

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGARAO, JUDICIAL MEMBER AND
SHRIK.M. ROY, ACCOUNTANT, MEMBER

ITA no.62/Nag./2024
(Assessment Year : 2020-21)

Dy. Commissioner of Income Tax
Circle-4, Nagpur

..... Appellant

v/s

Sonu Monu Agro Pvt. Ltd.
212, Small Factory Area
Lakadganj, Nagpur 440 008
PAN – AASCS0627E

..... Respondent

Assessee by : Shri Manoj Soni
Revenue by : Shri Sandipkumar Salunke

Date of Hearing – 17/12/2024

Date of Order – 03/03/2025

ORDER

PER V. DURGA RAO, J.M.

This appeal by the Department is directed against the impugned order dated 07/12/2023, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*"learned CIT(A)"*], for the assessment year 2020-21.

2. The Department has raised following grounds:-

"1. Whether on the facts and circumstances of the case and in law, the Hon'ble CIT(A) erred in deleting the addition made by the AO ignoring the fact that assessee claimed depreciation against the factory building in which mushroom production was carried out, business expenses carried out for mushroom cultivation then the corresponding income arises cannot be treated as 'Agricultural Income'.

2. *Whether on the facts and circumstances of the case and in law, the Hon'ble CIT(A) erred in treating income from production of mushrooms as agricultural income.*

3. *Any other ground which may be raised at the time of hearing with the permission of Hon'ble ITAT."*

3. The assessee is a corporate entity filed its return of income on 31/03/2021 electronically, declaring total income of ₹ 1,91,24,370. During the year under consideration, the assessee-company was engaged in various activities namely Daal Mill, Cold Storage / Warehousing and Mushroom cultivation activity and produced Button Mushrooms meant for human consumption i.e., edible mushrooms. The case was selected for complete scrutiny under CASS and statutory notice u/s 143(2) of the Income Tax Act, 1961 ("*the Act*"). The Assessing Officer observed that the assessee company has shown composite turnover from Daal Processing business, Cold storage unit and Manufacturing of Mushrooms amounting to ₹ 51,07.01,078. The assessee also claimed composite expenses and composite depreciation against manufacturing of Daal Cold storage service and manufacturing / producing of mushrooms. The Assessing Officer discussed this issue in its assessment order vide Page-10 to 13, which reads as under:-

"The assessee company has high creditors/liabilities total amounting to Rs. 48,51,93,844/-. The assessee company has shown huge unsecured loans taken from various persons' including directors, family members of directors and their HUFs total amounting to Rs. 13,52,09,623/-. The amount received from creditors is utilized to square up the loans, and acquisition of new fixed assets. The creditors are mainly the family members of the directors of the company. It has been observed that the assessee is not paying any interest against most of the unsecured loans. The same are accepted here because, the assessee has submitted confirmations of accounts of unsecured loans along-with PANs thereof.

During the course of assessment proceedings it was observed that the assessee company has shown composite turnover from Daal Processing

business, Cold storage unit and Manufacturing of Mushrooms amounting to Rs. 51,07,01,078/-. The assessee also claimed composite expenses and composite depreciation against manufacturing of Daal, Cold storage service and manufacturing/producing of mushrooms. In the last at column No. 5C(1) scheduled BP of ITR the assessee abruptly claimed an amount of Rs. 7,25,19,339/- as agriculture income out of the net profit of business of Rs. 9,01,43,318/- determined under the head -Income from business on profession.

During the course of assessment proceedings it was also observed that the assessee company has claimed agriculture income of Rs. 7,25,19,339/-, from selling of mushrooms amounting to Rs. 20,15.99.694, out of which total cash sales are of Rs. 13.21.13.755 more i.e than 65% of total sales. It is worthwhile to mentioned that. As per various judicial decisions farming of mushroom is a business, and not the agriculture one.

Further, the income from mushroom production/manufacturing is not an agricultural income because of the following facts/reasons in the instant case

1. As the mushroom business is being run from factory buildings with the help of plant and machinery and the assessee is claiming depreciation against building plant and machinery total amounting to Rs. 4,20,23,114/-ie including the assets used in production of mushrooms, inter alia. First of all this is the business income that's why only the prudent assessee claimed composite depreciation amounting to 4,20,23,114/- Secondly, if this is not a business income then the assessee is not eligible for claiming expenses of Rs. 12.9 Crore and depreciation against agricultural income from production of mushroom and the proportionate percentage of depreciation of Rs. 4,20.23.114/- and the expenses claimed against impugned agriculture income are liable to be disallowed and required to be added back to the total income of the assessee. As per section 10(1) of the I.T. Act, 1961, the agriculture income is the income which do not form part of total income and as per section 14A(1) of the I.T. Act, 1961 for the purposes of computing the total income under this Chapter, no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income which does not form part of the total income. The Prudent assessee might have suo-moto disallowed the expenses amounting to Rs. 12.90 Crore and percentage of depreciation of Rs.4,20,23,114/-, on proportionate basis, if it was an agriculture income, but the same are claimed on aggregate basis because this is the business income as the assessee knew very well.

Long ago the Hon'ble Supreme Court has interpreted meaning of actually allowed as used in provision relating to depreciation allowance under old and new provisions both. Recently the Hon'ble Supreme Court in case of Doom Dooma Tea (2009- TMI 32437-Supreme Court) considered two examples for computing business income of tea namely taking 40% of revenue expenses and depreciation and other example by taking 100% of revenue expenses and depreciation and then taking 40% proportionate income as business income liable to tax. In both cases Hon'ble Supreme Court found that only 40% of total allowable depreciation at prescribed rates is actually allowed and only such actually allowed and only such actual allowance can be deducted from cost to determine WDV. And these decisions squarely applicable in the assessee's case. Since, this is the business income including other business

activities therefore. the expenses amounting to Rs. 12,90.80.355/- and proportionate portion of depreciation of Rs 4,20,23,114/- is accepted.

2. *The Hon'ble Supreme Court in the case of CIT Vs. Raja Benoy Kumar*

Sahas Roy (1957) [32 ITR 466] held that, income derived from some measure of cultivation of land with some expenditure of human skill and labour, renders the profit derived from the product agriculture income which would be exempt u/s. 2(1A) of the Act. In the case of CIT Vs. Kokine Dairy (1938) [6 ITR 502], it was held that the term 'agriculture' does not cover activities remotely connected with land and when the assessee has not performed the basic operations on land, the income derived was held not to be agriculture income. Some of such instances are income from coconut thopes, income from sale of cocoons, income from sale of eucalyptus oil. The same is squarely applicable to the case of the assessee.

3. *As the assessee company is manufacturing/ producing the mushrooms in a factory building situated at Kh. No 32/5 Mauza lihgaon Area, Jabalpur Ring Road. Tq. Kamptee Dist. Nagpur, the assessee also taking benefit of depreciation on this factory building. Therefore, the income from production of mushrooms cannot be treated as agriculture income. In the light of the decision of Hon'ble ITAT in the case of Chander Mohan Vs ITO ITA No. 389/Chd/2012 assessment year 2003-04, in which the Hon'ble ITAT has disallowed the claim of agriculture income from selling of mushrooms produced in a shed situated in municipal limits, the income from producing and selling of Mushrooms is business income.*

4. *Mushrooms are grown by the assessee in 'growing rooms' under 'controlled conditions' in racks placed on shelves above land and on Compost (manure) which is prepared with paddy straw, Horse manure, Chicken manure, Gypsum and Urea which is not land by any stretch of imagination, Hence the activity is not agricultural activity.*

5. *Rule 7A 7B and 8 of the Income Tax Rules, 1962 were referred to in support of the contention that unless income is derived from performing basic operations on the land, the same could not be construed as 'agriculture income. But in the case of assessee it is clear that no basic operations on the land are being performed.*

6. *In its reply, the assessee relied upon the decision of Hon'ble ITAT special Bench Hyderabad in the case of Dy. Commissioner Vs M/s INVENTAA Industries Pvt Ltd vide ITA No. 1015 to 1018/ Hyd/2015, but the same is not acceptable. It is important to note that no operations are, carried out on land in the case of the assessee. In the detailed submissions made by the assessee, which ran into several pages, there is no categorical assertion by the assessee that some of the basic operations are carried out on land. On the reliance placed by the assessee with regard to the definition of 'land' as given in the Black's Law Dictionary, he held that soil could be construed as "land", as per the dictionary meaning, if and only if, it remains attached to the earth. It held that the argument that soil even if removed from land would still be land, does not hold water in as much as no soil was used by the assessee for growing / producing mushrooms. Therefore, this reliance is not applicable at all to the case of the assessee.*

7. Mushroom cultivation is not "agriculture" and falls under the category of "Fungi Culture". Reference is made to information available in Wikipedia, on the website <http://www.americanmushroom.org/agaricus.pdf>. It has been held that Mushroom is not a vegetable as argued by the assessee, but is a fungus. In outdoors, mushrooms grow on wood and the activity is not akin to that of a nursery for growing roses.

8. Generally there is no need to take permission from the state revenue authorities for growing crops, plants and vegetables whereas growing of mushroom in a factory building required permission from state revenue authorities and other authorities viz pollution control board etc. But the assessee company has also obtained the same. The major difference in production of agricultural crops and mushroom production is that the agricultural crops do not pollute air and water whereas the production of mushroom requires permission from state pollution control board, which is specifically for the unit(Factory) and for the limited time. In the instant case of the assessee company has also obtained the permission from Maharashtra Pollution control board for the unit in the name of Mis Sonu Monu Agro Pvt. Ltd. Kh. No 32/5, Mauza lingaon Area, Jabalpur Ring Road, Tq. Kamptee Dist. Nagpur as is submitted by the assessee itself.

9. The main characteristic of crops/plants/trees is that they contain chlorophyll, which is used to convert energy from sunlight into carbohydrates. This process of converting energy into carbohydrate is called photosynthesis and during this process the plants releases oxygen (O₂). Whereas mushrooms do not contain chlorophyll which means they cannot photosynthesize ie. they cannot absorb carbon dioxide (CO₂) from environment and cannot produce oxygen. Mushrooms obtain their food by metabolizing dead or decaying organic matter, such as dead plants on the ground. This process is totally commercialized activity, not naturally grown crops for agriculture.

10. Classification by or views of various Government and public sector agencies on whether growing of mushroom is an agricultural activity or not is of no significance and does not help the assessee in claiming exemption u/s. 10(1) of the Act unless it is proved by the assessee.

11. The Bangalore Bench of ITAT in the case of Blue Mountain Food Products Ltd.. [14 ITD 254] held that "the activity of growing mushrooms under controlled conditions has been accepted as a manufacturing activity. It followed, therefore, that the shed in which mushrooms are grown has to be treated as a factory building and depreciation has to be allowed a twice the normal rate".

12. For manufacturing/producing of mushrooms, one building is essentially needed in which the mushrooms are manufactured in racks under certain degree controlled temperature and in the absence of sunlight. This crop cannot be grown on open land under the sunlight and under normal weather conditions. Therefore, it is literally manufactured in a factory building and it is not grown and cultivated just like normal agricultural crops/plants.

From the above discussion, it is clear that either during the production of Spawn or in the preparation of Compost, or Spawning the Compost no

operations involving land or soil are carried out. The only instance of use of soil is when clay and coir pith is used as top dressing for providing moisture to the mushroom which are already sprouting or growing in the Compost. Hence, the operations carried out by the assessee in the growth of mushrooms do not meet the test of agricultural operations laid down by the Hon'ble Supreme Court in the case of CIT VS. Raja Benoy Kumar Sahas Roy (1957) [32 ITR 466]. Even the explanation 3 under section 2(1A) is not of any help to the assessee as no operations are carried out by it on land or in soil. Use of soil at a subsequent stage in the operations cannot be said to be carrying out of basic operations in the soil/land as discussed in the judgment supra.

In view of the detailed discussion/reasons mentioned above, I hold that income derived by the assessee from growing of mushrooms is not agricultural income but income from manufacturing/ producing of mushrooms and accordingly I proceed to assess the same as income under the head "Business or Profession".

Add. Rs. 7,25,19,339/-Income from Business activities

As the income assessed is greater than the income declared by the assessee in the ITR filed by it on 31.03.2021, therefore, penalty proceedings u/s 270A are being initiated for under reporting of income in the consequence of mis-reporting of income."

Consequent upon passing the assessment order by the Assessing Officer, the assessee carried the matter before the first appellate authority.

4. Before the learned CIT(A), the submissions made by the assessee are reproduced below:-

"5.4 On the above facts and findings, the appellant during the appellate proceedings has submitted its contention, the relevant part of which is reproduced hereunder:

"The order passed is without proper consideration of facts relating to the case and is bad in law. The assessee, during the course of the assessment proceedings, had furnished various details relating to the conduct of operations by the in relation to the activity of Mushroom Farming. Various documentary evidence including actual photographs showing the activities relating to Mushroom Farming being carried out were furnished but the learned AO has simply overlooked these evidences.

The learned AO acted in pre-conceived suspicions and based his decision on surmises and conjectures without any basis or footing.

The submissions made, including the one in response to the Show Cause Notice, were simply overlooked or not considered without any justification or

reason for doing so. Such improper/non-consideration resulted in summary dismissal of them which is totally unjustified and untenable as per the settled position of law.

Thus, the order has been passed without proper consideration of facts, without considering the facts of the case and by simply overlooking the evidence etc. furnished by the assessee. This renders the order unjustifiable and untenable.

The submission filed by the assessee has not been properly considered. Even the subsequent judicial pronouncements cited by the assessee, wherein facts were similar to the facts in assessee's case, have been summarily rejected without assigning any reason or justification. Thus, denying the assessee of an opportunity of fair hearing and natural justice.

The contention of the assessee that the ratio of the order of the Hon'ble ITAT Chandigarh in the case of Chander Mohan V ITO does not apply to the instant case as the facts of that case were different than the facts of the instant case has not been considered/properly considered.

During the period under consideration the assessee was engaged in the activity of Mushroom Farming, besides its business activities. The Net Income from the said Mushroom Farming for the year was Rs. 7,25,19,339/-

During the course of the assessment proceedings the learned AO acted in haste with a predetermined mind that the activity of Mushroom Farming is to be treated as an industrial activity and the one that does not constitute Agriculture.

The learned AO even did not consider all the points that were part of the submissions made during the course of the Assessment Proceedings.

The learned AO even did not consider/properly consider the facts of the case vis-à-vis the citations that were given/quoted in the submissions of the Assessee.

The learned AO based his decision heavily on the judgement of the Hon'ble ITAT Chandigarh in the case of Chander Mohan V ITO even though it was brought to notice that the facts of that case were different than the facts of the instant case. It was contended that the facts of that case were different and hence not comparable to the facts of the instant case. But this contention was totally ignored without any justification.

It was highlighted that the said decision has been subsequently distinguished with, in several judicial decisions.

The fact that the judgement passed by the Hon'ble ITAT Hyderabad in DCIT VS M/s. Inventaa Industries Private Limited [(2018) 065 ITR (Trib) 0625] had analyzed the matter exhaustive and covered almost all the aspects related to the activity of Mushroom Farming. The attention of the learned AO was specifically drawn towards this judgement and also the fact that the ratio of the same is squarely applicable in assessee's case. However, the learned AO has simply overlooked the said judgment without giving any reason or

justification for non-consideration except the cryptic note "the same is not acceptable".

The assessee had during the course of the assessment proceedings furnished the documents originating from/belonging to various Government Departments and Agencies that categorically state and define Mushroom as an Agricultural Product/Vegetable thereby clearly meaning that Mushroom Farming as an Agricultural Activity. The documents that were furnished were sourced from the following Government of India Undertakings/Body/Authority:

a) The Agricultural and Processed Food Products Export Development Authority (APEDA)

b) The Indian Council of Agricultural Research (ICAR) - the apex body for coordinating, guiding, and managing research and education in agriculture in the entire country under the aegis of Department of Agricultural Research and Education (DARE), Ministry of Agriculture and Farmers Welfare.

c) The National Horticulture Board - Ministry of Agriculture & Farmer Welfare.

d) The Indian Council of Agricultural Research (ICAR) - Directorate of Mushroom Research - an autonomous organization under the Department of Agricultural Research and Education (DARE), Ministry of Agriculture and Farmers Welfare.

We are hereunder reproducing the relevant portion of the documents from the above entities that clearly established the fact that the activity of Mushroom Farming is nothing but an Agricultural Activity.

If we look at the HARMONISED PRODUCT CODE LIST of APEDA it is clearly seen that Mushroom is listed under the sub-head - Other Fresh Vegetables under main Head Fruits and Vegetables. This further puts to rest all the doubts, confusions or misconception about the nature of the Mushroom Crop.

A screen shot of the above is as under:

The above facts leave no scope for any contrary view or any guess work with respect to the category of nature of Mushrooms. They are clearly and simply recognized as Vegetable products which is essentially an Agricultural Product.

Further, the Indian Council of Agricultural Research (ICAR) - the apex body for coordinating, guiding, and managing research and education in agriculture in the entire country under the aegis of DARE, Ministry of Agriculture and Farmers Welfare - regularly releases crop advisory on Mushroom through its Directorate of Mushroom Research. Thus, it is clearly established that Mushroom Farming is considered and treated as an Agricultural Activity and its produce is considered "Crop".

The National Horticulture Board (Ministry of Agriculture & Farmer Welfare, GOI) considers Mushroom under the head Vegetables in its data as is clear from the attached list of its Area Production Statistics for the Horticultural Crops for the year 2018-19.

Further, we would also like to draw your kind attention towards the contents of the Annual Report 2015-16 (Page No. 144) of the ICAR-DIRECTORATE OF MUSHROOM RESEARCH, that states one of its MISSION as under:

"R&D to undertake basic research, conserve mushroom diversity, develop technologies/variety to enhance mushroom quality and productivity, utilize agro-wastes/spent mushroom substrates, and promote secondary agriculture for generating employment, ameliorating poverty and ensuring nutritional security"

(Available online on Link: https://dmrsolan.icar.gov.in/DMRAnnual_Report_2015_16.pdf)

Thus, it is crystal clear that the activity of Mushroom Farming is nothing but part of the Agricultural Activities. Mushrooms are grown on soil with the expenditure of human labour and skill and thereafter technology is used to aid the natural growth of this agricultural produce.

Thus, there is nothing that may lead anyone to the conclusion that Mushroom is not an agricultural product.

In view of the above, the activity of Mushroom Farming cannot be anything else but an Agricultural Activity.

Thus, the learned AO has simply overlooked the unambiguous definition/categorization by Government Bodies and has not assigned any justification while doing so.

Further, the learned AO has heavily relied on his misjudged belief/opinion that the assessee has claimed deduction for Agricultural Expenses from Business Income and the same is in contravention of provisions u/s 14A.

It would be apt to clarify that the assessee had maintained separate set of books for the business activities and for Mushroom Farming activity. All the Receipts, Payments and transactions for Business Activities and for Mushroom Farming have been maintained regularly.

Only for the purpose of preparation of Financial Statements, the records of both the activities were compiled and presented as a single Financial Statement.

The assessee had also furnished the summary of Revenue Generated from and Expenses incurred for the Mushroom farming activities. The same are reproduced hereunder:

The breakup of the Revenue, Expenditures & Profit from Mushroom Farming is as under:

*The total Revenue from Mushroom Farming was Rs. 20, 15,99,694/-
The total Expenditure for Mushroom Farming were Rs. 12,90,80,355/-
The Net Profit from the Mushroom Farming was Rs. 7,25,19,339/-
The expenditure incurred in the course of Mushroom Farming may be broadly divided under the following heads:*

- a) *Input Material Costs.*
- b) *Direct Expenses.*
- c) *Employees Cost.*
- d) *Finance Cost.*
- e) *Administrative & Other Expenses.*

All these expenditures are duly recorded in the books of accounts and reported in the Audited Financial Statements of the Assessee.

Thus, it was clearly submitted and apparent that the assessee had claimed expenses relating to the activity of Mushroom Farming only from the Revenue from that activity and there was no claim of any expenses relating to exempt agricultural income from Business Income.

The contention of the learned AO that there has been a contravention of provisions of Section 14A is clearly without any reason or legal footing whatsoever.

At this juncture we would also like to humbly draw your kind attention towards the fact that the learned AO has carried out the entire proceedings with a predetermined mind set which is obvious from the following facts (that have been quoted/mentioned by the learned AO in the assessment order):

- a) *"It is hard to digest that family members and HUFs are giving unsecured loans*

The above instances clearly establish the contention that the learned AO has acted in a predetermined mind set and in haste. The facts of the case were completely ignored and the addition was made without proper consideration of facts, circumstances, legal pronouncements, documents and submissions filed by the assessee."

5. The learned CIT(A) considering the submissions of the assessee, allowed the appeal of the assessee. While allowing the appeal, the learned CIT(A) recorded his observations which are as under:–

"5.5 I have carefully gone through the facts of the case, assessment order and submission of the appellant. The AO has not disputed the cultivation of mushroom but has made the addition on the premise that income from cultivation of mushroom is business income and not agriculture income as claimed by the appellant. The AO has relied on the order of the Chandigarh Tribunal in the case Chander Mohan Vs ITO in support of his findings. In contrast, the appellant has relied on the decision of Special bench of ITAT Hyderabad in DCIT Vs M/s Inventaa Industries Private Limited (supra) in support of its claim. The appellant has referred to the decisions of various other tribunals also as reproduced above.

5.6 I have perused the judicial pronouncements on the said issue. The decision of the coordinate bench of the Hyderabad Tribunal is subsequent to and takes into consideration the findings of the Chandigarh Tribunal. After due consideration of facts, the Hyderabad Tribunal by its order dated 9th July 2018 concluded that Mushroom is an agricultural product raised from land. The Hon'ble Tribunal has held that:

"....Mushroom, like vegetables and other crops or plants, are grown on soil/land and are always attached to the soil until harvested. They draw their nourishment from the soil only. The product mushroom does not arise from any secondary agricultural operation....."

It cannot be said that production of mushroom is remotely connected with land. This product arises from land and is attached to land during growth and thereafter, just like 'plants' or a 'crop'. The comparison made by the Ld.AO with the sale of silk cocoons by relying on the judgment in the case of K. Lakshmansa & Co. vs. CIT [1981] 128 ITR 283 (Kar.), is wrong, as on facts silkworms feed on mulberry leaves and are not products which are raised from land. Mulberry leaves which are product arising from land, are fodder to silkworms."

5.7 Since the facts of the present case are similar to the case of M/s Inventaa Industries Private Limited, respectfully following the decision of the Special bench of the Hyderabad Tribunal, the income generated from cultivation of mushroom by the appellant is held to be agricultural income. Disallowance of agriculture income of Rs.7,25,19,339/- and treatment of the same as income from business and profession by the AO is deleted. The Grounds of appeal are allowed.

6. In the result, the appeal is allowed."

Consequent upon issuance of impugned order so passed by the learned CIT(A), the Department is in appeal before the Tribunal.

6. The learned Departmental Representative relied upon the order passed by the Assessing Officer.

7. On the other hand, the learned Counsel for the assessee submitted that the issue whether the mushroom cultivation amounts to agriculture or not has been decided by the Special Bench of the Tribunal, ITAT, Hyderabad Bench, in one of the Revenue's appeal in DCIT v/s Inventaa Industries Pvt. Ltd. (Earlier known as M/s. Inventaa Chemicals Ltd.), ITA no.1015/Hyd./ 2015, etc., for

the assessment year 2008–09, etc., vide order dated 09/07/2018, wherein the issue has been decided in favour of the assessee and against the Revenue. He thus prayed that in view of the Special Bench decision, the appeal filed by the Revenue is not maintainable hence needs to be dismissed.

8. We have heard the arguments of rival parties, perused the material available on record and gone through the orders of the authorities below. The core issue that we need to adjudicate in this appeal is, whether or not the cultivation of mushroom falls within the purview of agriculture. As stated by the learned Counsel for the assessee, this issue is now settled by the Special Bench of the Tribunal, ITAT, Hyderabad Bench, cited supra, a copy of which is placed on record, wherein the Special Bench, has held that "*Hence as basic operations are performed by expenditure of human skill and labour on land by the assessee, which results in the raising of the 'product' called "Edible white button mushroom" on the land and as this product has utility for consumption, trade and commerce, the income arising from the sale of this product is agricultural income and hence exempt u/s 10(1) of the Act*". The findings recorded by the Special Bench in the said case are recorded vide Para–8 to 16.7 / Page–16 to 55, a copy of which is placed on record. Since the issue for our adjudication in this Departmental appeal is squarely covered by the aforesaid Special Bench decision, consistent with the view taken therein, we decline to interfere with the order passed by the first appellate authority and dismiss the grounds raised by the Revenue.

9. In the result, Department's appeal stands dismissed.

Order pronounced in the open Court on 03/03/2025

Sd/-
K.M. ROY
ACCOUNTANT MEMBER

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

NAGPUR, DATED: 03/03/2025

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur