not show any reason to deviate from the aforesaid order and no change in facts and law was alleged in the relevant assessment year. Accordingly, respectfully following the judicial precedent in assessee's own case cited supra, grounds No. 4 and 5 raised in assessee's appeal are allowed.

20. Ground No. 6 raised in assessee's appeal was not pressed during the course of hearing. Accordingly, the said ground is dismissed as not pressed.

21. The issue arising in grounds No. 7 and 8, raised in assessee's appeal, is pertaining to setting off of loss of non-EOU against income from EOU.

22. The brief facts of the case pertaining to this issue, as emanating from the record are: During the year under consideration assessee had suffered loss of Rs. 5,11,51,216 in non-EOU units. The Assessing Officer vide order passed under section 143(3) of the Act, while allowing deduction under section 10B of the Act adjusted the loss of non-EOU units against the profits of EOU units and allow deduction under section 10 B of the Act. In appeal, learned CIT(A) dismissed assessee's ground of appeal on this issue on the basis that the same does not emanate from the assessment order. Being aggrieved, assessee is in appeal before us.

23. During the course of hearing, learned AR submitted that similar issue has been decided in favour of the assessee by Co-ordinate Bench of Tribunal in assessee's own case for preceding assessment year. On the other hand, learned DR vehemently relied upon the orders passed by the lower authorities.

24. We have considered the rival submissions and perused the material available on record. We find that the Co-ordinate Bench of Tribunal in assessee's own case in M/s Hikal Ltd. v/s ACIT, in ITAs No. 1039 & 1040/Mum./2007, vide order dated 16/07/2010, for assessment year 2003-04

and 2004-05, while deciding similar issue in favour of assessee, observed as under:

"34. This issue is covered by the decision of the Madras Special Bench in the case of Scientific Atlanta India Technology Pvt. Ltd. v/s ACIT. The question before the Special Bench was as follows:

"Whether the business losses of a non-eligible unit whose income is not eligible for deduction u/s 10A of the Act, have to be set off against the profits of the undertaking eligible for deduction u/s 10A for the purpose of determining the allowable deduction u/s 10A of the Act?"

35. *The Tribunal held as follows:*

We have to answer the question posed before us by holding that the business losses of a non-eligible unit, whose income is not eligible for deduction u/s 10A of the Act, cannot be set off against the profits of the undertaking eligible for deduction u/s 10A for the purpose of determining the allowable deduction u/s 10A of the Act."

25. The learned DR could not show any reason to deviate from the aforesaid order and no change in facts and law was alleged in the relevant assessment year. Accordingly, respectfully following the judicial precedent in assessee's own case cited supra, grounds No. 7 and 8 raised in assessee's appeal are allowed.

26. Ground No. 1 raised in assessee's appeal is general in nature and in view of our aforesaid findings, same requires no separate adjudication.

27. In the result, appeal by the assessee is partly allowed for statistical purpose.

Order pronounced in the open court on 20/06/2022

Sd/-
OM PRAKASH KANT
ACCOUNTANT MEMBER

Sd/-
SANDEEP SINGH KARHAIL
JUDICIAL MEMBER

MUMBAI, DATED: 20/06/2022

Copy of the order forwarded to:

- (1) The Assessee;*
- (2) The Revenue;*
- (3) The CIT(A);*
- (4) The CIT, Mumbai City concerned;*
- (5) The DR, ITAT, Mumbai;*
- (6) Guard file.*

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Assistant Registrar
ITAT, Mumbai