

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH, MUMBAI  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &  
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER  
ITA Nos. 2166 to 2168/Mum/2022  
(A.Ys.2013-14, 2016-17 and 2017-18)**

Dy. Commissioner of Income Tax (Exemption)- 2(1), Room No. 608,6 <sup>th</sup> Floor, MTNL Building, Cumballa Hill, Mumbai – 400026	Vs.	NEIA Trust C/o ECGC of India 10 <sup>th</sup> Floor, Express Tower Nariman Point Mumbai - 400021
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAATN9999F		
Appellant	..	Respondent

Appellant by :	Mahesh Akhade
Respondent by :	Arati Vissanji
Date of Hearing	02.11.2022
Date of Pronouncement	15.11.2022

आदेश / O R D E R

**Per Amarjit Singh (AM):**

The revenue has filed these appeals against the different order u/s 250 of the Act passed by Commissioner of Income Tax (Appeals) (NFAC) for AYs. 2012-14, 2016-17 and 2017-18. Since, issues involved in these three appeals are identical and based on similar fact, therefore, for the sake of convenience these appeal are adjudicated together by taking ITA No. 2166/Mum/2022 as a lead case and its finding will be applied to other two appeals as mutatis mutandis. The revenue has raised the following grounds before us:

- “1. Whether, on the facts and in the circumstances of the case and in law, the Ld CIT(A) was justified in allowing the benefit of exemption u/s 11 & 12 of the IT Act, 1961 to the assessee, ignoring the fact that the objects of the assessee falls at the most under the category of "advancement of any other object of general public utility and the activities are clearly in the nature of providing services in relation to trade, business and commerce in lieu of fees and total receipts of the assessee from such activities are more than 20% of the total receipt of the trust, hence the proviso to section 2(15) of the I.T. Act is applicable and the assessee is not entitled to exemption u/s 11 of the Act in view of the provisions of section 13(8) of the IT Act, 1961?”
  2. Whether, on the facts and in the circumstances of the case and in law, the Ld. CIT(A) was justified in allowing the benefit of exemption u/s 11 &12 of the LT. Act, 1961 to the assessee, even though the principal object and activities of assessee trust to provide cover for credit risk to various business enterprises through insurance by charging premium are in the nature of services provided in relation to trade, business and commerce in lieu of fee and as the receipts from the same are more than 20% of the total receipt of the trust, the proviso to section 2(15) is applicable?”
  3. Whether, on the facts and in the circumstances of the case and in law, the Ld. CIT(A) was justified in allowing the benefit of exemption u/s 11 &12 of the IT. Act, 1961 to the assessee, ignoring the fact that once the assessee is hit by the proviso to section 2(15) of the IT. Act, its objects are no more chantable objects from year after year and therefore even the interest on surplus of such activities cannot be treated as income derived from property held for charitable purposes and therefore such income is also not exempt u/s 11 of the Act?”
  4. Whether, on the facts and in the circumstances of the case and in law, the Ld. CIT(A) was justified in allowing the benefit of exemption u/s 11& 12 of the IT. Act, 1961 to the assessee relying on the earlier judgments of Hon ITAT (in ITA No.544/Mum/2014 dated 18.01.2019 in assessee's own case for AY 2009-10) wherein the Hon ITAT has relied on the case of India Trade Promotion Organization Vs. DGIT(E) 2015 taxman.com 404 Delhi ignoring the fact that the above case was decided in the back drop of cancellation of exemption u/s 10(23C)(iv) of the I.T Act which was issued before introduction of proviso to section 2(15) and not for exemption u/s 11 of the I.T. Act by applying section 13(8) of I.T Act and otherwise also that the department has not accepted the decision of Hon'ble Delhi High Court and filed SLP before the Hon'ble Supreme Court which is pending for adjudication.
  5. The appellant prays that the order of the Commissioner of Income Tax (Appeals) 7, Mumbai be set aside and that of the Assessing Officer be restored.
  6. The Appellant craves leave to amend or alter any ground or add a new ground which may be necessary.”
2. Fact in brief is that return of income declaring nil income along with income and expenditure account, balance sheet and audit report in

the Form no. 10B claiming exemption u/s 11 was filed on 10.10.2017. The case was subject to scrutiny assessment and notice u/s 143(2) of the Act was issued on 13.08.2018. The assessee is a public trust settled by the Government of India and is registered with the office of Charity Commissioner, Mumbai Region. The assessee was holding certificate dated 29.10.2007 issued u/s 12AA of the Income Tax Act, 1961. The assessee trust was formed with a view to facilitate medium and long term exports and considering the limitation of export credit guarantee corporation in providing adequate cover of its own and non availability of re-insurance cover to such exporters, the Government of India, Ministry of Commerce of Industry, Department of Commerce vide the resolution dated 07.03.2006 established the National Export Insurance Account (NEIA) scheme to be maintained and operated by public trust. NEIA trust was thus set up in terms the government resolution vide the trust dated 21.03.2006, the President of India acting through the Joint Secretary, Department of Commerce, Ministry of Commerce and Industry, Government of India being the sole settler of the trust. The object of the assessee trust was to implement the NEIA scheme through ECGC for the benefit of medium and long term exporters. To implement such other scheme and programmes for the benefit of medium and long term exporters as the Government of India may from time to time and direct the trust to implement. During the course of assessment the A.O observed that assessee trust was hit by the proviso to Sec.2(15) of the Act because of amendment to Section 2(15) w.e.f 01.04.2009 the assessee trust was not eligible for exemption u/s 11 of the Act. Therefore, at para 6.8 to para 6.12 of the assessment order the A.O observed that the assessee is not engaged in any charitable activities. The A.O was of the view that the assessee was involved in carrying out of activity in the

nature of trade, commerce or business, therefore, in view of proviso 2 to Section 2(15) of the Act its object was no more charitable object. Therefore, the A.O had denied the exemption u/s 11 of the Act and assessed the total income at Rs.184,28,48,630/-.

3. Aggrieved, the assessee filed the appeal before the ld. CIT(A) The ld. CIT(A) has allowed the appeal of the assessee after following the decision of coordinate benches of the ITAT adjudicated in the case of the assessee itself for assessment year 2011-12, 2012-13 vide ITA No. 5818/Mum/2018 and AY. 2014-15 and 2015-16 vide ITA No.3963 & 3964/Mum/2019 respectively. The relevant operating part of the decision of CIT(A) is reproduced as under:

*“Determination*

*6. The appeal is adjudicated upon in respect of each ground of appeal as under, after taking into consideration the assessment order, written submissions filed by the appellant and material available on record*

*7 Ground of appeal no. 1 challenges the denial of exemption under section 11 of the Act once the appellant was found to be hit by proviso to section 2(15) of the Act owing to its objects falling under the category of "advancement of any other object of general public utility. This issue has been considered and decided in appellant's favour by the Hon'ble Mumbai ITAT in ITA No 544/Mum/2014 dated 18.01.2019 for AY 2010-11 while holding as under:*

*“4. We have heard the argument advanced by the Ld. Representative of the parties and by perusing the record. We noticed that the AO applied the first proviso to Section 2(15) of the Act, 1961 and declined the claim of the assessee u/s 11/12 of the Act. The object of the assessee has been given in para no 5 of the trust deed at page no 11 which is hereby mentioned below (i) To implement the NEIA Scheme through ECGC (Export Credit Guarantee Corporation of India) for the benefit of medium and long term exporters (b) To implement such other schemes and programmes for the benefit of medium and long term exporters as the Government of India mainframe from time to time and direct the trust implement.*

*5. The assessee trust received policy premium payments from the following parties (1) Apar Industries Ltd Rs.1.86.12,015/- () ONGC Videsh Lid Rs 2,06,32,870/- (i) Hindustan Aeronautics Ltd. Bangalore Rs.17.34,159/- total to the tune of Rs. 4 09.79.044/- The assessee also paid the claim of various exporters under the scheme in sum of Rs 32,12,724/ during the year. The claim of the assessee was declined in view of the exception of*

*provision u/s 2(15) of the Act specifically on the grounds of that the object of the assessee is in nature of business, trade and commerce No doubt, the said provision was introduced. The assessee trust was formed with a view to facilitate Immediate and long term exports and to consider the limitations of export credit guarantee corporation in providing adequate cover on its own and non availability of re-insurance cover to such exporters. The Government of India Ministry of Commerce and Industries Department of Commerce vide the resolution dated 7.03.2006 decided to establish the national Exporter Insurance Account (NEIA) Scheme to be maintained and operated by a Public Trust. NEIA Trust was, thus, set up in terms of this Government Resolution vide the Trust Deed dated 21.3.2006, the President of India, acting through the Joint Secretary, Department of Commerce, Ministry of Commerce & Industry, Government of India being the settler of the Trust. The object of the assessee trust was the same which is for the benefit of medium and long term exporters. There is no change in the object of the trust. Here it is important to mention that the assessee trust was registered u/s 12AA of the Act which was not withdrawn by authority who granted the registration. The Ld Representative of the Assessee has contented that AO has no right to withdraw the claim of exemption by discussing the provisions of Section 2(15) of the Act. Section 2(15) is hereby reproduced as under-*

*“Charitable purpose” includes relief of the poor, education, medical relief, preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest, and the advancement of any other object of general public utility*

*Provided that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use of application, or retention, of the income from such activity.”*

*6. Subsequently, the said amendment was explained and interpreted by the CBDT Circular No.11/2018 dated 19 12 2008 in which trade, commerce and business is required to be decided on the basis of the nature, scope, extent, frequency of activities. Accordingly, the nature of the trust is hereby specified that the trust is to provide credit insurance cover to Indian Exporters keeping in view the national interest The Trust is sponsored and the nature of activities of the trust is to provide credit insurance cover to Indian Exporters keeping in view of the national interest. The Trust is sponsored by Govt of India with the objective to promote improve competitiveness of Indian exports and to implement schemes formulated by the Govt of India for the benefits of medium and long term exporters in national interest Certainly, none of the above objectives are tainted with motive of trade, commerce or business as Govt of India is not into business of providing Credit Insurance Wherever, it has intended to do so, it has been done through Corporate structure e.g. ECGC of India Ltd (Export Credit Guarantee Corporation) which does the credit*

*insurance activity on commercial basis with Govt. of India as the sole shareholder with a premium and other income of Rs 1020 crores (appx) and a net surplus of Rs.171 (approx) for FY 2012-13. On the basis of the above, NEIA's activity cannot and should not be considered to be in nature of trade, commerce or business.*

7. *The Trust scope of activity is primarily to implement schemes formulated by Govt of India. Ministry of Commerce, Govt. of India, is the settler of the Trust and the Trust is not empowered to carry out any other activity.*

8. *Further, even the project/exports which require credit insurance has to meet the criteria stipulated in clause 12 of the Trust Deed. Criteria No (x) and (y) specifically require the project to be of "importance of such project export from national point of view" and "other factors like the current economic development in the project country and related issues" Therefore, the Trust does not even evaluate the project from the perspective of premium viability or profitability Once the project export fulfills the criteria mentioned in clause 12, the trust will provide credit cover In view of the above said activities we noticed that there is no intension of the assessee to earn the profit. Undoubtedly the dominant and prime object is required to be seen. The learned representative of the assessee has relied upon the law settled by the Delhi High Court in case titled as India Trade Promotion Organization v. DGIT(E) [2015] taxman com 404/229 Taxman 347/37 ITR 333 Delhi. It is settled in the said law that the dominant and prime object is required to be seen to observe the nature of trade, commerce and business. The relevant para in case of India Trade Promotion Organization ( supra) is 58 which is reproduced as under:-*

*"58 In conclusion, we may say that the expression "charitable purpose", as defined in Section 2(15) cannot be construed literally and in absolute terms. It has to take color and be considered in the context of Section 10(23C)(v) of the said Act it is also clear that if the literal interpretation is given to the proviso to Section 2(15) of the said Act, then the proviso would be at risk of running foul of the principle of equality enshrined in Article 14 of the Constitution of India In order to save the Constitutional validity of the proviso, the same would have to be read down and interpreted in the context of Section 10(23C)(v) because, in our view, the context requires such an interpretation The correction interpretation of the proviso to section 2(15) of the said Act would be that it carves out an exception from the charitable purpose of advancement of any other object of general public utility and that exception is limited to activities in the nature of trade commerce or business or the activity of rendering any service in relation to any trade, commerce or business, the dominant and the prime objective has to be seen. If the dominant and prime objective of the institution, which claims to have been established for charitable purpose is profit making, whether its activities are directly in the nature of trade, commerce or business or indirectly in the rendering of any service in relation to any trade, commerce or business, then it would not be entitled to claim its object to be a charitable purpose On the flip side, where an institution is not driven primarily by a desire or motive to earn*

*profits, but to do charity through the advancement of an object of general public utility, it cannot but be regarded as an institution established for charitable purposes.”*

9. *The facts of the present case is quite similar to the facts of the case titled as India Trade Promotion Orgaization (supra). Therefore finding of the said cases is quite applicable to the facts of the present case. Since the dominant and prime object of the assessee is not to earn the profit in relation to trade, commerce and business, therefore, the exemption u/s 11 & 12 is not liable to be declined. Accordingly, we set aside the finding of the CIT(A) in this issue and allowed the claim of the assessee.”*

8. *Further, the appellant has also placed reliance on Hon'ble ITAT's order in I.TA 5818/Mum/2015 for A.Y. 2011-12 and 2012-13, and order of the Hon'ble ITAT in ITA Nos. 3963 & 3964/Mum/2019 in its own case on same matter for AY 2014-15 and 2015-16. Vide these orders, the Hon'ble ITAT had set aside the finding of CIT(A) and allowed the claim of the assessee. Further, Hon ble ITAT in these above-mentioned orders has also held that the objects of the Assessee are 'Charitable purpose' as defined u/s 2(15) of the Income-Tax Act and accordingly ordered to grant exemption under section 11 and 12 of the Act. Reliance has also been placed upon the order no CIT(A)-7/T-367/154/2017-18 & 397/53/2018-19 dated: 01.03.2019 of my Id. predecessor for assessment years A.Y 2014-15 and 2015-16, wherein the Id. CIT(A) has given relief to the appellant relying upon the order of the Hon. ITAT ITA No. 544/Mum/2014 Dated 18.01.2019 for AY 2010-11.*

9. *In view of the foregoing discussion, factual matrix and respectfully following the aforesaid decisions of the Hon'ble ITAT in appellant's own case for AY 2010-11, A.Y. 2011- 12 AY2012-13, AY. 2014-15 and AY 2015-16 and that of my Id. predecessor, for assessment years AY. 2014-15 and 2015-16, appellant's claim of exemption under section 11 is allowed. Hence, ground of appeal no. 1 is allowed.*

10. *Ground of appeal no. 2 raised by the appellant is general in nature and has been covered in other grounds of appeal. Hence, this ground does not call for any separate adjudication.*

11. *Ground of appeal no. 3 states that the appellant "craves leave to amend or alter any ground, or add a new ground which may be necessary No such option has been exercised during the appellate proceedings. This ground of appeal is treated as a dismissed ground of appeal for statistical purposes*

12. *In the end result, the appeal is PARTLY ALLOWED.”*

4. During the course of appellate proceedings before us the ld. D.R. supported the order of A.O.

On the other hand, the ld. Counsel contended that similar issue on identical facts have already been adjudicated for the earlier years by the ITAT, Mumbai in favour of the assessee and he supported the order of CIT(A).

5. Heard both the sides and perused the material on record. We find that Id. CIT(A) has adjudicated the issue in favour of the assessee after following decision of ITAT, Mumbai, in the case of the assessee itself for various earlier years as elaborated in the finding of the Id. CIT(A). We have perused the decision of ITAT, Mumbai, in the case of the assessee itself for A.Y. 2014-15 and 2015-16 vide ITA No. 9363 & 3964/Mum/2019. The relevant operating part of the decision is reproduced as under:

*“6. We heard the rival submissions and perused the material on record. The sole disputed issue challenged by the revenue, in respect of granting of exemption u/s 11 of the Act to the assessee trust though the assessee is hit because of amendment to provisions of Sec. 2(15) of the Act effective from 01.04.2009. The Ld. DR submitted that the Ld.CIT(A) has relied on the assessee’s own case and granted the relief and same is contested by the revenue. Whereas, the Ld AR has also submitted a chart on the decisions of assessee’s own case. We find that, the Ld.CIT(A) in the appellate proceedings has considered the assessee’s submissions and relied on the decisions of the Hon’ble Tribunal in assessee’s own case for the A.Y 2010-11 and granted the relief. Similarly, for the A.Y 2011-12 and 2012-13 the Hon’ble Tribunal has relied on the earlier years decision of A.Y. 2010-11 and passed the order on 24.12.2019 in granting the exemption to the assessee. We considered it appropriate to refer, to the observations of the Coordinate Bench of the Hon’ble Tribunal in ITA No. 544/Mum/2014, in assessee’s own case for the A.Y 2010-11 at page 8 of the order which is read as under:*

