

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

**BEFORE SHRI VIKAS AWASTHY, HON'BLE JUDICIAL MEMBER AND  
SHRI S. RIFAUH RAHMAN, HON'BLE ACCOUNTANT MEMBER**

**ITA No. 3717/MUM/2012 (A.Y. 2008-09)  
ITA.No. 2833/MUM/2013 (A.Y: 2009-10)**

M/s. Peninsula Land Ltd., Peninusula Spenta, 2 <sup>nd</sup> Floor Mathurdas Mills Senapati Bapat Marg, Lower Parel Mumbai - 400013  <b>PAN: AACT5173A</b>	v.	Addl. CIT - 7(1) Room No. 669, 6th Floor Aayakar Bhavan, M.K. Road Mumbai - 400020
<b>Appellant</b>		<b>Respondent</b>

**ITA No. 4136/MUM/2012 (A.Y. 2008-09)  
ITA.No. 2617/MUM/2013 (A.Y: 2009-10)**

DCIT - 7(1) Room No. 622, 6 <sup>th</sup> Floor Aayakar Bhavan, M.K. Road Mumbai - 400020	v.	M/s. Peninsula Land Ltd., Peninusula Spenta, 2 <sup>nd</sup> Floor Mathurdas Mills Senapati Bapat Marg, Lower Parel Mumbai - 400013  <b>PAN: AACT5173A</b>
<b>Appellant</b>		<b>Respondent</b>

<b>Assessee Represented by</b>	<b>:</b>	<b>Shri Vijay Mehta</b>
<b>Revenue Represented by</b>	<b>:</b>	<b>Shri Achal Sharma</b>
<b>Date of Hearing</b>	<b>:</b>	<b>25.08.2022</b>
<b>Date of pronouncement</b>	<b>:</b>	<b>12.10.2022</b>

## **ORDER**

### **PER S. RIFAUR RAHMAN (AM)**

1. These cross-appeals are filed by the assessee and Revenue against different orders of Learned Commissioner of Income Tax (Appeals)-13, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 27.02.2012 and 22.01.2013 for the A.Ys. 2008-09 and 2009-10 respectively.
2. Since the issues raised in all the appeals are identical, therefore, for the sake of convenience, these appeals are clubbed, heard and disposed off by this consolidated order.

### **ASSESSEE APPEALS**

#### **ITA No. 3717/MUM/2012 (A.Y. 2008-09)**

3. Assessee has raised following grounds in its appeal: -

"GROUND I:

#### **Long Term Capital gain on conversion of land into stock in trade:**

1. *On the facts and in the circumstances of the case and in law, the Commissioner of Income Tax (Appeals) 13, Mumbai ["the CIT(A)"] erred in upholding the action of the Additional Commissioner of Income Tax 7(1), Mumbai ["the AO"] in re-computing Long Term Capital Gains on sale of Land recognized by the Appellant based on percentage completion method on land converted into stock in trade at Rs. 33,86,23,237/- applying the values as per DVO's report instead of Rs. 32,45,29,398/- as offered by the Appellant.*

2. He further erred in not following the principle of judicial consistency despite the fact that in the Appellant's own case in earlier assessment years his predecessors had allowed the appeal in favour of Appellant.

3. The Appellant, therefore, prays that the AO be directed to take the fair market value as on date of conversion and the cost as on 1.4.1981 as adopted by the Appellant in the Computation of Income and accordingly delete the addition of Rs.1,40,93,893/- (33,86,23,237-32,45,29398).

GROUND II:

**Disallowance of various expenses:**

1. On the facts and in the circumstances of the case and in law, the CIT(A) erred in upholding the action of the AO of disallowing various expenses, viz. Power and Fuel and Rent, rates and taxes, to the extent of 25% on ad-hoc basis.

2. He failed to appreciate and ought to have held that the Appellant has incurred various expenses in the course of its normal business activity and Ad-hoc disallowance of expenditure is not sustainable.

3. The Appellant therefore prays that the entire disallowance of various expenses be deleted.

4. Without prejudice to the above, the Appellant prays that the percentage of disallowance be appropriately reduced.

**GROUND III: Restricting depreciation on software expenses:**

1. On the facts and in the circumstances of the case and in law, the CIT(A) erred in upholding the action of the AO of restricting the depreciation on software to 25% amounting to Rs.5,67,707 as against 60% considered by the Appellant amounting to Rs. 13,62,496/- thereby disallowing a sum of Rs.7,94,789/- on the alleged ground that payments were made towards license fees for software.

2. He failed to appreciate and ought to have held that:

Software being tangible asset and covered under the head 'Computers' in Appendix I to Rule 5 to Income Tax Rules, 1962 are eligible for depreciation 60%.

3. The appellant prays that the AO be directed to allow depreciation @60%.

**GROUND IV: Non Consideration of unabsorbed depreciation:**

1. On the facts and in the circumstances of the case and in law, the CIT(A) erred in upholding the action of the AO of not considering set off of unabsorbed depreciation against income from house property, income from long term capital gain and income from other sources.

2. Further he erred in upholding the action of the AO in not considering set off of the unabsorbed depreciation available to the Appellant on account of demerger of leasing division of Piramyd Retail & Merchandising Pvt. Ltd.

3. The Appellant prays that the AO be directed to consider and allow set off of unabsorbed depreciation against income from house property, income from long term capital gain and income from other sources.

4. Further the Appellant prays that the AO be directed to consider set off of the unabsorbed depreciation available to the Appellant on account of demerger of leasing division of Piramyd Retail & Merchandising Pvt. Ltd.,"

4. We shall deal with the issues ground wise for adjudication.

5. At the time of hearing, with regard to Ground No. I which is in respect of Adopting fair market value of land as on 01.04.1981 at ₹. 240/- per Sq.Ft., Ld. AR of the assessee brought to our notice that the issue in appeal has been considered by the Co-ordinate Bench of this tribunal in assessee's own case for the A.Ys. 2005-06, 2006-07 and 2007-08 and decided the issue in favour of the assessee. Copy of the order is placed

on record. Ld. AR of the assessee prayed that the same may be adopted for the year under consideration.

6. On the other hand, Ld.DR relied on the order of the Ld.CIT(A).

7. Considered the submissions and material placed on record, we observe from the record that identical issue is decided in favour of the assessee in ITA.No. 3440/Mum/2009 dated 27.10.2021 for the A.Y.2005-

06. Further, we observe that Coordinate Bench in ITA.No. 4556 & 1636/Mum/2012 dated 18.08.2022 for the A.Ys. 2006-07 and 2007-08 respectively, decided the issue in favour of the assessee following the decision in assessee's own case for the A.Y. 2005-06. The Coordinate Bench in ITA.No. 3440/Mum/2009 dated 27.10.2021 held as under: -

*"7. Upon perusal of factual matrix, we find that there are two facets of the dispute i.e. FMV as on 01/04/1981 as well as FMV on 24/12/2003 i.e. the date of conversion. The FMV, on both the dates, as adopted by the assessee is duly supported by the valuation report of registered valuers, the copies of which are on record (page nos.54 to 61 of Paper-Book). So far as the valuation as on 24/12/2003 is concerned, we find that Ld. CIT(A) has already directed Ld. AO to accept the valuation of Rs.1750/- per square feet subject to the revision of the same upon receipt of DVO's report. It was submitted by Ld. AR that the valuation report has already been received on the basis of which FMV as on 24/12/2003 may be recomputed by Ld. AO and for the same, the assessee do not have any grievance. This being so, the directions given by Ld. CIT(A), to that extent, could not be faulted with since the valuation of DVO is binding on Ld.AO. The Ld. AO is directed to re-compute the gains by taking FMV as on 24/12/2003 as valued by Ld. DVO. No further directions would be required from*

*our side with respect to Ground No.3 of revenue's appeal and this ground becomes infructuous.*

*So far as valuation as on 01/04/1981 is concerned, we find that the FMV adopted by the assessee is Rs.240/- per square feet which is as per valuation made by the registered valuer. The Ld. AO has adopted the rate of Rs.16.32 per square feet on the basis that in respect of one of the land on which assessee constructs Peninsula Chamber Units II, the assessee took cost of land at Rs.16.32 per square feet as per assessment order of AY 2004-05. However, upon perusal of Assessment order of AY 2004-05 as placed on record, it could be noted that the aforesaid observation is factually incorrect. The rate of Rs.16.32 per square feet is the actual cost of acquisition and not FMV as on 01/04/1981. In fact, during assessment proceedings, the assessee sought substitution of actual cost of acquisition with FMV as on 01/04/1981 at Rs.260/- per square feet. Though Ld. AO had denied the same, however, the same was allowed in first appellate proceedings which were confirmed by the Tribunal by way of dismissal of revenue's grounds. Therefore, the rate of Rs.16.32 per square feet as taken by Ld. AO is without any basis. On the other hand, the valuation adopted by the assessee is supported by registered valuer's report.*

*The second aspect of the matter is that prior to 01/07/2012, no reference to DVO could be made u/s 55A where Ld. AO was of the view that FMV was less than value declared by the assessee as held by Hon'ble High Court of Bombay in **CIT V/s Puja Prints (43 Taxmann.com 247; 15/01/2014)**. It was held as under: -*

*7. We find that Section 55A(a) of the Act very clearly at the relevant time provided that a reference could be made to the Departmental Valuation Officer only when the value adopted by the assessee was less than the fair market value. In the present case, it is an undisputed position that the value adopted by the respondent-assessee of the property at Rs.35.99 lakhs was much more than the fair market value of Rs.6.68 lakhs even as determined by the Departmental Valuation Officer. In fact, the Assessing Officer referred the issue of valuation to the Departmental Valuation Officer only because in his view the valuation of the property as on 1981 as made by the respondent-assessee was higher than the fair market value. In the aforesaid circumstances, the invocation of Section 55A(a) of the Act is not justified.*

8. The contention of the revenue that in view of the amendment to Section 55A(a) of the Act in 2012 by which the words "is less than the fair market value" is substituted by the words "is at variance with its fair market value" is clarifactory and should be given retrospective effect. This submission is in face of the fact that the 2012 amendment was made effective only from 1 July 2012. The Parliament has not given retrospective effect to the amendment. Therefore, the law to be applied in the present case is Section 55A(a) of the Act as existing during the period relevant to the Assessment Year 2006-07. At the relevant time, very clearly reference could be made to Departmental Valuation Officer only if the value declared by the assessee is in the opinion of Assessing Officer less than its fair market value.

9. The contention of the revenue that the reference to the Departmental Valuation Officer by the Assessing Officer is sustainable in view of Section 55A(a) (ii) of the Act is not acceptable. This is for the reason that Section 55A(b) of the Act very clearly states that it would apply in any other case i.e. a case not covered by Section 55A(a) of the Act. In this case, it is an undisputable position that the issue is covered by Section 55A(a) of the Act. Therefore, resort cannot be had to the residuary clause provided in Section 55A(b)(ii) of the Act. In view of the above, the CBDT Circular dated 25 November 1972 can have no application in the face of the clear position in law. This is so as the understanding of the statutory provisions by the revenue as found in Circular issued by the CBDT is not binding upon the assessee and it is open to an assessee to contend to the contrary.

10. The contention of the revenue that the Assessing Officer is entitled to refer the issue of valuation of the property to the Departmental Valuation Officer in exercise of its power under Sections 131, 133(6) and 142(2) of the Act is entirely based upon the decision of the Guwahati High Court in Smt. Amiya Bala Paul (supra). However, the Apex Court in Smt. Amiya Bala Paul (supra) has reversed the decision of the Guwahati High Court and held that if the power to refer any dispute with regard to the valuation of the property was already available under Sections 131(1), 136(6) and 142(2) of the Act, there was no need to specifically empower the Assessing Officer to do so in circumstances specified under Section 55A of the Act. It further held that when a specific provision under which the

*reference can be made to the Departmental Valuation Officer is available, there is no occasion for the Assessing Officer to invoke the general powers of enquiry.*

*In view of the above and particularly in view of clear provisions of law as existing during the period relevant to Assessment Year 2006-07, we are of the view that questions (a) and (b) do not raise any substantial question of law.*

*Viewed from any angle, the substitution of FMV as on 01/04/1981 by Ld.AO cannot be held to be in accordance with law. Therefore, finding no infirmity in the impugned order, in this respect, we dismiss ground no.2 of revenue's appeal."*

**8.** Respectfully following the above decision and following the principle of consistency, the view taken by the Tribunal in A.Y. 2005-06 is respectfully followed, accordingly, ground raised by the assessee is allowed.

**9.** With regard to Ground No. II which is in respect of disallowance of power and fuel expenses and rates and tax to the extent of 25%, Ld. AR of the assessee brought to our notice that the issue in appeal has been considered by the Co-ordinate Bench of this tribunal in assessee's own case for the A.Ys. 2005-06, 2006-07 and 2007-08 and decided the issue in favour of the assessee. Copy of the order is placed on record. Ld. AR of the assessee prayed that the same may be adopted for the year under consideration.

**10.** On the other hand, Ld.DR relied on the order of the Ld.CIT(A).

**11.** Considered the submissions and material placed on record, we observe from the record that Coordinate Bench in ITA.No. 3440/Mum/2009 for the A.Y.2005-06 dated 27.10.2021 decided the issue in favour of the assessee. Further, we observe that Coordinate Bench in ITA.No. 4556 & 1636/Mum/2012 dated 18.08.2022 for the A.Ys. 2006-07 and 2007-08 respectively, decided the issue in favour of the assessee following the decision in assessee's own case for the A.Y. 2005-06. The Coordinate Bench in ITA.No. 3440/Mum/2009 dated 27.10.2021 held as under: -

*"12.2 During appellate proceedings, the assessee submitted that most of the sister concerns which were using the premises were the subsidiaries of the assessee and therefore, any indirect expenditure incurred by assessee related to such entities would be allowable business expenditure. These subsidiaries were dormant companies and had no substantial business activity. The assessee being the flagship company of the group had its corporate office and therefore, the expenses were allowable. Partly concurring with the same, Ld. CIT(A) directed ld. AO to estimate the disallowance @25%. Similar estimation was made for Rent, rates & taxes as well as for miscellaneous expenses. Aggrieved, the assessee is in further appeal before us.*

*13. So far as the disallowance of power & fuel expenses is concerned, it is undisputed fact that the assessee is flagship company of the group and the premises was being used by various other group entities which were subsidiary of the assessee company. However, these entities were dormant entities and had no substantial business activity. Therefore, the disallowance of*

*25% as confirmed by Ld. CIT(A) is without any sound basis. We direct Ld. AO to delete the same."*

**12.** Respectfully following the above decision and following the principle of consistency, the view taken by the Tribunal in A.Y. 2005-06 is respectfully followed, accordingly, ground raised by the assessee is allowed.

**13.** With regard to Ground No. III which is in respect of restricting depreciation on software expenses at 25% instead of 60%. Ld. AR of the assessee reiterated the submissions made before the Ld.CIT(A). Further, he submitted that the issue relating the software expenses has been considered by the special bench of the Tribunal in the case of Amway India Enterprises v. DCIT [111 ITD 112 (Del) (SB)] and restricted the depreciation on software expenses at 60%. Therefore, Ld. AR of the assessee prayed that depreciation on software expenses be restricted to 60% and that of order of the Ld.CIT(A) be set-aside.

**14.** On the other hand, Ld.DR relied on the order of the Ld.CIT(A).

**15.** Considered the submissions and material placed on record, we observe that Special Bench of the Tribunal in the case Amway India

Enterprises v. DCIT (supra) considered the question "whether the expenditure incurred on computer software is held to be of capital nature, what would be the rate of depreciation applicable thereon?". The Special Bench decided that assesses would be entitled to depreciation at 60% from 1.4.2003. While holding so the Special Bench held as under:

*"61. We have already discussed as to how computer software is a tangible property. Though a licensee, the person purchasing the disk or other medium containing the software is owner to the extent of the rights comprised in the license. The decision of the Hon'ble Supreme Court in the case of TCS (supra) supports the view that software contained in a disk is tangible property by itself. The use by the assessee of such software in his business is enough to allow the claim for depreciation. The rights which an assessee acquires by purchasing the disk or magnetic medium containing the computer software with limited or absolute right to use the same by itself would satisfy the requirements of the Plant, The assessee's ownership of limited right over the tangible asset is sufficient to conclude that the assessee is the owner of the Plant. There is therefore no difficulty in allowing depreciation claim at 25% under [Section 32\(1\)\(j\)](#) read with Appendix-I, Part-A division III (1) to the I.T. Rules, 1962. With effect from 1.4.2003, Computer Software has been classified as a tangible asset under the heading "Plant" in Appendix-I to the IT rules entitled to depreciation at 60%. The assessee would be entitled to depreciation at 60% from 1.4.2003.*

*62. The argument raised on behalf of the assesseees in this context was that the rate of depreciation on computer software from 1.4.1999 should be 60%. The basis of this argument was that depreciation on computers was originally allowed treating them as a plant only at 25%. With effect from 1.4.1999, computers were treated as a different class of asset falling within the description of Plant and depreciation was allowed at 60%. With effect from 1.4.2003, computer software was also included along with computers. The argument of the assesseees was that the amendment to the rules was merely clarificatory and therefore,*

*even on computer software w.e.f. 1.4.1999, 60% depreciation should be allowed. We do not agree with the submissions of the assessee in this regard. The amendment is prospective. It is not clarificatory for the reason that computer and computer software are two different items of assets If the legislature wanted to allow depreciation at 60% w.e.f. 1.4.1999 on computer software, it would have said so specifically by making the provisions retrospective. In this regard, we agree with the view expressed by the Delhi Bench of the ITAT in the case of Maruti Udyog Ltd. (supra) wherein similar view has been taken."*

**16.** Respectfully following the above said decision of the Special Bench, we direct the Assessing Officer to restrict the depreciation on software expenses @60%. Accordingly, ground raised by the assessee is allowed.

**17.** Coming to Ground No. IV of grounds of appeal, Ld. AR of the assessee submitted that this ground is not pressed, accordingly, the same is dismissed as not pressed.

**18.** In the result, appeal filed by the assessee is partly allowed.

**ITA.No. 2833/Mum/2013 (A.Y: 2009-10)**

**19.** Assessee has raised following grounds in its appeal: -

**"GROUND I:**

*Long Term Capital gain on conversion of land into stock in trade:*

1. *On the facts and in the circumstances of the case and in law, the Commissioner of Income Tax (Appeals) - 13, Mumbai*

*["the CIT(A)"] erred in upholding the action of the Additional Commissioner of Income Tax 7(1), Mumbai ["the AO"] in re-computing Long Term Capital Gains on sale of Land at Rs. 53,67,72,007/- instead of Rs. 51,44,30,747/- by adopting value of land as on 1.4.1981 at Rs.160 per sq.ft. instead of Rs.240 per sq.ft.*

2. *The Appellant, therefore, prays that the AO be directed to take the fair market value as on 1.4.1981 at Rs.240 per sq.ft. instead of Rs.160 per sq.ft and accordingly delete the addition of Long Term Capital Gains of Rs. 2,23,41,260/- (53,67,72,007-51,44,30,747).*

**GROUND II: Disallowance of various expenses:**

1. *On the facts and in the circumstances of the case and in law, the CIT(A) erred in upholding the action of the AO of disallowing various expenses, viz. Power and Fuel and Rent, rates and taxes, to the extent of 25% on ad-hoc basis.*

2. *He failed to appreciate and ought to have held that the Appellant has incurred various expenses in the course of its normal business activity and Ad-hoc disallowance of expenditure is not sustainable.*

3. *The Appellant therefore prays that the entire disallowance of various be deleted.*

4. *Without prejudice to the above, the Appellant prays that the percentage of disallowance be appropriately reduced.*

**20.** Ground No. I and II are similar to Ground No. I and II of grounds of appeal raised by the assessee for the A.Y. 2008-09 and the decision taken therein shall apply mutatis-mutandis to the appeal for the A.Y.2009-10 also. We order accordingly.

**21.** In the result, appeal filed by the assessee is partly allowed.

## **REVENUE APPEALS**

### **ITA.No. 4136/MUM/2012 (A.Y. 2008-09)**

**22.** Revenue has raised following grounds in its appeal: -

*(1) On the facts and in the circumstances of the case and in law, the Ld.CIT(A) has erred in deleting the profit of Ashok Tower Project estimated by the Assessing Officer at Rs.45,12,96,704/-, by observing that the percentage completion method followed consistently by the appellant cannot be rejected without appreciating the contention of the Assessing Officer discussed in detail in assessment order."*

*(2). The Ld. CIT(A)'s order is perverse in law and on facts and deserves to be set aside. The appellant prays that the order of CIT (A) on the above grounds be set aside and that of the AO restored. The appellant craves leave to amend or alter any ground or add a new ground that may be necessary.*

**23.** At the outset, Ld. AR of the assessee brought to our notice that the issue in appeal has been considered by the Co-ordinate Bench of this tribunal in assessee's own case for the A.Ys. 2005-06, 2006-07 and 2007-08 and decided the issue in favour of the assessee. Copy of the order is placed on record. Ld. AR of the assessee prayed that the same may be adopted for the year under consideration.

**24.** On the other hand, Ld.DR relied on the order of the Ld.CIT(A).

**25.** Considered the submissions and material placed on record, we observe from the record that Coordinate Bench in ITA.No. 3440/Mum/2009 for the A.Y.2005-06 dated 27.10.2021 decided the issue

in favour of the assessee. Further, we observe that Coordinate Bench in ITA.No. 4556 & 1636/Mum/2012 dated 18.08.2022 for the A.Ys. 2006-07 and 2007-08 respectively, decided the issue in favour of the assessee following the decision in assessee's own case for the A.Y. 2005-06. The Coordinate Bench in ITA.No. 3440/Mum/2009 dated 27.10.2021 held as under: -

*"5. Upon careful consideration of factual matrix, it could be gathered that the assessee converted its land into stock-in-trade and thus computed the capital gains as provided in Sec. 45(2) of the Act. The land stood converted into stock-in-trade and the assessee constructed premises / buildings on this land. During the year, the assessee entered into agreement for sale of these premises. For the purpose of revenue recognition, the assessee followed percentage completion of method of accounting. Since project was completed to the extent of 11% during the year as certified by the Architect, the assessee recognized projected revenues to that extent in its books of accounts. The said method was recognized method of accounting as per Accounting Standards issued by ICAI and this method was consistently followed in subsequent years to recognize the revenue. This method was accepted in earlier years also. Therefore, Ld. AO, in our considered opinion, was not justified in rejecting the methodology adopted by the assessee and estimating the business profits on sale of land as well as profits from construction activities separately since the land merged into the stock-in-trade and the premises including the undivided share in the land was sold to various buyers during the year. The perusal of chart placed before us would show that finally, the project has been completed in AY 2010-11 and revenue has been recognized from AYs 2005-06 to 2010-11 based on percentage of completion method of accounting. Therefore, finding no infirmity in the impugned order on this issue, we dismiss ground no.1 of revenue's appeal."*

**26.** Respectfully following the above decision and following the principle of consistency, the view taken by the Tribunal in A.Y. 2005-06 is respectfully followed, accordingly, ground No.1 and 2 raised by the revenue are dismissed.

**27.** In the result, appeal filed by the revenue is dismissed.

**ITA.No. 2617/MUM/2013 (A.Y: 2009-10)**

**28.** Revenue has raised following grounds in its appeal: -

*(i). "The Learned CIT(A) has erred on the facts and in law in deleting the profit of Ashok Tower Project estimated by the Assessing Officer at Rs. 63,11,34,083/-, without properly appreciating the factual and legal matrix as clearly brought out by the Assessing Officer."*

*(ii). "The Learned CIT(A) has erred on the facts and in law in deleting the profit of Ashok Tower Project estimated by the Assessing Officer at Rs. 63,11,34,083/-, by observing that the Percentage Completed Method followed consistently by the assessee cannot be rejected, without appreciating the contention of the Assessing Officer discussed in detail in assessment order."*

**29.** These grounds are similar to Ground No. 1 and 2 of grounds of appeal raised by the revenue for the A.Y. 2008-09 and the decision taken

therein shall apply mutatis-mutandis to the appeal for the A.Y.2009-10 also. We order accordingly. Grounds raised by the revenue is dismissed.

**30.** In the result, appeal filed by the revenue is dismissed.

**31.** To sum-up, appeals filed by the assessee are partly allowed and appeals filed by the revenue are dismissed.

Order pronounced in the open court on 12<sup>th</sup> October, 2022.

Sd/-  
**(VIKAS AWASTHY)**  
**JUDICIAL MEMBER**

Mumbai / Dated 12/10/2022  
Giridhar, Sr.PS

Sd/-  
**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

**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

(Asstt. Registrar)  
**ITAT, Mum**