IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'D' NEW DELHI

BEFORE SHRI SAKTIJIT DEY, VICE-PRESIDENT
AND
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER

ITA No.1397/Del/2020
Assessment Year: 2015-16

M/s. Global Vectra Helicorp Ltd., A-54, Kailash Colony, New Delhi	**Vs.**	DCIT, Circle-10(1), New Delhi
PAN :AADCA9318F		
(Appellant)		**(Respondent)**

With
ITA Nos.1482 to 1487/Del/2020
Assessment Years: 2011-12 to 2016-17

ACIT Circle-10(1), New Delhi	**Vs.**	M/s. Global Vectra Helicorp Ltd., A-54, 3rd Floor, Kailash Colony, New Delhi
PAN :AADCA9318F		
(Appellant)		**(Respondent)**

Assessee by	Sh. Deepak Chopra, Advocate Sh. Anmol Anand, Advocate Ms. Priya Tandon, Advocate
Department by	Ms. Binita Devi Naorem, CIT (DR)

Date of hearing	10.01.2024
Date of pronouncement	31.01.2024

ORDER

PER BENCH

Captioned appeals, one by the assessee and rest by the Revenue, arise out of separate orders of learned Commissioner of

Income-tax (Appeals) pertaining to assessment years 2011-12, 2012-13, 2013-14, 2014-15, 2015-16 and 2016-17. Since, the issues are common in all these appeals and facts relating to such issues arising in the appeals are more or less identical, they have been clubbed together and disposed of in a consolidated order, for the sake of convenience.

ITA No.1397/Del/2020 (Assessee's Appeal)
AY: 2015-16

2. The dispute in the present appeal is confined to computation of book profit under section 115JB of Income-tax Act, 1961 (in short 'the Act').

3. Briefly the facts are, the assessee, a resident corporate entity, is stated to be engaged in the business of flying, operating, letting on hire, lease and charter hire of helicopters and providing aviation services in respect of helicopters. For the assessment year under dispute, the assessee filed its return of income on 30.11.2015 declaring NIL income under the normal provisions of the Act and book-profit of Rs.10,72,11,670/- under section 115JB of the Act. In course of assessment proceedings, while examining the book-profit computed by the assessee, the

Assessing Officer noticed that the assessee has reduced an amount of Rs.43,60,42,388/-, being the lower of the brought forward loss or unabsorbed depreciation, in terms of clause (iii) under Explanation 1 to section 115JB of the Act. Noticing this, the Assessing Officer called upon the assessee to furnish a detailed working. In response, the assessee furnished its reply, stating that the deduction has been incorrectly computed and the correct figure of deduction should be Rs. 51,20,83,841/-. In this context, the assessee furnished a detailed working of deduction. However, while completing the assessment, the Assessing Officer was of the view that the figure of brought forward loss and unabsorbed deprecation were required to be considered separately, independent of each other, and after reducing current year's profit by the lesser of the two for the purpose of carry forward to the next year, the closing balance of the immediately preceding year was required to be treated as opening balance of the succeeding year. Accordingly, the Assessing Officer re-computed the lower of brought forward loss or unabsorbed depreciation and allowed deduction for an amount of Rs.32,29,19,988/- in terms of clause (iii) of Explanation 1 to

section 115JB of the Act. While deciding assessee's appeal on the issue, learned Commissioner (Appeals) did not interfere.

4. Before us, learned counsel appearing for the assessee submitted that the difference between the revised deduction claimed by the assessee of Rs.51,20,83,841/- and the deduction allowed by the Assessing Officer of Rs. 32,29,19,988/- is Rs.18,91,63,853/-. He submitted, the differential figure of Rs. 18,91,63,853/- comprises of following:

<table>
<tr><td>AY 2011-12: Provision for bad and doubtful debts, which was disallowed while computing income under normal provisions as well as added back while computing book profit under section 115JB.</td><td>36,29,245</td><td>Relevant extract from income tax return of Appellant for AY 2011-12 is attached herewith as Annexure —1.</td></tr>
<tr><td>AY 2012-13: Income tax paid or payable or its provision including the amount of deferred tax and the provision thereof, which was added back while computing book profit under section 115JB</td><td>1,25,92,882</td><td>Relevant extract from income tax return of Appellant for AY 2012-13 is attached herewith as Annexure — 2</td></tr>
<tr><td>AY 2013-14: Profit after tax as shown in P&L as well as income tax return.</td><td>6,85,31,485</td><td>Relevant extract from income tax return of Appellant for AY 2013-14 is attached herewith as Annexure — 3</td></tr>
<tr><td>AY 2014-15: This amount is the sum of:

Profit after tax — 5,49 14,375
Income tax paid, which was added back for purposed of section 115JB — 4,94,95,866
10,44,10,241</td><td>10,44,10,241</td><td>Relevant extract from income tax return of Appellant for AY 2014-15 is attached herewith as Annexure — 4</td></tr>
</table>

Total	18,91,63,853/	

5. He submitted, the difference arose on account of miscalculation by the Assessing Officer and there was no legal basis to reconsider the additions/deductions made by the assessee in its return of income for preceding years while calculating book profits for the current year as per section 115JB of the Act. He submitted, as per section 115JB of the Act, calculation of book profits must relate to the entries made in the books for the relevant year and such calculation must start from the profit as shown in P&L account. Thereafter, the amount of loss brought forward or unabsorbed deprecation, whichever is less, as per the books of account, must be considered in terms of clause (iii) under Explanation 1 to section 115JB of the Act. Thus, he submitted, the disallowance made by the Assessing Officer is unjustified as the adjustments made to the deduction claimed are not in terms with section 115JB read with clause (iii) of Explanation 1. To buttress his submission, learned counsel furnished the following Chart showing revised calculation of allowable deduction under clause (iii) of Explanation 1 to section 115JB of the Act as well as the book profit after deduction:

AY	As per Profit & Loss A/c				Calculation as per the Assessing Officer				Calculation as per the Assessee			
	Profit/ Loss before Depreciation	Depreciation	Profit after Depreciation before Tax	Profit taken before 115JB adjustment	Unabsorbed depreciation (cumulative)	Unabsorbed business loss (cumulative)	Lower of E or F available for set off	Remarks	Unabsorbed depreciation (cumulative)	Unabsorbed business loss (cumulative)	Lower of I or J available for set off	Remarks
	A	B	C	D	E	F	G	H	I	J	K	L
2008-09	19,13,99,108	23,43,51,548	(4,29,52,440)	(4,29,52,440)	4,29,52,440	0	0	NA	4,29,52,440	0	0	No MAT adjustments set off. Only the figures of brought forward business loss in Coloumn J set off against Column D. - i.e., profit as per P&L before MAT adjustments. This is because loss to the extent it is wiped out, because of profit as per books, will stand reduced.
2009-10	(36,45,57,871)	29,48,95,074	(65,94,52,945)	(65,94,52,945)	33,78,47,514	34,33,83,665	33,78,47,514	MAT credit of 2,11,74,206 utilised	33,78,47,514	36,45,57,871	33,78,47,514	
2010-11	31,69,47,614	36,66,63,908	(4,97,16,294)	(4,97,16,294)	38,75,63,808	34,33,83,665	34,33,83,665	NA	38,75,63,808	36,45,57,871	36,45,57,871	
2011-12	(16,87,00,176)	27,50,10,606	(44,37,10,782)	(44,37,10,782)	66,25,74,414	50,84,54,596	50,84,54,596	MAT adjustment of 36,29,245	66,25,74,414	53,32,58,047	53,32,58,047	
2012-13	1,74,70,153	25,90,55,072	(24,15,84,919)	(24,15,84,919)	90,41,59,333	49,58,61,714	49,58,61,714	MAT adjustment of 1,25,92,882	90,41,59,333	53,32,58,047	53,32,58,047	
2013-14	37,23,76,228	30,38,44,743	6,85,31,485	6,85,31,485	90,41,59,333	42,73,30,229	42,73,30,229	MAT adjustment of 6,85,31,485	90,41,59,333	46,47,26,562	46,47,26,562	
2014-15	38,12,90,434	29,23,60,604	8,89,29,830	5,49,14,375	90,41,59,333	32,29,19,988	32,29,19,988	MAT adjustment of 10,44,10,241	90,41,59,333	40,98,12,187	40,98,12,187	

MAT COMPUTATION FOR AY 2015-16	AS PER INCOME TAX RETURN	AS PER REVISED CLAIM BEFORE AO	AS PER AO	ASSESSEE'S CLAIM
PROFIT AS PER P&L	23,12,25,661	23,12,25,661	23,12,25,661	**23,12,25,661**
ADD:				
1. INCOME TAX	19,98,54,563	19,98,54,563	19,98,54,563	**19,98,54,563**
2. PROVISION DIMUNITION IN INVESTMENT	9,06,47,603	9,06,47,603	9,06,47,603	**9,06,47,603**
3. AMOUNT DEBITED TO P&L	25,71,96,789	25,71,96,789	25,71,96,789	**25,71,96,789**
LESS:				
1. AMOUNT WITHDRAWAN FROM RESERVES	(27,87,148)	(27,87,148)	(27,87,148)	**(27,87,148)**
2. LOWER OF UNABSORBED DEP OR BUSINESS LOSS	(43,60,42,388)	(51,20,83,841)	(32,29,19,988)	**(40,98,12,187)**
3. AMOUNT OF DEP DEBITED TO P&L	(23,28,83,410)	(23,28,83,410)	(23,28,83,410)	**(23,28,83,410)**
BOOK PROFIT FOR MAT	10,72,11,670	3,11,70,217	22,03,34,070	13,34,41,871

Details of MAT Adjustments utilised by AO	Paperbook Reference
AY 2011-12: 36,29,245	Provision for bad and doubtful debts: Pg 15 & 26 of PB Vol 1
AY 2012-13: 1,25,92,882	Income Tax paid: Pg 128 of PB Vol 1
AY 2013-14: 6,85,31,485	B/F loss or depreciation: Pg 225 of PB Vol 1
AY 2014-15: 10,44,10,241	Income Tax Paid 4,94,95,866 (pg 309 of PB Vol 1) + Profit as per P&L of INR 5,49,14,375

6. Thus, he submitted, assessee's claim can be factually verified by the Assessing Officer and the book profit can be computed accordingly.

7. Learned Departmental Representative agreed for restoration of the issue to the Assessing Officer for factually verifying assessee's claim.

8. Having considered rival submissions and perused the materials on record, we are of the view that assessee's claim of deduction for computing book profit under section 115JB of the Act requires fresh verification in the light of the Chart furnished

by the assessee, which has been reproduced in the order. Accordingly, the issue is restored back to the Assessing Officer for fresh adjudication after factually verifying assessee's claim by referring to the Chart depicted above. Needless to mention, the Assessing Officer must provide reasonable opportunity of being heard before deciding the issue. Grounds are allowed for statistical purposes.

ITA Nos.1482 to 1487/Del/2020 (Revenue's Appeals)
AYs: 2011-12 to 2016-17

9. The common issue arising in all these appeals relates to disallowance made under section 40(a)(i) of the Act. Of course, in ITA No.1482/Del/2020 pertaining to assessment year 2011-12, there is additional issue of deletion of disallowance of Rs. 62,62,516/-, being advances written off.

10. As far as the issue of disallowance of Rs.13,48,32,835/- under section 40(a)(i) of the Act are concerned, briefly the facts are, as discussed earlier, the assessee is engaged in the business of providing helicopter services in India for offshore transportation, exploration of oil and gas etc. by adhearing to the guidelines issued by the Director General of Civil Aviation (DGCA).

In terms with the said guidelines, the assessee was required to keep the helicopters owned/operated by it in airworthy condition. For keeping them so, the assessee has to incur expenses towards maintenance, repairs and overhaul charges towards the spare parts etc., which were debited in the profit and loss account. The major part of the expenses incurred was towards payment made to non-residents. In course of assessment proceedings, the Assessing Officer, having noticed that the payments have been made to non-residents without deducting tax at source under section 195 of the Act, called upon the assessee to show-cause as to why the payments made should not be disallowed under section 40(a)(i) of the Act. In reply to the show-cause notice, the assessee submitted that part of the payment was towards purchase of materials/spare parts, whereas, the balance amount was towards repair and maintenance charges. It was further submitted that repair and maintenance work was carried out outside India and no part of it was carried out in India. Therefore, no taxable event qua the non-residents happened in India requiring deduction of tax at source under section 195 of the Act.

11. Without prejudice, the assessee submitted that non-resident companies to whom payments were made are residents of other countries with whom India had entered into Double Taxation Avoidance Agreements (DTAAs). It was submitted by the assessee that as per the provisions of relevant DTAAs, in absence of Permanent Establishment (PE) of such non-resident companies in India, business profit cannot be taxed in India. It was further submitted, even if, the payments are for technical services, since, all the DTAAs, except DTAA with UAE, require technical services to be made available to the service recipient, which has not happened in case of the assessee, payments cannot be treated as FTS. Insofar as payments made to UAE entities, it was submitted, in absence of a specific provision dealing with FTS under the treaty, no tax can be levied at the hands of the UAE entities in absence of PE in India, either under Article 7 or 22 of the treaty provision. Therefore, there was no statutory requirement upon the assessee to deduct tax at source.

12. The Assessing Officer, however, did not find merit in the submissions of the assessee. He held that activity of repair and maintenance of helicopters constituted consultancy, technical

and managerial services, hence, qualifies as FTS under Section 9(1)(vii) of the Act. Accordingly, he completed the assessments for all the assessment years under dispute by treating the payments made to the foreign entities as FTS and thereby disallowing payments under section 40(a)(i) of the Act. Against the additions so made, assessee preferred appeals before learned Commissioner (Appeals). Being convinced with the submissions of the assessee, learned Commissioner (Appeals) deleted the additions in all the assessment years.

13. While doing so, learned Commissioner (Appeals) observed that the repair and maintenance activities are undertaken on helicopter parts and not on the helicopters per se and those parts were sent outside India for repairs and after repairing the repaired parts were sent to India. He further held that make available condition as available in the relevant DTAAs remained unfulfilled. Accordingly, he held that the payments made to non-residents are not taxable in India. Hence, there is no obligation on the part of the assessee to deduct tax at source. Accordingly, he decided the appeals in favour of the assessee.

14. Before us, learned Departmental Representative strongly relied upon the observations of the Assessing Officer and submitted that certain services rendered by the assessee to non-resident entities are technical in nature, hence, payments made are to be treated as FTS.

15. Learned counsel for the assessee submitted, in respect of the payments made to residents of USA, UK, Canada and Singapore, in terms with the provisions contained in DTAAs entered by India with these countries, to treat the payment as FTS/FIS, make available condition has to be satisfied. He submitted, the Assessing Officer has failed to demonstrate that in course of rendition of services, the non-resident entities have made available technical knowledge, know-how, skill, etc. to the assessee to use them independently without the aid and assistance of the non-resident service providers. Thus, he submitted, the payments made to the residents of the aforesaid countries, under no circumstances, can be treated as FTS/FIS.

16. Insofar as payment made to residents of UAE, learned counsel submitted, India - UAE DTAA does not contain any provision for FTS. Thus, he submitted, the receipts can either be

taxed as business income or as other income in terms of Article 7 or 22 of the treaty, respectively. He submitted, the receipts cannot be treated as business income in terms of Article 7 as the residents of UAE did not have any PE in India. He submitted, even the receipts cannot be assessed as other income in India in terms of Article 22. As per the said provision, it can only be taxed in the country of residence, i.e., UAE. However, he fairly submitted, payments were also made to residents of Spain, Netherlands and France with whom, though, India has entered into DTAAs, however, the definition of FTS under the respective treaties are much wider in scope and does contain the make available condition. He submitted, though, learned first appellate authority has applied the make available condition by relying upon the Most Favoured Nation (MFN) clause in the Protocol, however, in view of the ratio laid down by the Hon'ble Supreme Court in case of Assessing Officer (International Taxation) Vs. Nestle SA [2023] 458 ITR 756 (SC), the make available condition contained in other DTAAs cannot be imported into the treaties with Spain, Netherlands and France without specific notification by the Government.

17. Without prejudice, he submitted that even payments made to the residents of Spain, Netherlands and France cannot fall into the category of FTS as they are not in the nature of technical, consultancy or managerial services. He submitted, the services are for repair/overhaul of parts of the helicopters sent to those countries and no part of the service was rendered in India. He submitted, the services are in the nature of routine maintenance and repair of helicopter parts and, as such, are standardized services. Thus, he submitted, they cannot fall in the definition of FTS, either under Section 9(1)(vii) of the Act or the respective treaty provisions. In support of such contention, he relied upon a decision of the Hon'ble Supreme Court in case of CIT Vs. Kotak Securities Ltd. [2016] 383 ITR 1 (SC). He also relied upon a decision of Madras High Court in case of Skycell Communications Ltd. Vs. DCIT [2001] 251 ITR 53 (Mad.). Referring to the Circular No.715, dated 08.08.1995 issued by the Central Board of Direct Taxes (CBDT), he submitted that as per the said circular, the activities of repair and maintenance are in the nature of works contract, hence, exigible to deduction of tax under section 194C of the Act. Thus, he submitted, the receipts, if

at all, can be considered as the business income of the non-residents and in absence of a PE in India, are not taxable. Therefore, there was no requirement for deduction of tax at source while making payment to the non-residents.

18. We have considered rival submissions in the light of decisions relied upon and perused the materials on record. Undisputedly, in the assessment years under dispute, the assessee had made payments to certain non-residents towards repair and maintenance of helicopter parts. As per the process followed by the assessee for repair and maintenance, it's engineering department identifies helicopter parts required for or are due for maintenance/overhaul in terms with DGCA guidelines. Once the engineering department identifies the helicopter parts required for maintenance/overhaul, it puts up a request to the Procurement Department. On receipt of request, the Procure Department issues repair orders and sends the parts to be repaired to the respective non-resident entities, who undertake the repairing/overhauling of such parts. On receipt of such repair order and parts, the non-resident entities issue an estimate/quote of charges for repair and maintenance work. On

approval of such estimate/quote by the Procurement Department, the non-resident companies undertake necessary repair and maintenance work of the said parts. After repair/overhaul, the non-resident entities send the repaired parts/item along with invoices for repair and maintenance work carried out. On receipt of the invoices and helicopter parts, the assessee makes the payments after taking necessary declaration and documents from the non-resident entity. It is further evident, to support its contention that there was no requirement for deduction of tax at source as the income of the non-residents are not taxable in India, the assessee had furnished the details of maintenance/repair, sample copies of invoices, sample copies of airway bills evidencing that the parts of the helicopters were sent outside India for carrying out necessary repair and sample copies of Form 15CB and 15CA etc. The Assessing Officer, however, held that the services rendered by the non-residents are technical and consultancy in nature, hence, quantifies as FTS requiring withholding of tax under section 195.

19. On a careful reading of section 195(1) of the Act, it is very much clear that the provision gets triggered only when the

payment made to the non-resident entity is chargeable to tax under the provisions of the Act. Thus, what is required to be examined is whether the payments made by the assessee to non-residents are chargeable to tax under the provisions of Act. As discussed earlier, in the assessment years in dispute the assessee has made payment to entities resident in USA, UK, UAE, Australia, Canada, Singapore, Spain, Netherlands and France. Undisputedly, India has entered into DTAAs with all these countries. However, the provisions in the treaties with the respective countries are at variance.

20. Insofar as taxability of FTS is concerned, treaties can be classified in the following categories:

i. In the first category USA, UK, Australia, Canada and Singapore are placed since the definition of FTS under these treaties are more or less identical and contain make available condition to qualify as FTS.

ii. In the second category countries like, Netherlands, Spain and France can be put in as the definition of FTS in the

treaties are wider in scope and do not contain make available clause.

iii. In the third category UAE can be put as in the treaty with UAE there is no provision concerning FTS.

21. Insofar as the countries falling in the first category, such as, USA, UK, Australia, Canada and Singapore, admittedly, the treaty provisions have make available clause. Therefore, to treat a particular receipt to be in the nature of FTS, it has to be demonstrated that in course of rendition of services, the service provider had made available technical knowledge, know-how, skill etc. to the service recipient so as to enable him to perform such services in future independently without any assistance of the service provider.

22. In the facts of the present appeal, the Assessing Officer has failed to demonstrate with cogent evidence that the make available condition enshrined in the concerned treaties are satisfied. In fact, learned first appellate authority has recorded a categorical factual finding that in course of rendition of service technical knowledge, know-how, skill, etc. has not been made available to the service recipient by the service provider. Thus, in

absence of any contrary material brought on record by the Revenue, we concur with the view expressed by learned first appellate authority. Once the payments do not qualify as FTS under the respective treaty provisions, in terms with section 90(2) of the Act, treaty provisions being more beneficial would override the provisions contained in the domestic law. That being the legal position, in our view, the payments made to the residents of USA, UK, Australia, Canada and Singapore, being not chargeable to tax in India, section 195 is not applicable. Accordingly, we hold that the assessee was not required to deduct tax at source while making payment to residents of the aforesaid countries.