*“4. We have heard the argument advanced by the Ld. Representative of the parties and by perusing the record. We noticed that the AO applied the first proviso to Section 2(15) of the Act, 1961 and declined the claim of the assessee u/s 11/12 of the Act. The object of the assessee has been given in para no. 5 of the trust deed at page no. 11 which is hereby mentioned below:- (i) To implement the NEIA Scheme through ECGC (Export Credit Guarantee Corporation of India) for the benefit of medium and long term exporters (b) To implement such other schemes and programmes for the benefit of medium and long term exporters as the Government of India mainframe from time to time and direct the trust implement. 5. The assessee trust received policy premium payments from the following parties (i) Apar Industries Ltd. Rs.1,86,12,015/- (ii) ONGC Videsh Ltd Rs.2,06,32,870/- (iii) Hindustan Aeronautics Ltd. Bangalore Rs.17,34,159/- total to the tune of Rs.4,09,79,044/-. The assessee also paid the claim of various exporters under the scheme in sum of Rs.32,12,724/- during the year. The claim of the assessee was declined in view of the exception of provision u/s 2(15) of the Act specifically on the grounds of that the object of the assessee is in nature of business, trade*

*and commerce. No doubt, the said provision was introduced. The assessee trust was formed with a view to facilitate Immediate and long term exports and to consider the limitations of export credit guarantee corporation in providing adequate cover on its own and non availability of reinsurance cover to such exporters. The Government of India Ministry of Commerce and Industries Department of Commerce vide the resolution dated 7.03.2006 decided to establish the national Exporter Insurance Account (NEIA) Scheme to be maintained and operated by a Public Trust. NEIA Trust was, thus, set up in terms of this Government Resolution vide the Trust Deed dated 21.3.2006, the President of India, acting through the Joint Secretary, Department of Commerce, Ministry of Commerce & Industry, Government of India being the settler of the Trust. The object of the assessee trust was the same which is for the benefit of medium and long term exporters. There is no change in the object of the trust. Here it is important to mention that the assessee trust was registered u/s 12AA of the Act which was not withdrawn by authority who granted the registration. The Ld Representative of the Assessee has contented that AO has no right to withdraw the claim of exemption by discussing the provisions of Section 2(15) of the Act. Section 2(15) is hereby reproduced as under:- "Charitable purpose" includes relief of the poor, education, medical relief, preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest, and the advancement of any other object of general public utility: Provided that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use of application, or retention, of the income from such activity"*

*6. Subsequently, the said amendment was explained and interpreted by the CBDT Circular No.11/2018 dated 19.12.2008 in which trade, commerce and business is required to be decided on the basis of the nature, scope, extent, frequency of activities. Accordingly, the nature of the trust is hereby specified that the trust is to provide credit insurance cover to Indian Exporters keeping in view the national interest. The Trust is sponsored and the nature of activities of the trust is to provide credit insurance cover to Indian Exporters keeping in view of the national interest. The Trust is sponsored by Govt. of India with the objective to promote exports, improve competitiveness of Indian exports and to implement schemes formulated by the Govt. of India for the benefits of medium and long term exporters in national interest. Certainly, none of the above objectives are tainted with motive of trade, commerce or business as Govt. of India is not into business of providing Credit Insurance. Wherever, it has intended to do so, it has been done through Corporate structure e.g. ECGC of India Ltd. (Export Credit Guarantee Corporation) which does the credit insurance activity on commercial basis with Govt. of India as the sole shareholder with a premium and other income of Rs.1020 crores (appx) and a net surplus of Rs.171 (approx) for FY 2012-13. On the basis of the above, NEIA's activity cannot and should not be considered to be in*

