IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, AHMEDABAD

BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

I.T.A. No. 1184/Ahd/2018
(Assessment Year: 2011-12)

Reckitt Benckiser Healthcare India Private Limited, (Formerly known as Reckitt Benckiser Healthcare India Ltd), Plot No. 48, Institutional Area, Sector 32, Gurgaon-122001, Haryana [PAN : AAACP 9268 J]	Vs.	Dy. Commissioner of Income-tax, Circle-3(1)(2), Ahmedabad

I.T.A. No. 1225/Ahd/2018
(Assessment Year: 2011-12)

Dy. Commissioner of Income-tax, Circle-3(1)(2), Ahmedabad	Vs.	Reckitt Benckiser Healthcare India Private Limited, (Formerly known as Reckitt Benckiser Healthcare India Ltd), Plot No. 48, Institutional Area, Sector 32, Gurgaon-122001, Haryana [PAN : AAACP 9268 J]

(**Appellant**)	..	(**Respondent**)

Assessee by :	Shri Dhinal Shah, AR
Revenue by:	Shri V. Nand Kumar, CIT-DR

Date of Hearing	20.11.2024 & 17.12.2024
Date of Pronouncement	18.02.2025

O R D E R

PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-

These cross appeals filed by the Assessee and the Revenue are directed against the order of the learned Commissioner of Income-tax

(Appeals)-9, Ahmedabad (in short 'the CIT(A)') dated 09.03.2018 passed under Section 250 of the Income-tax Act, 1961 [hereinafter referred to as "the Act" for short], for Assessment Year (AY) 2011-12.

2. The brief facts of the case are that the assessee-company is engaged in the business of manufacturing and marketing of pharmaceuticals & Cosmetic products. The assessee had filed its return of income for the year under consideration on 18.11.2011 declaring a total income of Rs.27,56,70,614/- under the normal provisions of the Act and book profit u/s 115JB of the Act of Rs.1,28,80,47,039/-. The case of assessee was selected for scrutiny assessment and the assessment was subsequently framed by the Assessing Officer u/s 143(3) of the Act on 30.03.2015 determining total business income of the assessee at Rs.84,94,28,649/-, against the returned income of Rs.27,56,70,614/-, by making various additions/disallowances of Rs.13,19,12,485/- as capital gains under normal provisions of the Act and Rs.129,12,24,408/- as book profits u/s 115JB of the Act.

3. Aggrieved by the order of the Assessing Officer, the assessee has filed appeal before the ld. CIT(A) who confirmed/deleted some of the additions/ disallowances made by the Assessing Officer.

<u>ITA No. 1184/Ahd/2018 – Assessee's Appeal</u>

4. Aggrieved by the order of the Ld. CIT(A) confirming the additions/disallowances made by the Assessing Officer, the Assessee is now in appeal before the Tribunal on the following grounds:-

"Ground No. 1: Levy of capital gains under section 45 of the Act considering demerger of the treasury undertaking as non-qualifying demerger.

1.1 On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) has erred in considering demerger of the treasury undertaking ('undertaking') pursuant to a scheme of arrangement under section 391 to 394 of the Companies Act, 1956 sanctioned by Hon'ble Gujarat High Court as non-qualifying demerger under section 2(19AA) of the Act and artificially rewriting the transaction of demerger as transfer of individual assets chargeable to tax under section 45 of the Act.

1.2 On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) has erred in proceeding on predetermined manner and misinterpreted facts, inter alia, that:

1.2.1 if the undertaking had not come into existence in AY 2007-08, the comparative figures for the undertaking in the balance sheet of AY 2008-09 should be shown at Nil.

1.2.2 the Appellant had selectively allotted the activities to the undertaking by not considering investment in core operation subsidiaries as part of undertaking.

1.2.3 share investments in Blue Information Limited, Trent Limited, IDBI Limited and Shivalik Waste Management Limited were not reflected as assets of undertaking in the trial balance and thereby concluded that the same has resulted into violation of section 2(19AA) of the Act.

1.2.4 There was mismatch in amount of investment in units of mutual funds in the trial balance as on 31 March 2010 vis-a-vis investment schedule in financial statements.

1.2.5 there was never a clear demarcation or separation of the assets of the undertaking from the assets of the appellant as a whole and thereby concluded that the basic condition of transfer of assets and liabilities of the undertaking under section 2(19AA) of the Act has not been fulfilled.

1.2.6 since income of undertaking from the sale of mutual fund units has been offered to tax under capital gains and income from other source and no other income of the undertaking was offered as business income, investments by treasury undertaking is not a business activity.

1.3 On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) has erred in proceeding on absurd proposition that non-transfer of inter-unit balance of earlier year results in violation of provision of section 2(19AA) of the Act whereas section 2(19AA) of the Act only requires that if there are liabilities on the date of demerger of the undertaking, the same is required to be transferred to the resulting company.

1.4 Without prejudice to above, on the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) has erred in observing that demerger of the undertaking was undertaken to avoid payment of taxes under the Act.

1.5 Without prejudice to above, on the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) has erred in affirming the order of the learned AO seeking to tax fictional and non-existent income in the hands of the Appellant, which is against the principles of law.

1.6 Without prejudice to above, on the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) has erred in affirming the order of the learned AO and failed to appreciate that in order to levy capital gains tax on the Appellant, it is a condition precedent that the alleged capital gains must arise from transfer of capital assets by the Appellant to its shareholders, which condition is not satisfied in the present case.

1.7 Without prejudice to above, on the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) has erred in affirming the order of the learned AO and failed to appreciate that in order to levy capital gains tax on the Appellant, it is a condition precedent that the consideration on transfer of alleged capital assets must have been received by the Appellant from the resulting company, which condition is not satisfied in the present case.

1.8 Without prejudice to above, on the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) has erred in affirming the order of the learned AO and failed to appreciate that even if demerger of undertaking is treated as taxable transfer under section 45 of the Act, the consideration for the transfer of capital asset is what the transferor receives in lieu of the asset he parts with, namely, money or money's worth and it cannot be an average book value of shares of Sterling (resulting company).

Ground No. 2: Levy of dividend distribution tax

2.1 On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) has erred in affirming the order of the learned AO considering demerger of the treasury undertaking pursuant to a scheme of arrangement under section 391 to 394 of the Companies Act, 1956 sanctioned by Hon'ble Gujarat High Court as non-qualifying demerger and artificially rewriting the transaction of demerger of an undertaking as deemed release I distribution of assets by the Appellant to its shareholders as dividend under provisions of section 2(22) of the Act.

2.2 Without prejudice to above, on the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) has erred in affirming the order of the learned AO and artificially rewriting the transaction of demerger of an undertaking without appreciating the provisions of section 2(19AA) of the Act which mandates issuance of shares by the resulting company directly to the shareholders of the Appellant and not to the Appellant.

2.3 Without prejudice to above, on the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) has erred in affirming the order of the learned AO that shares allotted by the resulting company to the shareholders of demerged company pursuant to court approved scheme of demerger is distribution of shares by Appellant to its shareholders.

2.4 Without prejudice to above, on the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) has erred in affirming the order of the learned AO and not appreciating that even if the allotment of shares of Sterling (resulting company) to the

shareholders of Appellant is considered as distribution of dividend under section 2(22) of the Act, quantum of dividend which is paid by way of specie distribution of assets needs to be considered as market value on the date of distribution and not average book value of shares of resulting company.

Ground No. 3: Disallowance under section 14A of the Act read with Rule 8D of the Income-tax Rules, 1962 ('Rules')

3.1. On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) erred in disallowing expenses amounting to Rs 9,48,784 (in addition to Rs 17,39,793 voluntarily disallowed by the Appellant) under section 14A of the Act by applying provisions of Rule 8D the Rules since the Appellant has already identified and disallowed expenditure incurred in relation to income which does not form part of total income under the Act.

3.1.1. On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) erred in stating that no separate books of accounts in respect of Treasury Unit has been maintained and no transparent method of allocation of indirect expenses has been followed by the Appellant and thereby invoking provisions of Rule 8D of the Rules even though when separate Trial Balance for Treasury Undertaking was duly submitted during the assessment proceedings.

3.1.2. On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) erred in stating that the Appellant failed to produce cogent evidence to prove that investments were made out of non-interest bearing funds.

3.1.3. On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) erred in observing that learned AO had given clear cut finding where the investments in equity shares were made out of interest bearing funds even though no such findings were recorded by the learned AO in his assessment order for the year under consideration.

3.1.4. On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) erred in upholding disallowance under section 14A of the Act read with Rule 8D of the Rules merely on the basis of

assumptions that investment would have been made using interest bearing funds without considering details submitted by Appellant which substantiated that investments were made out of own funds.

3.2. Without prejudice to above, on the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) erred in stating that the Appellant has not challenged the working of disallowance under section 14A of the Act read with Rule 8D of the Rules.

3.2.1. Without prejudice to above, on the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) erred in not excluding investments made in foreign subsidiary companies in the computation of value of investments, income from which does not or shall not form part of the total income, in spite of the fact that dividend income from these investments is subject to tax in India.

3.2.2. Without prejudice to above, on the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) erred in disallowing additional administrative expenses at the rate of 0.5% of the average investments though the Appellant has already, suo moto, disallowed administrative expenses of Rs 17,39,793 in its return of income.

3.3. On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) has erred in adding back the allowance of Rs 9,48,784 under section 14A of the Act in the book profits under the provisions of section 115JB of the Act."

5. Ground No. 1 – *Levy of capital gains under section 45 of the Act considering demerger of the treasury undertaking as non-qualifying demerger;*

Ground No. 2 – *Levy of Dividend Distribution Tax*

5.1 The facts relating to this issue are that, during the course of assessment proceedings, the Assessing Officer observed that the assessee had claimed transfer of its so-called treasury unit to M/s. Sterling Addlife India Ltd. (herein and after referred to as 'Sterling') as per order of Hon'ble

Gujarat High court in the petition no 88 of 2010. In response to said transfer, Sterling had given 2,68,01,557 of its shares to the shareholders of the assessee company. As the transfer of so-called treasury unit did not appear to be demerger of a unit, the Assessing Officer issued a show cause notice dated 05.03.2015 asking the assessee to show cause as to why the transfer of so called treasury unit, which was claimed as demerger by the assessee company, should be treated as not a demerger within the meaning prescribed under the Income-Tax Act. Ld. Assessing Officer also held that the essential components for any rearrangement to be considered as demerger is that all the assets and liabilities of the undertaking being demerged have to be transferred and that the undertaking has to be transferred as a going concern. Further, the property and the liabilities of the undertaking being transferred have to be transferred at values appearing in its books of account and to qualify as demerger within the meaning of the Income-tax Act, it is essential to examine as to whether the essential conditions have been fulfilled. The Assessing Officer, on examination of the transfer held that there was never a clear demarcation or separation of the assets of the Treasury segment from the assets of the assessee as a whole and that the very basic condition of transfer of all assets and liabilities of the undertaking being demerged has not been fulfilled. The Assessing Officer observed that all the assets and liabilities of the treasury segment have not been transferred to the resulting company pursuant to the scheme of demerger and that the treasury segment has not been transferred as a going concern and therefore, it is a clear violation of the conditions prescribed u/s 2(19AA)(i) and (ii) of the Income Tax Act. The Assessing Officer, accordingly held that transfer of assets held as so-called

treasury unit is not a demerger within the meaning of provision of section 2(19AA) of the Income Tax Act.

5.2 Before us, Ld. Counsel for the assessee contended that :-

- All the properties of the Treasury undertaking, immediately before the demerger, became the property of Sterling by virtue of demerger and none of these properties form part of Balance Sheet of the Assessee as at 31 March 2011. The investment in Shivalik Solid Waste Management Pvt. Ltd. had inadvertently been transferred to Sterling during the course of demerger; however, on realizing the mistake, the same was bought back by the assessee during AY 2012-13.
- The Treasury undertaking did not have any liabilities appearing in the Trial Balance as on the date of demerger. Accordingly, since no liabilities were existing on the date of demerger, the condition laid down by section 2(19AA) of the Act stands fulfilled.
- All the properties of the Treasury undertaking have been transferred at book values immediately before the demerger.
- Sterling has issued shares to the shareholders of the assessee in the ratio of 2,961 shares of Sterling for every 1000 shares held by them in of the assessee-company.
- The scheme of demerger was approved by all the shareholders of the assessee; accordingly, all the shareholders of the assessee received shares of Sterling in the ratio as sanctioned by Hon'ble Gujarat High Court.

- Regarding the transfer of the undertaking is on a going concern basis is concerned, it was submitted that treasury undertaking has been transferred on a going concern basis to Sterling.

5.3 The Ld. Counsel for the assessee, therefore, submitted that the Treasury Undertaking of the assessee fulfils all the conditions laid down in section 2(19AA) of the Act. Hence, demerger of the Treasury Undertaking by the assessee to Sterling should be held to be in compliance with provisions of section 2(19AA) of the Act and accordingly, the demerger of treasury undertaking be exempted from capital gains tax under section 47(vib) of the Act.

5.4 The Ld. DR, on the contrary, submitted that the transfer of Sterling's shares and units of mutual funds to Sterling in exchange of new shares allotted by Sterling as transfer of capital assets chargeable to capital gains under section 45 of the Act, and distribution of new shares allotted by Sterling as being distributed by the assessee to its shareholders as dividend under section 2(22) of the Act. The Ld. DR relied on the order of the Ld. CIT(A). The Ld. DR submitted as under:-

- the assessee has not transferred the treasury undertaking on a going concern basis to Sterling, and it was only a transfer of capital asset and not a demerger of treasury undertaking as per section 2(19AA) of the Act.
- the assessee has selectively allotted the activities to be undertaken by treasury undertaking and all the similarly placed investments or activities were never part of the treasury undertaking, viz. the

investment made by the assessee in the two subsidiary companies namely M/s. Paras Overseas Holding Ltd. and Paras Inc. USA. The treasury segment included dividend income from investments made in mutual funds as well as profit from sale of investments, but never handled the core investments.

- the assets of the Treasury Segment were reflected at Rs.56,96,25,000/-, at the same time the shares of Blue Information Ltd., Trent Limited and bonus shares of IDBI Ltd., shares of Shivalik Waste Management Pvt. Ltd. were not reflected as assets of Treasury Segment.
- The assessee had shown market value of shares to Trent Ltd. at Rs. 500 per share whereas on 7/10/2010 the market value was Rs. 1,045/-. Similarly, the market value of Blue Information Ltd. does not correspond with the market value as on 7/10/2010. As the bonus shares of the IDBI too were shown as assets of the Treasury Segment before the Hon'ble High Court and other shares of IDBI were not reflected in the trial balance of the appellant. Since non-reflecting of the shares is violation of sub-clause-3 of sub sec.(19AA) of sec.2.,
- the Ld. DR quoted extensively from the order of the Ld. CIT(A) at page No. 66 & 67, which reads as under:-

"The A.O has further pointed out that the trial balance of Treasury Segment as on 31/3/2010 had reflected investments in mutual funds at Rs. 4,01,66,417/- and total investment of Rs. 36,24,90,963/-. The total investment figure matches with the total assets of the Treasury Segment as per the segment reporting in the audited balance sheet. However, as per the consolidated balance as on 31/3/2010 the investment in mutual fund was reflected at Rs. 1,00,09,392/- only. The appellant had admitted that the total assets of the Treasury Segment actually stood at Rs. 33,23,5,845/- and the figure of Rs. 36,24,90,963/- as total assets of the Treasury

Segment reported in the audited accounts was a 'mistake'. On admission of the mistake the A.O has held that the appellant has failed to reconcile the difference between mutual funds held as on 31/3/2010 by the Treasury Segment. As on 7/10/2010 the value of mutual funds at market value has been reflected at Rs. 5,09,783/- before the Hon'ble High Court. This meant that there was redumption of mutual funds between the period 1/4/2010 to 6/10/2010. The A.O has rightly pointed out that the redumption of assets will only give rise to corresponding increase in some other assets like cash/bank balance of the treasury segment. However, no such assets have been reported to the Hon'ble Court in the trial balance of treasury segment. The appellant has admitted that the Treasury Segment did not have a separate bank account. Thus, according to the A.O there was never a clear demarcation or separation of the assets of the Treasury Segment from the assets of the appellant as a whole and hence the basic condition of transfer of assets and liabilities of the undertaking under section 2(19AA) of the Act as a going concern, being demerged, has not been fulfilled. Further, the A.O has pointed out that out of total shares of Sterling i.e. 2,68,01,490 shares; 2,00,510 shares were purchased in F.Y.2006-07, 2,50,000 shares were purchased in F.Y.2007-08 and 31,000 shares were purchased in F.Y2009-10. The balance of 2,63,19,980 shares of Sterling were purchased before the Treasury Segment came into existence i.e. AY 2007-08. According to AO the appellant has not reflected the details of corresponding liability incurred for acquisition of shares of Sterling. Thus the AO has analysed the functioning of treasury segment as an 'undertaking' and the treatment given by the appellant for inclusion of certain assets and exclusion of liabilities from the treasury segment. Based on this AO has concluded that the appellant has never treated the treasury segment as an 'undertaking'. I agree with the finding of the AO based on facts discussed above.

On the issue of 'liability' of Treasury segment, according to A.O., as on 31/3/2009, the Treasury Segment had assets of Rs. 39,23,05,436/- and the liabilities were at Rs. 37,15,82,049/-. The accounts for the year ending 31/3/2010 show the assets of Treasury segment of Rs. 36,24,90,963/- whereas the liability of Treasury Segment were reflected at Rs. Nil. Thus, it appears that the liabilities of Rs. 37,15,82,049/- as on 31/3/2009 were got reduced to Rs. Nil on 31/03/2010. The A.O has correctly observed that there is no corresponding reduction in assets or income generated as per trial balance of the appellant that could lead to reduction of liabilities. The appellant had tried to explain to the A.O that the liabilities were internal liabilities pertaining to the other segments of the company and hence they are not in the trial balance. I agree with the AO that if the liabilities of the treasury segments have been reduced to NIL then there has to be a corresponding effect on the assets of the treasury segment. The appellants explanation of liabilities belonging to other segments of the appellant does not hold good if the treasury segment had been treated as an undertaking by the appellant. Thus, the A.O has questioned the action of the appellant that in one year the liabilities were accounted for in the trial balance of the Treasury unit but were not accounted for in the subsequent

years. This has resulted into transfer of only assets and NIL liabilities to Sterling as on 07/10/2010. Thus, the A.O has concluded that the Treasury Segment has not been transferred as a going concern leading to violation of sections prescribed u/s.2 (19AA) (i), (ii) of the act. According to the appellant the income generated out of the activities of the Treasury Segment has been offered to tax under the head capital gain and dividend income is claimed as exempt and no income of Treasury Segment was offered as business income. A.O has correctly pointed out that the various investments made by the appellant in the shares of Blue Information, IDBI, Trent etc. were investments and cannot be considered as business activities and so were the investments in mutual funds. Thus, according to the A.O as per the stand taken by the appellant the investments made by the Treasury Segment were always treated by the appellant as capital assets and it never treated the said investments as stock-in-trade or business assets. Therefore, according to the A.O., the stand of the appellant that the Treasury Segment was undertaking a business activity is not correct. A.O. has treated it as individual assets created from the surplus funds available with the appellant. Therefore, the transfer of assets as per the petition No.88 of 2010 cannot be treated as qualifying demerger of undertaking by the appellant when read with section 2(19AA) of the Act. It has been held by the Bombay High Court in the case of Thomas Cook Insurance Services in the Company Scheme Petition No. 99 of 2015 with Company Summons for Direction No. 892 of 2014 dated 10/09/2015 that (para 5 of the order) "In any event, by sanctioning the present scheme, this court is not in any way accepting the company's case that the scheme, as framed, complies with the provisions of 'demerger' within the meaning of 2(19AA). In fact, this court is inclined to clarify that the sanction of the scheme, as proposed by this court, does not in any way bind the Income-tax Department to take any particular view of the scheme of arrangements sanctioned by this court insofar as the tax implications of the transaction are concerned." The A.O has also further pointed out that even after the demerger of the Treasury Segment the appellant has continued its investments in mutual funds etc. Thus, it appears that the treasury segment which had the holding of the shares of Sterling as its main assets was demerged to Sterling only for the purpose of transferring Sterling's own shares to Sterling in order to avoid the payment of taxes under the Act. The appellant has continued with its activity of investments after the demerger of treasury segment to Sterling or transfer of shares back to Sterling through demerger. Thus, I agree with the stand of the AO that through the order of Hon'ble High Court, the appellant has only effectively transferred its capital asset of shares to Sterling in order to avoid the payment of tax under the head 'capital gain'. The appellant through its audited accounts of earlier years as well as the year under consideration, has not treated the Treasury segment as an 'undertaking' which is one unit, or one division handling similar activities. The appellant has attributed certain activities only to the treasury segment as per its convenience. This has resulted into and it is clear from the submission of the appellant as well as the findings of the A.O that the profit of

Treasury Segment was not ascertainable. The investment activities of the appellant, as rightly pointed out by the AO, have continued even after the treasury segment that was suppose to handle these activities, was transferred to Sterling. Thus, the intention of the appellant was never to transfer the investment activities undertaken by the treasury segment but to transfer certain assets only to Sterling without any liabilities. The liabilities of the treasury segment were reduced to Nil on the ground that they pertain to different divisions/segments. If a Macro view is taken on the overall transaction that has been undertaken by the appellant then it appears that as per the order of Hon'ble High Court, Sterling had issued 2961 equity shares of Rs.10 each in lieu of 1000 equity shares of Rs. 10 each to shareholders of the appellant. Accordingly, the shareholders of the appellant were issued 2,68,01,557 shares of Sterling. Further, by means of the so called demerger of Treasury Segment the appellant had ended up transferring the shares of Sterling i.e. it's assets, numbering 2,68,01,490 held by the Treasury Segment back to Sterling, apart from few more assets and zero liability. Thus the appellant gave 2,68,01,490 shares of Sterling, worth of Rs. 32,23,24,536/-, held by treasury segment back to Sterling through the arrangement approved by hon'ble High Court and the shareholders of the appellant received 2,68,01,557 shares worth of Rs. 61,91,15,966/- of Sterling in return. I agree with the stand taken by the A.O and with due regards and respect to the order of Hon'ble High Court I hold that the said demerger was not as per the provisions of sec.2(19AA) of the Act for the reasons mentioned above. It is not a case wherein the AO is not accepting the order of Hon'ble High Court. It is case where the AO is applying section 2(19AA) of the Act to the appellant. Hon'ble High Court has not referred to section 2(19AA) of the Act in its order. With due respect the order of Hon'ble High Court, it is to be seen that for not considering a transaction as a transfer and thereby claiming exemption u/s 47(vib) r.w.s. 45 of the Act, whether the appellant has fulfilled all the conditions prescribed u/s 2(19AA) of the Act or not. I agree with the stand taken by the AO and based on the discussions above, hold that the appellant has not fulfilled all the conditions u/s 2(19AA) of the Act, thereby attracting tax under the head 'income from capital gain' on transfer of its assets. Transaction between the appellant company and Sterling will have to be treated as transfer of capital assets. Accordingly, I agree with the calculation of LTCG as worked out by the A.O. He has taken valuation of shares of Sterling at average amount attributable to shareholders for year ending of 31/3/2011 and 31/3/2010, resulting into average value of shares of Sterling at Rs. 23.10 and thereby resulting into capital gain of Rs. 13,19,12,485/-. Therefore, the levy of a capital gain taxes u/s.45 of the Act is hereby confirmed. Further, I also agree with the stand taken by the A.O that on sale of assets by appellant to Sterling the sale consideration of Rs. 61,91,15,966/- of the transferred assets was to be received by the appellant from Sterling. Instead, Sterling had paid this amount to shareholders of the appellant. Therefore, the assets of the appellant were distributed to the shareholders. Therefore, I agree with the AO that as per section 2(22) of the Act,

the appellant has distributed its assets/receivable from Sterling to its shareholders thereby attracting Dividend Distribution Tax on Rs. 61,91,15,966/-. Accordingly, the ground of appeal 1 & 2 are hereby dismissed."

5.5 Heard both the parties on this issue and perused the material available on record.

The provisions of Section 2(19AA) read as under:-

"[(19AA) "demerger", in relation to companies, means the transfer, pursuant to a scheme of arrangement under sections 391 to 394 of the Companies Act, 1956 (1 of 1956), by a demerged company of its one or more undertakings to any resulting company in such a manner that—

(i) all the property of the undertaking, being transferred by the demerged company, immediately before the demerger, becomes the property of the resulting company by virtue of the demerger;

***(ii) all the liabilities relatable to the undertaking**, being transferred by the demerged company, immediately before the demerger, become the liabilities of the resulting company by virtue of the demerger;*

***(iii) the property and the liabilities of the undertaking** or undertakings being transferred by the demerged company are transferred at values appearing in its books of account immediately before the demerger;*

*(iv) the resulting company issues, in consideration of the demerger, its shares to the shareholders of the demerged company on a proportionate basis **[**except where the resulting company itself is a shareholder of the demerged company**]**;*

(v) the shareholders holding not less than three-fourths in value of the shares in the demerged company become share-holders of the resulting company or companies by virtue of the demerger, otherwise than as a result of the acquisition of the property or assets of the demerged company or any undertaking thereof by the resulting company;

(vi) the transfer of the undertaking is on a going concern basis;

(vii) the demerger is in accordance with the conditions, if any, notified under sub-section (5) of section 72A by the Central Government in this behalf.

Explanation 1.—For the purposes of this clause, "undertaking" shall include any part of an undertaking, or a unit or division of an undertaking or a business activity taken as a whole, but does not include individual assets or liabilities or any combination thereof not constituting a business activity.

Explanation 2.—For the purposes of this clause, the liabilities referred to in sub-clause (ii), shall include—

(a) the liabilities which arise out of the activities or operations of the undertaking;

(b) the specific loans or borrowings (including debentures) raised, incurred and utilised solely for the activities or operations of the undertaking; and

(c) in cases, other than those referred to in clause (a) or clause (b), so much of the amounts of general or multipurpose borrowings, if any, of the demerged company as stand in the same proportion which the value of the assets transferred in a demerger bears to the total value of the assets of such demerged company immediately before the demerger.

Explanation 3.—For determining the value of the property referred to in sub-clause (iii), any change in the value of assets consequent to their revaluation shall be ignored.

Section 47(vib) reads as under:-

"Transactions not regarded as transfer..

47. Nothing contained in section 45 shall apply to the following transfers :—

……

……

[(vib) any transfer, in a demerger, of a capital asset by the demerged company to the resulting company, if the resulting company is an Indian company;"

5.6 The elevation of the Assessing Officer was that the transfer of asset held by the Treasury Unit was not a demerger within the provisions of Section 2(19AA) of the Act which the Ld. CIT(A) has also affirmed. This is the fact on record that all the properties of the Treasury Undertaking immediately before the demerger became the properties of Sterling and it was submitted that no liabilities were existing on the date of demerger, it can be considered that the conditions of Section 2(19AA) are fulfilled. It cannot be disputed that the Treasury Unit is also a segment of the business activity. On this issue, the Ld. AR at page No. 1379 of the paper-book submitted as under:-

"The schedules to the accounts for the year ended 31.03.2009 shows the Treasury Segment Assets at Rs 39,23,05,436 and the Treasury Segment Liabilities at Rs. 37,15,82,049. Similarly, schedules to the accounts for the year ended 31.03.2010 shows the Treasury Segment assets at Rs. 36,24,90,963 and Treasury Segment Liabilities at Rs. NIL Comparison of the Trial Balances as on 31.03.2009 and 31.03.2010 of the Treasury Segment also shows that the liabilities of Rs. 37,15,82,049/- as on 31/03/2009 got reduced to Rs. NIL There does not seem to be any corresponding reduction in assets or income generated as per your trial balances, which could lead to reduction of liabilities. The reduction in liability of the Treasury Segment may be explained, failing which it would be assumed that the liabilities of the Treasury Segment as on 31/03/2009 at Rs 37.15 crores were not transferred in the scheme of demerger."

6.5.2 In this regard, it is submitted that liabilities for the year ended 31 March 2009 of Rs 37,15,82,049 represents the inter-unit balance which ***was knocked off during next year.*** *Therefore, as on 31 March 2010, there existed no liability in the Treasury Undertaking which is required to be transferred on demerger carried out during the Financial Year 2010-11*

> *6.5.3 As per provisions of clause (ii) of section 2(19AA) of the Act, all the liabilities relatable to the undertaking, being transferred by the demerged, immediately before the demerger, becomes the property of the resulting company by virtue of the demerger In other words, clause (i) of section 2(19AA) of the Act only requires that if there are liabilities on the date of demerger of the undertaking, the same is required to be transferred to the resulting company. In the present case, there were no liabilities on the date of demerger and therefore no liability was required to be transferred. The liability till earlier year was an inter-unit balance and not a third party liability."*

5.7 From the concurrent reading of the provisions of Section 2(19AA)(ii) which mandates that all the liabilities relatable to the undertaking are also to be transferred to the demerged company, and considering the explanation of the Counsel that the existing liabilities of Rs.37.15 crores were knocked off against the transfer of assets of Rs.39.23 crores is against the provisions of the Section 2(19AA)(ii). Thus, it can be found that the assessee has only transferred the assets while keeping the liabilities with them. The explanation of the assessee that the liability belonging to other segments whereas assets belong to the Treasury Segment cannot be accepted. Hence, it can be held that the Revenue Authorities have rightly treated the demerger as transfer of capital assets.

5.8 For the sake of ready reference, the ratio of the Revenue Authorities detailing the entire events, facts and legal proposition is reproduced as under:-

> *"According to A.O as per the Explanation-1 the undertaking shall include any part of an undertaking, or a unit or division of an undertaking or a business activity taken as a whole but does not include individual assets or liabilities or any combination thereof not constituting a business activity. Further sec.2(19AA)(vi) refers to the*

transfer of the undertaking on a going concern basis. According to the A.O the appellant has not transferred the treasury undertaking on a going concern basis to SAIL. The A.O. has pointed out too many deficiencies as well as shortcomings in the order which according to the A.O. goes on to prove that the transfer of treasury undertaking was only a transfer of capital asset and not a demerger of treasury undertaking as per section 2(19AA) of the Act. It is seen from the submissions of the appellant as well as the findings of the A.O. and as a matter of fact that the business of treasury undertaking was never well defined. The appellant itself has submitted that the investment that it had made in the two subsidiary companies namely M/s. Paras Overseas Holding Ltd. and Paras Inc. USA that represented the core operations of the appellant were never a part of the treasury undertaking. According to AO SAIL was the subsidiary of appellant in AY 2008-09. Further, according to the appellant, in order to diversify on its own business operation in two hospital industry it had made investment in SAIL since A.Y.2002-03 to A.Y.2008-09. The treasury undertaking handled the investment in SAIL as well as it also handled the investments in mutual funds etc. but it did not handled the investments in two other subsidiaries of appellant as mentioned earlier. Thus, it is clear that the appellant has selectively allotted the activities to be undertaken by treasury undertaking and all the similarly placed investments or activities were never part of the treasury undertaking. This has lead the A.O. to doubt whether the treasury undertaking has been demerged as a going concern in toto as per the scheme of compromise and arrangements approved by the Hon'ble High Court or not? The A.O has viewed the transactions and the order of Hon'ble High Court from the point of view of sec.2(19AA) of the Act. The A.O has pointed out that as on 31/3/2011 as per Schedule-17 and Note 16 to the Notes on accounts the treasury segment included dividend income from investments made in mutual funds as well as profit from sale of investments. However, the A.O has also observed that this is not correct as all the investments made by the appellant were not handled by the Treasury Segments. According to the A.O, it is evident from balance sheet for A.Y.2008- 09, the assets of the Treasury Segment were reflected at Rs.56,96,25,000/- as on 31/3/2007. However, for A.Y.2007-08 certain comparative figures were given by the appellant and it submitted that the said comparative figures were reported as per the Companies Act. However, the A.O has questioned the stand of the

appellant. According to the A.O, if during that period the treasury segment had not come into existence then the previous year comparative figures should have been shown at Nil. According to the A.O in A.Y.2008-09 SAIL was the subsidiary of the appellant. If Treasury Segment was created to look after the subsidiaries of the appellant then the investment in other subsidiaries such as Paras Overseas Holding Ltd. and Paras Inc. USA should have become the assets of the Treasury Segment. The A.O has also verified the trial balance of the treasury segment for A.Y.2009-10. According to the A.O the shares of Blue Information Ltd., Trent Limited and bonus shares of IDBI Ltd. were not reflected as assets of Treasury Segment. Further the shares of Shivalik Waste Management Ltd., were also not reflected as assets of the Treasury Segment in the trial balance for FY 2008-09. However, the shares of Blue Information Ltd., Trent Ltd., bonus shares of IDBI Ltd. and shares of Shivalik Waste Management Pvt. Ltd. were shown as assets before the Hon'ble High Court. The A.O has observed that the appellant had shown market value of shares to Trent Ltd. at Rs. 500 per share whereas on 7/10/2010 the market value was Rs. 1,045/-. Similarly, the market value of Blue Information Ltd. does not correspond with the market value as on 7/10/2010. As the bonus shares of the IDBI too were shown as assets of the Treasury Segment before the Hon'ble High Court and other shares of IDBI were not reflected in the trial balance of the appellant. On enquiry by the A.O, the appellant submitted that as these were the bonus shares, their value was 'Zero' and they did not appear in the trial balance. According to the A.O the trial balance is generated from the individual accounts and so long as the accounts of bonus shares is existed even though at the face value of 'zero' the shares should have been reflected in the trial balance. Similar issues of Blue Information Ltd. and Trent Ltd. should have been reflected in the trial balance and a separate head for 'diminishing of value of assets' should have appeared. Thus, according to the A.O this involves violation of sub-clause-3 of sub sec.(19AA) of sec.2. According to AO, the shares of Blue Information and Trent Ltd. have not been transferred at value as per the books. The A.O has further pointed out that the trial balance of Treasury Segment as on 31/3/2010 had reflected investments in mutual funds at Rs. 4,01,66,417/- and total investment of Rs. 36,24,90,963/-. The total investment figure matches with the total assets of the Treasury Segment as per the segment reporting in the audited balance sheet.

However, as per the consolidated balance as on 31/3/2010 the investment in mutual fund was reflected at Rs. 1,00,09,392/- only. The appellant had admitted that the total assets of the Treasury Segment actually stood at Rs. 33,23,5,845/- and the figure of Rs. 36,24,90,963/- as total assets of the Treasury Segment reported in the audited accounts was a 'mistake'. On admission of the mistake the A.O has held that the appellant has failed to reconcile the difference between mutual funds held as on 31/3/2010 by the Treasury Segment. As on 7/10/2010 the value of mutual funds at market value has been reflected at Rs. 5,09,783/- before the Hon'ble High Court. This meant that there was redumption of mutual funds between the period 1/4/2010 to 6/10/2010. The A.O has rightly pointed out that the redumption of assets will only give rise to corresponding increase in some other assets like cash/bank balance of the treasury segment. However, no such assets have been reported to the Hon'ble Court in the trial balance of treasury segment. The appellant has admitted that the Treasury Segment did not have a separate bank account. Thus, according to the A.O there was never a clear demarcation or separation of the assets of the Treasury Segment from the assets of the appellant as a whole and hence the basic condition of transfer of assets and liabilities of the undertaking under section 2(19AA) of the Act as a going concern, being demerged, has not been fulfilled. Further, the A.O has pointed out that out of total shares of SAIL i.e. 2,68,01,490 shares; 2,00,510 shares were purchased in F.Y.2006-07, 2,50,000 shares were purchased in F.Y.2007-08 and 31,000 shares were purchased in F.Y2009-10. The balance of 2,63,19,980 shares of SAIL were purchased before the Treasury Segment came into existence i.e. AY 2007-08. According to AO the appellant has not reflected the details of corresponding liability incurred for acquisition of shares of SAIL. Thus the AO has analysed the functioning of treasury segment as an 'undertaking' and the treatment given by the appellant for inclusion of certain assets and exclusion of liabilities from the treasury segment. Based on this AO has concluded that the appellant has never treated the treasury segment as an 'undertaking'. I agree with the finding of the AO based on facts discussed above.

On the issue of 'liability' of Treasury segment, according to A.O., as on 31/3/2009, the Treasury Segment had assets of Rs. 39,23,05,436/- and the liabilities were at Rs. 37,15,82,049/-. The accounts for the year

ending 31/3/2010 show the assets of Treasury segment of Rs. 36,24,90,963/- whereas the liability of Treasury Segment were reflected at Rs. Nil. Thus, it appears that the liabilities of Rs. 37,15,82,049/- as on 31/3/2009 were got reduced to Rs. Nil on 31/03/2010. The A.O has correctly observed that there is no corresponding reduction in assets or income generated as per trial balance of the appellant that could lead to reduction of liabilities. The appellant had tried to explain to the A.O that the liabilities were internal liabilities pertaining to the other segments of the company and hence they are not in the trial balance. I agree with the AO that if the liabilities of the treasury segments have been reduced to NIL then there has to be a corresponding effect on the assets of the treasury segment. The appellants explanation of liabilities belonging to other segments of the appellant does not hold good if the treasury segment had been treated as an undertaking by the appellant. Thus, the A.O has questioned the action of the appellant that in one year the liabilities were accounted for in the trial balance of the Treasury unit but were not accounted for in the subsequent years. This has resulted into transfer of only assets and NIL liabilities to SAIL as on 07/10/2010. Thus, the A.O has concluded that the Treasury Segment has not been transferred as a going concern leading to violation of sections prescribed u/s.2 (19AA) (i), (ii) of the act. According to the appellant the income generated out of the activities of the Treasury Segment has been offered to tax under the head capital gain and dividend income is claimed as exempt and no income of Treasury Segment was offered as business income. A.O has correctly pointed out that the various investments made by the appellant in the shares of Blue Information, IDBI, Trent etc. were investments and cannot be considered as business activities and so were the investments in mutual funds. Thus, according to the A.O as per the stand taken by the appellant the investments made by the Treasury Segment were always treated by the appellant as capital assets and it never treated the said investments as stock-in-trade or business assets. Therefore, according to the A.O., the stand of the appellant that the Treasury Segment was undertaking a business activity is not correct. A.O. has treated it as individual assets created from the surplus funds available with the appellant. Therefore, the transfer of assets as per the petition No.88 of 2010 cannot be treated as qualifying demerger of undertaking by the appellant when read with section 2(19AA) of the Act. It has been held by the Bombay High

Court in the case of Thomas Cook Insurance Services in the Company Scheme Petition No. 99 of 2015 with Company Summons for Direction No. 892 of 2014 dated 10/09/2015 that (para 5 of the order) "In any event, by sanctioning the present scheme, this court is not in any way accepting the company's case that the scheme, as framed, complies with the provisions of 'demerger' within the meaning of 2(19AA). In fact, this court is inclined to clarify that the sanction of the scheme, as proposed by this court, does not in any way bind the Income-tax Department to take any particular view of the scheme of arrangements sanctioned by this court insofar as the tax implications of the transaction are concerned." The A.O has also further pointed out that even after the demerger of the Treasury Segment the appellant has continued its investments in mutual funds etc. Thus, it appears that the treasury segment which had the holding of the shares of SAIL as its main assets was demerged to SAIL only for the purpose of transferring SAIL's own shares to SAIL in order to avoid the payment of taxes under the Act. The appellant has continued with its activity of investments after the demerger of treasury segment to SAIL or transfer of shares back to SAIL through demerger. Thus, I agree with the stand of the AO that through the order of Hon'ble High Court, the appellant has only effectively transferred its capital asset of shares to SAIL in order to avoid the payment of tax under the head 'capital gain'. The appellant through its audited accounts of earlier years as well as the year under consideration, has not treated the Treasury segment as an 'undertaking' which is one unit, or one division handling similar activities. The appellant has attributed certain activities only to the treasury segment as per its convenience. This has resulted into and it is clear from the submission of the appellant as well as the findings of the A.O that the profit of Treasury Segment was not ascertainable. The investment activities of the appellant, as rightly pointed out by the AO, have continued even after the treasury segment that was suppose to handle these activities, was transferred to SAIL. Thus, the intention of the appellant was never to transfer the investment activities undertaken by the treasury segment but to transfer certain assets only to SAIL without any liabilities. The liabilities of the treasury segment were reduced to Nil on the ground that they pertain to different divisions/segments. If a Macro view is taken on the overall transaction that has been undertaken by the appellant then it appears that as per the order of Hon'ble High Court, SAIL had issued 2961 equity shares of

Rs.10 each in lieu of 1000 equity shares of Rs. 10 each to shareholders of the appellant. Accordingly, the shareholders of the appellant were issued 2,68,01,557 shares of SAIL. Further, by means of the so called demerger of Treasury Segment the appellant had ended up transferring the shares of SAIL i.e. it's assets, numbering 2,68,01,490 held by the Treasury Segment back to SAIL, apart from few more assets and zero liability. Thus the appellant gave 2,68,01,490 shares of SAIL, worth of Rs. 32,23,24,536/-, held by treasury segment back to SAIL through the arrangement approved by hon'ble High Court and the shareholders of the appellant received 2,68,01,557 shares worth of Rs. 61,91,15,966/- of SAIL in return. I agree with the stand taken by the A.O and with due regards and respect to the order of Hon'ble High Court I hold that the said demerger was not as per the provisions of sec.2(19AA) of the Act for the reasons mentioned above. It is not a case wherein the AO is not accepting the order of Hon'ble High Court. It is case where the AO is applying section 2(19AA) of the Act to the appellant. Hon'ble High Court has not referred to section 2(19AA) of the Act in its order. With due respect the order of Hon'ble High Court, it is to be seen that for not considering a transaction as a transfer and thereby claiming exemption u/s 47(vib) r.w.s. 45 of the Act, whether the appellant has fulfilled all the conditions prescribed u/s 2(19AA) of the Act or not. I agree with the stand taken by the AO and based on the discussions above, hold that the appellant has not fulfilled all the conditions u/s 2(19AA) of the Act, thereby attracting tax under the head 'income from capital gain' on transfer of its assets. Transaction between the appellant company and SAIL will have to be treated as transfer of capital assets. Accordingly, I agree with the calculation of LTCG as worked out by the A.O. He has taken valuation of shares of SAIL at average amount attributable to shareholders for year ending of 31/3/2011 and 31/3/2010, resulting into average value of shares of SAIL at Rs. 23.10 and thereby resulting into capital gain of Rs. 13,19,12,485/-. Therefore, the levy of a capital gain taxes u/s.45 of the Act is hereby confirmed. Further, I also agree with the stand taken by the A.O that on sale of assets by appellant to SAIL the sale consideration of Rs. 61,91,15,966/- of the transferred assets was to be received by the appellant from SAIL. Instead, SAIL had paid this amount to shareholders of the appellant. Therefore, the assets of the appellant were distributed to the shareholders. Therefore, I agree with the AO that as per section 2(22) of the Act, the appellant has distributed its

> *assets/receivable from SAIL to its shareholders thereby attracting Dividend Distribution Tax on Rs. 61,91,15,966/-. Accordingly, the ground of appeal 1 & 2 are hereby dismissed."*

5.9 There is no conflict between the order of Hon'ble High Court and order of the Revenue authorities. The legal obligation of the Revenue Authorities to examine the taxability as per Section 2(22) and Section 2(19AA) cannot be treated as pre-empted by the Hon'ble High Court. A demerger is a corporate reorganization that involves separating a company into two or more entities. The Company Act governs demergers as a scheme of arrangement. Demerger requires approval by majority of shareholders holding shares representing three-fourths value in meeting convened for the purpose and sanction of Hon'ble High Court. It is a form of business restructuring wherein two or more components of a company are divided so that they can function independently. In short, de-merger means separation of a large company into one or more small companies. Companies (Compromises, Arrangements and Amalgamations) Rules outline the application and approval process of a demerger. Demerger can be by an agreement or by an arrangement among the shareholders wherein principal company may outgrow its specific undertakings to the resulting company. All the property, liabilities and issues of the demerged company, transferred to the resulting company immediately before the demerger, becomes the property, liabilities and issues of the resulting company. Under section 47(vib) of the Income Tax Act, 1961, a demerger involving transfer of capital assets by the demerged company to the resulting company (Indian Company). will not attract levy of capital gain tax. Similarly, under section 47(vid) of the Income Tax Act, 1961 if there is an issue or transfer

of shares by the resulting company in consideration of the demerger of the said undertaking(s), to the shareholders of the demerged company, the transaction will not be amenable to capital gains tax. At the same time, a demerger as mentioned in Section 2(19AA) of the Income-Tax Act, 1961 is subject to fulfilling the conditions stipulated in Section 2(19AA) of the Act and shares have been allotted by the 'resulting company' to the shareholders of the 'demerged company' against the transfer of assets and liabilities. The process of demerger generally consists of following transactions:

- Transfer of assets and liabilities by the transferor company to the resulting transferee company;

- Transfer/ extinguishment of shares of the transferor company; and

- Issuance of shares of resulting transferee company to the shareholders of the transferor company.

All the abovementioned transactions have been specifically exempted from the levy of capital gains tax by virtue of various clauses forming a part of Section 47 of the IT Act subjected to the applications of provisions of Section 2(19AA) of the Act. It is also settled position of law that the scheme of demerger once approved by the Hon'ble Jurisdictional High Court, it cannot be re-visited by any statutory authority. At the same time, the provisions of Income-tax Act had prescribed the conditions under which the benefits can be accorded in the case of demerger which means that mere fact that ipso facto does not entitle an assessee to claim benefit.

The Income-tax Act operates in its own arena in conjunction with the order of the Hon'ble High Court. The harmonious interpretation of the Corporate Law and Income-tax Law and the Orders of the Hon'ble High Court is sine qua non for the benefit of the tax payer as well as for the interest of the exchequer. The vary purpose of demerger which is for better conducting of the business cannot be curtailed by the Income-tax Department and the assessee would be eligible for business in accordance with the provisions of Section 2(19AA) Section 2(22)(a) & Section 47. In the instant case, the assessee failed to comply with the provisions of Section 2(19AA) (ii) & (iii). Hence, the order of the Ld. CIT(A) on these grounds are affirmed.

In the result, Ground Nos. 1 & 2 of the assessee's appeal are dismissed.

6. *Ground No. 3: Disallowance under section 14A of the Act.*

6.1 The brief facts relating to this issue are that the assessee has investment of Rs.47,93,23,273/- at the beginning of the year and Rs. 48,17,13,569/- at the end of the year. In the computation of income, the assessee has claimed dividend income of Rs. 1,58,87,877/-. In the computation of income, the assessee has disallowed a sum of Rs. 17,39,793/- u/s 14A. Since the Assessing Officer was not satisfied with the correctness of the claim of the assessee in respect of expenditure incurred in relation to income which does not form part of total income, an amount of Rs. 31,77,369/- was determined as expenditure by the Assessing Officer.

6.2 Aggrieved by the order of the Assessing Officer, the assessee carried the matter in appeal before the Ld. CIT(A) who confirmed the addition made by the Assessing Officer on this count.

6.3 Aggrieved, the Assessee is now in appeal before us.

6.4 Before us, Ld. Counsel for the assessee contended that :-

- As per section 14(1) of the Act only those expenses which have a proximate nexus with the exempt income can be disallowed under section 14A of the Act. Thus, expenses which are actually incurred for earning tax free income is to be disallowed and it cannot be assumed that the expenses may have been incurred for earning tax free income.
- Reliance in placed on the Delhi Tribunal decision in case of Wimco Seedlings Limited vs DCIT (107 ITD 267), wherein it is held that there can be no presumption that the assessee must have incurred expenditure to earn tax free income.
- All the investments yielding exempt income were made out of own funds. As per audited financial statements of RBHIL, RBHIL had own funds of Rs. 137,47,75,048 (share capital of Rs.9,05,15,220plus free reserves of Rs. 128,42,59,828) for the year ended 31 March 2011. As against these owned funds, investment yielding exempt income amounted to only Rs.37,54,06,040.
- That RBHIL had generated net cash from its operating activities amounting to Rs. 104,15,44,432 whereas additional investment made during the year yielding exempt income amounted to only Rs. 2,57,97,695.

The Ld. Counsel for the assessee, therefore, argued that, as investments were made by RBHIL from its own surplus funds and no expenses were incurred by RBHIL with respect to the aforesaid investments, the question of applicability of Section 14A of the Act does not arise.

6.5 The Ld. DR, placing reliance on the assessment order, contended that the Assessing Officer has rightly made the disallowance u/s 14A of the Act and relied on the order of the Tribunal in assessee's own case in ITA No. 3098/Ahd/2013 for AY 2008-09.

6.6. We have heard the rival contentions and perused the material available on record on this issue. We find that the similar issue has been decided by the Tribunal in assessee's own case for the AY 2008-09 in ITA No. 3098/Ahd/2013, wherein the Tribunal has held as under:-

> *"7. We have heard both the sides and perused the material on record carefully on this issue. We noticed that during the year under consideration assessee company had earned dividend income of Rs. 89,27,021/- which was claimed as exempt u/s. 10(34) of the act. In the computation of income, the assessee had disallowed an amount of Rs. 8,34,503/- u/s. 14A of the act as expenses incurred towards earning tax free income. We have gone through the balance sheet and profit and loss account filed and noticed that assessee has share capital and reserves funds totalling of Rs. 146,71,08,964/- as on 31st March, 2008. As per balance sheet as on 31st March, 2008, the assessee has secured loan amount was Rs. 5,54,55,955/- which was Rs. 3,73,068,602/-as on 31 March, 2007. We have noticed that there is no unsecured loan appearing in the balance sheet of the assessee as on 31st March, 2008. It has total investment in mutual fund to the amount of Rs. 20,22,72,726/- as per schedule 6 of investments to the balance sheet as on 31st March, 2008. These facts demonstrate that assessee was having enough interest free own fund and there was no unsecured loan reflected in the balance sheet of the company. Therefore, we are not inclined with the decision of the Id. CIT(A) to make disallowance in respect of interest expenses to the amount of Rs. 23,28,570/- u/s. 14A of the act.*

However in respect of administrative expenses we find merit in the finding of the assessing officer that assessee has not maintained separate accounts for the treasury division and it has also failed to furnish the relevant basis for allocation of this expenses and also failed to substantiate with relevant material for not allocating the common management expenses towards administrative expenses In the light of the above facts and circumstances we justify the decision of the Ld.CIT(A) for the disallowance u/s 14A r.w. Rule 8D to the extent of Rs. 19,491/- as computed by the assessing officer in para 8.11 of the assessment and we delete the other part of expenses in the category of interest disallowance to the amount of Rs. 23,28,570/- for the reason supra in this order. Accordingly, the appeal of the assessee is partly allowed."

6.7 During the year, the Assessing Officer made disallowance on account of interest expenses of Rs.7,74,777/- (page No. 37 of Assessment Order). Respectfully following the decision of the Tribunal in assessee's own case for AY 2008-09 (supra), the disallowance made by the Assessing Officer u/s. 14A of the Act to the extent of interest expenses amounting to Rs.7,74,777/- is hereby deleted.

This ground of appeal of the assessee is partly allowed.

6.8. In the result, the appeal of the assessee is partly allowed

ITA No. 1225/Ahd/2018 – Revenue's Appeal

7. Product registration expenses - Rs.1,57,98,657/-

7.1 The Assessing Officer held that the claim of the assessee on account of product registration expenditure of Rs.1,57,98,657/- is Capital Expenditure on the grounds that in assessee's line of business, the goods cannot be exported to other countries unless and until the products are approved and registered with the authorities of the respective countries and the process of getting the products registered itself is a long drawn

process wherein the goods/drugs have to pass through a series of tests and studies of bio-equivalence and clinical research to the satisfaction of the authorities of those countries. The Assessing Officer held that once the product is registered and approval is granted by the particular country, the assessee can continue to export its goods over a long period of time; but unless and until, the product is registered, those goods cannot be exported to those countries. The Assessing Officer held that the Marketing Intangibles are created by these product registration expenses and hence, it is a capital expenditure not allowable u/s 37(1) of the Act.

7.2 Aggrieved, the assessee went in appeal before the Ld. CIT(A), who relied on the decisions of Ld. CIT(A) for the preceding years i.e. AYs 2008-09 to 2010-11, deleted the disallowance of Rs.1,57,98,657/- on account of product registration.

7.3 We find that the Tribunal affirmed the action of the Ld. CIT(A) on this issue. For the sake of ready reference, the relevant part of the order of the ITAT in ITA No. 126/Ahd/2014 for AY 2008-09 (para 12) is reproduced hereunder:-

> *"12. During the course of appellate proceedings before us we have heard both the sides on this issue and perused the material on record. It is noticed that assessee has incurred these expenses for registering its product in various countries to enable the assesee to sell the product in such counties. We observed that in absence of registration, the assessee would not be able to sell the product in the foreign countries as per the regulatory requirement of different countries, it is mandatory to get the product of the assessee registered in respect of counties for the purpose of selling in the overseas markets. Therefore, the finding of the assessing officer that assessee is getting benefit of*

enduring nature of registration of product has no merit. In the light of the above facts and circumstances we observed that Id. CIT (A) has correctly deleted the impugned addition, therefore, the appeal of the revenue is dismissed on this issue."

In the absence of any change in the factual matrix and the legal preposition, we decline to interfere with the order of the ld. CIT(A) on this issue.

This ground of appeal of the Revenue is dismissed.

8. *Reduction of claim u/s 80IC - Rs. 48,95,15,652/-*

8.1 This ground relates to the deletion of addition by the Ld. CIT(A) of Rs.48,95,15,652/- made by the Assessing Officer on account of reduction of claim u/s 80IC of the Act. In this regard, the Assessing Officer observed that the assessee has claimed a sum of Rs.98,94,80,551/- as deduction u/s.80IC of the Act for its unit at Baddi, Himachal Pradesh being 100% of the profit of the unit. On perusal of the accounts of the assessee, the Assessing Officer held that the turnover of this unit as per the P&L Account filed for the unit was shown at Rs.326,34,37,682/-. He, thus, held that since the Baddi unit of the assessee-company only possesses manufacturing assets and is engaged solely in manufacturing activities, the profits of the Baddi unit should be restricted to those derived from manufacturing alone. He thus held that the profits must be segregated into three components: profits from manufacturing activities, profits from brand value of the assets, and profits from the marketing network. The Assessing Officer held that the Baddi unit was set up merely for manufacturing purposes, while other functions such as marketing and vendor management are controlled from the Head Office of the assessee-

company, thus held that the unit was entitled to a deduction based only on the profits attributable to its manufacturing activity. He also held that the expenditure allocated to the Baddi unit during the year under consideration does not represent marketing expenses incurred earlier. He, accordingly, reduced the profits eligible for deduction u/s 80IC of the Act to Rs.49,99,64,899/-, by disallowing Rs.48,95,15,652/- being 15% of Rs.326,34,37,682/-.

8.2 Aggrieved by the addition made by the Assessing Officer, the assessee filed appeal before the Ld. CIT(A) who, relying on the order of his predecessor on this issue for AY 2011-12, allowed the claim of deduction of the assessee.

8.3 Aggrieved by the relief given by the Ld. CIT(A) on this issue, the Revenue is in appeal before the Tribunal.

8.4 Before us, the Ld. DR argued that :-

- Since the Baddi unit has only manufacturing assets and carries out only manufacturing function/activities, profits of Baddi unit should be restricted to profits attributable towards manufacturing activities only.
- The profits would need to be segregated in to profits derived from manufacturing activity, derived from brand value of the assets and derived from the marketing network.
- By setting up of the unit at Baddi, the assessee has only set up a facility for the manufacturing function, whereas all other functions of marketing, vendor management etc., are being controlled from

the head-office. Hence, by setting up of the manufacturing facility, the unit is entitled deduction only to the extent of manufacturing profit.

- Expenditure allocated to the Baddi unit during the year under consideration does not represent marketing expenses incurred earlier.

And reiterated contents of the order of the Assessing Officer

8.5 On the other hand, Ld. AR contended that :-

- All the conditions of section 80IC of the Act has been complied with and hence profits derived by the business carried on by the Baddi unit is eligible for deduction in accordance with the provisions of the said section. AY 2008-09 is the second year of the claim of deduction under section 80-IC of the Act and the claim of the deduction was accepted by the Revenue in the scrutiny proceedings under section 143(3) of the Act. Further there is no dispute on compliance of conditions of section 80IC of the Act.
- The Appellant is maintaining separate books of accounts for Baddi and Kalol unit and all the incomes and expenses of each unit have been accounted for directly in the respective books. Further, all the common expenses i.e. sales promotion, administrative and selling expenses etc. have been accounted for on actual/ allocated on the basis of sales. Further there is no dispute by the Revenue on allocation of expenses, between eligible unit and non-eligible unit.

- Tax deduction is admissible on the profits earned from the business carried on by the undertaking and 'business' means group of organized activities with a view to earn profits.

- There is no provision in section 80IC of the Act which allows splitting up of the business activities i.e. manufacturing, marketing and branding in the given case.

- Baddi unit is selling goods directly and hence all the activities ie hiring of labours, procurement of raw materials, consumables and stores, manufacturing, packaging and labeling, undertaking marketing and sales promotions efforts and finally dispatching the goods together constitutes the business and hence profits attributable to business as a whole would be eligible for tax deduction.

- In the given facts profits has been derived only from the sale of goods and goods have been sold to customers only and not transferred to any other units of the Appellant for the further value addition.

- It is not alleged that there is transfer of goods/ services between eligible unit and ineligible units and therefore there is no question of applicability of provisions of section 80-IC (7).

- In the given case, brands are owned by the Appellant, a legal entity and not by any division or unit. Further, brands are self-generated brands and not acquired by the Appellant and hence notional adjustment for charging of royalty is not permissible.

- It was also submitted that if Baddi unit should bear the cost of royalty, in that scenario entire selling and distribution expenses incurred by them are required to be excluded while computing the commercial profits of the Baddi unit as the same is the responsibility of the brand owner.

- It is submitted that that the profit to turnover of Baddi unit (16.43%) is less as compared to the Kalol unit (19.79%).

- There is no change is facts and circumstances as compared to AY 2007-08 and since, claim of deduction under section 80-IC was allowed by the AO after due verification, therefore principle of consistency is applicable and claim of deduction under section 80-IC cannot be disturbed for the year under consideration.

8.6 We find that this issue stands covered in assessee's own case by the order of the ITAT dated 27 August 2018 in ITA no. 3098/Ahd/2013, 1272 & 1547/Ahd/2015 [Para 17]. For the sake of ready reference, the same is reproduced hereunder:-

> "*17. We have heard the rival contentions and perused the material on record on this issue. The Baddi unit has derived profit from the selling of the product manufactured by it. The profit cannot be derived of only manufacturing activities unless the manufactured goods are sold. It is required to complete the whole cycle consisting of different components i.e. production, marketing and selling of product etc. It is undisputed facts that in most of the cases the manufacturing unit and its sale and marketing units are situated at different places in order to capture the market of the product on different geographical locations. We observe that assessee has carried all its business activities as a whole business and the same cannot be segregated from each other. After perusal of material on record we observe in the case of the*

assessee the sale and market division are the integral part of the manufacturing unit which cannot be separated on artificial basis. In the case of the assessee there are only two units located at Kalol and Baddi and while claiming tax benefits incomes and expenses incurred for Kalol units has been reduced from the total profits and deduction has been claimed on the basis of profit attributable to Baddi unit. The marketing and distribution costs are generally allocated on the basis of turnover on scientific basis therefore we do not justify the action of the assessing officer of segregation of profit to Baddi unit on assumption basis. In the given facts in the case of the assessee all the activities from beginning to end of the process together constitute the business of Baddi unit and profit derived from the entire process is eligible for the tax holiday and not from separate activities of the unit. In such circumstances, provisions of section 80IC do not require assessee to split the activities and contribute the profit attributable to separale activities which constitute one business. We have also considered the decision of the coordinate bench in the case of Cadila Healthcare Ltd. vide ITA No.3140/Ahd/2010 wherein on identical facts on claim of deduction from eligible profits derived by a Baddi unit of a pharmaceutical company it is held that that eligible profits should not be artificially segregated in to manufacturing, marketing and brand profits."

8.7 Respectfully following the order of the co-ordinate bench of this Tribunal in assessee's own case in ITA Nos. 3098/Ahd/2013, 1272 & 1547/Ahd/2015 (order dated 27.08.2018), and in the absence of any change in the factual matrix and the legal preposition, we decline to interfere with the order of the ld. CIT(A) on this issue.

This ground of appeal of the Revenue is dismissed.

9. Scrap Sale Income - Rs.35,05,685/-

9.1 The brief facts leading to this issue are that the assessee had earned miscellaneous income comprises of scrap income of Rs.3505,685/- from

Baddi unit for the year under consideration. Assessee claimed it as deduction u/s 80IC of the Act as it was disposed off having no alternative use. The assessee submitted before the Assessing Officer that the same is eligible for deduction under section 80IC of the Act as the income from scrap sale generated through production process reducing the cost of production and the same has direct nexus with the business income of the eligible unit. Assessing Officer rejected these contentions of the assessee and held that that scrap income does not have first degree of nexus with the manufacturing profits. He, accordingly, following the decision of the Apex Court in the case of Liberty India (317 ITR 216), disallowed the scrap income while computing the deduction under section 80IC of the Act.

9.2 Aggrieved by the order of the Assessing Officer, the assessee has filed appeal before the ld. CIT(A) who deleted the addition.

9.3 Aggrieved by the order of the Ld. CIT(A), the Revenue filed appeal before the Tribunal.

9.4 Before us, Ld. DR contended that :-

- The contentions of the assessee cannot be accepted in view of the fact that scrap income does not have first degree of nexus with the manufacturing profits.

- Ld. DR has relied on the judgment of the Hon'ble Apex court in the case of Liberty India (317 ITR 216) wherein it was held that the profits of the business of the undertaking will include only those streams of income which have close and direct nexus with the undertaking. Relevant extract is reproduced as under:

> *14. Analyzing Chapter VI-A, we find that Sections 80-IB/80-IA are the Code by themselves as they contain both substantive as well as procedural provisions. Therefore, we need to examine what these provisions prescribe for "computation of profits of the eligible business". It is evident that Section 80-IB provides for allowing of deduction in respect of profits and gains derived from the eligible business. The words "derived from is narrower in connotation as compared to the words "attributable to". In other words, by using the expression "derived from", Parliament intended to cover sources not beyond the first degree. On analysis of Sections 80-IA and 80-1B it becomes clear that any industrial undertaking, which becomes eligible on satisfying sub-section(2), would be entitled to deduction under sub-section (1) only to the extent of profits derived from such industrial undertaking after specified date(s). Hence, apart from eligibility, sub-section (1) purports to restrict the quantum of deduction to a specified percentage of profits. This is the importance of the words "derived from industrial undertaking" as against "profits attributable to industrial undertaking".*

9.5 The Ld. AR, on the other hand, contended that :-

- Scrap generated during manufacturing process does not have any alternative use and hence the same is disposed off.

- The income generated from sale of scrap reduces the actual cost of production of the products manufactured by the respective units and hence is considered as part of profits derived by the units from its business of manufacture for deduction under section 80IC of the Act.

- Business of manufacture can be said to commence not only when the raw material is subjected to the physical process of manufacture but it also cover the incidental processes of preparation for manufacture, finishing and packing.

- There is no change is facts and circumstances as compared to AY 2008-09 to AY 2010-11 and since, claim of deduction under section 80-IC was allowed by ITAT vide MA after due verification, therefore principle of consistency is applicable and claim of deduction under section 80-IC cannot be disturbed for the year under consideration.

9.6 Heard both the parties and perused the material available on record. We find that the issue stands covered by the decision of Tribunal in assessee's own case for AY 2009-10 in ITA No.1366/Ahd/2015 [Para 14]. For the sake of ready reference, the same is reproduced hereunder:-

> *"14. We have heard the rival contentions and perused the material on record. We observed that the Calcutta High Court in the case of Reckitt Benckiser Healthcare (I) Ltd. reported in 56 taxmann.com 415 has held that profits and gains from scraps resulting in manufacturing process were eligible for deduction u/s. 80IC. Again, the Gujarat High Court in the case of CIT vs. Shreeram Tech Ltd. 33 taxmann.com 194 has held that compensation received by industrial undertaking from insurance companies on account of loss raw materials and finished products in fire, would be eligible for deduction u/s. 80IA of the Act. In view of the above, we do not find any infirmity on the order of ld. CIT(A) in allowing the claim of deduction u/s. 80IC of the Act on scrap income. We accordingly hold that the assessee is eligible for deduction u/s. 80IC of the Act on income from sale of scrap."*

9.7 Respectfully following the order of the co-ordinate bench of this Tribunal in assessee's own case in ITA No.1366/Ahd/2015 order dated 16.03.2022, and in the absence of any change in the factual matrix and the legal preposition, we decline to interfere with the order of the ld. CIT(A) on this issue.

This ground of appeal of the Revenue is dismissed.

10. Disallowance u/s *40(a)(ia) of the Act - Rs. 2,06,85,173/-*

10.1 Assessing Officer observed from Form 10CCB submitted by the assessee that the assessee's computation for eligible profits u/s 80IC included a sum of Rs.2,06,85,173/- which was the amount disallowed u/s 40a(ia). Thus, he held that, to the extent of the disallowed expenses, the profits of the eligible undertaking u/s 80IC increased and the assessee claimed enhanced deduction u/s 80IC. Accordingly, the assessee's claim of deduction u/s 80IC on the disallowance made under section 40(a)(ia) was disallowed. Aggrieved by this disallowance, assessee took up this issue before Ld. CIT(A) who allowed the claim of deduction relying upon the decision of his predecessor for AYs 2009-10 & 2010-11.

10.2 Ld. DR argued that the enhancement of profit on account of disallowance u/s 40(a)(ia) cannot increase the deduction u/s 80IC. He relied on the judgment of ITAT Ahmedabad 'C' Bench in the case of Rameshbhai C. Prajapati (Appeal no. 226/Ahd/2010 dt. 21.09.2012) wherein in was held as under:-

> *"it is settled principle that the deeming fiction created under any provisions of the Act cannot be imported into a beneficial provisions of the Act. In this case, the addition made on account of disallowance of expenditure is due to the deeming fiction created by the penal section 40(a)(ia) of the Act. Thus, the effect of the same cannot be imported into a beneficial provision vis-a-vis section 80-IB(10) of the Act. While computing deduction u/s 80-IB (10) of the Act, the plain meaning of the language of the Act has to be given effect. The legal fiction created by virtue of section 40(a)(ia) cannot be extended to determine the profit of the business for the purpose of computing deduction u/s 80-IB(10) of the Act. Section 80-IB(10) of the Act has to be applied only for the definite and limited purpose for which it is created. In the case of Executors & Trustees of Sir Cawasji Jehangir v. CIT [1959] 35 ITR 537*

(Bom), it has been explained that unless it is clearly and expressly provided, it is not permissible to impose a supposition on a supposition of law. It is not permissible to sub-join or track a fiction upon fiction. In the light of the above, it is apparent that as far as arriving at the deduction u/s 80 IB of the Act is concern one has to strictly follow the provisions of that section and compute the deduction accordingly without infusing any other provision of the Act which creates a legal fiction."

10.3 Before us, Ld.AR contended that :-

- If at all addition is made u/s 40(a)(ia) of the Act, total income of the Appellant will increase to the extent of addition made and consequently deduction under section 80IC of the Act is required to be enhanced to the extent of addition made.
- There is no change is facts and circumstances as compared to AY 2008-09 to AY 2010-11 and since, claim of deduction under section 80-IC was allowed by ITAT vide MA after due verification, therefore principle of consistency is applicable and claim of deduction under section 80-IC cannot be disturbed for the year under consideration

10.4 Heard both the parties and perused the material available on record. We have also gone through the CBDT Circular No. 37/2016, which reads as under:-

CIRCULAR NO. 37/2016

F.No.279/Misc./ 140/2015/ITJ
Government of India
Ministry of Finance,
Department of Revenue
Central Board of Direct Taxes

New Delhi, Dated 2nd November 2016

Subject: Chapter VI-A deduction on enhanced profits- Reg.

Page 1

Chapter VI-A of the Income-tax Act, 1961 ("the Act"), provides for deductions in respect of certain incomes. In computing the profits and gains of a business activity, the Assessing Officer may make certain disallowances, such as disallowances pertaining to sections 32, 40(a)(ia), 40A(3), 43B etc., of the Act. At times disallowance out of specific expenditure claimed may also be made. The effect of such disallowances is an increase in the profits. Doubts have been raised as to whether such higher profits would also result in claim for a higher profit-linked deduction under Chapter VI-A.

2. The issue of the claim of higher deduction on the enhanced profits has been a contentious one. However, the courts have generally held that if the expenditure disallowed is related to the business activity against which the Chapter VI-A deduction has been claimed, the deduction needs to be allowed on the enhanced profits. Some illustrative cases upholding this view are as follows:

(i) If an expenditure incurred by assessee for the purpose of developing a housing project was not allowable on account of non-deduction of TDS under law, such disallowance would ultimately increase assessee's profits from business of developing housing project. The ultimate profits of assessee after adjusting disallowance under section 40(a)(ia) of the Act would qualify for deduction under section 80-IB of the Act. This view was taken by the courts in the following cases:

- Income-tax Officer - Ward 5(1) vs. Keval Construction, Tax Appeal No. 443 of 2012, December 10, 2012, Gujarat High Court.'
- Commissioner of Income-tax-IV, Nagpur vs. Sunil Vishwambharnath Tiwari, IT Appeal No. 2 of 2011, September 11, 2015, Bombay High Court.[2]

(ii) If deduction under section 40A(3) of the Act is not allowed, the same would have to be added to the profits of the undertaking on which the assessee would be entitled for deduction under section 80-IB of the Act. This view was taken by the court in the following case:

- Principal CIT, Kanpur vs. Surya Merchants Ltd., I.T. Appeal No. 248 of 2015, May 03, 2016, Allahabad High Court.[3]

The above views have attained finality as these judgments of the High Courts of Bombay, Gujarat and Allahabad have been accepted by the Department.

3. In view of the above, the Board has accepted the settled position that the disallowances made under sections 32, 40(a)(ia), 40A(3), 43B, etc. of the Act and other specific disallowances, related to the business activity against which the Chapter VI-A deduction has been claimed, result in enhancement of the profits of the eligible business, and that deduction under Chapter VI-A is admissible on the profits so enhanced by the disallowance.

4. Accordingly, henceforth, appeals may not be filed on this ground by officers of the Department and appeals already filed in Courts/ Tribunals may be withdrawn/ not pressed upon. The above may be brought to the notice of all concerned.

(K. Vamsi Krishna)
ACIT (OSD)(ITJ),
CBDT, New Delhi.

Having gone through the circular, we hold that the Assessing Officer has erred in disallowing the deduction and we uphold the order of the Ld. CIT(A) on this issue.

This ground of appeal of the Revenue is dismissed.

11. ***Disallowance on account of provision for expiry of goods. - Rs.4,10,00,000/-***

11.1 Assessing Officer observed that the assessee had claimed amount of Rs.4,10,00,000/- on account of provision for expiry of returned goods. The Assessing Officer held that this is not an expenditure, but a future expectation of incurring certain expenditure which may be more or less than for what provision is made. The Ld. CIT(A) deleted the addition on the ground that the assessee has recognized the provisions for sales return based on scientific basis and past experience and hence the same was alloawable expenditure.

11.2 We find that this issue stands settled by now in favour of assessee by various orders of the Hon'ble Apex Court viz.

i) M/s. Rotork Controls India Pvt. Ltd. Vs. CIT, 314 ITR 62 (SC);
ii) CIT Vs. Woodward Governor Pvt. Ltd., 312 ITR 254 (SC),
iii) CIT Vs. U.P. State Industrial Development Corporaiton, 225 ITR 703 (SC);
iv) Challapalli Sugars Ltd Vs. CIT, (98 ITR 167)

In view of the above, we see no reason to interfere with the order of the Ld. CIT(A) on this issue.

This ground of appeal of the Revenue is dismissed.

12. In the result, appeal of the Revenue is dismissed.

13. To sum up, assessee's appeal is partly allowed and Revenue's appeal is dismissed.

The order is pronounced in the open Court on 18.02.2025

Sd/-	Sd/-
(SUCHITRA KAMBLE) **JUDICIAL MEMBER**	**(DR. B.R.R. KUMAR)** **VICE-PRESIDENT**

Ahmedabad; Dated 18/02/2025
btk

<u>आदेश की प्रतिलिपि ग्रेषित/Copy of the Order forwarded to</u> :

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

आदेशानुसार/ BY ORDER,

True Copy

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad