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

BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &
SHRI AMARJIT SINGH, ACCOUNTANT, MEMBER

ITA No.3790 /Mum/2004
(A.Y.1996-97)

SBI Capital Markets Ltd. 202, Maker Tower E, Cuffe Parede, Mumbai – 400 005	Vs.	Asst. Commissioner of Income-tax Range-4(3)(3) Mumbai
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAACS7339D		
Appellant	..	Respondent

ITA Nos.3791 & 4246/Mum/2004
(A.Y.1997-98 & 1998-99)

SBI Capital Markets Ltd. 202, Maker Tower E, Cuffe Parede, Mumbai – 400 005	Vs.	Jt. Commissioner of Income-tax Special Range-27 Mumbai
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAACS7914E		
Appellant	..	Respondent

ITA No.4247 /Mum/2004
(A.Y.1999-2000)

SBI Capital Markets Ltd. 202, Maker Tower E, Cuffe Parede, Mumbai – 400 005	Vs.	Asst. Commissioner of Income-tax (OSD)-3(3) Mumbai
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAACS7339D		
Appellant	..	Respondent

ITA No.4248 & 6822/Mum/2004
(A.Y.2000-01 & 2001-02)

SBI Capital Markets Ltd. 202, Maker Tower E, Cuffe Parede, Mumbai – 400 005	Vs.	Dy. Commissioner of Income Tax, Range-4(2) Mumbai
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAACS7914E		
Appellant	..	Respondent

ITA No.7264/Mum/2005

(A.Y.2002-03)

SBI Capital Markets Ltd. 202, Maker Tower E, Cuffe Parede, Mumbai – 400 005	Vs.	Dy. Commissioner of Income Tax, Circle-4(2) Aayakar Bhavan, Mumbai
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAACS7914E		
Appellant	..	Respondent

ITA No.2345 & 4727/Mum/2007

(A.Y.2003-04 & 2004-05)

SBI Capital Markets Ltd. 202, Maker Tower E, Cuffe Parede, Mumbai – 400 005	Vs.	The Dy. Commissioner of Income Tax, Circle-4(2) Mumbai
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAACS7914E		
Appellant	..	Respondent

ITA Nos.7538, 7539/Mum/2005

(A.Y.1996-97 & 1997-98)

SBI Capital Markets Ltd. 202, Maker Tower E, Cuffe Parede, Mumbai – 400 005	Vs.	The Commissioner of Income Tax (Appeals)-IV Aaykar Bhavan, Mumbai
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAACS7914E		
Appellant	..	Respondent

ITA No.1088/Mum/2007

(A.Y. 2001-02)

SBI Capital Markets Ltd. 202, Maker Tower E, Cuffe Parede, Mumbai – 400 005	Vs.	The Dy. Commissioner of Income Tax Circle 4(2) Mumbai
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAACS7914E		
Appellant	..	Respondent

ITA Nos.7268 & 7269/Mum/2008

(A.Y. 2003-04 & 2005-06)

SBI Capital Markets Ltd. 202, Maker Tower E, Cuffe Parede, Mumbai – 400 005	Vs.	The Asst. Commissioner of Income Tax Circle 4(2) Mumbai
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAACS7914E		
Appellant	..	Respondent

ITA No.5144/Mum/2009
ITA No.1839/Mum/2011
ITA No.1511/Mum/2014
ITA No.2484/Mum/2012

(A.Ys. 2005-06 to 2007-08)

SBI Capital Markets Ltd. 202, Maker Tower E, Cuffe Parede, Mumbai – 400 005	Vs.	The Asst. Commissioner of Income Tax LTU Mumbai
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAACS7914E		
Appellant	..	Respondent

ITA No.6729/Mum/2004

(A.Ys. 2001-02)

Dy. Commissioner of Income-tax, Circle-4(2)	Vs.	M/s SBI Capital Markets Ltd. 202, Maker Tower E, Cuffe Parede,

R.No. 642, 6th Floor, Aaykar Bhavan, M.K.Road, Mumbai – 20		Mumbai – 05
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAACS7914E		
Appellant	..	Respondent

Appellant by :	Nithesh Joshi
Respondent by :	Hemant Kumar Chimanlal Leuva

Date of Hearing	18.10.2022
Date of Pronouncement	13.01.2023

आदेश / O R D E R

Per Bench:

These 19 appeals filed by the assesse and by the revenue pertaining to the assessment year 1996-97 to 2007-08 are directed against the different orders of CIT(A). Since common issue on similar facts are involved in these cases, therefore for the sake convenience all these appeals are adjudicated together by taking ITA No. 3790/Mum/2004 as lead case and their finding will applied to the other case wherever these are applicable. The assesse raised the following grounds before us:

"1. The learned CIT(A) erred in confirming the disallowance of a sum of Rs.9,62,17,863 being 100% depreciation on Amine Treatment Plant leased to Mangalore Refineries & Petrochemicals Ltd.

2. The learned CIT(A) erred in confirming the disallowance of a sum of Rs.62,55,435 being 25% depreciation on Nitrogen Storage Unit leased to Mangalore Refineries & Petrochemicals Ltd.

3. The learned CIT(A) erred in holding that

a. the assessee has entered into lease agreement with MRPL even before became the owner of the assets, which is definitely against the principles of sale and lease back transaction, where the sale precedes the lease or sale is anterior to lease.

b. *neither the asessee nor lessee i.e MRPL were in a position to identify assets in question at the time of the lease agreement. No asset can be leased without being identified or described in proper terms at the time of lease*

c. *……there was no intention of transfer of ownership.*

d. *Thus the entire transaction is nothing but pre-preplanned, preordained and premeditated tax device.*

4. *The learned CIT(A) erred in making the following observations which are contrary to the facts of the case and in law:*

a. *……Though assessee satisfies all the criteria or conditions laid down for classic sale and lease back transaction, the assessee made one mistake which in fact proves that sale and lease back transaction entered by assessee is nothing but finance transaction.*
b. *…….Thus the assessee has entered into lease agreement before it could even buy the equipment. This shows true intention of the assessee i.e. to finance the lessee.*
c. *…..The Tribunal's observation or finding that in a case where lease agreement has been entered into, prior to the owning of the asset by the lessor is clear indication of the intention of parties i.e to finance only, is applicable on all fours in the instant case also The lessor's intention behind this transaction is only to finance and not to lease The lease agreement is nothing but only a devise to ensure that the leased equipment remains with the lessor as security for the money lent.*
d. *…….The so called lease agreement of the assessee gives the description of the leased assets as "various equipment From this, one could instantly understand that fact that at the time of lease, neither the lessor nor the lessee is aware of the nature of the equipment that is going to be leased. In fact the description of components has been in the list which has been enclosed with the sale invoice which is much after the lease agreement*

e. *……..The amount to be financed has already been decided and the list of the equipment equivalent to the monies lent, has been prepared subsequently.*

f. *…..Thus, in any eventuality if delivery of the goods or equipment is insisted upon lessee would not be a position to part with its components without jeopardising the very functioning of the unit. Though it may be mentioned in the lease agreement that the lessor is the absolute owner of the equipment and has right to redelivery and repossession of the equipment etc., the real fact remains that the equipment cannot be delivered to the assessee if the physical delivery is insisted upon.*

g. *…..the question of physical delivery in any eventuality would not arise in this case as the delivery of the components which alleged to have been leased out would not be possible without disrupting the very functioning of the unit.*

5. *The learned CIT(A) erred m confirming the action of the assessing officer in not granting deduction under section 80-O of Rs.10,10,038 as claimed by the appellant in the return of income*

6. *Each one of the above grounds of appeal is without prejudice to the other*

7. *The appellant reserves the right to amend, alter or add to the grounds of appeal."*

2. Fact in brief is that return of income declaring total income at Rs.41,90,78,687/- was filed on 11.11.1997. The case was subject to scrutiny assessment. The assesse was wholly owned subsidiary of SBI and the income was mainly from merchant banking, lease and hire purchase as well as investment income. The assessment u/s 143(3) of the Act was finalised on 26.03.1999 assessing the total income at Rs.58,75,58,600/- after disallowing the claim of depreciation and claim of deduction made u/s 80-O of the Act.

Subsequently, the ld. CIT(A) vide order no. CIT(A)-XVI/SR-27/22/1999-2000 dated 29.02.2000 has set aside the order to be done de novo. Therefore, the assessing officer completed the assessment u/s 143(3) r.w.s 250 of the Act on 28.03.2022 assessing the total income at Rs.51,81,07,285/-. Further fact of the case are discussed while adjudicating the various grounds of appeal of the assesse as follows:

Ground No. 1 to 4: Pertaining to disallowance of depreciation on Amine Treatment Plant & Lease to Manglore Refineries & Petrochemicals Ltd.(MRPL):

3. During the course of assessment the assessing officer noticed that assesse has claimed 100% depreciation in respect of Amine Treatment Plant being air pollution control equipment provided by the assesse on lease to Manglore Refineries Petrochemical Ltd. (MRPL). During the course of assessment the A.O observed from the valuation report that in case of Amine Treatment Plant the total assets comprised of various indigenous and imported equipment. The A.O stated that the Amine

Treatment Plant was an integrated plant which works to reduce sulphur content of the gas. The A.O also stated that the imported components were valves motors, pipes etc., which were essential components and it was only when the entire units was assembled and used for reducing the sulphur contents on gas then it could be classified as pollution control equipment. In response the assesse contended that the plant can be existed with only indigenous component. However, the A.O stated that report of the valuer pointing out that indigenous and imported component can separately worked as Amine Treatment Plant or pollution control equipment was certainly no creditworthy. The AO further stated that transaction were of the nature of sale and lease back transaction. Therefore, the assessing officer has disallowed the claim of depreciation.

4. Aggrieved with the order of the assessing officer the assesse preferred the appeal before the ld. CIT(A). The ld. CIT(A) has dismissed the appeal of the assesse reiterating the facts reported by the assessing officer.

5. During the course of appellate proceedings before us the ld. Counsel after referring the order of Assessing Officer and CIT(A) submitted that they have not taken into consideration the relevant supporting material furnished by the assesse in support of its claim of depreciation. In this regard, the ld. Counsel referred the paper book at page no. 15 to 50 pertaining to the lease agreement dated 27.01.1996. He has referred to various terms and conditions of the lease agreement. As per terms of lease as per clause 1.1. of the agreement the Lessor shall give on lease and the lessee shall take on lease from the lessor the equipment up to the term and conditions and for the period and on payment of lease rentals and other charges as specified in part II of the first schedule. Then he also referred clause 1.7 of the agreement which

state that the commencement date of the lease shall be the last date of the calendar month in which the equipment is delivered to the lessee. He also referred clause 2.1 of the agreement which state that lessee shall pay to the Lessor during the continuation of this agreement, lease rentals and other charges as specified in part II of the 1st Schedule. He also referred clause no. 10 of the agreement which states that lessee shall permit the Lessor and any person authorised by the Lessor from time to time to inspect the equipment installed at the premises. He also referred clause 13.2 of the agreement which states that the Lessor shall without any notice be entitled to remove the equipment in the event of default made by the lessee. He also referred the clause 14 pertaining to repossession of the equipment by the Lessor on the expiration of agreement. He also referred the other clause of the agreement which states that upon termination of the agreement Lessor shall be the absolute owner of the equipment and similarly he referred the various clause of the agreement. He also referred the copy of the invoice and delivery challan placed at page no. 51 & 52 of the paper book. He also referred page 54 as delivery certificate of lease equipment and inspection of the equipment made by the lessee M/s Manglore Refinery and Petrochemical Ltd. giving particular of Lessor, date of lease agreement, detail of asset released, acquisition cost, location of the asset, date of inspection and detailed insurance along with insurance policy etc. He also referred copy of chartered engineer valuation certificate certifying that imported equipment and indigenous equipment are separately identifiable equipment. The ld. Counsel has also referred the detail of inquiry conducted by the assessing officer during the course of assessment proceedings from the Lessor Manglore Refineries and Petrochemicals Ltd, as vide letter dated 09.12.1999 lessee has brought to the knowledge of the assessing officer a detailed report on the Amine Treatment Plant leased by SBI capital market. The

ld. Counsel has also placed reliance on the decision of Hon'ble Supreme Court in the case of I.C.D.S Vs. CIT (2013) 29 taxman.com 129 (SC) and decision of Hon'ble Supreme Court in the case of CIT Vs. Shan Finance 231 ITR 308 (SC). The ld. Counsel has also referred various other judicial pronouncements as placed in the paper book.

On the other hand, the ld. D.R referred the various pages of agreement. He also referred the clause 3.1 of the agreement stating that the Lessor at its discretion on the request of the lessee, make advance payment to the manufacturer/supplier of the equipment according to the terms of the purchase order. The ld. D.R also referred clause 3.3 that the Lessor shall by a notice in writing to the lessee is entitled to terminate the agreement and the lessee shall on demand paid to the Lessor all costs of the equipment together with the fees as provided in clause 3.1 of the agreement. He also referred clause 3.4 of the agreement that if the order of equipment is cancelled the Lessor shall be entitled to recover from the lessee the balance of the amount then remaining due and payable along with fees as specified on the amount outstanding from the date of payment by the Lessor to the manufacturer/supplier till the commencement date. The ld. D.R submitted on the basis aforesaid submissions that lessee was the owner of the asset and not Lessor.

6. Heard both the sides and perused the material on record. During the financial year relevant to the assessment year under consideration the assesse entered into a lease agreement for lease of Amine Treatment Plant. The transactions were in the nature of sale and lease back. The Amine Treatment Plant installed at Manglore in the plant of (MRPL) was mainly comprised off indigenous equipment and imported equipment. The total cost of the plant was valued by the chartered engineer at Rs.2391.87 lacs out of which equipment worth Rs.1924.36 lacs have

been leased by the assesse to the MRPL. In the case of Amine Treatment Plant and equipment the rate of depreciation was 100% being an AIR pollution control equipment and such rate of depreciation on nitrogen storage unit was 25% since 50% of such depreciation has been claimed as the asset was acquired and used for a period of less than 180 days. Regarding genuineness of the lease transaction the assesse has furnished copies of following documents:

> *"Copy of Chartered Engineer's Certificates dated 13.03.1996/14.03.1996 (see pages 61-69 and 78-88 of Paper-book-1);*
>
> *Copy of Accountant's Certificates dated 14.03.1996 (see pages 70 and 89 of Paper-book-1);*
>
> *Copy of Sale Invoices of MRPL dated 18.03.1996 (see page 51 and 71 of Paper-book-1);*
>
> *Copy of Delivery Challan dated 25.03.1996 (see page 52-53 and 72-73 of Paper Book-1);*
>
> *Copy of Delivery Certificate dated 25.03.1996 (see page 54-56 of Paper book-1);*
>
> *Copy of Inspection Report for inspection carried out on 27.03.1996 (see page 57-59 and 74-76 of Paper-book-1);*
>
> *Copy of capitalisation advise dated 29.03.1996 (see page 60 & 77 of Paper-book-1);*
>
> *Copy of Insurance Policy (see page 110 to 113 of Paper-book-1);*
>
> *Copy of letter dated 09.12.1998 from MRPL to the AO in response to Notice issued u/s 131 of the Act (see pages 114 to 123 of Paper-book-1);"*

The assessing officer has disallowed the claim of depreciation stating that the transactions were in the nature of sale and lease back. The A.O also stated that the assesse has only leased indigenous component to the MRPL not the imported components. The ld. CIT(A) has upheld the disallowance on the ground that the lease agreement was executed before the assesse became owner of the assets and neither the assesse nor MRPL was in a position to identify the assets at the time of lease. The ld. CIT(A) also stated that there was no intention of transfer of

ownership as re-delivery of the equipment after termination of the lease period was not possible without disrupting the functioning of the unit.

7. The ld. Counsel submitted that the controversy with respect to the grant of depreciation to the Lessor in similar lease transactions has been set a rest by the judgment of Hon'ble Supreme Court in the case of I.C.D.S Ltd. Vs. CIT (350 ITR 527). With the assistance of the ld. Representative we have perused the above referred decision the relevant part of the decision from the head note is reproduced as under:

> *"Section 32 of the Income-tax Act, 1961 Depreciation Allowance/rate of (Lease of assets) Assessment years 1991-92 to 1996-97 Whether section 32 imposes twin requirement of 'ownership' and 'usage for business' for a successful claim of depreciation Held, yes - Whether as long as asset is utilized for purpose of business of assessee, requirement of section 32 will stand satisfied, notwithstanding non-usage of asset itself by assessee- Held, yes Assessee was engaged in business of hire purchase, leasing and real estate etc. It purchased vehicles from manufacturers and thereupon leased out those vehicles to customers Assessee's claim for depreciation on said vehicles was rejected on ground that it had merely financed purchase of these assets and was neither owner nor user of these assets It was apparent from records that assessee was exclusive owner of vehicles at all points of time and, in case of default committed by lessee, assessee was empowered to re-possess vehicle Moreover, at conclusion of leased period, lessee was obliged to return vehicle to assessee. It was also undisputed that assessee was a leasing company and income derived from leasing of vehicles had been assessed as its business income - Whether on facts, assessee satisfied both requirements of section 32, i.e., ownership and usage of vehicles for purpose of and, thus, its claim for depreciation was to be allowed-Held, yes [Para 29] [In favour of assessee]"*

The ld. Counsel also referred the case of CIT Vs. Appollo Finvest (I) Ltd. (2016) 382 ITR 33 (Bom) which is reproduced as under:

> *"We find that the decision of the apex court in I.C.D.S. (supra) would apply to the present facts The distinction drawn by Mr. Pinto is that the case I.C.D.S. (supra) was a case of hire purchase and not so in this case, is no distinction for the reason that the Supreme Court in 1.CDS. (supra) held that the assessee was in the business of leasing of vehicles and not hire purchase The apex court in ICDS (supra) has held that for claim of depreciation to be allowed, the condition precedent are ownership of the assets and user for purposes of business i.e. not usage of the assets by the assessee itself but for purposes of its business of leasing Both in ICDS (supra) and this case, the respondent is in the business of leasing. Thus, claim of depreciation is allowable In fact, the Revenue has not even attempted to show that the decision of the Tribunal in Development Credit Bank Ltd. (supra) is not applicable to the present facts. Besides, the entire case of the Revenue as made by the Assessing Officer is the basis of the Circular No. 2 of 2001 issued by the Central Board of Direct Taxes How- ever, in appeal, the*

Commissioner of Income-tax (Appeals) has examined the transactions and found them to be genuine In fact, the impugned -order of the Tribunal also refers to its decision in West Coast Paper Mills Ltd. (supra) which have been analysed by the Commissioner of Income-tax (Appeals) in his order and found to be identical to the facts of this case. In fact the order of the Tribunal in West Coast Paper Mills Ltd. (supra) was challenged in appeal being Income Tax Appeal No. 389 of 2008 filed by the Revenue in this court However, the same was dismissed on October 16, 2008 Further, an SLP filed by the Revenue against the decision of this court in West Coast Paper Mills Ltd (supra) was also not entertained by the apex court by its order dated October 9, 2009, in SLP (C) No. 26627 of 2009 (CIT v. West Coast Paper Mills Ltd. (2010] 322 ITR (St) 9. Besides, in these facts we find that it is not disputed that the HSEB has not claimed any depreciation and the respondent assessee had also taken loan against security of the leased assets."

8. The ld. D.R. submitted that transactions is Finance Lease and depreciation claim is not allowable after referring a number of judicial pronouncement:

"i. ITAT Mumbai, ITA No. 1251/Mum/2003 in the case of Marico Industries Ltd. Vs. DCIT
ii. ITAT Mumbai, ITA No. 606/Mum/2003 in the case of IndusInd Bank Ltd. Vs. Addl. CIT.
iii. ITAT Ahmedabad (2012) 28 taxmann.com 181 in the case of GMDC Vs. ACIT
iv. ITAT Delhi (2012) 24 taxmann.com 124 in the case of Rio Tinto India (P)Ltd. Vs. ACIT"

The ld. D.R has also referred the similar other decisions that in case of only finance lease the lessor is not entitled to depreciation.

However, after considering the decision of the Hon'ble Supreme Court in the case of ICDS Ltd. Vs. CIT (2013) 29 taxmann.com 129 (SC) we do not find in merit in the submission of the ld. D.R. The facts of the case of the assesse are distinguishable from the facts of the cases referred by the ld. D.R as in the case of the assesse relevant clauses of the agreement between the assesse and the customer specifically provided that the assesse was the exclusive owner of the vehicle at all point of time and at the conclusion of the lease period the lessee was obliged to return the equipment to the assesse. The other clauses of the agreement as discussed supra in details demonstrate that in the case

of the assesse it was not only the finance lease. After considering the findings of Hon'ble Supreme Court as elaborated supra the usage of asset by assesse himself is not required to claim depreciation. Section 32 of the Act requires that the assesse must use the asset for the purpose of business. It does not mandate usage of the asset by the assesse itself.

9. We have also perused the other judicial pronouncements referred by the ld. Counsel that assesse is entitled to claim depreciation on sale of lease back asset after following the decision of I.C.D.S. Regarding claim of indigenous component the ld. Counsel has demonstrated from the report of the technical engineer that the indigenous components are separately identifiable from the imported parts. As per the clause of agreement the equipment shall remain the property of the Lessor and shall continue to be in the ownership of the Lessor. As per the clause 8.5 of the lease agreement the lessee shall not sell, assigned pledge, mortgage, charge, encumber or part with possession or otherwise deal with the equipment or any interest therein or create or allow to be created any lien on the equipment whether for repairs or otherwise and in the event of any breach of this sub-clause by the lessee, the Lessor shall be entitled or otherwise encumberance lifted at its cost. As per clause 8.13 provide that the equipment shall not become a part of any charge, mortgage or hypothecation created by the lessee in favour of any person. The clause 8.14 agreement provide that without the written consent of the Lessor, the lessee shall not make any alteration addition or improvements to the equipment. The clause 8.15 of the agreement also provide that the lessee shall fixed a metal plate on the equipment with the "under lease from SBI Capital Markets Ltd. Bombay". Clause 10 of the agreement provide that the lessee shall permit the Lessor and any person authorized by the Lessor for inspection of the installed equipment from time to time. Clause 13.2 of the agreement provide that

on termination of the agreement, the Lessor shall without any noticed to be entitled to remove and repossession the equipment. Then clause 15 of the agreement provide that upon termination of the agreement the Lessor shall be the absolute owner of the equipment be at liberty to sell any or all of the equipment. In the case of ICDS Ltd. Vs. CIT 350 ITR 527 as discussed above the Hon'ble Supreme Court held that the Lessor to be the owner of the asset by referring on the clauses relating to the lease agreement which are reproduced as under:

> *"Moreover, the relevant clauses of the agreement between the assesse and the customer specifically provided that:*
>
> *(i) The assesse was the exclusive owner of the vehicle at all points of time;*
> *(ii) If the lessee committed a default, the assessee was empowered to re-possess the vehicle (and not merely recover money from the customer);*
> *(iii) At the conclusion of the lease period, the lessee was obliged to return the vehicle to the assesse;*
> *(iv) The assesse had the right of inspection of the vehicle at all times. [Para 22]"*

The aforesaid judgment was also followed by the Hon'ble Bombay High Court in the case of CIT Vs. Appollo Finvest (I) Ltd. 382 ITR 33 and also the Hon'ble Delhi High Court in the case of CIT Vs. Cosmo Films Ltd. (2011) 12 taxmann.com 217. In the case of ICICI Bank Ltd. Vs. JCIT (2014) 40 CCH 0175, Mumbai ITAT has followed the decision of Hon'ble Supreme Court in the case of ICDS pertaining to sale and lease back transactions. Regarding the issue that indigenous component and imported component of the assets purchase were separately identifiable, we have perused the judicial pronouncements relied upon by the ld. Counsel in the case of ITAT, Visakhapatnam viz. M/s Sri Sarveraya Sugar Ltd Vs. JCIT, dated 20.12.2017 that the assets can be held in part and still quantify for claim of deduction. We have also perused the decision of Hon'ble Bombay High Court in the case of PCIT, Panaji Vs. Goa Tourism Development Ltd. (2019) 102 taxmann.com 437 (Bombay) wherein it is held that assesse is entitled for depreciation on the connected component/equipment. On similar issue the Ld. Counsel

has also referred the decision of Hon'ble Delhi High Court in the case of CIT Vs. BSES Yamuna Powers Ltd. (2013) 40 taxmann.com 108 (Delhi).

10. We have also perused the decision of ITAT, Mumbai in the case of DCIT, Circle-6(1) Vs. M/s Alta Leasing & Finance Ltd., vide ITA No. 3686 & 3687/Mum/2002 dated 27.09.2022. The relevant part of the decision is reproduced as under:

> *"24. The A.O was of the view that the assessee's total claim of depreciation in respect of assets used by the assessee in its business of leasing were in the nature of finance lease. The A.O stated that in finance lease, lessor was not concerned with operational aspect of the equipment and was concerned only with recovery of periodic lease rentals. It is also stated that lessor was not concerned with loss or damage to the equipment and the purpose of the agreement was to provide security to the loan advanced by the assessee. The A.O was of the view in the case of ownership it was the owner who would have to bear the loss arising out of destruction or damage to the equipment whereas in this case of the assessee it was the lessee who had to bear the loss. The A.O had stated that considering the nature of the transaction the lessor cannot exercise rights of ownership either during the lease period or any time hereinafter. The A.O had also referred the fixed period of lease during which the lessee had no option to cancel the agreement. At page no. 30 to 31 the A.O had given his conclusion for holding the transaction to be in the nature of finance transaction.*
>
> *25. During the course of appellate proceedings before the ld. CIT)A(it was submitted that the transaction of the assessee were admittedly finance lease, however the assessee remained the owner of assets. The assessee submitted lease agreement to substantiate the ownership of the assessee lessor. The assessee has also referred clause 6 of the agreement which state that the equipment shall remain the personal property and shall continue to be in the ownership of the lessor. Further lessee was prevented from carrying out any alteration to the equipment or to remove any component thereof. As per clause 13 of the agreement the lessee has to hold the equipment as the bailee of the lessor and not claim any right, title or interest in the equipment other than that of a lessee. The clause 15 provide that in the events of any loss or damage the lessee shall replacethe equipment within 30 days of the date of occurrence of such loss or damage with an equipment which in the opinion of the lessor is comparable. Clause 18.2)2(provides that upon termination of the lease the lessor shall without notice to the lessee be entitled to remove and reprocess the equipment. Clause 18.6 provide that lessor shall be entitled to sell, release or otherwise dispose of the equipment. Clause 19 provides that no title of right in the equipment shall pass the lessee except the right of lease in respect thereof granted to the lessee. It was submitted that the lessor had shown the lease assets as fixed assets in its audited accounts. During the course of appellate proceedings before the ld. CIT)A(the assessee has also placed reliance on the decision of jurisdictional High Court of Bombay in the case of Prakash Industries Ltd. held that the lessor bank was the owner of the leased assets. The asessee has also placed reliance on the decision of the Supreme Court in the case of*

Shaan Finance Pvt. Ltd.)231 ITR 308(where the Hon'ble Supreme Court held that a leasing company whose business consists of hiring out machinery was entitled to investment allowance u/s 32A of the Income Tax Act. The ld. CIT)A(has also given reference of other decision relied upon by the assessee i.e in the case of United Technologies Ltd.)73 ITD 150(Micro Land Ltd.)61 ITD 446( )Banglore(, Kirloskar Investment & Finance Ltd.)67 ITD 504( )Banglore(and Karmchand Thapar & Brothers)66 ITD 39(DGP Windsor)India (Ltd.)74 TTJ 291( )Mum(. The assessee has also submitted before the ld. CIT)A(that explanation 4A added to Sec. 43)1(by the Finance)No.2(Act 1996 on the manner ofdetermination of actual cost in the case of a sale and lease back transaction is suggestive of the fact that it is a lessor who is entitled to depreciation. After taking into consideration of the submission and fact of the case the ld. CIT)A(has stated that A.O has not made any inquiry to disprove the fact that assessee was not the owner of leased assets and he had only provided finance. The ld. CIT)A(has also taken into consideration the various judicial pronouncements including decisions of jurisdictional High Court and Mumbai benches of the ITAT and held that the transaction entered into by the assessee were not finance transaction but genuine lease transaction. The assessee was the legal owner of the lease assets and was therefore entitled to depreciation in respect of these assets. After taking into consideration the facts and finding of the ld. CIT)A(as elaborated in detail at page 51 to 61 of his order, we don't find any infirmity in his decision that the assessee had leased out those assets as part of its regular business of leasing which it had been carrying out for the last several years. During the course of appellate proceedings the revenue has not brought any material to controvert the facts and findings of the ld. CIT)A(, therefore, this ground of appeal of the revenue stand dismissed."

In the aforesaid referred case the assesse was also engaged in the business of leasing of assets/equipment and after taking into consideration the various judicial pronouncements including the decision of jurisdictional High Court and Mumbai ITAT it is held that the transaction entered into by the assesse were not finance transaction but genuine lease transaction. Therefore, in the light of the above facts and findings we consider that decision of ld. CIT(A) to sustain the disallowance of depreciation is not justified and we direct the A.O to allow the claim of depreciation. Therefore, ground no. 1 to 4 are allowed.

Ground No. 5: Disallowing of claim of deduction u/s 80-O of Rs.10,10,038/-:

11. The ld. CIT(A) has confirmed the disallowance of claim of deduction u/s 80-O made by the assesse after referring the order of his predecessor for assessment year 1995-96.

12. Heard both the sides and perused the material on record. This is undisputed fact that assesse has earned consultancy charges in foreign currency from the Eisenverg Group of companies of Rs.22,21,027/-. After reducing expenses of Rs.2,70,951/- the net income was shown at Rs.26,20,076/- on which deduction @ 50% was claimed at Rs.10,10,038/- u/s 80-O of the Act. The assessing officer has disallowed the claim of deduction that receipt in foreign currency was pertained to the work performed by the assesse related to financial services undertaken by the foreign clients in India. During the course of appellate proceedings, the ld. Counsel has referred the circular of CBDT No. 7001, dated 23.03.1995 wherein it is clarified that deduction u/s 80-O would be available to the person rendering the services even if foreign recipients of the services utilises the benefit of such services in India. We have also considered the decision of ld. Hon'ble High Court in the case of Eicher Consultancy Services Ltd. Vs. CIT (2008) 167 taxmann.com 64 (Delhi) wherein held that even though services may be utilise in India by foreign recipients of services it would still quality for deduction u/s 80-O of the Act. In view of the above facts and finding we direct the assessing officer to allow the claim of deduction u/s 80-O of the assesse.

ITA No.3791/Mum/2004

Ground No. 1 to 5:

13. As the facts and the issue involved in this appeal is the same as supra in ITA No. 3790/Mum/2004 therefore, applying the same findings mutatis mutandis, this appeal of the assessee is also allowed.

14. In respect of ground of appeal 6 for not granting credit for tax deducted at source, the issue is restored to the file of the A.O for deciding after verification/examination of the relevant material. The

issue of interest u/s 234B and interest u/s 234C are consequential and charged as per law.

ITA No.4246/Mum/2004

Ground No. 1 to 10:

15. As the facts and the issue involved in this appeal is the same as supra in ITA No. 3790/Mum/2004 therefore, applying the same findings mutatis mutandis, this appeal of the assessee is also allowed.

16. The Ground No. 11 dismissed as not pressed.

ITA No.4247/Mum/2004

Ground No. 1 to 5:

17. As the facts and the issue involved in this appeal is the same as supra in ITA No. 3790/Mum/2004 therefore, applying the same findings mutatis mutandis, this appeal of the assessee is also allowed.

18. The ground no. 6 pertaining to error in granting short credit for tax deducted at source to the extent of Rs.9,52,170/- is restored to the file of the A.O for deciding after verification of the relevant material.

ITA No.6822/Mum/2004

Ground No.1: Regarding confirming disallowance of depreciation of Rs.13,87,500/- on Bombay Stock Exchange membership card:

19. During the course of assessment the A.O noticed that assesse has claimed depreciation on BSE card amounting to Rs.13,87,500/-. The assessing officer was of the view that BSE card cannot quality for deduction as the same was not depreciable asset. Therefore, the claim of depreciation was disallowed.

20. Heard both the sides and perused the material on record. During the course of appellate proceedings before us the ld. Counsel has placed

reliance on the decision of Hon'ble Supreme Court in the case of Techno Shares & Stocks Ltd. Vs. CIT-IV (2010) 193 taxmann 248 (SC) wherein held that depreciation was allowable on cost of BSE membership card u/s 32(1)(ii) of the Act. Therefore, we direct the assessing officer to allow the claim of depreciation to the assesse on the BSE membership card after following the decision of Hon'ble Supreme Court as referred above. Therefore, this ground of appeal of the assesse is allowed.

Ground Nos. 2 to 5

21. As the facts and the issue involved in this appeal is the same as supra in ITA No. 3790/Mum/2004 therefore, applying the same findings mutatis mutandis, this appeal of the assessee is also allowed.

ITA No.4248/Mum/2004

Ground No. 1 to 4:

22. As the facts and the issue involved in this appeal is the same as supra in ITA No. 3790/Mum/2004 therefore, applying the same findings mutatis mutandis, this appeal of the assessee is also allowed.

Ground No. 5:

23. The issue of short credit for tax deducted at source is restored to the file of the A.O for deciding after verification of the relevant material.

ITA No.7264/Mum/2005

Ground No. 1:

24. As the facts and the issue involved in this appeal is the same as supra in ITA No. 6822/Mum/2004 therefore, applying the same findings mutatis mutandis, this appeal of the assessee is also allowed.

Ground Nos. 2 to 5:

25. As the facts and the issue involved in this appeal is the same as supra in ITA No. 3790/Mum/2004, therefore, applying the same findings mutatis mutandis, this appeal of the assessee is also allowed.

Ground No. 6: Disallowance of Rs.6,60,63,000/- u/s 14A of the Act:

26. During the course of assessment the A.O had noticed that assesse has claimed exempt dividend income of Rs.6,29,13,288/- u/s 10(33) of the Act. The A.O also noticed that during the year the assesse company has claimed the interest received on tax free securities amounting to Rs.7,89,38,634/- and Rs.5,25,00,000/- as exempt u/s 10(15)(iv)(4) and u/s 10(23G) of the Act. During the course of assessment the assesse explained that it was having sufficient own funds to make investment and investment was not made out of borrowed funds for earning tax free income. The company further submitted that they have earned income from leasing and hire purchase, merchant banking activities, investment/securities and income during the course of its business.

On the other hand, it has paid interest on borrowing during the course of its business and the entire interest paid was allowable as deduction u/s 36(1)(iii) of the Act. The assessing officer has not accepted the submission of the assesse and disallowed Rs.7,60,63,000/- being expenditure incurred by the assesse in relation to income which does not form part of the total income.

27. Heard both the sides and perused the material on record. It is undisputed fact that the assesse was having own funds as follows:

(i) Share capital: Rs.58.36 crores
(ii) Reserve and Surplus; Rs.223.98 Crores
(iii) Profit of the year to 4.42 crores

As against the investment which was to the amount of Rs.182.15 crores as on 31.03.2002. The ld. Counsel referred the decision of Hon'ble

Supreme Court in the case of South Indian Bank Ltd. Vs. CIT (2021) 130 taxmann.com 178 (SC) wherein it is held that where interest free own funds available with the assesse bank exceeded from investment in tax free securities, investment would be presumed to be made out of assesses own funds and proportionate disallowance was not warranted u/s 14A on ground that separate accounts were not maintained by the assesse. Similarly, the Hon'ble Supreme Court in the case of CIT Vs. UTI Bank Ltd. (2022) 142 taxmann.com 136 (SC) held that no proportionate disallowance u/s 14A can be made where such interest free own funds with assesse bank exceeded investment in tax free securities. Similarly, the ld. Counsel has also referred the decision of Hon'ble Supreme Court in the case of CIT Vs. Reliance Industries Ltd. (2019) 102 taxman.co 52 (SC) and in the case of CIT Vs. Essar Teleholdings Ltd. (2018) 90 taxman.com 2 (SC). Looking to the above facts and finding we consider that decision of ld. CIT(A) is not justified in sustaining the disallowance u/s 14A only because of mixed fund consisting of own funds and borrowed funds without considering the fact that assesse was having sufficient fund of its own to make investment. Accordingly, the A.O is directed to delete the disallowance made in the case of the assesse following the judicial pronouncements as referred above. Therefore, this ground of appeal of the assesse is allowed.

Ground No. 7: disallowance of bad debt written off of Rs.6,49,80,000/-:

28. During the course of assessment the assessing officer has disallowed the claim of deduction in respect of bad debt on the ground of same was not established to be genuine.

29. Heard both the sides and perused the material on record. During the year under consideration the assesse company claimed deduction of Rs.7,04,37,389/- as bad debt written off. The party wise detail of bad debt written off have been furnished. In this regard, it is noticed that prior to amendment of Income Tax Act 1987 w.e.f 01.04.1989 for claiming deduction the assesse was required to establish that the debt in question has become in fact bad debt. Mere writing off of the debt in the books was not sufficient to claim deduction under these provisions. However, after amendment of Income Tax 1987 Section 36(1)((vii) provide that the claim of bad debt may be allowed in the year in which such bad debt has been written off as irrecoverable in the account of the assesse. Further, the Hon'ble Supreme Court in the case of TRF Ltd. Vs. CIT Vs. (2010) 190 taxman.com 391 (SC) held that it is not necessary for the assesse to establish that debt, in fact has become irrecoverable, in the accounts of the assesse. In the light of the above facts and finding we don't find any merit in the decision of ld. CIT(A) therefore, we direct the A.O to allow the claim of bad debt to the assesse. Therefore, this ground of appeal of the assesse is allowed.

ITA No. 2345/Mum/2007

Ground No. 1 to 3:

30. As the facts and the issue involved in these ground is the same as supra in ITA No. 3790/Mum/2004, therefore, applying the same findings mutatis mutandis, this ground of the assessee is also allowed.

Ground No. 4:

31. As the facts and the issue involved in this ground is the same as supra in the ground of 6 of ITA No. 7264/Mum/2005 therefore, applying the same findings mutatis mutandis, this ground of the assessee is also allowed.

Ground No. 5:

32. As the facts and the issue involved in this ground is the same as supra in the ground no. 7 of ITA No. 7264/Mum/2005 therefore, applying the same findings mutatis mutandis, this ground of the assessee is also allowed.

ITA No.4727/Mum/2007

Ground No. 1 to 3:

33. As the facts and the issue involved in these ground is the same as supra in ITA No. 3790/Mum/2004 therefore, applying the same findings mutatis mutandis, these ground of the assessee is also allowed.

Ground No.4:

34. As the facts and the issue involved in these ground is the same as supra in ground no. 6 in ITA No. 7264/Mum/2005 therefore, applying the same findings mutatis mutandis, these ground of the assessee is also allowed.

ITA No. 7269/Mum/2008

Ground No. 1: Confirming the disallowance of loss of Rs.8,56,298/- on sale of share held as stock in trade u/s 94(7) of the Act:

35. During the course of assessment the A.O noticed that assesse has purchased and sold large number of securities both under the head investment and as stock in trade. On verification of detail filed by the assesse. A.O noticed that there was an amount of Rs.8,56,298/- being disallowable as loss under provision of Sec. 94(7) of the Act in respect of exempt dividend income received by the assesse. On query the assesse submitted that provision of Sec.94(7) are applicable only in the cases where the securities or unites held as investment and not as stock in trade. The A.O has not agreed with the submission of the assesse and he was of the view that irrespective of the fact whether the securities are held as investment or stock in trade provision of Sec. 94(7) will be applicable in respect of any dividend therein stripped. The Ld. CIT(A)

has relied upon finding of the assessing officer. After hearing both the side and provision of Sec. 94(7) as referred by the assessing officer we don't find any infirmity in the decision of ld. CIT(A), therefore, this ground of appeal of the assesse stand dismissed.

Ground No. 2:

36. As the facts and the issue involved in this ground is the same as supra in ITA No. 6822/Mum/2004 therefore, applying the same findings mutatis mutandis, this ground of the assessee is also allowed.

Ground No. 3:

37. As the facts and the issue involved in this ground is the same as supra in ground no. 6 of ITA No. 7264/Mum/2005 therefore, applying the same findings mutatis mutandis, this ground of the assessee is also allowed.

Ground No. 4:

38. As the facts and the issue involved in this ground is the same as supra in ITA No. 3790/Mum/2004 therefore, applying the same findings mutatis mutandis, this ground of the assessee is also allowed.

Ground No. 5: Pertaining to not granting credit for TDS:

39. The issue of not granting credit for TDS is restored to the file of the A.O for deciding after verification of the relevant material on record.

40. Regarding levy of interest u/s 234D the same is restored to the file for deciding as per law after verification of the relevant material on record. The issue of initiation of penalty u/s 271(1)(c) of the Act is premature at this stage therefore the same stand dismissed.

ITA No. 1511/Mum/2014

Ground Nos. 1 to 4 & 8 to 10: confirming the levying of interest u/s 220 (2) of the Act:

41. During the course of assessment the A.O has computed additional interest of Rs.6,05,883/- u/s 220(2) of the Act for the period of July, 2009 to July, 2020 from date of the order giving effect to the CIT(A) till date of passing the rectification to the said order.

On appeal the ld. CIT(A) stated that the effective ground of appeal relates to the charging of interest by the assessing officer of Rs.16,73,752/- u/s 220(2) of the Act for the period from January, 2008 to July, 2010. In this regard, the ld. CIT(A) stated that mistake made by the assessing officer in erroneously calculating the interest u/s 220(2) of the Act of Rs.59,07,042/- needs to be corrected because the net demand receipt vide order dated 08.02.2018 was Rs.27,20,352/- and not Rs.50,49,523/- as mentioned in the demand notice which subsequently got reduced to Rs.1,86,29,649/- by order u/s 154 dated 18.06.2010 and ultimately paid on 31.12.2011. Therefore, the ld. CIT(A) directed the assessing officer to correct the mistake and issue a demand notice accordingly.

42. After hearing the both sides and perused the material on record we direct the assessing officer to correct the mistake as per the direction given by the ld. CIT(A) therefore, this ground of appeal is allowed for statistical purpose.

Ground No. 5 to 10: Pertaining to computing the interest u/s 234D of the Act on the refund of Rs.7,89,84,087/- as against interest u/s 234D computed by the assessing officer of Rs.50,49,023/-:

43. After hearing both the sides and perused the material on record we direct the assessing officer to recalculate the quantum of interest in accordance with Sec.234D of the Act after verification of the detail filed by the assesse as directed by the ld. CIT(A) therefore, this ground of appeal is allowed for statistical purpose.

ITA No. 5144/Mum/2009

Ground No. 1:

44. No depreciation is allowable on Membership Card of BSE from A.Y. 2006-07, Since as per the scheme of demutulisation the card ceased to exist as held in the decision of ITAT Mumbai in the case of Sunidhi Consultancy Services Ltd. Vs. DCIT Mumbai (2012) 19 taxmann.com (Mum) after considering the decision of Hon'ble Supreme Court in the case of Techno Shares and Stocks Ltd. Vs. CIT (2010), therefore, this ground of appeal stand dismissed.

Ground No. 2:

45. As the facts and the issue involved in this ground is the same as supra in ground no. 6 ITA No. 7264/Mum/2005 therefore, applying the same findings mutatis mutandis, this appeal of the assessee is also allowed.

Ground No. 3:

46. As the facts and the issue involved in this ground is the same as supra ground 1 to 4 of ITA No. 3790/Mum/2004 therefore, applying the same findings mutatis mutandis, this appeal of the assessee is also allowed.

ITA No. 1839/Mum/2011

Ground No. 1:

47. As the facts and the issue involved in this ground is the same as supra ground no. 6 of ITA No. 7264/Mum/2005 therefore, applying the same findings mutatis mutandis, this appeal of the assessee is also allowed.

Ground No.2:

48. As the facts and the issue involved in this ground is the same as supra ground no. 1 to 4 ITA No. 3790/Mum/2004 therefore, applying the same findings mutatis mutandis, this appeal of the assessee is also allowed.

ITA No. 6729/Mum/2004

Ground No. 1:

49. As the facts and the issue involved in this ground is the same as supra ground no. 1 to 4 of ITA No. 3790/Mum/2004 therefore, applying the same findings mutatis mutandis, this appeal of the assessee is also allowed.

Ground No. 2:

50. As the facts and the issue involved in this ground is the same as supra ground no. 6 of ITA No. 7264/Mum/2005 therefore, applying the same findings mutatis mutandis, this appeal of the assessee is also allowed.

Ground No. 3: Against the decision of ld. CIT(A) that Section 234D of the Act is not applicable:

51. After hearing both the side and perusal of material on record it is noticed that ld. CIT(A) held that interest u/s 234D cannot be levied on pending assessment where refund has been received before date of insertion of Sec. 234D i.e 01.06.2003. Looking to the provision of Sec. 234D as referred by the ld. CIT(A) we don't find any error in his decision, therefore, this ground of appeal of revenue stand dismissed.

ITA No. 7538/Mum/2005

52. The solitary issue in the ground of appeal of the assesse is of confirming the penalty u/s 271(1)(c) of the Act on a sum of Rs.10,10,038/- being deduction claimed by the assesse u/s 80-O of the Act. We have directed the assessing officer to allow the claim of deduction u/s 80-O of the Act vide ITA No. 3790/Mum/2004 as supra, therefore, the penalty levied in the case of the assesse become infructuous. Therefore, the ground of appeal of the assesse is allowed.

ITA No. 7539/Mum/2005

53. As the facts and the issue involved in this appeal is the same as supra in ITA No. 7538/Mum/2005 therefore, applying the same findings mutatis mutandis, this appeal of the assessee is also allowed.

ITA No.1088/Mum/2007

54. Since the quantum addition on the basis of which the penalty was levied has been deleted supra vide ITA No.6822/Mum/2004, therefore, the penalty levied become infructuous and the same is deleted. The appeal of the assesse is allowed.

ITA No. 7268/Mum/2008

55. As the facts and the issue involved in this appeal is the same as supra in ITA No. 1088/Mum/2007 therefore, applying the same findings mutatis mutandis, this appeal of the assessee is also allowed.

ITA No.2484/Mum/2012

The solitary issue in the additional ground of appeal of the assesse directed against the order of ld. CIT(A) in confirming the penalty of Rs.3,13,341/- levied u/s 271(1)(c) of the Act:

56. Vide the additional ground filed, the assesse contended that notice issue u/s 274 dated 27.12.2007 for levying penalty u/s 271(1)(c) is invalid since the AO has not specified the default for which the penalty was to be levied.

57. During the course of appellate proceedings before us at the outset the ld. Counsel referred the copy of notice issue u/s 274 r.w.s 271(1)(c) of the Act dated 27.12.2007 and submitted that non applicable part of the notice has not been striked off. The relevant para of the notice is reproduced as under:

> *"have without reasonable cause failed to comply with a notice under section 22(4)/23(2) of the India Income-tax Act, 1922 or under section 142(1/143(2) of the Income Tax Act, 1961.*
>
> *No.....dated.....*
>
> *"have concealed the particulars of your income or.....furnished inaccurate particulars of such income.*

You are hereby requested to appear before me at …….A.M/P.M. on …….19…….and show cause why an order imposing a penalty on you should not be made under section 271 of the Income-tax Act, 1961. If you do not wish to avail yourself of this opportunity of being heard in person or through authorized representative you may show cause in writing on or before the said date which will be considered before any such order is made under section 271."

However, the ld. D.R relied on the order of CIT(A). The ld. Counsel has also referred the decision of Hon'ble Bombay High Court in the case of Mohd. Farhan A Shaikh Vs. DCIT, CC-1 (2021) 125 taxman.com 253 (Bom).

58. Heard both the sides and perused the material on record. It is undisputed fact that in the impugned notice issued u/s 274 of the Act dated 27.12.2007 as cited supra in this case the inapplicable portion of the notice has not been deleted. With the assistance of the ld. Representative we have perused the decision of Hon'ble jurisdictional High Court in the case of Mohd. Farhan A Shaikh Vs. DCIT, CC-1 (2021) 125 taxman.com 253 (Bom) wherein it is held that non striking off irrelevant matter would vitiate penalty proceedings. Therefore, following the decision of jurisdictional High Court as referred supra, we consider that the impugned notice was issued without deleting or striking off the irrelevant part of the notice, therefore the penalty levied is not valid. Accordingly, the same deleted. The appeal is of the assesse is allowed.

59. In the result the, all the appeals of the assesse are partly allowed and the appeal of the revenue is dismissed.

Order pronounced in the open court on 13.01.2023

Sd/-	Sd/-
(Pavan Kumar Gadale) Judicial Member	(Amarjit Singh) Accountant Member

Place: Mumbai
Date 13.01.2023
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.