IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH MUMBAI

BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI M.BALAGANESH, ACCOUNTANT MEMBER

ITA No.3169/Mum/2017
(**Assessment Year :2011-12**)

The Deutshe Investments India Pvt. Ltd., Block B-1, Nirlon Knowledge Park Western Express Highway Goregaon-East Mumbai – 400 063	Vs.	The Principal Commissioner of Income Tax-12 Room No.363, Aayakar Bhavan, M.K. Marg Mumbai – 400 020
PAN/GIR No.AACCD1765E		
(Appellant)	..	**(Respondent**)

Assessee by	Shri P.J. Pardiwala & Niraj Sheth
Revenue by	Shri T Shankar
Date of Hearing	**24/08/2022**
Date of Pronouncement	**30/09/2022**

आदेश / O R D E R

***PER M. BALAGANESH (A.M)*:**

This appeal in ITA No.3169/Mum/2017 for A.Y.2011-12 preferred by the order against the revision order of the ld. Principal Commissioner of Income Tax-12, Mumbai u/s.263 of the Act dated 30/03/2017 for the A.Y.2011-12.

2. The only issue to be decided in this appeal is as to whether the ld. PCIT was justified in invoking revision jurisdiction u/s.263 of the Act in the facts and circumstances of the instant case.

3. We have heard rival submissions and perused the materials available on record. We find that assessee is engaged in the business of providing non-banking financial services. The return of income for the A.Y.2011-12 was filed electronically by the assessee company on 25/11/2011 declaring total income of Rs.36,61,92,270/-. The reference was made to the ld. Transfer Pricing Officer u/s.92CA(1) after obtaining the approval of the ld. CIT-6, Mumbai vide letter dated 30/08/2013. Later, an order u/s.92CA(3) of the Act was passed by the ld. TPO on 31/12/2014 accepting the entire international transactions carried out by the assessee to be at arm's length price. The scrutiny assessment was completed u/s.143(3) of the Act on 26/03/2015 by the ld. AO determining the total income of the assessee at Rs.49,01,98,760/- after disallowing provision for depreciation and addition on account of broken period interest. This assessment was sought to be revised by the ld. PCIT by invoking revision jurisdiction u/s.263 of the Act on the ground that the assessee had debited the following expenses which had been allowed as deduction by the ld. AO without making any enquiries:-

(a) Rs. 957.78 lakhs on account of "Revaluation (MTM) of non-convertible debentures.
(b) Rs. 862.33 lakhs on account of "Revaluation of Futures and Options net of premium received.

3.1. We find that the very same dispute had arose in the case of the assessee in A.Y.2010-11 and the revision order u/s.263 of the Act was

passed by that CIT for A.Y.2010-11 on the very same grounds. Infact, the present revision order u/s.263 of the Act for A.Y.2011-12 is verbatim copy paste of section 263 order of A.Y.2010-11 which has already been adjudicated by this Tribunal for A.Y.2010-11 in ITA No.3630/Mum/2016 dated 19/02/2021. Hence, we deem it fit to reproduce the said Tribunal order as under:-

> *The present appeal has been filed by the assessee against the order of Ld. Pr. Commissioner of Income Tax – 12 in short referred as 'Ld. PCIT', Mumbai, dated 28.03.2016 for Assessment Year (in short AY) 2010-11.*
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> *2. The brief facts of the case are, Ld CIT(A) observed in the case of the assessee that an order under section 143(3) of the Income Tax Act 1961 (in short Act) on 30.01.2014 passed by DCIT (AO). Assessee declared return income of ₹ 1,59,70,040/–, the assessment was completed at income of ₹ 58,57,13,080/– after making an addition on account of provision for depreciation. Ld CIT examined the assessment records and he observed that in the profit and loss account for the year under consideration, the assessee had booked losses under the head other income in schedule 14 as under:*
>
> *a). ₹ 8762.88 lakhs on account of revelation of non-convertible debentures.*
>
> *b). ₹ 630.71 lakhs on account of revaluation of futures and options net of premium received.*
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> *3. He observed that prima facie, it appeared that the AO had passed the order without making appropriate inquiries in respect of the above-mentioned items and further that the order passed was contrary to the instructions issued by the CBDT in this regard. As per the CBDT instruction No. 17 of 2008 dated 26.11.2008, a contingent liability cannot constitute a deductible expenditure for the purpose of Income Tax Act. Further, he observed that as per Instruction No. 3 of 2010 dated 23.03.2010, Marked To Market (MTM) losses are notional, contingent in nature and cannot be allowed to be set off against taxable income. He observed that it appeared the losses by the assessee were notional in nature as evidenced by the fact that the cash flow statement revealed that there were no receipts/payments in respect of these items. Accordingly, a notice dated 02.03.2016 was issued to the assessee to explain as to why the assessment order may not be considered as erroneous and prejudicial to the interest of the revenue and why section 263 proceedings cannot be invoked.*
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> *4. In response, assessee filed its submission vide letter dated*

