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

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

ITA NO.2660/MUM/2008 (A.Y.2002-03)

M/s. Raymond Limited New Hind House Narottam Morarjee Marg Ballard Estate, Mumbai - 400001 **PAN: AAACR4896A**	*v.*	Addl. CIT– Range 2(3) 5th Floor, Aayakar Bhavan M.K. Road, Mumbai - 400020
(Appellant)		**(Respondent)**

ITA NO. 2519/MUM/2008 (A.Y: 2002-03)

ACIT–2(3) Room No. 555 Aayakar Bhavan, Mumbai	*v.*	M/s. Raymond Limited New Hind House Narottam Morarjee Marg Ballard Estate, Mumbai - 400001 **PAN: AAACR4896A**
(Appellant)		**(Respondent)**

Assessee by	**:**	**Shri Nitesh Joshi & Shri Harsh Shah**
Department by	**:**	**Shri Samuel Pitta**
Date of Hearing	**:**	**18.08.2022**
Date of Pronouncement	**:**	**14.11.2022**

O R D E R

PER S. RIFAUR RAHMAN (AM)

1. These appeals are filed by the assessee and revenue against order of Learned Commissioner of Income Tax (Appeals)–XXXII, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 18.12.2007 for the A.Y.2002-03.

2. Assessee has raised following concise grounds in its appeal: -

"1. The learned Commissioner of Income Tax (Appeals) erred in upholding the action of Assessing Officer in not allowing deduction under section 35D amounting to Rs.60,00,150/- in respect of its Steel Division which was sold in the financial year 2000-01 on the ground that once the unit is transferred, no such deduction would be admissible, ignoring the provisions of section 35D which do not contain any such provision in respect of sale of unit otherwise than amalgamation/demerger.

2. The Commissioner of Income Tax (Appeals) erred in upholding that to determine standard rent of property under the Bombay Rent Control Act the reasonable rate of return should be @ 12% of market value of land and investment in building as against 6% on land and 7% on investment in building as per the report of architects, M/s Sykes & Divecha.

3. (a) The Commissioner of Income Tax (Appeals) erred in confirming disallowance of Rs.33,08,680/- being interest on borrowed funds out of total interest of Rs.48.54 crores, on the ground that under section 14A it represented expenditure by the assesse in relation to income which did not form part of total income.

(b) The Commissioner of Income Tax (Appeals) erred in rejecting the appellant's contention that share capital and free reserves of the appellant are far in excess of investments made and profits before depreciation for any year are also far in excess of amount invested from time to time in such investments and accordingly, the learned Assessing Officer was not justified in making the aforesaid disallowance under section 14A of the Act.

4. The Commissioner of Income Tax (Appeals) erred in disallowing short term capital loss of Rs.3,88,449/- incurred on purchase and sale of units of mutual funds by holding that the assesse had deliberately entered into such transaction only with a view to gain tax free dividend income and to make short term capital loss and set off the same against capital gains.

5. The Commission of Income Tax (Appeals) erred in upholding the action of the Assessing Officer that provision for doubtful debt of Rs.1,78,27,482/- is not allowable as deduction while computing the book profits under section 115JB of the Act.

6. (a) The learned Commissioner of Income Tax (Appeals) erred in upholding the action of the Assessing Officer in making an addition of a sum of Rs.1,79,50,000/- under section 92CA(3) on account of adjustment to the arm's length price (ALP) in respect of commission paid by the appellant to its associate enterprise (AE) i.e. Jaykayorg AG.

(b) The Commissioner of Income Tax (Appeals) erred in upholding the action of the Transfer Pricing Officer (TPO) in determining the arm's length price (ALP) for the international transaction of payment of commission to the AE by applying a mark-up of 5% on the costs incurred by the AE relying on certain text from the International Tax Planning Manual by Horwath International. The appellant submits that in arriving at the ALP, the aforesaid reliance is misconceived and not in accordance with the Transfer Pricing Regulations (TPR). The appellant submits that in any case, 5% reference therein is to the minimum percentage insisted upon and this cannot be used to restrict the commission paid by the appellant to 5% of the costs of the AE

(c) Without prejudice to what has been stated above, the appellant submits that the learned Commissioner of Income Tax (Appeals) erred in upholding the action of the TPO in ignoring the finance cost incurred by the AE in working out the ALP considering the cost plus method.

7. The learned Commissioner of Income Tax (Appeals) erred in enhancing the assessed income of the appellant by an amount of Rs.20,79,881/- in respect of swap charges and interest on loan from State Bank of India (SBI) and Citibank on the ground that this was merely a provision even though he himself has admitted that it is an ascertained liability.

8. The appellant submits that the learned Assessing Officer be directed:

(i) to allow deduction of Rs.60,00,150/- under section 35D of the Act;

(ii) to consider the rate of return on land at 6% and on investment at 7% as per the report of architects, M/s Sykes and Divecha;

(iii) to delete the disallowance of a sum of Rs.33,08,680/- under section 14A of the Act;

(iv) to allow set off of short term capital loss of Rs.3,88,449/-;

(v) to not consider the provision for doubtful debt amounting to Rs.1,78,27,482/ while computing book profit under section 115JB of the Act;

(vi) to delete an addition of Rs.1.79,50,000/- under section 92CA(3) of the Act;

(vii) to delete the addition of Rs.20,79,881/- in respect of swap charges and interest On loan;

and to modify the assessment in accordance with the provisions of the Act.

9. Each of the above grounds of appeal are independent and without prejudice to each other.

10. The appellant craves liberty to add, to alter and/or amend the grounds of appeal as andwhen given."

3. We shall deal with the above issues ground wise.

4. At the outset, with regard to Ground No. 1 which is in respect of Ld.CIT(A) upholding the action of Assessing Officer in not allowing deduction u/s. 35D amounting to ₹.60,00,150/- in respect of its Steel Division which was sold in the financial year 2000-01 on the ground that once the unit is transferred, no such deduction would be admissible. 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

ITA.No.7793 & 7794/Mum/2010 for the A.Y. 2005-06 and 2006-07 and decided the issue in favour of the assesse and against the department. Copy of the order is placed on record. Ld. AR of the assessee further brought to our notice recently in assessee's own case in ITA.No.1973/Mum/2009 dated 20.02.2019 the Coordinate Bench following the decision for the A.Y. 2005-06 set-aside the order of the Ld.CIT(A) and decided the issued in favour of the assessee. Ld. AR of the assessee prayed that the same may be adopted for the year under consideration.

5. On the other hand, Ld. DR has fairly accepted the submissions of the Ld.AR.

6. Considered the submissions and material placed on record, we observe from the record that identical issue is decided in favour of the assessee for the A.Y. 2004-05. While deciding the issue, the Coordinate Bench of the Tribunal in ITA.No. 1973/Mum/2009 dated 20.02.2019 held as under: -

> *"11. On this issue, it is noted that the assessee has claimed a sum of Rs.60,00,150/- u/s. 35D in respect of its Steel Division. However, while completing the assessment, the A.O. has disallowed the aforesaid claim on the ground that the assessee has sold its Steel Division. The ld. CIT(A) has rejected the assessee's claim that the assessee's claim was in accordance with section 35D inasmuch as he observed that the*

assessee has not stated the full facts that after the sale of the unit, whether unit was amalgamated or merged with another company. In this regard, it is the contention of the ld. Counsel of the assessee that the issue is covered in favour of the assessee by the ITAT order for the A.Y. 2003-04 as well as 2005-06 in assessee's own case. We find that the ITAT on this issue vide order dated 28.10.2015 in assessee's own case in ITA No.7793/Mum/2010 has held as under:

> *"We have carefully perused the orders of the lower authorities. Section 35D of the Act relates to amortization of certain preliminary expenses whereby the assessee is allowed deduction of an amount equal to 1/10th of such expenditure for each of the ten successive previous years beginning with the previous year in which the business commenced or as the case may be the previous year in which the extension of the undertaking is completed or the new unit commenced production or operation. The past history of the assessee was that there is no dispute insofar as the eligibility criteria of the assessee is concerned. The preliminary expenses were incurred by the assessee in assessment year 1996-97, which was the first year of the claim of 1/10th of the expenditure. Since then 1/10th was claimed and allowed till assessment year 2001-2002. The impugned assessment year, i.e., M/s. Raymond Limited. assessment year 2005-2006 is the last assessment year, i.e., the tenth year of claim of deduction, which has been denied since the Steel Unit has been sold by the assessee. On a perusal of section35D shows that the Act is silent in the case when a unit is sold. Section 35D(5) of the Act refers to the transfer before the expiry of the period of 10 years to another Indian company in a scheme of amalgamation and section 35D(5A) refers to the transfer before the expiry of the period in a scheme of demerger. There is no clause in the section which debars the assessee from claiming the expenses as a write off on sale of the undertaking. We, therefore, do not find any reason for declining the claim of the assessee."*

> *7.3 Let us consider this issue from another angle. The preliminary expenses were incurred in assessment year 1996-97 and as per well settled Accounting Principles, the assessee was entitled to claim the entire expenditure in the first year of incurring them. However, due to a specific provision in the Act, the amortization was allowed to be claimed at 1/10th in ten successive assessment years. Assuming that this provision is not there in the Act, then the entire claim was to be allowed in assessment year 1996- 97 irrespective of the fact that in subsequent year the undertaking was sold. By the same analogy if the undertaking is sold during the intervening period,*

> *then the claim cannot be denied. Further as mentioned elsewhere, the claim can be denied in the case of amalgamation and demerger but since the Act is silent in the case of sale of undertaking, in our understanding of the law, the Revenue authorities have erred in denying the claim.*
>
> *We accordingly set aside the finding of the CIT(A) and direct the AO to allow the claim of M/s. Raymond Limited. deduction u/s 35D of the Act. Accordingly, ground No.4, with all its sub-grounds, is allowed.*

Since the ITAT has decided the identical issue in favour of the assessee and it is not the case that the Hon'ble Jurisdictional High Court has reversed the decision, respectfully following the precedent, we set aside the orders of the authorities below and decide the issue in favour of the assessee.

7. Respectfully following the above decision and following the principle of consistency, the view taken by the Tribunal in A.Y. 2004-05, 2005-06 & 2006-07 is respectfully followed, ground raised by the assessee is accordingly allowed.

8. With regard to Ground No. 2 which is in respect of Ld.CIT(A) upholding that to determine standard rent of property under the Bombay Rent Control Act the reasonable rate of return should be @12% of market value of land and investment in building as against 6% on land and 7% on investment in building as per the report of architects, M/s Sykes & Divecha. 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 ITA.No. 7793 & 7794/Mum/2010 for the A.Y.2005-06 and

2006-07. Copy of the order is placed on record. Ld.AR of the assessee further brought to our notice recently in assessee's own case in ITA.No.1973/Mum/2009 dated 20.02.2019 the Coordinate Bench followed the decision for the A.Y.2005-06. Ld. AR of the assessee prayed that the same may be adopted for the year under consideration.

9. On the other hand, Ld. DR has fairly acceptedthe submissions of the Ld.AR.

10. Considered the submissions and material placed on record, we observe from the record that identical issue is decided for the A.Y.2004-05. While deciding the issue, the Coordinate Bench of the Tribunal in ITA.No. 1973/Mum/2009 dated 20.02.2019 held as under: -

> *"16. We find that on this issue, the assessee has made the following submissions:*
>
> > *In the assesse' s own appeal for A.Y. 1995-96 the CIT (A) has held to determine the annual value of the property @ 12% of the cost of land & building and dismissed the ground of Assessee. Said Judgment is confirmed as well as followed by ITAT from A.Y. 1994-95 to A.Y. 2001-02, A.Y. 2003-04, A.Y. 2005-06 and A.Y. 2006-07.*
>
> *17. In this regard, we may gainfully refer to the adjudication of this issue in the assessee's own case for A.Y. 2003-04 in ITA No. 1972/Mum/2009 vide order dated 21.06.2017, the same read as under:*
>
> > *8. Ground No.2 is in relation to income from house property. The assessee has shown the annual value of the property at Rs.2,89,000/- and A.O. has determined the annual value of the property at Rs.3,50,21,280/-.*

9. The matter carried to Ld. CIT(A) and the Ld. CIT(A) has dismissed the appeal.

10. During the course hearing the Ld. D.R. submitted that this issue is decided against the assessee in the own case of the assessee in earlier years also. Therefore, it may be decided against the assessee.

11. Since the issue has already been decided against the assessee in the own case of the as sin earlier years, we dismiss ground No.2 of the assessee.

In ITA No.7793/Mum/2010 in assessee's own case for A.Y. 2005-06 vide order dated 28.10.2015, the ITAT has held as under on this issue:

3. The first ground relates to the treatment of income under the head income from house property. The assessee is aggrieved by the direction of the CIT(A) to determine the annual value of the property at 12% of the cost of land and building. At the very outset, the Counsel for the assessee fairly conceded that this issue has been decided against the assessee and in favour of the Revenue by the Tribunal vide a consolidated order dated 1st May, 2009 for assessment years 1999-2000, 2000-2001 and 2001-2002.

3.1 We find that this issue has been considered by the Tribunal in para 2.7 of its order and at 2.7.1, the Tribunal has followed the decision of the co- ordinate bench given for assessment years 1994-95 and 1995-96 to assessment year 1998-99. Following the decision of the Tribunal, the appeal of the assessee was dismissed. As the learned Senior Counsel has fairly conceded that since this issue has been decided against the assessee by the Tribunal, the same view should be taken. Respectfully following the finding of the co-ordinate bench in assessee's own case (supra) ground no.1 is dismissed.

A reading of the above decisions and the pleadings of the ld. Counsel of the assessee and the submissions of the ld. DR shows that the A.O. has computed the annual value of the property at Rs.3,60,21,880/- and the income chargeable under the property can be Rs.2,56,41,066/-. The ld. CIT(A) on the other hand directed the A.O. to compute the annual value of the property with reference to the standard rate of the property determinable as per the relevant provisions of the Rent Act and modify the A.O.'s order accordingly. In this regard, the assessee's contention is that the direction should be given in accordance with the earlier year ITAT order that the annual

value of the property should be 12% of the cost and the land and building. In this regard, we note that it is the plea of the Revenue that making an annual value as a percentage of the cost of the land and building forever will lead to annual value fixed for eternity which can never be permitted. We find that the ITAT earlier had confirmed the same direction. The matter is already before the Hon'ble Jurisdictional High Court. We do not find any cogent reason to depart from the earlier order of the Tribunal in the assessee's own case. Hence, we follow the same and direct that the ITAT's order in assessee's own case on this issue be followed, as the same has not been reversed by the Hon'ble Jurisdictional High Court."

11. Since the issue is exactly similar and grounds as well as the facts are also identical, respectfully following the above decision in assessee's own case for the A.Y. 2004-05, we direct the AO to follow the coordinate bench decision in the assessee's own case as stated above. Accordingly, ground raised by the assessee is dismissed.

12. With regard to Ground No. 3 which is in respect of disallowance u/s.14A of the Act. At the time of hearing, Ld. AR brought to our notice Para No. 15 of the Assessment Order. In the Assessment Order Assessing Officer extracted the investments made by the assessee in the shares of the subsidiary companies and also investments in shares of other companies, units of UTI and non trade investment to the extent of ₹.5041.99 lakhs and he also extracted the details of dividend received by the assessee as under: -

a)	ICICI Bank Ltd.	3,77,300
b)	Raymond Apparel Limited	50,00,000
c)	Pashmina Holdings Ltd.	2,40,000
d)	UTI	37,45,701
	Sub. Total	93,63,001
e)	Mutual Funds	4,67,04,890
	Total..	5,60,67,891

13. Further, vide letter dated 08.12.2004 Assessee brought to the notice of the Assessing Officer that following investment made by the assessee will not come within the provisions of section 14A: -

		Rs.inlacs	Remarks
a)	Sharesinsubsidiarycompany	220.51	Asonlastyear
b)	Investmentinothercompanies (31.08-23.99)	7.09	-do-
c)	EBGIndia(P)Ltd.	2540.00	Partofsalesconsideration
d)	UnitsofUTI	394.08	Asonlastyear(556.32)
e)	Fromnontradeinvestment	351.16	Asonlastyear.
f)	Foreignsubsidiary	1505.16	
g)	ForeignCompany	23.99	
	Total Investment	5041.99	

14. Further, assessee submitted that there is no nexus between money borrowed and investment made in the earlier years and the investments were made out of sale proceeds, therefore no interest can be disallowed u/s. 14A of the Act.

15. Assessing Officer rejected the contention of the assessee and observed that assessee had sold Steel Division at Nashik and Cement Division at Bilaspur and these sale proceeds were utilized in buying the

units of mutual funds. Assessee has never invested in mutual funds before, however, the assessee submitted a statement of investment made in units of mutual funds and according to the assessee never in the past it had invested in mutual funds. It is only after sale of steel and cement divisions investments were made in these funds. As and when the units were sold the proceeds were either reinvested or utilized for business purpose. Thus, no borrowed funds have been utilized for the purpose of investment in mutual funds and therefore, there canbe no disallowance of interest U/s. 14A of the Act. Further, Assessing Officer by following the Ld.CIT(A) order on earlier Assessment Years proceeded to disallow the interest as under: -

	Details	**Rs. in Crores**
1)	Total Funds	1426.34
2)	Borrowed Funds	531.08
3)	%	37.23%
4)	Investment from which dividend is exempted U/s. 10(33)	
	a) Subsidiary Company	2.20
	b) In other companies	0.08
	c) Units of UTI	3.94
	d) Non trade investment	3.51
	(A)	9.73
5)	a) Foreign Company (Investment from which dividend is made taxable)	15.29
	b) EBG India (P) Ltd. (Investment made as part of sales consideration for sale of Steel Division)	25.40
	(B)	40.69
6)	(A) + (B)	50.42
7)	Borrowed funds invested in Rs. 9.73 crores is 37.23% (item 3)	3.62

	Details	**Rs. in Crores**
8)	Total interest paid	48.54
9)	Total borrowings as on 3 1.03.01	531.08
10)	Average Cost of borrowings	9.14
11)	Interest to be disallowed u/s. 14A (9.14% of ₹.3.62 Crores) Item 7	33,08,680

16. Aggrieved, assessee preferred an appeal before the Ld.CIT(A). Ld.CIT(A) after considering the detailed submissions dismissed the ground raised by the assessee.

17. Aggrieved, assessee is in appeal before us. At the time of hearing Ld. AR brought to our notice Page No. 92 of the Paper Book which is the balance sheet as on 31.03.2002 as per which assessee had huge reserves and surplus to the extent of ₹.83388.27 lacs, whereas assessee has made investments to the extent of ₹.58765.85. Therefore, he submitted that it clearly indicates that no interest borrowing funds were utilized for the investments made by the assessee. In this regard he also submitted a detailed chart of investments made by the assessee with the details of year of investment and respective shareholders funds position. For the sake of clarity, it is reproduced below: -

NAME OF SUBSIDIARIES	**AMOUNT (RS IN LAC)**	**AMOUNT (₹ INLAC)**	**INVESTMENT IN YEAR**	**PBT PER B/S**	**SHARE CAPITAL**	**RESERVES**
PASHMINA HOLDINGS LTD		24.00	31-Mar-84	434.72	1,008.68	2,433.36
RAYMOND APPAREL LTD		9.51	31-Mar-84	434.72	1,008.68	2,433.36
JK CHEMICALS LTD		5.12	31-Mar-90	2,399.78	2,497.36	8,358.25

NAME OF SUBSIDIARIES	AMOUNT (RS IN LAC)	AMOUNT (₹ INLAC)	INVESTMENT IN YEAR	PBT PER B/S	SHARE CAPITAL	RESERVES
OTHERS		7.09	31-Mar-90	2,399.78	2,497.36	8,358.25
UNITS OF UTI DIV REINVESTMENT		556.32	31-Mar-90	2,399.78	2,497.36	8,358.25
J K CHEMICALS LTD		321.00	31-Mar-92	7,220.26	3,558.25	17,127.91
RAYMOND APPAREL LTD		182.00	31-Mar-93	5,646.23	3,558.25	19,654.91
ICICI LTD.		25.04	31-Mar-00	3,686.68	7,509.09	73,306.85
EBG INDIA PVT LTD.		2,540.00	31-Mar-01	36,441.30	6,138.08	81,252.22
RAYMOND INFOTECH LTD		5.00	31-Mar-02	36,441.30	6,138.08	81,252.22
EQUITY SHARES APPLICATION		327.00	31-Mar-02	11,061.08	6,138.08	83,388.27
EQUITY SHARES CURRENT MUTUAL		299.43	31-Mar-02	11,061.08	6,138.08	83,388.27
FUND DIVIDEND OPTION UNITS OF		2,872.34	31-Mar-02	11,061.08	6,138.08	83,388.27
UTI DIV REINVESTMENT LESS:		19.51	31-Mar-02	11,061.08	6,138.08	83,388.27
PROV UNITS OF UTI DIV REINVESTMENT		- 181.75				
INVESTMENT AS AT 31-03-2002		7,011.61				

18. Therefore Ld. AR prayed that as per the above informations submitted before us, it clearly indicates that no interest expenditure is disallowable u/s. 14A of the Act.

19. On the other hand, Ld.DR relied on the orders passed by the lower authorities.

20. Considered the rival submissions and material placed on record, we observe from the informations submitted by the assessee clearly indicates that the various investments were made by the assessee in earlier Assessment Years which is backed with the details of the non interest borrowing funds available with the assessee in the respective years. Therefore, assessee has brought to our notice clearly that

assessee has enough funds at their disposal to make various investments in the sister concerns as well as with the various investments. In our considered view with the information available on record it clearly indicates that the assessee has utilized non interest borrowing funds for making the various investments. Therefore, the Assessing Officer cannot invoke Rule 8D(2)(ii) of I.T. Rules to disallow the interest expenditure u/s. 14A of the Act, accordingly, ground raised by the assessee is allowed.

21. With regard to Ground No. 4, at the time of hearing, Ld. Counsel for the assessee submitted that Ground No.4 is not pressed, accordingly, the same stand dismissed as not pressed.

22. With regard to Ground No. 5 which is in respect of provision of doubtful debt and advances, the Assessing Officer invoked the Clause (c) of Explanation to Sec. 115JB(2), the amount or amounts set aside to provision made for meeting liabilities, other than ascertained liabilities, are to be added to the book profit as per Profit and Loss Account for the relevant previous year prepared under sub section 2 of Sec. 115JB. The Assessing Officer by relying on Hon'ble Madras High Court in the case of Beardsell Ltd [244 ITR 256]it is held that if a provision is made for

unascertained liability, the assessee is not entitled to get any relief claimed and if reserves have been made with regard to the ascertained liabilities, such reserve can be excluded from the book profit. The Assessing Officer observed that the provisions made by the assessee was towards the irrecoverable debt, which was not an ascertained one, it was held that the same cannot be excluded from the book profit.

23. Further, Assessing Officer observed that while deliberating upon whether provision for bad debt is a liability the court discussed the decision of Hon'ble Supreme Court in the case of CIT *v.* Jyoti Ltd. [219 ITR 388]. It was held by the Hon'ble Supreme Court as under: -

> *"where the liability has actually arisen or been anticipated legitimately by the assessee though the quantum of the liability has not been determined, a fund to meet such present liability cannot be treated as a 'reserve. A fund, however, created for payment of a liability which had not already arisen or fallen due but is only a provision with regard to the sum that might become liable to be paid is other reserves' within the meaning of rule 1 of the Second Schedule to the Companies (Profits) Surtax Act, 1964, and should be taken into account in computing the capital of the Company for the purpose of the Act".*

24. The Assessing Officer observed that Hon'ble Bombay High Court in the case of Echjay Forging Pvt. Ltd [166 CTR 100] has differentiated the ratio laid by Hon'ble Madras High Court on the facts of the case only and have not decided on legal issue. Further, he observed that the principle

laid by Hon'ble Madras High Court following the decision of the Hon'ble Supreme Court in the case of M/s. Jyoti Ltd (supra) is squarely applicable in the assessee's case as the provision against doubtful debts has not been made against the determined and identified non performing asset. The provision in general has been made against advances and thus is an unascertained liability within the provision of clause (c) of Explanation to Sec. 115JB(2). Accordingly, he made an amount of ₹.1,78,27,482/- to the book profits of the assessee u/s. 115JB of the Act.

25. Aggrieved, assessee preferred an appeal before the Ld.CIT(A) and Ld.CIT(A) after considering the submissions of the assessee sustained the additions made by the Assessing Officer.

26. Aggrieved assessee is in appeal before us and submitted that the Assessing Officer has invoked the clause (c) of Explanation 2 to section 115JB of the Act with the observation that doubtful debts claimed by the assessee is unascertained liability. However, he brought to our notice decision of the Hon'ble Supreme Court in the case of CIT *v.* HCL Comnet Systems and Services Ltd. [305 ITR 409]. Further, he submitted that new clause (i) was inserted to the explanation (1) to section 115JB as

per which "*the amount or amounts set-aside as provision for diminution in the value of any asset*", and he brought to our notice Page No. 100 of the Paper Book to submit that assessee has actually written off the doubtful debts and he brought to our notice that in this year assessee has considered doubtful debts to the extent of ₹.342.01 lacs and the same was written off by creating provision. In this regard he relied on Page No.80 of the case laws Paper Book–ii in the case of CIT *v.* Vodafone Essar Gujarat Ltd., [2017] 85 taxmann.com 32 (Gujarat) in which similar issue was considered by the Hon'ble High Court and decided the issue in its favour.

27. Further, he brought to our notice section 36(1)(viii) to submit that amount of any bad debt or part thereof which is written off as irrecoverable in the accounts of the assessee for the previous year within themselves allowable as expenditure. Further, he submitted from the Explanation 1 of the Act, that for the purpose of this clause, any bad debt or part thereof written off as irrecoverable in the accounts of the assessee shall not include any provision for bad and doubtful debts made in the account of the assessee, and prayed that the addition proposed by the Assessing Officer may be deleted.

28. On the other hand, Ld.DR vehemently argued and objected to the submissions made by the Ld. AR. Further, he relied on the same decision in the case of CIT v. Vodafone Essar Gujarat Ltd., (supra) to submit that if an assessee debits an amount of doubtful debt to the profit and loss account and credits the asset account like sundry debtor's account, it would constitute a write off of an actual debt. However, if an assessee debits provision for doubtful debt' to the profit and loss account and makes a corresponding credit to the 'current liabilities and provisions' on the liabilities side of the balance-sheet, then it would constitute a provision for doubtful debt. In the latter case, the assessee would not be entitled to deduction after April 1, 1989. He submitted that the case of the assessee is exactly similar to the above observation made by the Hon'ble High Court that assessee has created only a provision for doubtful debts and actually not written off.

29. Considered the rival submissions and material placed on record, we observe that the assessee habitually calculates provision for doubtful debts and discloses the same in its balance sheet and creates a provision to the same amount. We noticed that assessee has created similar doubtful debts for Financial Year 31.03.2001 and created provision for ₹.170.36 lacs. We observe from the method of account

followed by the assessee is that it created provision every year and carryforwards the same amount to the subsequent year and if there are any actual bad debts it is adjusted during the year. Therefore, from this method of accounting adopted by the assessee clearly indicates that it is only a provision not actually bad debts written off by the assessee. This can be understood from the following extract of the provision for doubtful debt account: -

DETAILS OF PROVISION FOR DOUBT FUL DEBTS A/C		
		₹. IN LACS
01/04/2001	OPENING BALANCE LESS: PROVISION WRITTEN BACK	170.35 6.62
		163.73
	ADD: PROVISION FOR THE YEAR	178.27
31/03/2002	CLOSING BALANCE	342.00
	(AS PER AUDITED ACCOUNTS)	

30. From the above it makes it very clear that assessee has created merely a provision for doubtful debts without there being any actual bad debts which needs to be claimed as bad debts. Therefore, the conclusion reached by the tax authorities are just and proper. Therefore, the ground raised by the assessee is accordingly dismissed.

31. With regard to Ground No. 6 which is in respect of part disallowance of commission payment to the extent of ₹.1,79,50,000 paid to its Associate Enterprise being Jaykayorg AG.

32. Brief facts relevant to the issue are, the said entity is based in Switzerland and provides marketing and sales related services world over through its network of sub-agents. The commission paid by the assessee to them for the year under consideration was 12% except for Canada where it was 5% of the FOB value of exports. Since A.Y. 2002-03 was the first year of application of transfer pricing provisions and in the absence of any clarity, the assessee clarified in Form 3CEB that the transaction of payment of commission had not been benchmarked in the absence of application of any of the methods specified in section 92C(1) of the Act (page 140 of Paper Book 1). The TPO in his order has relied upon the fact that Jaykayorg AG had appointed sub-agents in different territories to whom agency commission had been paid ranging between 5% to 10%. Certain defects had also been pointed out in the maintenance of necessary evidence and documents. Relying on Integrated Tax Planning Manual by Horwath International dealing with views expressed by the Swiss Administration on Liaison Office it has been held that 5% mark-up on cost would be at arm's length. Based

thereon, the arm's length commission had been arrived at ₹.178.50 lakh resulting into a transfer pricing adjustment of ₹.179.50 lakh. In the proceedings before the TPO, assessee made submissions with respect to the profitability of the assessee being higher than the profits of similarly placed Indian enterprises. The Assessee submits that this was based on the transactional net margin method (the TNMM) which has been followed by it in the later years. Pursuant thereto, no transfer pricing adjustment in respect thereof has been made for A.Ys. 2003-04, 2004-05 and later years. Therefore, the position is that the TNMM method for benchmarking commission payment has been accepted in the later years. Though, no working in this regard was produced before the TPO, the assessee provided the necessary working by way of additional evidence before the CIT(A) (pages 155 to 172 of Paper Book 1). Therein, it has been pointed out that the assessee's operating profit margin being operating profit/sales is 14.19% while that of the comparable (6 of them) was 7.90%. The Ld.CIT(A) had called for a remand report on the same which is at pages 234 to 254 of Paper Book I. Based thereon, the Ld.CIT(A) has refused to admit the additional evidence (paragraph 10.2 at page 28 of his order). Independently he

has also rejected the assessee's claim of application of TNMM method to commission payment (at paragraph 3 at pages 28 and 29 of his order).

33. Ld. AR submitted in his synopsis in respect of the contention for allowing the ground raised by the assessee, for the sake of clarity it is reproduced below: -

> *"13. The assessee submits that the transfer pricing adjustment for commission payment was not justified in the present case for the following reasons each of which is in the alternative and without prejudice to any others.*
>
> *a. The assessee has paid such commission at the rate of 12% except in respect of exports to Canada where commission has been paid at the rate of 5% of the FOB value of exports. That adoption of the guidelines laid down by Swiss Administration in respect of Liaison Office has no application to the present case, as*
>
> - *this is not a method as per section 92C(1) of the Act which mandates that one of the specified methods have to be adopted. In this regard, reliance is placed on judgment of the Hon'ble Jurisdictional High Court in the case of CIT vs Lever India Exports Ltd. (2017) 246 Taxmann 133 and CIT vs Merck Ltd. 389 ITR 70 (copies separately handed over at the time of hearing), and are enclosed herewith which are at pages 1 to 5 in case of Merck Ltd. and at pages 6 to 9 in case of Lever India Exports Ltd. wherein, it is held that it is mandatory for the TPO to bench-markthe international transaction by following one of the method specified in section 92C(1) of the Act.*
>
> *Jaykayorg AG has been rendering services to the assessee with respect to marking of its products outside India. The functions performed by them as per clause (5) of the agreement dated 20.06.2001 are as under:*
>
> > *The Selling Agent hereby undertakes and agrees with the Company that it I will at all times during the continuance of this Agreement, observe and perform the terms and conditions set out in this Agreement and in particular:*

(a) shall use at all times its best endeavour to promote and extend sale of the Products to all potential buyers, enhance the reputation of the Products amongst all potential buyers and enhance the reputation of the Company as the manufacturer thereof and work diligently to obtain orders thereof:

i) by means of personal visits to and by correspondencewith such buyers;

ii) by advertising and by the distribution of printed matter, subject however to the form, manner, extent and wording of such advertising and such distribution matter being previously approved in writing by the Company and without recourse to the Company for any expenseincurredunless such expenseshallhave beenspecifically authorised by the Company in writing.

iii) and generally by doing all such other acts as may be conducive to the promotion and extension of sale of the Products.

(b) shall obtain orders for the Products upon the terms contained in the Conditions of Sale as specified by the Company from time to time.

(c) shall in all correspondence and other dealing relating directly or indirectly to the sale of the Products clearly indicate that the products are manufactured by the Company or such other party as intimated by the Company.

(d) shall not accept orders or make contracts on behalf of the Company for purchase or sale of the Products, other than those which have been subject to confirmation and acceptance by the Company, and subject to the Company's Conditions of Sale for the time being operative and will not make any promises, representations, warranties or guarantees with reference to the Products except such as are consistent with such conditions of Sale.

(e) shall not offer the Products for sale at prices lower than that

for the time being fixed by the Company. shall not sell nor be interested in the sale or representation of goods of any party other than the Company whether of thesame nature or not, without the prior consent in writing of theCompany.

(g) shall promptly bring to the notice of the Company any information received by the Selling Agent as to the financial

stability of intending buyers of the Products whose inquiries and orders are transmitted by the Selling Agent to the Company.

(h) shall observe all directions and instructions given to it by the Company in relation to the sale, marketing, distribution and exportation of Products.

(i) shall not, in selling the goods, make any representation or give any warranties other than those contained in the Company's Conditions of Sale.

(i) shall in the event of any dispute arising between the Selling Agent and a buyer in relation to the sale of the Products, forthwith inform the Company of the dispute and shall not without the Company's consent in writing take any proceedings in respect of or compromise the dispute or grant a release toany debtor of the Company.

There is no dispute that the said entity has provided these services to the assessee as payment to the extent of Rs.178.50 lakhs has been accepted to be at arm's length. In this view of the matter, Jaykayorg AG cannot be regarded as performing office function. Hence, the said Swiss Administration guidelines has no application.

b. The Reserve Bank of India as per its Circular No.64 of 2003 dated 21.07.2003 has clarified that agency commission to the extent of 12.5% of the FOB value has been accepted by RBI vide Circular No.AD (MA Service) 17 dated 19.05.1999 (see page 117 of paper Book II). Since the commission paid by the assesses is within the general approval granted by the RBI, the said payment may be regarded as at arm's length. In this regard, reliance is placed on the judgment of jurisdictional High Court in CIT v SGS India Pvt. Ltd., being judgment dated 18.11.2015 in Income Tax Appeal No.1807 of 2013 (see pages 31 to 36 of the Paper Book II and Tribunal Order in the case of ACIT v Dow Agroscience India Pvt. Ltd. dated 10.08.2016 in ITA No. 1443/M/2011 (see pages 39 to 49 of Paper Book II, where the necessary finding is in paragraph 7.2 at pages 46 and 47 thereof.).

c. From assessment year 2003-04 onwards, i.e., the immediately next year, the assessee has benchmarked the commission payment by applying the (TNMM) method which has been accepted by the TPO as no transfer pricing adjustment thereof has been made in any later year. The orders passed by the TPO for assessment year 2003-04 and 2004-05 are at pages 223 and 224 of Paper Book I. It is well settled by now that consistency in respect of the most appropriate method applicable to bench mark a particular transaction has to be accepted. In this regard, reliance is placed on judgment of theHon'ble Apex Court in CIT v Cargill Foods India Ltd. being order dated 28.11.2016 in petition for

special leave to appeal being CC No.19007 of 2016(copy handed over separately at the time of hearing) and again enclosed herewith at pages 10 to 11. Further this principle of consistency has been followed in the context of most appropriate method to be adopted for benchmarking a transaction by the jurisdictional High Court in PCIT v Vishay Components India (P) Ltd. (2019) 103 Taxmman.com 421 and CIT v L'Oreal India (P) Ltd. (2015) 53 Taxmman.com 432. Based tereon, it is urged that the Tribunal may be pleased to hold that the TNMM method is most appropriate method for benchmarking the commission payment. Though, the necessary working had been produced as additional evidence before the CIT(A), he had called for a remand report in respect thereof from the TPO. In the said remand report, no defect has been pointed out in the computation of arm's length price. In view thereof, the transfer pricing adjustment may be deleted."

34. In view of the above submissions, Ld. AR of the assessee prayed that the ground raised by the assessee may be allowed and set-aside the order of the Ld.CIT(A) in respect of the above ground.

35. Ld.DR relied on the orders of the lower authorities and submitted that T.P. Adjustment in every assessment year is different and he brought to our notice Para No. 9.8 of the T.P.O. order and submitted that the number of persons on the rolls of the associate entity, who are engaged in marketing the products of the assessee, the assessee has submitted that there are two directors and one person who is the overall in-charge of the marketing office of the company and further explained that JK England Ltd UK, another associate entity of the assessee company and a sub-agent appointed by the associate entity, has one

marketing director and two marketing executives besides a secretary. It appears that the associate entity does not have any other office located elsewhere to promote the products of the assessee company throughout the world.

36. Further, he brought to our notice Page No. 149 of the Paper Book to submit that assessee has also furnished the rate at which commission is being paid to the associate entity in the past and it was seen that from 1st January 1995 to 30th June 1995 commission was payable at the rate of 8%. From 1st of July 1995 to 31st Jan 2001 commission was payable at the rate of 10%. From 1st Feb 2001 to 30th Jun 2004 the commission is being paid at the rate of 12% and no reasons have been provided for the sudden increase in the rate of commission paid to the associate entity.

37. Further, he brought to our notice Page No. 153 of the Paper Book whichis Page No.13 of the T.P.O order and which is the extract from the book International Tax Planning Manual by Horwath International as per which it is calculated on the basis of net profit as 5% of the expenses. Therefore, he proceeded to allow the markup of 5% on the costs incurred by the associate entity for the purpose of performing the

marketing activity and the T.P.O held that the costs incurred by the associate entity on account of payment of commission to the sub-agents is in the nature of pass through costs. There is no value addition performed by the associate entity on these costs. Therefore, he supported the findings of the T.P.O in this regard.

38. Considered the rival submissions and material placed on record, we observe that the assessee had paid overseas agency commission to its associate entity based on the agreement and these payments are subject matter of dispute. We observe that the assessee had not benchmarked this transaction and the TPO has adopted the principle from the Swiss Administration guidelines, according to us, it is not specified method prescribed in the sec.92C of the Act and Rules framed for the determining the ALP. We also observe that TPO considered and equated the present transaction with the liaison office, it is fact on record and the marketing agreement submitted before us clearly indicate that the associated enterprise is not doing any liaison work and does more than marketing by hiring sub-Agents in different territories. This itself shows that it is not a liaison office. Adopting the principle of liaison office for marketing function is not proper. Further we observe that there is no change in the operation and compensation paid for the

marketing to the Associate Entity in the subsequent assessment years and in the present assessment year, the same TP study can be adopted considering the fact that there is no major deviation brought on record. Therefore, in our considered view, the benchmarked commission payment by applying the (TNMM) method which has been accepted by the TPO can be applied in the present assessment year considering the fact that no transfer pricing adjustment was proposed by the assessee and also the method proposed by the assessing officer is also not one of the approved method under sec. 92C of the Act and Income Tax Rules. Therefore, we do not see any reason not to accept the subsequent year findings in the impugned assessment year. In our view, the assessee also not submitted any study and adopting the tested method in the subsequent year in assessee's own case will justify the proper calculation of ALP for this transaction.

39. Further, the payment of overseas commission is subjective and services offered by the agents are based on the accepted norms in the respective countries and also the various activities as per agreements, one cannot compare the same services and compensation keeping in minds what was accepted in the other territory (i.e., in Canada). We observe that Ld.DR submitted that the TPO had observed that the AE

has appointed sub agents and paid the commission ranging from 5% to 10%. The assessee deals with the principle agent and the responsibility of the execution is with the principle agent not with the sub agents. Moreover, the assessee has followed the rates specified by the RBI vide circular no AD (MA Service) 17 dated 19.05.1999, as per which the maximum agency commission should not exceed 12.5%. Therefore, considering the overall facts on record, we are of the view that the benchmark for agency commission adopted by the TPO in the subsequent year should be the base for the present assessment year under consideration. Therefore, we direct the AO/TPO to adopt the TNMM method for benchmarking for this assessment year also. Hence, the ground raised by the assessee is allowed.

40. With regard to Ground No. 7 which is relating to enhancement of assessment by disallowance of an amount of ₹.20,79,811/- in respect of swap charges has been raised. Brief facts relating to the issue are, the Ld.CIT(A) in his appellate order has denied the said claim on the ground that it has been debited as a provision in the profit and loss account which means that the liability in respect thereof has not yet accrued. In respect of the same amount, he has held that the book profits are not to

be increased by the provision as it is in respect of an ascertained liability (paragraph 11 at pages 29 and 30 of the CIT(A)'s order).

41. Ld. AR submitted that assessee had borrowed funds using the ECB route from State Bank of India and Citibank, where interest was payable every six months. The said interest was payable based on the rate of interest then prevailing at the time of payment. With a view to cap the rate at which interest was to be paid the assessee entered into an agreement with Bank of America for swapping such interest thereby any increase in the rate of interest would be to the account of Bank of America. In this regard, it had paid swap charges to them. The invoice at page 229 of Paper Book I shows that an amount of ₹.17,35,277 represented such swap charges relatable to the period from 19.02.2002 to 31.03.2002. The balance amount of ₹.3,44,603 was provision in respect of interest payable to State Bank of India and Citibank. Since this is an expenditure incurred for the purposes of its business, it has to be allowed as deduction. Mere use of the expression 'provision' would not change the character of expenditure where the amount of swap charges is a necessary outgo and its quantum does not depend upon the happening of any future event.

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

43. Considered the rival submissions and material placed on record, we observe that the assessee had charged to profit and loss on account of interest swap charges paid to Bank of America for relevant period and also incurred interest expenditure, which was payable to State Bank of India and Citibank against the borrowed funds thru ECB. These liabilities are ascertained liabilities and period cost for the year end. The nomenclature used by the assessee as Provision, whereas in reality it is ascertained liabilities for the period and the respective banks have charged the interest as well as swap charges considering the billing period. What is relevant is the ascertainment of liability for the period not the nomenclature used to charge the same to the profit and loss statement. Moreover, even the Ld CIT(A) while dealing with the Book Profit u/s.115JB, considered the same provisions as ascertained liabilities. One cannot apply two rules to interpret the same nature of expenditure. Therefore, we are inclined to delete the enhancement proposed by the Ld CIT(A) in his order. In the result, the ground raised by the assessee is allowed.

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

ITA.No. 2519/MUM/2008 (REVENUE APPEAL)

45. Coming to the revenue appeal in ITA.No. 2519/Mum/2008. Revenue has raised following grounds in its appeal: -

> *1. "The CIT(A) erred in directing the AO to recompute the annual value of the property without appreciating the fact that the AO has correctly arrived at the fair market value of the property at Rs.3,50,21,280/-.*
>
> *2. The Ld. CIT(A) erred in directing the AO to reduce an amount of Rs.80 lacs being the provision for redemption of debentures from the book profits u/s 115JB of the Act without appreciating the fact that the liability is unascertained.*
>
> *3. For this and other grounds that may be urged at the time ofhearing, the decision of the CIT(A) may be set aside andthat of the Assessing Officer restored."*

46. Ground No.1 of grounds of appeal which is in respect of determining the standard rent of the property. This ground is similar to Ground No. 2 of grounds of appeal raised by the assessee in ITA.No. 2660/Mum/2008 for the A.Y. 2002-03 and the decision taken therein shall apply mutatis-mutandis to the ground also. Accordingly, the ground raised by the revenue is allowed.

47. With regard to Ground No. 2 of grounds of appeal which is in respect of increase of book profit by the amount of provision for redemption of debentures. Ld. AR brought to our notice that similar

issue stands covered in favour of the assessee by the Hon'ble Jurisdictional High Court in the case of CIT v. Raymond Ltd., [2012] 209 taxman 65/21 taxmann.com 60 (Bombay). Copy of the order is placed on record. Ld. AR submitted that the same may be adopted for the year under consideration.

48. Ld. DR fairly agreed that the issue is covered in favour of the assessee and relied on the order of the lower authorities.

49. Considered the rival submissions and material placed on record, we observed that similar issue was considered and adjudicated by the Hon'ble Jurisdictional High Court in assessee's own case for the A.Y.1997-98 in the case of CIT *v.* Raymond Ltd., (supra) and decided the issue in favour of the assessee. While holding so the Hon'ble Jurisdictional High Court held as under: -

> "*1. This appeal by the Revenue against the order of the Income Tax Appellate Tribunal dated 13 February 2009 relates to AY 1997-98. Two questions of law have been framed by the Revenue which are as follows:*
>
> > *(a) Whether on the facts and in the circumstances of the case and in law, the ITAT was right in deleting the adjustment made by the AO relating to Redemption of Debentures Reserve amounting to Rs.18.80 crores;*
> >
> > *(b) Whether on the facts and in the circumstances and in law, the ITAT was right in deleting the disallowance*

in respect of capital expenditure incurred in respect of Steel Division at Nashik as revenue expenditure?

2. Re question (a): Section 115JA of the Income Tax Act, 1961 provides in subsection (2) that every assessee, being a company shall for the purpose of the section prepare its profit and loss account for the relevant previous year in accordance with the provisions of Parts II and III of Schedule VI to the Companies Act, 1956. The explanation to the Section provides that for the purpose of the section, "book profit" means the net profit as shown in the profit and loss account for the relevant previous year prepared under sub-section (2) as increased inter alia by "(b) the amounts carried to any reserves by whatever name called". Part III of Schedule VI to the Companies Act, 1956 provides inter alia in Clause 7(1)(b) that, "the expression "reserve" shall not include any amount written off or retained by way of providing for depreciation, renewals or diminution in value of assets or retained by way of providing for any known liability".

3. The nature of a Debenture Redemption Reserve (DRR) has been considered by the judgment of the Supreme Court in National RayonCorporation Ltd. Vs. Commissioner of Income Tax1 . The Supreme Court after adverting to the provisions of Clause 7 of Part III to Schedule VI of the Companies Act, 1956 held that "the basic principle is that an amount set apart to meet a known liability cannot be regarded as reserve". Where a company issues debentures, the liability to repay arises the moment the money is borrowed. By issuing debentures a company takes a loan against the security of its assets. Though the loan may not be repayable in the year of account, the obligation to repay is a present obligation. Hence any money set apart in the accounts of the company to redeem the debenture has to be treated as monies set apart to meet a known liability. Consequently, debentures have to be shown in the balance sheet of a company as a liability. Being monies set apart to meet a known liability, a Debenture Redemption Reserve cannot be regarded as a reserve for the purpose of Schedule VI to the Companies Act, 1956. In National Rayon Corporation, the Supreme Court followed its earlier decision in Vazir Sultan Tobacco Co. Ltd. Vs. CIT2 , in holding that since the concept of reserve and of a provision is well known in commercial accountancy and is used in the Companies Act, 1956, while dealing with the preparation of

balance sheets and profit and loss accounts the meaning of that concept would have to be gathered from the meaning attached in the Companies Act itself. The following observations of the Supreme Court are of significance:

> *"The debentures were nothing but secured loans. Merelybecause the debentures were not redeemable during the accounting period, the liability to redeem the debentures did not cease to exist. It was redeemable or repayable at a future date. But it was a known liability. In the form of balance-sheet prescribed by the Act in Schedule VI, the secured loans have to be shown under the heading "liabilities". Secured loans include (1) debentures, (2) loans and advances from banks, (3) loans and advances from subsidiaries, and (4) other loans and advances. The secured loans might not be immediately repayable, but the liability to repay these loans is an existing liability and has to be shown in the company's balance-sheet for the relevant year of account as a liability. Amounts set apart to pay these loans cannot be "reserve". The interpretation clause of the balance-sheet in Schedule VI of the Companies Act specifically lays down that reserves shall not include any amount written off or retained by way of providing for a known liability."*

4. The mere fact that a Debenture Redemption Reserve is labeled as a reserve will not render it as a reserve in the true sense or meaning of that concept. An amount which is retained by way of providing for a known liability is not a reserve. Consequently the Tribunal was correct in holding that the amount which was set apart as a Debenture Redemption Reserve is not a reserve within the meaning of Explanation (b) to Section 115JA of the Income Tax Act, 1961. No substantial question of law would, therefore, arise."

50. Since the issue is exactly similar and the facts are also identical, respectfully following the above decision of the Hon'ble Jurisdictional

High Court in assessee's own case, we dismiss the ground raised by the revenue.

51. In the result, appeal filed by the Revenue is partly allowed.

52. To sum-up, appeal filed by the assessee as well as revenue are partly allowed as indicated above.

Order pronounced in the open court on 14th November, 2022

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

Mumbai /Dated 14.11.2022
Giridhar, 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

(Asstt. Registrar)
ITAT, Mum