nature of trade, commerce or business. 7. The Trust scope of activity is primarily to implement schemes formulated by Govt of India. Ministry of Commerce, Govt. of India, is the settler of the Trust and the Trust is not empowered to carry out any other activity. 8. Further, even the project / exports which require credit insurance has to meet the criteria stipulated in clause 12 of the Trust Deed. Criteria No.(ix) and (xi) specifically require the project to be of "importance of such project export from national point of view" and "other factors like the current economic development in the project country and related issues". Therefore, the Trust does not even evaluate the project from the perspective of premium viability or profitability. Once the project export fulfills the criteria mentioned in clause 12, the trust will provide credit cover. In view of the above said activities we noticed that there is no intension of the assessee to earn the profit. Undoubtedly the dominant and prime object is required to be seen. The learned representative of the assessee has relied upon the law settled by the Delhi High Court in case titled as India Trade Promotion Orgaization Vs. DGIT(E), 2015 taxman.com 404 Delhi. It is settled in the said law that the dominant and prime object is required to be seen to observe the nature of trade, commerce and business. The relevant para in case of India Trade Promotion Orgaization (supra) is 58 which is reproduced as under 58. In conclusion, we may say that the expression "charitable purpose", as defined in Section 2(15) cannot be construed literally and in absolute terms. It has to take color and be considered in the context of Section 10(23C)(iv) of the said Act. It is also clear that if the literal interpretation is given to the proviso to Section 2(15) of the said Act, then the proviso would be at risk of running fowl of the principle of equality enshrined in Article 14 of the Constitution of India. In order to save the Constitutional validity of the proviso, the same would have to be read down and interpreted in the context of Section 10(23C)(iv) because, in our view, the context requires such an interpretation. The correction interpretation of the proviso to section 2(15) of the said Act would be that it carves out an exception from the charitable purpose of advancement of any other object of general public utility and that exception is limited to activities in the nature of trade, commerce or business or the activity of rendering any service in relation to any trade, commerce or business, the dominant and the prime objective has to be seen. If the dominant and prime objective of the institution, which claims to have been established for charitable purpose, is profit making, whether its activities are directly in the nature of trade, commerce or business or indirectly in the rendering of any service in relation to any trade, commerce or business, then it would not be entitled to claim its object to be a charitable purpose. On the flip side, where an institution is not driven primarily by a desire or motive to earn profits, but to do charity through the advancement of an object of general public utility, it cannot but be regarded as an institution established for charitable purposes." 9. The facts of the present case is quite similar to the facts of the case titled as India Trade Promotion Organization (supra). Therefore finding of the said cases is quite applicable to the facts of the present case. Since the dominant and prime object of the assessee is not to earn the profit in relation to trade, commerce and business, therefore, the exemption u/s.11

*& 12 is not liable to be declined. Accordingly, we set aside the finding of the CIT(A) in this issue and allowed the claim of the assessee.*

7. *We respectfully follow the decision of the Coordinate Bench of this Hon'ble Tribunal in assessee's own case for the A.Y 2010-11 and further observe that the Ld. DR could not controvert the findings of the Ld.CIT(A) with any new cogent evidence or information but relied on the Assessing officers order. Accordingly, we are not inclined to interfere with the order of Ld.CIT(A) and up held the same and we dismiss the grounds of appeal of the revenue.*

**ITA No. 3964/Mum/2019, A.Y 2015-16.**

8. *As the facts and circumstances in this appeal are identical to ITA No.3963/Mum/2019 for A.Y. 2014-15, the decision rendered at para 6 and para 7 would apply mutatis mutandis for this case also. Accordingly, we dismiss the grounds of appeal of the revenue."*

Respectfully following the decision of coordinate bench of the ITAT as supra, we don't find any infirmity in the decision of ld. CIT(A). Therefore, ground of appeal of the revenue stand dismissed.

6. The appeal of the revenue stand dismissed.

**ITA Nos. 2167 & 2168/Mum/2022**

7. As the facts and the issue involved in this appeal are the same as supra in ITA No. 2166/Mum/2022, therefore, applying the same findings mutatis mutandis, these appeals of the revenue also stand dismissed.

8. In the result, all the appeals of the revenue stand dismissed.

Order pronounced in the open court on 15.11.2022

Sd/-  
(Vikas Awasthy)  
Judicial Member

Sd/-  
(Amarjit Singh)  
Accountant Member

Place: Mumbai

Date 15.11.2022

Rohit: PS

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,  
Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//  
आदेशानुसार/ BY ORDER,

**उप/सहायक पंजीकार (Dy./Asstt. Registrar)**  
**आयकर अपीलीय अधिकरण/ ITAT, Bench, Mumbai.**