16.03.2016 and 18.03.2016. It was submitted that notice under section 142(1) dated 29.11.2013 enclosing a questionnaire was issued by the assessing officer and submissions were filed during assessment proceedings. The AO had examined the issue relating to the explanations submitted during assessment proceedings. It was submitted that AO had raised a specific query in respect of the company's claim for deduction of provision for depreciation on investment, discount on issuance/valuation of debentures and losses on futures & options. In response, assessee had submitted its reply vide letter dated 27.01.2014. It was submitted that AO had discussed the issues and not passed the assessment order in a routine manner. It was submitted by relying on various case law that an order cannot be termed as erroneous merely because AO failed to discuss an issue more elaborately.

5. *Further it was argued that the points on which action under section 263 is proposed are such that the year of allowability of the loss becomes only the relevant matter. The losses are allowable in one or the other year and in such case, in accordance with the decision of the Supreme Court in the Case of Excel Industries Ltd (2013) (219 taxman 379), dispute should not be raised by the Department.*

6. *Further it was stated in the letter that the losses relating to nonconvertible debentures (NCD) is in respect of interest on which is linked to the performance of specified equity indices over the period of debentures. It was submitted that the company changed its accounting policy for the recognition of MTM on fair valuation of these NCD is by adopting accounting guidance contained in accounting standard 30 (AS – 30) whereby both gains and losses on revaluation of NCD's are accounted for in the profit and loss account. The NCD issued by the company are listed on recognized stock exchange in India. At the end of the year, they are revalued and any liability with respect to the MTM loss, if any, is recognized in the profit and loss account, thereby claimed as deduction. It was submitted that in the next financial year, this MTM adjustments are reversed and at the end of the year, these are revalued once again. It was explained that the assessee in earlier years was recognizing only MTM losses. It was submitted that in the year under consideration, both gains and losses are to be recognized as per the accounting principles.*

7. *With regard to CBDT instruction is No. 3 of 2010, it was submitted that the same was in respect of loss on forex derivatives transactions and the applicability of section 43 (5) of the act, the reliance was placed on the decision of various Supreme Court's decisions to argue that in a Mercantile system of accounting liability is allowable once it has been incurred even though the actual disbursement may be at a later date.*

8. With regard to loss on revelation of futures & options, it was submitted that these were held as stock in trade and therefore its valuation was done on MTM basis. The reliance was placed on the decision of special bench of Mumbai ITAT in the case of Bank of Bahrain and Kuwait (2010) (41 SO T2 90).

9. After considering the submissions of the assessee, Ld CIT observed that with regard to the enquiry made by AO on the issues mentioned in show cause notice, he observed that no such enquiry was made in the questioner dated 29th Nov. 2013. He observed that the assessee had submitted a note vide letter dated 27.01.2014, and he observed that it is only extract of the notes to the accounts in the financial statements for the year under consideration. From the records and order sheet of the assessment records, he observed that no further query was raised by the AO on this issue and considering the quantum of loss in the case of assessee, he might have sought a note on the nature of loss but it is evident that AO has failed to examine the admissibility of such loss. With the above observation he observed that in no way can a perfunctory query and an equally terse response can be construed as an enquiry or examination. Further he rejected the reliance of Supreme Court decisions to claim the above said deductions and he observed that in the given case the issue relates to interest of NCD, which is linked to the performance of specified equity indices over a period of debentures. Ld. CIT observed that the issue under consideration was allowability of interest, and this is a deduction which should have been considered and claimed under section 36 (1) (iii) of the Act .

10.Ld CIT observed that in the case of Equity Linked Debentures (ELD), the advantage of the investor is that the principal amount lent reminds protected and at the same time the lender gets interest linked to the performance of the Indices. He observed that in case the value of any indices at the end of particular year goes below the base price of such Indices adopted at its issue, there is no obligation on the company to pay any interest to the lender nor it would become payable. Therefore, the value of the Indices at the end of the maturity period of the debenture with reference to its base value adopted at the time of issue alone is relevant for the payment of interest. In case the net result of the calculation is a negative figure, no interest will be paid to the debenture holder. If it is a positive figure, the interest will be paid accordingly. Therefore, the case of the assessee is different than what it has claimed.

11.Ld CIT further observed that with regard to losses in respect of future & option is concerned, assessee had filed the details wide letter dated 24.01.2014 and it had only furnished the extract of the notes to the financial statements, which was already available with the AO. He further observed that in the present proceedings, the assessee was required to explain why the ratio of the decision of Delhi High Court in the case of DLF commercial developers Ltd (261

CTR 127) holding that losses arising out of transactions in futures and options are in the nature of speculation losses in terms of section 73 of the Act, should not be applied. In response, assessee submitted that it is a nonbanking financial company and provisions of section 73 is not applicable and with regards to CBDT instructions, it was submitted that Department instructions and circulars not binding on the assessee and on quasi-judicial authorities.

12.*After considering the submissions of the assessee, Ld CIT observed that notwithstanding the allowability or otherwise of the losses booked on account of revaluation of nonconvertible debentures and of futures & options, it is an undisputed fact that the AO while completing the assessment has allowed losses to the extent of the losses claimed by the assessee without ascertaining the nature of transactions yielding such losses. He observed that merely raising a quarry and in response that too, accepting an explanation which was merely a reproduction of statement in the notes to financial statements, which was already available with the AO Starkly demonstrates that in framing the order, AO had proceeded in a mechanical manner without any application of mind. He observed that considering the facts and circumstances of the case warranted the AO to comprehend the nature of the transactions and consider the admissibility of the losses arising there from in accordance with the provisions of law and the instructions of the CBDT. He observed that the present case of the assessee clearly falls with clause (a) of explanation to section 263 of the Act. Based on the above discussion, Ld CIT set aside the assessment order dated 30.01.2014 with a direction to pass an assessment order afresh in accordance with law, applicable judicial decisions and instructions/circulars issued by the CBDT.*

13.*Aggrieved with the above order, assessee preferred an appeal before us raising the following grounds of appeal:-*

> *1. (a) The Principal Commissioner of Income Tax - 12, Mumbai (hereinafter referred to as CIT) erred in holding that the provisions of section 263 of the Income Tax Act, 1961 ("the Act") were applicable to the facts of the appellant's case. The order dated 28 March 2016 passed by the CIT is bad in law, void, in excess of and/or want of jurisdiction and otherwise illegal and should be quashed.*
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> *(b) The CIT erred in setting aside the assessment made vide order under section 143(3) dated 30 January 2014 and passing an order under section 263 of the Act on the grounds that the original assessment order passed under section 143(3) was erroneous and prejudicial to the interest of the revenue and directing AO to frame fresh assessment order (de novo) after giving reasonable opportunity of hearing to the appellants.*

(c) The CIT erred in not appreciating the fact that the AO has made any enquiry on the issue of marked to market loss on Non convertible debentures and Futures and Options during the regular assessment proceedings, in response to which a detailed note was submitted to the AO pursuant to the discussion thereon.

The appellants pray that the order of the CIT passed under section 263 of the Act be quashed.

2. The CIT erred in directing the AO to set aside the original assessment order on the issue of marked to market loss on Non-Convertible Debentures holding that the loss appeared to be notional in nature and cannot be allowed to be set off against taxable income and pass afresh order after conducting necessary inquiries in the matter.

The appellants pray that the marked to market loss on Non-Convertible Debentures should be allowed to be set off against the taxable income

3. The CIT erred in directing the AO to set aside the original assessment order on the issue of marked to market loss on Futures and Options holding that the loss appeared to be notional in nature and cannot be allowed to be set off against taxable income and pass afresh order after conducting necessary inquiries in the matter

The appellants pray that the marked to market loss on Futures and Options should be allowed to be set off against the taxable income.

4. Without prejudice to the above, CIT erred in not appreciating that both the issues i.e. marked to market on Equity Linked Notes and Futures and Options involve timing difference and therefore are allowable in one year or the other.

The appellants crave leave to add to, amend, alter, vary, omit or substitute the aforesaid grounds of appeal or add a new ground or grounds of appeal at any time before or at the time of hearing of the appeal as they may be advised.

14. *At the time of hearing, Ld AR. brought to our notice findings of Ld CIT in the 263 order and submitted that the Ld CIT observed that AO has not carried out any verification relating to the losses claimed by the assessee. In this regard he brought to our notice page 129 of the paper book as per which, assessee has filed note on the provisions for depreciation on investments and note on depreciation on investment, discount on issuance/valuation of debentures and losses on futures/options (page 1 of paper book). Further he brought to our notice page 4 and 5 of the paper book as per which assessee has explained the discount on NCD, loss on revaluation of ELN and MTM*

on futures and options. Further he brought to our notice assessment order dated 30.01.2014, in particular para 7 of the order in which AO has reproduced the submissions of the assessee and accordingly allowed the claim of the assessee. Therefore, he submitted that the assessing officer has applied his mind and decided the issue. It clearly shows that the assessing officer has carried out enquiry. Further he brought to our notice page 48 of the paper book which is schedule to the financial statements containing significant accounting policies and he also brought to our notice the notes given by the company on nonconvertible debentures, he submitted which is different from the note submitted by the assessee before the assessing officer. He objected to the observation of the Ld CIT that it is mere reproduction of notes to the financial statement.

15.*Further he brought to our notice page 77 of the paper book in which the coordinate bench in assessee's own case relating to assessment year 2008–09, has dealt with the similar issue considered by the Ld CIT in his order and on the same issue of losses claimed by the assessee. The ITAT has set aside the 263 order with the observation that the AO has adopted one of the two possible view with which Ld. CIT does not agree, the same does not give Ld. CIT jurisdiction to exercise the revisionary power under section 263 of the Act.*

16.*On the other hand, Ld DR brought to our notice Pages 86 and 89 of paper book and submitted that the ITAT has clearly observed that the explanation 2 in section 263 was effective from 01.06.2015 and the same is not operative for the assessment year 2008-09. Accordingly, he referred to the explanation 2 (a) of section 263 of the Act and submitted that it is clarificatery in nature and the amendment is applicable retrospectively. For this proposition he relied on the decision of coordinate bench in the case of Crompton Greaves Ltd (ITA No. 1994/Mum/2013 & 2836/Mum/2014). He submitted that Ld. CIT direction is proper and in accordance with Explanation-2 inserted in section 263 of the Act. When the assessing officer does not verify the issue at the time of assessment proceedings, it clearly falls under explanation 2 (a). Further he submitted that LdCIT has lucidly brought out that enquiry should have been made are not made. He also submitted that Ld CIT has only remitted the issue back to the assessing officer for fresh consideration. As such there is no prejudice caused to the assessee.*

17.*In rejoinder, Ld. AR submitted that ITAT has clearly given finding that explanation-2 does not apply as the same is applicable effective from 01.06.2015. Therefore the above explanation-2 not apply to the current assessment year also.*
Further, he pleaded that the issue having been dealt as per the computation of income and relevant notes declared alongwith the financial statement and relevant case laws, it cannot be said that the AO has not applied his mind. He further relied on the decision of ITO

vs D.G Housing Projects (343 ITR 329) to submit that Ld CIT has not dealt on merits of the issue to quantify the prejudice caused to the revenue instead of remitting it back to AO for fresh consideration.

18. *Considered the rival submissions and material placed on record. We notice that Ld. CIT has invoked provisions of section 263 in this assessment year on the basis that AO has asked for certain clarification from the assessee and those information/clarification was already available on record or part of financial statement. He observed that the AO has completed the assessment without enquiry and not applied his mind on this issue. We notice from the record submitted before us and the similar issue the revenue has raised in the assessment year 2008– 09 wherein similar proceedings were initiated under section 263 of the Act. The Commissioner of income tax at that point of time has set aside the assessment order with the similar finding. We notice that in that 263 order as well Ld. CIT has not quantified how it is prejudicial to the interest of revenue rather discussed the situation and remitted this issue back to the AO for de novo consideration. The coordinate bench has considered the same issue and came to the conclusion as below:-*

> *12. We find that the provision of section 263 can be invoked by learned CIT if the order passed by the Assessing Officer is erroneous in so far it is prejudicial to the interest of the revenue. So it was incumbent upon learned CIT to give a finding that the order of the Assessing Officer is both erroneous and prejudicial to the interest of revenue. Hence, learned CIT(A)'s direction to make further examination without pointing out that order is both erroneous and prejudicial to the interest of revenue is not sustainable.*
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> *13. We note here that learned CIT's further objection is that the Assessing Officer has not examined whether RBI guidelines in this regard has been followed by the assessee or not. Here we note that there is no presumption that non-following of RBI guidelines in an assessment will result in an order which Deutsche Investments India Private Limited is prejudicial to the interest of revenue. The RBI guidelines and the prudential norms are not designed to pluck revenue leakage from income tax point of view. These are mandate to ensure that the assessee follows proper Banking norms. Hence, learned CIT's inference that non examination of adherence to RBI guidelines by the Assessing Officer has resulted in a order which is erroneous in so far as it is prejudice to the interest of revenue is liable to be set aside. Moreover as we have already noted the Explanation (2) in section 263 has been added from 1.6.2015 and the same is not operative in the period under consideration.*

14. We further note that on the issue of broken period interest and mark to market loss, learned Counsel of the assessee has submitted that the necessary details were given in the computation of income and on the touchstone of Hon'ble Bombay High Court decision in the case of State Bank of India (supra) it cannot be said that the Assessing Officer has not applied his mind on this issue. He submits that the assessee has duly submitted case laws in favour of the assessee on these cases, which the Assessing Officer has duly accepted. In this regard we note that Hon'ble Bombay High Court in the case of State Bank of India (supra) has expounded as under :-

> *"Moreover, the Assessment order in regular assessment proceedings in terms disallowed some of the claims made for deduction under Section 143(3) of the Act. Therefore, in the present facts, we are prima-facie of the view that, the Assessing Officer has by necessary implication allowed the claim. Moreover, the basic document for completing the assessment under Section 143(3) of the Act is the computation of income. Therefore, to the extent the claims made for deduction in the computation of come, were disallowed by the Assessing Officer, discussion on the same is found in the assessment order. It is an accepted position that the assessment orders would necessarily deal only with the claims being disallowed and not with the claims being allowed. This is for the reason as observed by the Gujarat High Court in CIT Vs. Nirma Chemicals Ltd 309 ITR 67, that if the Assessing Officer was to deal with all the claims which were to be allowed in the assessment order, the result would be an epictome. This is so, as it would cast an impossible burden upon the Assessing Officer considering his workload and the period of limitation. There was also no reason in the present facts for the Assessing Officer to ask any queries in respect of this claim of the petitioner, as the basic document viz. computation of income at note 21 (Assessment Year 2013- 14) and note 22 (Assessment Year 2014-15) thereof explained the basis of the claim being made to the satisfaction of the Assessing Officer. Thus, it must necessarily be inferred that the Assessing Officer has applied his mind at the time of passing an assessment order to this particular claim made in the basic document viz. computation of the income by not disallowing it in proceedings under Section 143(3) of the Act as he was satisfied with the basis of the claim as indicated in that very document. Therefore, where he accepts the claim made, the occasion to ask questions on it will not arise nor does it have to be indicated in the order passed in the regular assessment proceedings."*

> *15. Thus on the touchstone of above Hon'ble Bombay High Court decision when the issues were given in note in the computation of income and case laws were referred, it cannot be said that Assessing Officer has not examined the issues and applied his mind.*

19. *Considering the above findings of the coordinate bench, in our considered view relying on the decision of Hon'ble Delhi High Court in the case of D.G Housing projects (supra) that in cases of wrong opinion or finding on merits, the Ld. CIT has to come to the conclusion and himself decide that the order is erroneous, by conducting necessary enquiry, if required necessary before the order under section 263 is passed. In such cases, the order of the AO will be erroneous because the order passed is not sustainable in law and the said finding must be recorded. Ld. CIT cannot remit the matter to the assessing officer to decide whether the findings recorded are erroneous. In cases where there is inadequate enquiry but Lack of enquiry, again the Ld. CIT must give and record the finding that the order/enquiry made is erroneous. In the above decision, it was also observed by the Hon'ble Court that the income tax officer in this case had made enquiries in regard to the nature of expenditure incurred by the assessee. The assessee had given detailed explanation in that regard by a letter in writing. Evidently, the claim was allowed by AO on being satisfied with the explanation of the assessee. Such decision of the AO cannot be held to be erroneous simply because in his order he did not make an allowable discussion in that regard. In the given case of the assessee, we notice that assessee has filed the financial statement along with relevant notes to accounts. AO after verification of the return of income and notes to account, he sought certain clarification which was properly submitted by the assessee in writing. Ld. CIT observes that the note submitted by the assessee is nothing but notes forming part of accounts. AO has merely accepted those explanation without applying his mind completed the assessment. It is fact on record that the issue under consideration is not a new issue came up afresh in this assessment year, we notice that similar issue was came up in the earlier assessment year and the coordinate bench has decided the issue on merit as well. In our considered view the learned CIT is not appreciated the fact that AO has applied one of the possible view in this case.*

20. *We notice that Ld. DR submitted that the case of the assessee falls under explanation – 2 in section 263 of the Act and further relied in the case of Crompton Greaves Ltd (supra). The issue under consideration is, whether the AO has passed the order without enquiries or verification which he should have made. In this case, the assessee has filed the financial statement alongwith the notes and also findings of ITAT in the earlier Assessment Year. AO seeks clarification on those issues. The assessee responds to the query and files certain information. AO considers the same to complete the*

> *assessment and he takes the view that the claim of the assessee is proper. Therefore, it shows that AO has verified the issue. Whether it is adequate enquiry or not is the issue. The explanation 2(a) is applicable when no enquiries were made and it is proved on record that AO has made certain enquiry, therefore, for the improper enquiries, the explanation 2(a) is not applicable. Therefore, this line of argument is rejected. Moreover, if the notes to account is clear and explains the case of the assessee, the AO need not have to enquire further. Accordingly, the order passed u/s 263 is set aside and the grounds raised by the assessee are* ***allowed****.*
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> *21.In the net result, the appeal filed by the assessee stands allowed.*

3.2. In the instant case i.e. for the A.Y.2011-12, the ld. AO had indeed made specific enquiry during the course of assessment proceedings with regard to the aforesaid items and assessee vide reply letter dated 05/03/2015 had specifically pointed out the manner in which the said provision has been made and how it is allowable deduction for the assessee and also in view of the reliance placed on Special Bench of the Tribunal decision in the case of DCIT vs. Bank of Behrain and Kuwait reported in 41 SOT 290 and also the decision of the Hon'ble Supreme Court in the case of Woodward Governor India Pvt. Ltd., reported in 312 ITR 254. The fact is that the reply letter dated 05/03/2015 has been filed before the ld. AO is acknowledged by the ld. AO himself in his assessment order. Further yet another reply was filed by the assessee vide letter dated 24/03/2015 furnishing the entire series wise details of mark to market losses of Equity Linked Notes (ELN). The ld. AO on examining these two replies was thoroughly satisfied with the explanation offered by the assessee and accordingly, no disallowance / addition was made in the assessment. This categorically goes to prove that thorough enquiry has been made by the ld. AO in respect of aforesaid two issues. Hence, the decision of this Tribunal in assessee's own case for A.Y.2010-11 referred to supra would be squarely applicable to the year under consideration also. Respectfully following the same, the revision order passed u/s.263 of the Act by the ld. PCIT is hereby quashed.

4. In the result, appeal of the assessee is allowed.

Order pronounced on 30/09/2022 by way of proper mentioning in the notice board.

Sd/-	**Sd/-**
(AMIT SHUKLA)	**(M.BALAGANESH)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Mumbai; Dated 30/09/2022
KARUNA, *sr.ps*

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Sr. Private Secretary / Asstt. Registrar)
ITAT, Mumbai