23. Insofar as the payments made to entities in UAE, admittedly, in India – UAE treaty, there is no provision concerning taxability of FTS. Thus, in absence of any such provision, the payments made to the residents of UAE can either be taxed as business income or as other income in terms with Article 7 or 22, respectively. On reading of Article 7 it becomes clear that business profits can be taxed in the source country only if the resident of other country has a PE in the source country. In the facts of the present appeal, admittedly, none of the entities had

any PE in India. Therefore, the payments made to them cannot be taxed in India as business profits. Even, they cannot be taxed as other income in India as Article 22 of India – UAE treaty makes it clear that the other income can only be taxed in the country of residence. Thus, in our view, the payments made to the entities in UAE are not taxable in India as per the treaty provisions, hence, there is no requirement for deduction of tax at source on the payments made.

24. The only countries that are left now is the second category comprising of Netherlands, Spain and France. Admittedly, the definition of FTS in the treaty provisions with these countries are wider in scope and do not contain the make available clause. However, it requires to be examined whether the nature of services would fall within the category of technical consultancy or managerial services. As per the work process followed by the assessee, as discussed earlier, certain parts of helicopters are sent for routine repair/overhaul in terms with the guidelines of DGCA to keep the helicopters airworthy. The parts of helicopters were sent outside India for repair/overhaul and the repair/overhaul is carried out outside India. The

repaired/overhauled parts are sent back to India to be fixed in the helicopters. In fact, learned Commissioner (Appeals) has given a categorical factual finding to the aforesaid effect. The Revenue has failed to bring any material on record to demonstrate that any non-resident technical personnel visited to render any technical service in India or the repair and maintenance work was carried out through any PE in India. When, the entire repair and maintenance of helicopter parts was carried out outside India and nothing was done in India by the non-resident payees, in our view, the payments made to the non-residents are not chargeable to tax in India. Therefore, there was no obligation on the assessee to withhold tax under section 195 of the Act. Accordingly, we uphold the decision of learned Commissioner (Appeals).

25. The only other surviving issue is in respect of ground no. 2 of ITA No. 1482/Del/2020. In the said ground, the Revenue has challenged deletion of disallowance of Rs.62,62,516/- representing advances written off.

26. Briefly the facts are, in the financial year relevant to assessment year 2011-12, the assessee has written off an amount of Rs.63,27,447/- as bad debts and debited to its profit and loss

account. Noticing this fact, the Assessing Officer called upon the assessee to furnish the details of bad debts. After examining the details furnished by the assessee, the Assessing Officer held that an amount of Rs.62,62,516/-, being advances written off, cannot be allowed as deduction as the assessee failed to furnish evidence to indicate that they were part of income of the assessee for earlier year. While deciding the issue in appeal, learned Commissioner (Appeals) allowed the claim with a finding that the amount represents advances given earlier by the assessee in the normal course of its business for the purchase of spares & consumables, helicopter maintenance & overhaul, freight & clearing forwarding charges, lodging boarding charges, etc. He also found that the amount had become irrecoverable owing to non-fulfillment of certain conditions. Thus, he held that it represented the business loss of the assessee, which is allowable as deduction under section 37 of the Act.

27. We have considered rival submissions and perused the materials on record. Undisputedly, the Assessing Officer has disallowed assessee's claim primarily for the reason that the assessee failed to furnish adequate evidence in support of its

claim. However, learned Commissioner (Appeals) after examining the facts and materials on record has recorded the following factual findings:

i. The amount in dispute represents the advances given earlier by the assessee in its normal course of business for purchase of spare & consumables, repairs and maintenance, freight & clearing forwarding charges, lodging boarding charges, etc.
ii. The amount has become irrecoverable owing to non-fulfillment of certain conditions.
iii. Advances were pertaining to two to three years prior to assessment year 2011-12 and that no expenses were booked by the assessee.

28. The Revenue has not brought any contrary materials on record to disturb the aforesaid factual finding of learned Commissioner (Appeals). Therefore, we do not find any infirmity in the decision of learned first appellate authority. Ground raised is dismissed.

29. In the result, all the appeals of Revenue are dismissed.

30. To sum up, assessee's appeal is allowed for statistical purposes and Revenue's appeals are dismissed.

Order pronounced in the open court on 31.01. 2024

Sd/-	***Sd/-***
(DR. B.R.R. KUMAR)	**(SAKTIJIT DEY)**
ACCOUNTANT MEMBER	**VICE-PRESIDENT**

Dated: 31.01.2024.
RK/-
Copy forwarded to:
1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi