

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

BEFORE SHRI BR BASKARAN, ACCOUNTANT MEMBER &  
SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER

**ITA No. 382/Mum/2023 (A.Y. 2017-18)**  
**ITA No. 381/Mum/2023 (A.Y. 2018-19)**

**Ari Healthcare Pvt. Ltd. Versus DCIT CC-2(2),**  
Office No. 107,  
Tower-I, 1<sup>st</sup> Floor,  
World Trade Centre,  
Opp. SEZ, Kharadi,  
Pune-411014.  
**PAN: AADCA3120F**  
**(Appellant)**

806, 08<sup>th</sup> Floor,  
Pratishta Bhavan,  
Old CGO Annexe,  
M.K. Road,  
Mumbai-400020.

**(Respondent)**

Assessee by : Sh. Dharmesh Shah &  
Ms. Mitali Gopani, Ld. ARs  
Department by : Sh. Manoj Kumar Sinha, Ld. DR

Date of hearing : 03/05/2023  
Date of pronouncement : 20/06/2023

**ORDER**

**PER N.K. CHOUDHRY, J.M:**

The Assessee/Appellant herein has preferred these appeals against the common order even dated 22.12.2022 impugned herein passed by Ld. Commissioner of Income Tax (Appeals)-48, Mumbai {in short 'Ld. Commissioner'} u/s 143(3) of the Income Tax Act, 1961 (in short 'the Act') for AYs 2017-18 & 2018-19.

**2.** The Appellant in these appeals has raised similar grounds of appeal except variation of amounts in figure, hence for the sake of brevity and convenience, both the appeals were heard together and are disposed off by this composite order.

**3.** In ITA No. **382/Mum/2023** for A.Y. 2017-18, the assessee has raised the following grounds of appeal:

*“Following grounds of appeal are without prejudice to each other:*

- 1. The Ld. CIT(A) has erred in law and in facts in granting partial relief while disposing of the appeal in the present case.*
- 2. The Ld. CIT(A) has erred in law and in facts in confirming the disallowance of Marketing Expenses of Rs. 2,38,09,495/-treating the same as capital expenditure in nature.*
- 3. The Ld. CIT(A) has erred in law and in facts in confirming the disallowance of Rs. 34,84,956/-treating the same as capital expenditure in nature.*
- 4. The Appellant craves leaves to add, amend, alter, delete all or any of the forgoing grounds of appeal.”*

**4.** In this case, the Assessee claimed that it has engaged in dealing in pharmaceutical and allied products and had declared a total loss of Rs. 4,96,55,610/- by filing its return of income on dated 14.10.2017 for the AY under consideration, which was subsequently selected for limited scrutiny under CASS and consequently notices under

section 143(2) and 142(1) of the Act, were issued, in response to which, the assessee filed requisite details.

**5.** The assessee in the Profit & Loss a/c debited an amount of Rs. 2,38,09,495/- as service charges for marketing, whereas the total sales reported by the assessee during the year under consideration was at Rs. 1,17,27,905/- and after reducing sales return at Rs. 72,58,457/-, net sales was shown as Rs. 4,46,658/- only. Apart from claiming such increasing expenses, the assessee also claimed to have incurred various expenses and reported the resultant loss at Rs.-5,58,01,541/- in its P & L account.

**5.1** Therefore, in view of such huge marketing expenses claimed in the Profit & Loss a/c, the AO asked the assessee to justify such claims with details and evidence. In response, the assessee vide letter dated 26.11.2019, with regard to the expenses incurred representing market development expenses and Senior Management Expenses, submitted sample copy of bills issued by "*Nijji Healthcare Private Limited*", a Professional Marketing Agency Kolkata (*in short* "Nijji").

**5.2** The AO by perusing such bills noticed that in the bills, the service provider has charged for market development expenses and since the assessee-company operates from Bihar, Orissa and Assam, whereas the

service provider is situated at Kolkata, and therefore asked the Assessee to submit more information on such expenses with evidences.

**5.3** In response, the assessee vide its letter dated 03.12.2019 claimed as under:

*“c. Selling and Distribution Expenses*

*Since the company had developed few products last year, it developed a distribution channel in previous year with the help of "Nijji Healthcare Private Limited", a Professional Marketing Agency (hereinafter referred as "Nijji") by appointing various Sales Employees / Sales Persons for marketing the products through Nijji on their payroll*

*Nijji tried its best with the various Sales Employees/Sales Persons under the supervision of Ari Healthcare Private Limited but were unable to achieve the desired Sales Target as per the MOU*

*However, since the expenses are in the form of reimbursement of salary and cost incurred in the field work to the Sales Employees/Sales Persons appointed and spread diversely across the states/regions in India, the assessee Ari Healthcare Private Limited was unable to cut-down the costs despite facing losses mainly due to the non- satisfactory results of the performance of the Nijji by not achieving the desired Sales Target as per the MOU.*

*We attach herewith the-*

- 1. List of various Sales Employees / Sales Persons for marketing along with the Region/Area of deputation (page no. 24)*
- 2. Sample Bill of Nijji Healthcare Private Limited already provided vide submission dated having letter*

*no 0025/11/M/K/KNB/20 dated 26<sup>th</sup> November, 2019.*

*3. Ledger of Nijji Healthcare Private Limited deducting TDS at page no 25-26*

*From the above you will observe that, the reason for low PBDIT is Sales Return of Expired Stocks and non-satisfactory results of performance by Marketing Agency.”*

**5.4** The assessee in support of its claim/submission also submitted the list of employees engaged at various places, however, as alleged by the AO, not provided any details such as amount of salary paid to the persons, works done by the persons for assessee through Nijji, their PAN Numbers, addresses, etc. to establish identity of these persons. The assessee also not provided appointment letters of persons claimed to be engaged in marketing, in order to substantiate the employment of such sales persons, therefore in order to afford a further opportunity, the AO again asked the assessee to explain the process of work done by Nijji and explain the allowability of marketing expenses.

**5.5** In response, the assessee by submitting its reply dated 17.12.2019, claimed as under:

***“You have paid Rs. 238.09,495 to Nijji Healthcare Pvt. Ltd, for Market Development Expenses, However looking at the revenue of the company, please explain why this expense should not be capitalized.***

*With respect to the above, we state that the payments made to Nijji Healthcare Pvt. Ltd. are on account of Service charges for marketing (refer Note 28-Other Expenses) and not Market Development Expenses. (There is difference in accounting head)*

*Nijji Healthcare Pvt. Ltd (NHP) is a professional marketing company into the business of providing marketing and sales activities and Appointment of Super distributors, Stockiest & changing them from time to time basis based on Performance.*

*Marketing activities Includes activities such as "viewing of products for display, showing samples, obtaining timely, periodical and recurring order for sales, ensuring the distribution of the products as per the need, collecting reviews, collection of payments, handling the complaints as on after sales service, preparing a sales report and reporting to the management". These activities are done on a regular and periodic basis with a view to report the Sales/Revenue of the company. If the above activities are not done in normal course of the business, the company would not be able to sell or control its manufactured products.*

*The company had decided to utilize the professional and experienced services of NHPL which provides end-to-end services related to marketing, sales, etc instead of doing the marketing activities on its own which would have caused it to focus more on marketing activities and less on efficiency and effectiveness of the research and development activities of the Products.*

*If the company had decided of doing the marketing activities on its own, it would have resulted into hiring of many marketing people along with a Head Manager-in-Charge resulting into huge salary outgo. Also, it would have needed to deploy persons/professionals to conduct interviews for selection of marketing people. Also it is difficult to get an experienced marketing person who has handled PAN India operations. Also those marketing persons can be recruited from those MNC's only. In this scenario, the management has decided to diversity It's risk of person dependency and outsource the marketing activity to an experienced team.*

*Further, the company was hesitant to go for marketing on PAN India basis on its own due to its weakness on various cultural geological and economic front. The assessee company does not have sales and marketing staff other than staff of NPL for the said activities nor expenses wrt marketing staff under head salaries. This is reflected in the employee list of assessee company attached on page No 22.*

*The decision was mainly on account of convenience to the operations of the company. huge and vast experience of promoters of NHPL and to focus more on developing strong medicines, engaging into manufacturing expertise, research and development of the Ayurvedic Products.*

*We attach herewith the profile of NHPL on page no 6 to 21. Your goodself will observe and understand that the company's core business is providing services for marketing and sales activities to various companies, especially to Pharma and Consumer Health Companies like Alere (MNC). P&G (Global leader in FMCG /FMHCG), Zydus (for Sugar free product). Meiji (A Japanese organization in FMCG), Kraft Heinz (Complan) and many more on PAN India basis.*

*The assessee company is just a small company as compared to the aforementioned global giants which has availed the services of NHPL. NHPL has been providing services to various such global clients and earning revenue from various such companies. You may observe from the financial statements of NHPL available on public domain (mca21.gov.in after. paying nominal fees) that service charges paid by assessee company is just a small part of the revenue of NHPL.*

*From the profile enclosed herewith, your goodself will observe and agree with us that the NHPL is being led by various professionals having expertise and valuable market experience which can be exploited by assessee company for its marketing activities. Your goodself will also observe from the data available on public domain and the profile of the company attached herewith that NHPL is an independent entity and no where related to the assessee company. (Please refer the highlighted portions of the profile)*

Further, from the nature of services rendered by NHPL and the invoices raised by NHPL (provided vide our Letter No.0025/11/M/K/KNB/20 dated 26 November, 2019) your goodself will observe that the payments made to NHPL mainly comprises of the following:-

1. Salary and expenses of Territory Sales Executives (TSE)
2. Salary and expenses of Sales Personnel Manager (SPM)
3. Salary and expenses of Sales Manager
4. Salary of MIS Executives
5. Salary and Expenses of Project Director
6. Fixed Management Service Payments
7. Staff Recruitment Charges.

The above expenses are **“Service charges for Marketing and sales”** in the form of Fixed Monthly Salaries for marketing personnel appointed by NHPL on behalf of the assessee and Services Charges payable to NHPL. It cannot be termed as Market Development Expenses.

We also provide herewith the details of year on year payments made to NHPL as compared to the total expenses of the assessee company as below:

Particulars	AY 2016-17 (Rs)	AY 2017-18 (Rs)	AY 2018-19 (Rs)
Payment to NHPL	2,12,85,860	2,38,09,495	1,59,63,021
Total Expenses before depreciation of the assessee company (including NHPL)	5,25,44,875	4,99,22,201	5,03,66,644

*You will observe that the payments have been made year on year to NHPL for its sales activities.*

**Conclusion**

*The assessee company has appointed Healthcare Pvt. Ltd (NHPL) for its day-to-day marketing activities for sales of all the products and the compensation paid by the assessee is **"Service charges for Marketing and sales" and not Market Development Expenses.** The revenue earned from sales is revenue income and thus as per matching principle in accounting, the corresponding expenses incurred to earn the said income are also revenue in nature, which cannot be capitalized.*

*Further, the payments made to NHPL are of recurring in nature for services provided with very limited period benefits (i.e. for the services provided for a particular month). The benefits received being limited to a particular period and not of enduring nature, it cannot be principally capitalized as per the accounting principles. This can be observed from the table provided above for year on year payments made to NHPL.*

*It is just like a Salary paid by a company to its marketing staff, which is very well allowed as revenue expenditure to the company.*

*Hence the show-cause notice issued for capitalizing of Rs.2,38,09,495 paid to Nijji Healthcare Pvt. Ltd. as a Market Development Expenses cannot hold good as the compensation paid is for **Service charges for Marketing and sales and not for development of market.***

*Without prejudice, the company has maintained separate books of accounts for R&D department where part of the expenses are capitalized."*

**5.6** The AO by perusing the submissions of the assessee noticed that the assessee-company is claiming that it had paid marketing charges to Nijji for distribution of its

products through sales persons appointed by Nijji, who is involved in providing marketing related services and therefore, requested to check the profile of Nijji online. The AO on the request of the assessee verified the website homepage of Nijji and noticed that the profile of such company was for three objects:

- (i) Contract Sales Solution
- (ii) Brand Management Solution
- (iii) Strategic Solution

**5.7** The AO on further verification of such profile observed that the Contract Sales task includes expansion, product launching and but not sale of products through sale persons, as claimed by the assessee. Moreover, in such profile, it is specifically mentioned that such services provided by Nijji does not include sale of products. The exact words used in such profile are 'staffing solutions' also offers all above benefits except sales/functional management. Moreover on the bills issued by Nijji, it is clearly mentioned that expenses are towards development of market and not towards the sales of products. The exact wording used in the bill is "Market Development Expenses". The AO further observed that apart from the above, the assessee-company has not explained the exact nature of services provided by the Nijji and by submitting documents such as list of employees, copy of ledger etc. claiming that these expenses are revenue in nature. Further on comparison, the marketing expenses paid by

the assessee through Nijji are also in the nature of product development expenses only, because such expenses are much higher than the actual sales reported by assessee at Rs. 44,66,358/-. The Market Development Expenses are almost five times of the sales turnover of the assessee and in view of the business of the assessee-company, such expenses are for creating a market for the products rather than selling these products on such facts of the case. The Market Development Charges paid by the assessee to Nijji are towards the development of market for its products and therefore such expenses are to be capitalized as the benefit arisen from such expenses is of enduring nature and will last over a period of time longer than one F Y.

**5.8** The AO also rejected the claim of the assessee to the effect *that in AY 2016-17, such expenses were also claimed and allowed, therefore, the same may be allowed by following the rule of consistency*, by holding that principle of *res-judicata* is not applicable to Income Tax proceedings.

**5.9** The AO ultimately disallowed the amount of Rs. 2,38,09,495/- paid by the assessee to Nijji and claimed as revenue expenses.

**6** On appeal, the Ld. Commissioner more or less on the same footing/reasoning as of the AO, affirmed the said addition.

**7.** The assessee also challenged the said addition and claimed that from the website of Nijji, it is clear that it also involved in Geographical expansion. Further Nijji has clearly depicted in its website, contracts sales solutions (CSO/CSS/CSMO) and in the bottom of the page described as under:

*“This is our core service where we take complete accountability of achieving mutually agreed sales/KPI targets for the given range of products in the assigned territories. An extremely useful service for managing mass market products, CASH COWS, Product launch, piloting new strategies, geographical expansion, rural marketing and temporary staffing.”*

**7.1** The assessee further contended that Nijji was appointed for better sale and geographical expansion as the assessee cannot expand its business/sale without support of channel partners. Therefore, for marketing strategy, appointed the Nijji for expansion of its sales network and consequently paid the amount under consideration. The assessee also filed chart showing details of sales made in various States including West Bengal, Bihar, Orissa and Assam which for clarity reads as under:

<b>Particulars</b>	<b>Net Amount</b>	<b>CN Net Amount</b>	<b>Net Sales</b>
West Bengal	1755643	0	1755643
Bihar	1393854	418057	975797
Orissa	177068	879189	-702121
Assam	30511	434257	-403746
<b>Total</b>	<b>3357076</b>	<b>1731503</b>	<b>1616007</b>

And claimed that due to appointment of Nijji, the sale of the assessee in West Bengal is higher than the other States. The assessee further by drawing our attention to page 89 of Paper Book (PB) claimed that Nijji Healthcare also issued a certificate with regard to the expenses and affirmed the services provided as Market Development Expenses for providing the marketing services which includes reimbursement of salary, field working expenses and management cost including other overheads, which goes to show that the assessee has incurred the marketing expenses, which cannot be considered as capital in nature. The assessee further by drawing our attention to page 91 & 92 of the PB claimed that from invoices, it is clear that Nijji further paid salaries to various employees and raised the invoices, which also support the case of the assessee. The assessee further claimed that service agreement which is doubted by the Revenue authorities, does not require any registration. Further, turnover of the assessee increased in the next year, therefore, doubting the sales turnover is having no essence.

**7.2** The Ld. AR of the Assessee in support of its case also relied upon various judgments including by the Hon'ble Karnataka High Court in the case of Principle Commissioner of Income Tax & Anr Vs. Lenovo India Pvt. Ltd. wherein it was held that every activity which gives an

enduring benefit to the assessee would not get the character of capital in nature. Enduring benefit is not the only criteria to decide the nature and character of expenditure. Thus, necessary test is whether it is for acquisition of any capital asset or for the purpose of carrying on the business derived revenue from it. In order to ascertain whether the expenditure is revenue or capital in nature, one has to look at the expenditure from commercial point of view.

For better understanding, the concluding part of the order is reproduced herein below:

*7. Now we may advert to the third substantial question of law, which pertains to the claim of the assessee for allowing deduction in respect of expenditure incurred under the head of marketing support fee and trans- action support fee. The Tribunal by placing reliance on the order dated August 14, 2014 passed in case of the assessee itself for the assessment years 2006-07 and 2008-09 has held that in the aforesaid years, the Tribunal had taken into account the market support services to be delivered by IBM to the assessee and from a perusal of the article 2 of the agreement, it is evident that IBM was to provide service to the purchaser as provided in the service description attachment to facilitate sale of products by the assessee and to extend services to the customer to one or more subsidiaries or third parties under contract with the seller/IBM or one of its subsidiaries. Thus, the Tribunal has held that the services rendered by the IBM are for smooth carrying of business for a period of five years and it might give an enduring benefit to the assessee but every activity which gives an enduring benefit to the assessee would not get the character of capital in nature. It was further held that enduring benefit is not the only criteria to decide the nature and character of expenditure. The necessary test is whether it is for acquisition of any capital asset or for the purpose of carrying on the business deriving revenue from it. Therefore,*

*it has been held that the fees paid by the assessee for marketing support services rendered by IBM is revenue in nature and is allowable under section 37 of the Act. In CIT v. Madras Auto Service (P.) Ltd. (supra) the Supreme Court has held that in order to ascertain whether the expenditure is revenue or capital in nature one has to look at the expenditure from commercial point of view and even saving in expenditure was held to be saving in revenue expenditure. In respect of the expenditure incurred by the assessee for getting marketing support services, the assessee cannot claim any depreciation. It has further been held in Empire Jute Co. Ltd, that test of enduring benefit is not a certain or conclusive test and it cannot be applied blindly and mechanically without regard to particular facts and circumstances of a given case. Therefore, in the fact situation of the case, the Tribunal has rightly allowed the expenditure incurred towards marketing support fee and transit support fee under section 37(1) of the Act.*

*For the aforementioned reasons, the third substantial question of law is also answered against the Revenue and in favour of the assessee. In the result, we do not find any merit in this appeal, the same fails and is hereby dismissed.”*

**8.** On the contrary, the Ld. DR refuted the claim of the assessee by submitting that geographical expansion does not mean marketing/sale, infact geographical expansion as claimed by the assessee was for establishment of the company and therefore, any expenditure incurred for geographical expansion, has to be considered as “capital in nature”. The judgement in Principle Commissioner of Income Tax & Anr Vs. Lenovo India Pvt (supra) as relied upon by the Assessee pertains to the well established company, whereas the assessee company is a new one. Hence, the judgment referred to above at all, is not applicable to this case and therefore not of much help.

**9.** Heard the parties and perused the material available on record and given thoughtful consideration to the peculiar facts and circumstances and the rival contentions of the parties. We observe that the AO disallowed the expenses claimed by the assessee as “revenue in nature” mainly on the reasons that profile of the Nijji do not depict as to whether the Nijji is involved in the sale of products. The work profile of Nijji includes all the service related to launch of products, product planning and management, the work force consultancy in branding and strategic solutions except sales of product as claimed by the assessee. In the bills issued by Nijji, it is clearly mentioned that expenses are towards development of market and not towards the sale of product. Further the Market Development Expenses are more than five times of the sales turnover of the assessee and the assessee though provided the list of employees, but not the appointment letters etc. in order to substantiate its claim. On going through the agreement, it is nowhere provided that Nijji will look after the sales of the products of the assessee.

**9.1** The AO and the assessee infact from the website of the Nijji, captured the profile images. The AO held that Nijji is not involved in sales, whereas the assessee tried to establish that the Nijji is involved in geographical expansion, contract sales and marketing, contract sale solution etc. which includes complete accounting of

achieving mutual agreed sales/KPI targets for the given range of products in the assigned territory. The AO also doubted the service agreement and also considered the fact that the assessee has failed to provide the details of work done by the employees as mentioned in employment list issued by Nijji.

**9.2** In our considered view, on failure of assessee to provide the requisite details sought for, the same would have been asked by the AO, directly from the Nijji, for assessing the income correctly. Further, simply on the basis of images captured from the internet website, the decision about the profile of the company (Nijji) is neither logical nor appreciable and therefore, in order to enquire about the work/job profile of Nijji, the AO should have asked either the assessee to bring M/s Nijji to define its profile or should have asked Nijji directly to establish its profile. May be in the website, profile of Nijji company has not specified specifically and clearly that it also involves in selling of the products but still on the basis of profiles images captured from internet site, it cannot be construed, without any substantive material that the works carried out by the assessee by M/s Nijji were outside of its scope.

**9.3** No doubt the onus is upon the assessee as per the Evidence Act, as observed by the Ld. Commissioner in the impugned order, to establish its case. However, as per

Article-265 of the Constitution of India, it is the mandate of the law that no tax shall be levied or collected except by the authorities of law. The Hon'ble Allahabad High Court in the case of P.T. Sheonath Prasad Sharma Vs. CIT 66 ITR page 647 (Alld.) also reminded that Income Tax Officer is empowered to assess the income of the Assessee and determine the tax payable therein in accordance with law but not otherwise. Therefore in our considered view, the AO by exercising its powers under the Act, would have summoned M/s Nijji to ascertain the real picture and to determine real status of expenditures in particular facts and circumstances.

**9.4** Hence, for the just decision of case and for the ends of justice, we deem it appropriate to remand the instant issue to the file of the AO to determine afresh the nature of expenditure incurred as claimed by the assessee, by considering the Objects/Memorandum of Association/Profile of Nijji and nature of expenditure incurred/amount received respectively by the Assessee and Nijji and by giving an opportunity to the assessee to produce Nijji or by summoning Nijji directly for establishing its Objects/Memorandum of Association/Profile and the scope/nature of services provided and details of the employees engaged/appointed by Nijji particularly for selling the products of the assessee. Further, also to establish the actual output made by M/s Nijji in the

business of the assessee. We clarify that primary onus would be on the assessee.

In the result, issue qua expenditure, accordingly remitted to the file of the AO for determination afresh, in view of observation made above.

**10. Second issue** involved in this case, relates to the confirmation of the disallowance of Rs. 34,84,956/- which was treated as capital expenditure by the AO by noticing the financial of the assessee *“that out of total of intangible assets , an amount of Rs. 34,84,956/- was reduced by the assessee claiming that in AY 2016-17 such amount was capitalized and allowed depreciation thereon has been de-capitalized ”* show-caused the Assessee.

**10.1** In response the Assessee vide letter dated 16.12.2019, claimed to has wrongly capitalized wrt to certain expenses, while calculating of capitalization of AY 2016-17, which were still in WIP stage, therefore, in order to rectify the said error, the assessee in AY 2017-18 made correction by reducing the capitalizing in the respective products and increasing the balance in product WIP, which also supports through corresponding entry in the books of account on page 6 to 7 for reference. There is no effect on expenses claimed in the current year. Also the depreciation which was wrongly claimed has been reversed by the Assessee in the current year as soon as the mistake was identified.

**10.2** The AO though considered the claim of the assessee but found not tenable and rejected the same on the ground that the said expenses capitalized in AY 2016-17 and does not pertain to AY 2017-18 and since in I.T. Act there is no provision for reversing such capital item to Revenue in subsequent year, accordingly, the amount of Rs. 34,84,956/- is disallowed.

**10.3** The Ld. Commissioner affirmed the said addition on the similar footing as observed by the AO and also by observing that if any error was observed by the assessee then it should have rectified the mistake by revising the return under section 139(5) of the Act.

**10.4** The assessee before us claimed that the said expenses have not been debited in Profit & Loss A/c and therefore, the addition in hand is un-sustainable. On the contrary, Ld. DR relied upon the orders passed by the authorities below.

**10.5** Considering the peculiar facts and circumstances specifically to the effect, as the assessee has not debited the said amount in its Profit & Loss A/c for the year under consideration, then the addition in hand is un-sustainable, we accordingly direct the AO to verify the same and give relief to the assessee in accordance with law.

**11.** Resultantly **ITA no. 382/Mum/2023** is allowed for statistical purposes in the aforesaid terms.

**12.** In view of our decision in ITA no. 382/Mum/2023, both the appeal filed by Assessee stands allowed for statistical purposes.

Order pronounced in the open court on 20-06-2023.

Sd/-

(BR BASKARAN)  
ACCOUNTANT MEMBER  
SK, Sr.PS

Sd/-

(N.K. CHOUDHRY)  
JUDICIAL MEMBER

**Copy of the Order forwarded to:**

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

BY ORDER,

(Dy. /Asstt.Registrar)  
**ITAT, Mumbai**