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

BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER

ITA No 4945/Mum/2024
(Assessment Year: 2017-18)

ACIT 8(3)(1), Mumbai Aayakar Bhavan, M.K. Road, Mumbai-400 020	**vs**	**Thirumalai Chemicals Limited** Plot No. 101/102, 2nd Floor, Thirumalai House, Road No.29, Sion, Matunga, Mumbai-400 022 **PAN: AAACT2015M**
APPELLANT		**RESPONDENT**

C.O. No.246/Mum/2024
(Arising out of ITA No 4945/Mum/2024)
(Assessment Year: 2017-18)

Thirumalai Chemicals Limited Plot No. 101/102, 2nd Floor, Thirumalai House, Road No.29, Sion, Matunga, Mumbai-400 022 **PAN: AAACT2015M**	**vs**	**ACIT 8(3)(1), Mumbai** Aayakar Bhavan, M.K. Road, Mumbai-400 020
CROSS OBJECTOR		**RESPONDENT**

Assessee by	:	Shri Dharan Gandhi
Respondent by	:	Shri Hemanshu Joshi, SR DR
Date of hearing	:	07/08/2025
Date of pronouncement	:	12/08/2025

O R D E R

Per Anikesh Banerjee (JM):

The instant appeal of the revenue and the cross objection by the assesse were filed against the order of the National Faceless appeal Centre (NFAC), Delhi [(in short, 'the Ld. CIT(A)] passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') for Assessment Year 2017-18, date of order 31/07/2024. The impugned order emanated from the order of the Learned Assistant Commissioner of Income-tax, Circle 8(3)(1), Mumbai (for brevity, 'the Ld. AO') passed under section 143(3) of the Act, date of order 21/12/2019.

2. The revenue has taken the following grounds of appeal:-

"1. "Whether, on the facts and in the circumstances of the case and in law, the L'D CIT(A) was justified in deleting the disallowance of Rs.2,13,785/ on account of the provision for gratuity, without considering the fact that the assessee failed to make a provision in compliance with under section 40A(7) of the I. T. Act?"

2. "Whether, on the facts and in the circumstances of the case and in law, the L'D CIT(A) was justified in deleting the disallowance of Rs.47,22,474/- on account of written off debts, without considering the fact that the assessee failed to provide sufficient evidence to support thee entitlement to the deduction for bad debts under section 36(1)(vii) of the I.T. Act for the current year?"

3. "Whether, on the facts and in the circumstances of the case and in law, the Ld. CIT(A) was justified in deleting the addition of Rs. 1,14,45,642/- on account of ICDS, without considering the fact that the tax auditor neither submitted a revised tax audit report nor produced any documents clearly proving the mistake?"

4. "Whether, on the facts and in the circumstances of the case and in law, the Ld. CIT(A) was justified in deleting the interest expenses of Rs. 17,56,179/- for the investment in the subsidiary, without considering the fact that the assessee failed to prove the business necessity of the investment or its connection to the assessee's business?"

5. "Whether, on the facts and in the circumstances of the case and in law, the Ld. CIT(A) was justified in deleting the expenditure of Rs. 3,84,36,570/- on catalysts by treating the catalyst expenditure as revenue expenditure and allowing amortization of the expenditure over a three-year period, without considering that there is no provision in the Income Tax Act that allows for such a mechanism for revenue expenditure?"

6. "Whether, on the facts and in the circumstances of the case and in law, the Ld. CIT(A) was justified in deleting the expenditure of Rs.3,84,36,570/- on catalysts without considering the factual matrix of the case, wherein the AO disallowed the amortization of catalyst expenditure as capital expenditure on the ground that the preconditions of Section 32 of the IT Act were not satisfied?"

2.1 The assessee, in its cross objection has raised the following grounds of appeal: -

"1. Without prejudice to the grounds raised by the Department in its appeal, the learned Dy. CIT and the learned CIT(Appeals) should not have disallowed the amount of Rs. 11,44,673/- u/s.14A of the Income Tax Act, 1961 ("the Act").

2. The learned Dy. CIT and the learned CIT (Appeals) should have allowed the expenses of Rs. 3,15,00,000/- which were disallowed u/s.43B of the Act.

3. The learned Dy. CIT should have allowed the credit for the foreign taxes of Rs. 51,07,610/-u/s.90 of the Act."

3. The brief facts of the case are that the assesse is a public limited company domiciled in India, incorporated under the provisions of the Companies Act, 2013. The assessee is engaged in manufacturing and selling of chemicals and the assesse caters to both domestic and international market. During the impugned assessment year, the assesse filed the return and the return was revised on 23/12/2017 declaring total income at Rs.112,42,45,710/-. The case was selected under CASS and the notices under section 143(2) and 142(1) of the Act were issued.

During the assessment proceedings, the Ld.AO had added back under different heads by making disallowance under section 14A of the Act, disallowance under section 40A(7), disallowance under section 36(1)(vii) of the Act. Finally, the total amount disallowed was Rs.8,94,70,497/-. The aggrieved assesse filed an appeal before the Ld.CIT(A). The Ld.CIT(A) partly allowed the appeal of the assessee. Being aggrieved, the revenue filed appeal before us and the assessee filed cross objection.

ITA No.4945/Mum/2024, Revenue's appeal

Ground 1: Disallowance of provision of gratuity Rs.2,13,785/- u/s 40A(7) of the Act

4. It is argued that the Ld.AO disallowed on the ground that the gratuity provisions was created and the same was disallowed amount to Rs.2,13,785/-. But the assessee provided evidence stating that there was no provision made and it is an actual gratuity liability and same was paid to the retiring employees in just six days, after the end of the relevant year. The alleged ground of assessee was duly allowed by the Ld.CIT(A). In the argument, it is stated that the assessee, in provision of gratuity amount to Rs.1,13,36,715/- has provided as per actuarial valuation is already disallowed under section 40A(7) of the Act. The gratuity provision of Rw.2,13,785/- includes the pending settlement of retiring employees, who retired during the year and which was determined on actual basis and paid on 06/04/2019. Accordingly, the assessee considered these expenses under section 37(1) of the Act. The Ld.CIT(A), in his observations, accepted the assessee's plea. But the Ld.DR fully relied on the order of the Ld.AO.

In our considered view, we find that the assesse has paid to its employees, on actual basis; so the said expenses is allowable U/s 37(1) of the Act. The Ld. DR was unable to submit any contrary fact to refute the observation of the Ld. CIT(A). We find no infirmity in the order of the Ld.CIT(A).

Ground No.1 of the revenue is dismissed.

Ground 2 : Disallowance of bad debts written off Rs.47,22,474/- u/s 36(1)(vii) of the Act.

5. The Ld.AO noted that the amount of Rs.47,22,474/- related bad debt written off was not offered for taxation by the assessee. Accordingly, the said amount was disallowed and added back with the total income. It is further stated that the assessee has made JV entered on 22/02/2017; but mistakenly, it was mentioned as 22/02/2019. Further, on the appreciation of evidence, the Ld.CIT(A) concluded that the relevant income was booked for A.Ys. 2013-14 and 2014-15. The invoice and the ledger accounts are annexed related to the company, M/s ARG Resins, one of the written off debtors and tax invoices duly annexed in **APB pages 170-203.**

6. The Ld.AR fully relied on the order of the Hon'ble Supreme Court in the case of **TRF Ltd vs CIT 323 ITR 397 (SC).** The Hon'ble Apex Court observed that –

"However, in the present case, the Assessing Officer has not examined whether the debt has, in fact, been written off in accounts of the assessee. When bad debt occurs, the bad debt account is debited and the customer's account is credited, thus, closing the account of the customer. In the case of Companies, the provision is deducted from Sundry Debtors. As stated above, the Assessing Officer has not examined whether, in fact, the bad debt or part thereof is written off in the accounts of the assessee. This exercise has not been undertaken by the Assessing Officer. Hence, the matter is remitted to the Assessing Officer for de novo consideration of the above-mentioned aspect only and that too only to the extent of the write off."

7. The Ld.DR, in argument, fully stands in favour of the impugned assessment order.

8. We find that in our considered opinion, the assesse has booked its income during he A.Ys 2013-14 and 2014-15. The ledger account and details are submitted before the Ld.AO during the assessment proceedings vide letters dated 13/11/2019 and 26/11/2019. The only mistake assessee made in JV is that it has wrongly mentioned the year 2019, instead of 2017. Considering the factual matrix and relying on the judgement of Hon'ble Supreme Court cited supra, we find that there is no infirmity in the order of Ld. CIT(A). Accordingly, the observation taken by the Ld.CIT(A) is upheld.

Ground 2 of the revenue is dismissed.

Ground 3: Addition on account of ICDS adjustment of Rs.,14,45,642/- of the Act

9. The Ld. DR submitted that, as per the Tax Audit Report (TAR), there was an increase in profit of Rs.57,22,821/- on account of the restatement of a loan. He relied upon the impugned order of the Ld. AO and contended that, since the tax auditor had reported such an increase in profit, the said amount was rightly added to the income on the basis of the statement filed before the Ld. AO. Ultimately, the Ld. AO held that there was an increase in business income to the extent of Rs.1,14,45,642/-, which was added to the total income of the assessee.

10. The Ld.AR argued that the Ld. CIT(A) considered the statement of the assessee dated 13/12/2019 and stated that in Annexure 26 of TAR, it was inadvertently shown as increase in profit instead of decrease in profit. But the

same was reported correctly in Form 3CD. The Ld.AR drawn our attention to APB **page 67** and the Form 3 CD at Point No.13(e), where the Auditor has correctly reported the decrease in profits. Only in Annexure 26, attached in submission dated 13/11/2019, the assessee's Accountants wrongly mentioned as 'increase'.

11. In our considered view, the documents placed in the paper book clearly demonstrate that the variation in value reflects a decrease in profit and not an increase. Upon verification of Form No. 3CD, we observe that at Point No. 13(e), the Auditor has correctly reported the decrease in profits. The Ld. AO, without properly considering the books of account and solely relying on a defective statement submitted by the assessee's accountant, proceeded to confirm the addition.

Accordingly, we hold that this is merely a factual clarification, which has already been duly addressed in the impugned appellate order. The relevant portion of the said appellate order, as contained at pages 8 to 9, paragraph 4.17, is reproduced below: —

"4.1.7. The Ground No. 7 of the appeal is against addition of Rs. 1,14,45,642/- made by the AO, on account of recasting of balance, in terms of Income Computation & Disclosure Statement (ICDS), 2016. The facts of the case is as follows:-

> *In the Tax Audit Report in Form 3CD, the Tax Auditor reported that increase in profit due to restatement of loan, given by the assessee to its subsidiary in Foreign Currency, was for Rs. 57,22,821/-. On the contrary, the assessee claimed that in actuality, there had been a Foreign Currency Loss and thus, the Gross Value of closing balance of loan given to subsidiary as on 01.04.2016 for the sum of Rs. 44,74,70,048/- was reduced to closing balance of the loan as on 31.03. 2017 for a sum of Rs. 44,17,47,227/-. Therefore, there was a net impact of loss, due to fluctuation in Foreign Currency rate for a sum of Rs. 57,22,821/-*

The AO judging from the tax audit report stated that as the auditor certified that there is increase in profit due to implication of ICDS, 2016, the claim of loss cannot be accepted and moreover, the

increase in profit is to be added. Therefore, the net effect was addition of Rs. 1,14,45,642/- to the total income computed by the assessee, as submitted with Return of Income.

I have perused the issue and found that there was a clear mistake on part of the tax auditor to report the loss or decrease in profit by Rs. 57,22,821/-, as an increase in profit. It is seen that the same tax auditor, in the note below such adjustment, clearly stated that the total value of balance of loan given to the subsidiary as actually reduced and not increased. Therefore, there was no Foreign Exchange Fluctuation Gain, but actually, there was Foreign Exchange Fluctuation Loss. Therefore, I direct the AO to delete the addition of Rs. 1,14,45,642/-, as determined in the assessment order."

We find that there is no reason for interfering in the order of the Ld. CIT(A). Accordingly, **ground 3** of the revenue is dismissed.

Ground 4: Disallowance of interest expenses of Rs.17,56,179/- for the investment in subsidiary

12. The Ld. DR, in argument, stated that the assesse took loan from Exim Bank and invested the same in shares of Taraderiv International Pte. Ltd., Singapore. The interest on loan was claimed as business expenses under section 36(1)(iii) of the Act. The Ld.AO found that there is no nexus with the investment and the business of the assessee. So, the interest was added back amount to Rs.17,56,179/- with the total income of the assessee.

13. The Ld. AR contended that the impugned investment was a strategic investment made for business purposes and that the Ld. CIT(A) had rightly relied upon the order passed for A.Y. 2013-14, which was decided in favour of the assessee. The Ld. AR respectfully placed reliance on the decision in the assessee's own case for A.Y. 2012-13, rendered by the co-ordinate Bench of the ITAT, Mumbai Bench "J" in **ITA No. 1273/Mum/2021** and **ITA No. 1683/Mum/2021**, order dated

24.02.2023, wherein a nexus between the business and the investment was established.

It was further argued by the Ld. AR that the subsidiary in question is the supplier of the main raw material to the assessee, and therefore, the investment was necessary and the related expenditure was incurred wholly and exclusively for the purposes of business.

14. In our considered view by respectfully following the decision of the co-ordinate Bench of the ITAT in the assessee's own case for AY 2012-13 and applying the ratio laid down therein, we uphold the order of the Ld. CIT(A).

Accordingly, **ground no. 4** of the revenue's appeal stands dismissed.

Grounds 5 & 6: Disallowance of catalyst expenses of Rs.3,84,36,570/-.

15. The Ld. DR argued and stated that the assessee claimed the expenditure on catalyst which was duly treated as capital in nature as admitted by the assesse, but the said expenses was duly treated as revenue expenditure and claimed under section 37 of the Act. The Ld.AO found that the said claim cannot be the claim under section 37of the Act, but it will be entertained under section 32 to qualify for amortization.

The Ld. AR in argument, stated that assessee claimed that life of the catalyst is more than one year and, therefore, it has claimed amortization of cost towards the catalyst for 2-3 years of useful life of such catalysts. The same issue was agitated before the co-ordinate bench of ITAT, Mumbai and the co-ordinate bench has decided the issue in assessee's own case bearing **ITA 3634/Mum/2005** for A.Y.

1998-99 in favour of the assesse. For explanation that the catalyst is one type of ring through which the chemical is processed. The lifespan of the ring is 36 months and value of the same is amortised over 3 years.

16. We have heard the rival submissions and perused the material available on record. It is noted that the assessee utilised the catalysts in its manufacturing business, and it is statutorily required to maintain its accounts on the accrual basis. The concept of "accrual basis" entails two essential aspects:

(i) recognition of income when it is earned; and

(ii) recognition of expenditure when it is incurred.

These two aspects are inseparable and represent two sides of the same coin. The assessee's accounting must necessarily move in tandem. it is not possible to recognise expenditure without recognising the corresponding income, or vice versa. The fundamental distinction between the cash basis and the mercantile (accrual) basis of accounting lies in the timing of recognition of income and expenses. Accountants describe the determination of periodical net income as the proper matching of revenue with the expenses of the period. This is achieved by associating expenses directly with the revenue earned during the relevant period, regardless of whether the payment has actually been made, and charging them to the income of that period. Therefore, the cost of expenses must be matched with the revenue of the same period, which requires that:

both the expenditure and the revenue be allocable to the same accounting period; and the expenses incurred be relatable and consumable for generating the corresponding revenue.

Applying the matching concept, the assessee deferred the catalyst expenditure over certain years, recognising such expenditure in those years in which the corresponding income was recognised. However, the accounting treatment adopted by the assessee in respect of this catalyst expenditure is not in conformity with sound accounting principles. We find that the assessee's treatment has resulted in distortion of its profits.

Respectfully following the order of the co-ordinate Bench in the assessee's own case, we hold that the disallowance of catalyst expenditure amounting to Rs.3,84,36,570/- is not justified. We also find that the Ld. CIT(A) has correctly appreciated and decided the issue, and we uphold his observations.

Accordingly, **grounds nos. 5 and 6** of the revenue's appeal are dismissed.

17. In the result, the appeal filed by the revenue is dismissed.

CROSS OBJECTION No.246/MUM/2024

Ground 1:

18. The Ld.AR argued that the Ld.AO has made disallowance under section 14A of the Act read with rule 8D of the Income-tax Rules, 1963 (in short, 'the rules') amount to Rs. 11,44,673/-. The Ld.CIT(A) upheld the said addition. The Ld.AR stated that the Ld.AO has noted the satisfaction at para 5.2. The relevant part of the assessment order is extracted below:-

"5.2 The submissions of the assessee have been duly considered. It may be noted that a company cannot earn exempt income without its existence and management. Investment decisions are very complex in nature. They require substantial market research, day-to-day analysis of market trends and decisions with regard to acquisition, retention and sale of shares at the most appropriate time. It is therefore, not correct to say that exempt income can be earned by incurring

no or nominal expenditure. It is difficult to accept that a company can earn substantial exempt income without incurring any expenses whatsoever including management or administrative expenses as investment decisions are generally taken in the meetings of the Board of Directors for which administrative expenses are incurred. The term "expenditure" occurring in section 14A would take in its sweep not only direct expenditure but also all forms of expenditure regardless of whether they are fixed, variable, direct, indirect, administrative, managerial or financial. Sub-section (1) of section 14A provides in unequivocal terms for not allowing deduction in respect of expenditure incurred by the assessee in relation to exempt income and sub-section (2) lays down the mechanism for determining such amount of expenditure incurred in relation to exempt income in accordance with method as prescribed under rule 8D and the disallowance as submitted by the assessee is not in order. The disallowance u/s. 14A shall be worked out as per Rule 8D wherein the method of working out the disallowance has been provided. Reliance in this regard is placed on the decision of ***Hon'ble Bombay High Court*** *in the case of* ***Godrej & Boyce Mfg. Co. Ltd. Vs. DCIT & Anr. reported in 234 CTR (Bom) 1 (2010).”***

19. The Ld.AR challenged the satisfaction recorded by the Ld.AO as not acceptable. So, the addition should be quashed. In argument, he stated that the Ld. AO incorrectly dealt with the account of the assessee. There is no mention about which the expenses had a nexus with the exempted income, as required under law. There is no mention as to how having regard to the accounts of the assessee, the satisfaction was arrived at by the Ld.AO is fully incorrect and improper. The Ld.AR respectfully relied on the order of Hon’ble Delhi High Court in the case of **H.T. Media Ltd vs Principal CIT 85 taxmann.com 113 (Del)**. The relevant paragraphs 36 to 40 are extracted below:-

“36. In para 3.2 of the assessment order, the AO records that, in answer to the query posed by the AO requiring it to produce calculation for disallowances, the Assessee "submitted that they have not incurred any expenditure for earning the dividend income." Thereafter, in para 3.3, the AO

records "I have considered the submissions of the Assessee and found not to be acceptable." Thereafter, the AO proceeded to deal with the said provisions of Section 14A and Rule 8D and observed, in para 3.3.1, that making of investment, maintaining or continuing investment and time of exit from investment are well informed and well coordinated management decisions that, in relation to earning of income, are embedded in indirect expenses. It is then stated in para 3.4 that, in view of the above, the provisions of sub-section (2) of Section 14A and Rule 8D of the Rules are in operation and therefore, will strictly be adhered to by the Assessee. In para 32.6 of the assessment order, after discussing Section 14A(1) read with rule 8D and referring to the decision of the Bombay High Court in Godrej Boyce Mfg.Co. Ltd. (supra), the AO simply stated that "in view of the facts and circumstances and legal position on the issue as discussed above, I am satisfied that the Assessee had incurred expenses to manage its investments which may yield exempt income, and Assessee grossly failed to calculate such expenses in a reasonable manner to ascertain the true and correct picture of its income and expenses."

37. In the considered view of this Court, the above observations of the AO in the assessment order are of a broad general nature not with particular reference to the facts of the case on hand.

38. The Court is also unable to agree with Mr. Singh that on this aspect there are concurrent findings of both the CIT (A) as well as the ITAT. The CIT (A) disallowed the exempt expenses by merely repeating what the AO had stated about the cost that is built into so called 'passive' investments and simply recorded that the AO was bound to Rule 8D and, therefore, was justified in determining administrative costs at 0.5%. Here again, the CIT (A) failed to note that without the mandatory requirement, under Section 14A of the Act and Rule 8D of the Rules, of satisfaction being recorded being met, the question of applying Rule 8D (1) did not arise.

39. Turning now to the order of the ITAT, in para 33, it recorded the submission of the AR that the A did not record any satisfaction about the Assessee not properly offering expenditure incurred in relation to the exempt income at Rs. 3 lakhs. The ITAT reproduced the contents of para 3.3.1 of

the assessment order, which has been extracted by this Court hereinbefore, which contains general observations regarding earning of exempt income. This cannot be accepted as a recording by the AO of satisfaction regarding the claim of the Assessee after examining its accounts. Again, in para 34 of its order, the ITAT simply reproduced para 3.3.6 of the assessment order where, again, no reasons have been provided but only a conclusion has been reached that the AO was "satisfied that the Assessee had incurred expenses to manage its investments which may yield exempt income, and Assessee grossly failed to calculate such expenses in a reasonable manner to ascertain the true and correct picture of its income and expenses."

40. Consequently on the aspect of administrative expenses being disallowed, since there was a failure by the AO to comply with the mandatory requirement of Section 14 A (2) of the Act read with Rule 8D (1) (a) of the Rules and record his satisfaction as required thereunder, the question of applying Rule 8D (2) (iii) of the Rules did not arise. The question framed in ITA 549 of 2015 is answered accordingly."

20. The Ld. DR argued and stated that the assessee earned exempted income amounting to Rs.29,55,614/-. However, it has not made any disallowance under section 14A of the Act. So, the said income cannot be earned without any expenses. The Ld. DR prayed for upholding the said addition.

21. We have heard the rival submissions and perused the material available on record. The disallowance of Rs.11,44,673/- under section 14A of the Act, read with Rule 8D of the Income-tax Rules, 1962, has been made by the Ld. AO and upheld by the Ld. CIT(A). The core issue raised by the Ld. AR is that the satisfaction recorded by the Ld. AO, as mandated under section 14A(2) of the Act read with Rule 8D(1)(a), is not in accordance with law, being of a general nature without specific reference to the assessee's accounts. On perusal of para 5.2 of the impugned assessment

order, we find that the Ld. AO has merely made broad observations about the inherent costs in managing investments and the improbability of earning exempt income without incurring expenditure. However, there is no specific finding based on examination of the assessee's accounts to demonstrate how the claim of "nil expenditure" is incorrect. As held by the Hon'ble Delhi High Court in **H.T. Media Ltd**. (supra), such general observations, without reference to the assessee's specific accounts, do not constitute valid satisfaction for the purpose of invoking Rule 8D. The statutory mandate is that the Ld. AO must record satisfaction, having regard to the accounts of the assessee, that the claim made by the assessee is incorrect. In the present case, this condition precedent is not fulfilled.

Respectfully following the ratio laid down by the Hon'ble Delhi High Court in **H.T. Media Ltd.** (supra) and other judicial precedents, we hold that in the absence of valid satisfaction under section 14A(2), the consequential computation under Rule 8D(2)(iii) is not sustainable in law. Accordingly, the disallowance made under section 14A is directed to be deleted.

In the result, the ground raised by the assessee is allowed.

22. In the result, the **ground 1** of the assessee's CO is allowed.

Ground 2 :

23. In this ground, the issue is related to disallowance under section 43B of the Act amounting to Rs.3.15 crores. The Ld.AR stated that the assessee paid the incentive based on the performance of the employees. The amount was duly added back under section 43B of the Act. In argument, the Ld.AR stated that there is no provision but actual liability in respect of variables paid. No such disallowance has

been made in any of the preceding or succeeding assessment year. So, on the basis of principle of consistency, no disallowance should be made. The Ld.AO disallowed the performance incentive holding that it cannot be the expenses under section 36(1)(iii) of the Act and the said incentive is considered as liable for disallowable under section 43B of the Act, but all the payments are made before 30/09/2017, i.e. before filing the return of income on 30/11/2017.

24. The Ld. DR argued and stated that the performance-based incentive is not crystallised during this impugned assessment year. So, the disallowance should be made under section 43B of the Act. The Ld. DR stands in favour of the order of the revenue authorities.

25. In our considered view, we find that the assessee paid the performance incentive to the employees. The detail of chart is duly submitted in **APB page 150 and pages 156 to 168.** The performance incentive varies on the joining of the employees and on the basis of the performance done during the year. On application of provisions of section 43B, we find that the assessee has made the payment before filing of the return and all the payments are made before 30/09/2017. The Ld. DR had not made any objection against the assessee's submissions. Accordingly, we find that there is no obligation for section 36(1)(iii) of the Act**.** Accordingly, the impugned appeal order is set aside and the addition made under section 43B amounting to Rs.3.15 crore is deleted.

Accordingly, **ground 2** of assessee's cross objection is allowed.

Ground 3 :

26. During the argument related to this ground, the Ld.AR stated that the Ld.AO disallowing the foreign tax credit amounting to Rs. 51,07,610/- under sections 90 / 91 of the Act due to delay in filing form 67. The Ld.AR stated that the alleged form was duly filed before filing the revised return and this is the first time, the assessee filed the form 67 and it is directory requirement and not a mandatory requirement. Therefore, respectfully relied on the order of the co-ordinate bench of Bengaluru in the case of **Ms. Brinda RamaKrishna vs ITO ITA No.454/Bang/2021** date of pronouncement **17.11.2021**.

27. The Ld. DR stands in favour of the revenue authorities and stated that the foreign tax credit was disallowed on the ground of delay in filing form 67 and the assessee had not filed this form with the original return but was filed with the revised return.

28. We have heard the rival submissions and perused the material available on record. We find that Form No. 67, pertaining to the claim of foreign tax credit, was filed by the assessee prior to the filing of the revised return. During the course of assessment proceedings, the Ld. AO has taken cognizance of the revised return and framed the assessment on that basis. Therefore, it is evident that the said Form No. 67 was available on record before the Ld. AO during the assessment proceedings. The co-ordinate bench of the ITAT, Bengaluru, has held that filing of Form No. 67 is not a mandatory but a directory requirement. Respectfully following the said

judicial precedent, we are of the view that there is no valid basis for the disallowance of the foreign tax credit amounting to Rs.51,07,610/-.

Accordingly, we restore the matter to the file of the Ld. AO with a direction to verify Form No. 67, and if found in proper order, to allow the foreign tax credit to the assessee in accordance with the provisions of sections 90 / 91 of the Act.

In the result, this **ground-3** of CO is allowed for statistical purposes.

29. In the result, the appeal of the revenue bearing **ITA 4945/Mum/2024** is dismissed and the cross objection filed by the assesse bearing **C.O. No.246/Mum/2024** is allowed.

Order pronounced in the open court on 12th day of August 2025.

Sd/-	sd/-
(PRABHASH SHANKAR)	(ANIKESH BANERJEE)
ACCOUNTANT MEMBER	JUDICIAL MEMBER

Mumbai, दिनांक/Dated: 12/08/2025

Pavanan

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,s
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., मुबंई/DR, ITAT, Mumbai
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

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