IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, MUMBAI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER&
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER
ITA No. 2639/MUM/2025 (AY: 2012-13)
(*Physical hearing*)

Prakash Cotton Mills Pvt Ltd 1st Floor, Apsara Cinema Building, Bhadkamkar Marg, Grant Road (E) Mumbai-400 007 **PAN : AAACP0550H**	Vs	DCIT, Circle 8(2)(1), Mumbai Room No.624, 6th Floor, Aayakar Bhavan, M.K. Road, Mumbai
Appellant / Revenue		Respondent / Assessee

Assessee by	Shri J.D. Mistry, Senior Advocate with Shri Tanzil Padvekar, Advocate
Revenue by	Shri R.A. Dhyani, CIT DR
Date of Institution	17.04.2025
Date of hearing	18.09.2025
Date of pronouncement	26.09.2025

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER;

1. This appeal by assessee is directed against the order of ld. CIT(A) / NFAC dated 05.03.2025for A.Y. 2012-13. The assessee has raised the following grounds:_

"I. Re-opening under Section 147 and Notice issued under Section 148 of the Act, 1961 bad in law as not meeting jurisdictional requirements:

1. On the facts and in law, proceedings initiated under Section 147 and Notice issued under Section 148 of the Income Tax Act, 1961 (in short referred as Act of 1961) are bad in law and without meeting mandatory jurisdictional requirements and hence, impugned Notice dated 18.03.2019 is liable to be set aside and quashed.

2. On the facts and in law, the formation of belief of Ld. Assessing Officer [in short Ld. A.O.] was not based on any tangible material as prima facie ascertained from the reasons recorded for issuing impugned Notice under

Section 148 of the Act and hence, mandatory condition for meeting jurisdictional requirement is absent for formation of belief.

3. On the facts and in law, re-assessment proceedings are initiated for fishing and rowing enquiry by only referring to the Audited Financial Statements filed by the Appellant during regular assessment proceedings under Section 143(3) of the Act and when Appellant, in clear terms, has declared facts of dispute between the Partners of M/S. Kanha& Co. Hence, as per well settled principles of law, the impugned notice issued under Section 148 of the Act is not sustainable in law and liable to be quashed and set aside.

4. On the facts and in law, the Appellant has declared all primary facts in Directors' Report and also in Audited Financial Statements and there was no failure on part of the Appellant to disclose all primary material facts and impugned Notice under Section 148 of the Act, 1961 was issued beyond period of 4 years from end assessment year 2012-13, the Appellant is protected by proviso to Section 147 of the Act which is fetter on power of Ld. A.O. to initiate proceeding invoking Sec. 147 of the Act.

5. That as per proviso to Sec. 147 of the Act, the Ld. A.O. has not discharged burden by specifying which fact/s was/were not disclosed by the Appellant. Merely making a bald assertion in the reasons that there was failure to disclose truly and fully material facts does not relieve Ld. A.O. from the legal burden put upon him as per proviso to Section 147 of the Act. Hence, on this ground alone, the impugned Notice issued under Section 148 of the Act has to be set aside and quashed.

6. On facts and in law, re-opening is merely based on change of opinion as Directors' report with Audited Financial Statements were considered by Ld. A.O. while passing regular assessment Order under Section 143(3) of the Act. Hence, merely assessment Order is silent on the issue, it can't be presumed that there is non-application of mind by the Ld. A.O.

7. On the facts and in law, there is no escapement of income as condition precedent in Section 147 of the Act for initiating reassessment proceeding as, till today, no asset of M/s. Kanha& Co. has been distributed as provided in Sec. 45(4) of the Act of 1961 and matter is pending and seized with Hon'ble High Court of Bombay under the Indian Arbitration Act. Hence, mere book entries unilaterally passed have no relevance unless there is distribution of the assets owned by the Firm as per Section 45(4) of the Act r/w Section 48 of Indian Partnership Act, 1932 and on mere dissolution of Firm without distribution of assets, there is neither any Capital Gain nor Profit. Hence, primary condition of escapement of income is absent as mandated in section 147 of the Act. On this ground alone, the impugned Notice issued under Section 148 of the Act is bad is law and illegal.

8. On the facts and in law, approval granted by Ld. Pr. CIT under Section 151(1) of the Act, seriously suffers from non-application of the mind as reasons do not remotely suggest any escapement of income and even in case of distribution of assets, the profit or capital gain is to be taxed in the hands of the Firm i.e. M/S. Kanha& Co., as provided in Section 45(4) of the Act and hence, the impugned Notice issued under Section 148 suffers from serious jurisdictional requirement.

II. On merit no taxable Capital Gain under Section 45(4) of the Act or otherwise:

9. On the facts and in law, the Ld. Commissioner of Income Tax (Appeals) [in short CIT(A)] misread provision of Section 45(4) of the Act and erroneously held that mere dissolution of the Firm resulted in the distribution of Capital Assets to Partners when no asset has been distributed during the previous year and settlement of Books of Accounts as well as issue of distribution of assets of M/S. Kanha& Co. was initially pending before Hon'ble High Court Of Bombay in Arbitration Petition No. 107 of 2012 and also in second Arbitration Petition No. 266 of 2022 challenging Award passed by Arbitral Tribunal there is Interim Stay by Hon'ble High Court of Bombay to the Arbitral Award dated 29/10/2021. Hence, addition of Rs. 116,35,82,223/- as long term Capital Gain

and that in the hands of the Appellant being a Partner, is erroneous and unsustainable in law.

10. That the Ld. CIT(A) erred in making observation that the Appellant has not provided some documents when the Appellant had filed all the documents available in his domain. Ld. CIT(A) failed in his statutory duty by casually brushing aside substantive documentary evidences filed by the Appellant including the Order passed by Hon'ble High Court of Bombay and in arbitrary manner and upheld the assessment order passed by the Ld. AO.

11. That the Ld. CIT(A) failed to consider Arbitration Award dated 29.10.2021 passed by the Arbitral Tribunal as per Order passed by the Hon'ble High Court of Bombay in Arbitration Petition No. 107 of 2012 which is substantive evidence that settlement of Books of Accounts and distribution of assets of Firm have not been completed during the previous year. Consequently, the provisions of S. 45(4) did not apply to the facts of the case at all and addition made by the Ld. AO as Long term Capital of Rs. 116,35,82,223/-was bad in law.

12. That Ld. CIT(A) seriously erred in upholding the assessment order for A.Y. 2012-13 by holding that on dissolution of M/S. Kanha& Co., the Appellant acquired full right of the property when the matter of winding up of M/s Kanha& Co, due to dispute between the Partners of the Firm was pending and seized before the Arbitral Tribunal referred by the Hon'ble High Court. The Arbitration Award was challenged by the Appellant and Hon'ble High Court stayed operation of the Arbitration Award by interim order dated 19.08.2022 passed in Commercial Arbitration Petition No. 266 of 2022. Hence, there is no distribution of any asset of the firm M/s. Kanha& Co. till today.

13. That Ld. CIT(A) misread provision of Section 188A which is not applicable when the firm is dissolved. But Section 189 of the Act is applicable and it provides that the A. O. shall pass the assessment order of dissolved Firm as dissolution has taken place. Hence, reliance placed on section 188A is erroneous.

14. That Ld. CIT(A) ought to have held that as there is no distribution of any of the assets of M/s. Kanha& Co. during the previous year and on mere dissolution of the firm, no Capital Gain or Profit is taxable under Section 45(4) of the Act. Hence, high-pitched and arbitrary addition of Rs. 116,35,82,223/- is erroneous and baseless and the same may be deleted.

15. The appellant craves, leave to add to, alter, modify, revise, or delete any of the grounds in the interest of justice."

2. At the time of hearing, no submission was made on grounds No.1 to 8. Therefore, ground No. 1 to 8 are treated as not pressed and dismissed, as such.Grounds No.9 to 14 relate to addition of long term capital gain of Rs.116.35 crores on account of dissolution of firm and distribution of capital assets to partners.

3. The brief facts of the case qua grounds 9 to 14 are that the assessee is a corporate entity, filed its return of income for A.Y. 2012-13 on 27/09/2012 declaring loss of Rs.8.80 crores. Case was selected for scrutiny. During assessment, Assessing Officer recorded that he has received information that in the year 1997, the assessee owned a land admeasuring 10984 sq mts. The assessee entered into partnership with another firm, viz. M/s Kanha& Co. and became partner of 40% shareholder. The assessee made investment in the form of land as a capital contribution valued at Rs.8.00 crores. The assessee transferred right over the land to the firm. In F.Y. 2011-12, the firm was dissolved and land introduced by assessee was again reintroduced by assessee in its books of account at the value of Rs.8.00 crores and not at the market value. On the basis of such information, the case of assessee was

reopened after obtaining prior approval of Principal Commissioner of Income Tax-7 (Pr CIT), Mumbai. Notice under section 148 dated 18/03/2019 was issued to assessee to file return of income within 30 days. In response to such notice, the assessee filed its return of income on 01/04/2019 declaring similar loss as declared in original return. During the assessment, the Assessing Officer noted that in the 'Notes on account', the assessee mentioned that assessee entered into agreement with Bharat Barrel and Drum Manufacturing Private Limited, Shri Vinod TejrajGowani and Shri Hitesh TejrajGowani agreed jointly to develop the property wherein M/s Kanha& Co were granted development rights for the development of property. Vinod TejrajGowani and Hitesh TejrajGowani disregarded the terms and conditions of agreement and committed breach of terms and conditions of agreement and failed to complete their obligation. As a result, the assessee terminated agreement / contract of partnership. Further, Arbitration proceedings were initiated in terms of contract agreement and matter is currently pending before Bombay High Court. In such position, the value of amount of Rs.8.00 crores, originally introduced as investment in firm, Kanha& Co have been reduced from investment in the firm and added with the fixed assets of the company. The difference between the original cost of the land and the land introduced in the erstwhile Kanha& Co, which were earlier treated as land revenue has been transferred to revaluation result. The Assessing Officer, on perusal of such 'Notes on account', was of the view that assessee made investment of land in the said firm as a capital contribution by way of agreement. The assessee transferred right over the land to the firm. In

financial year 2011-12, the assessee dissolved the partnership firm and introduced back the aforesaid land in their books at the same value of Rs.8.00 crores. The value of land originally was of Rs.25.00 lakhs. On the basis of such observation, the Assessing Officer issued show cause notice dated 17/12/2019 to tax capital gain of Rs.312.54 crores. The assessing officer worked out capital gain by multiplying area of land with ready reckoner rate and further multiplied by FSI (Rs.320,54,46,936(16984.30 x 69,900 x 2.7) - Rs.8.00 crores). The assessee filed its reply dated 12/03/2012. The assessee in its reply contended that the assessee cannot take their property back which was introduced as a capital contribution to firm, Kanha& Co. The property absolutely belonging to the firm and on dissolution of firm of assessee and the firm shall be distributed amongst the partners as per section 48 of Indian Partnership Act. The assessee also disputed the area of land and stated that area of land is only of 14730.86 sq mts. The reply of assessee was not accepted by the Assessing Officer. The Assessing Officer stated that he made enquiry and found that Kanha& Co, in their computation of income offered capital gain as per provisions of section 45(4) of the Act. The assessee was asked to furnish dissolution deed by issuing fresh show cause notice dated 24.03.2022. In response to show cause dated 24/03/2022, the assessee reiterated its earlier submission. The Assessing Officer noted that original cost of the land was Rs.25.00 lakhs. The assessee introduced the land to the partnership firm and re-introduced it to the 'Land Reserve Account'. The company has made all these arrangements to camouflage the taxability by re-introduction of the value which has been received against relinquishment of

right through dissolution process. Kanha& Co had paid tax in accordance with the provisions of Act. The assessee has not given any reason or basis with evidence as to why it has re-introduced the amount in its 'Fixed Assets' from the investment. On one hand, the assessee is denying disbursement of firm's asset and on the other hand, it re-introduced the land in its 'Fixed Assets'. All are the self-serving statement made to avoid the taxability of the transaction. The assessee had not provided copy of partnership deed executed in 1997, copy of development agreement, copy of final accounts of firm, Kanha& Co, copy of partners' capital account, termination notice of partnership, dissolution deed and copy of settlement deed, post Arbitration Award, etc. And in absence of supporting document, the claim made by assessee company is only self-serving and cannot be accepted. The assessee otherwise liable to pay tax on the profit of the firm in accordance with section 188A. The Assessing Officer, on the basis of area of land of 147380.86 sq metres and took market value at Rs.69,900/- per sq.mtr and FSI (Floor Space Index) taken at 1.33, the Assessing Officer again worked out the calculation of capital gain as per working on pages 11 & 12 of assessment order at Rs.301.57 crores and issued fresh show cause notice. The Assessing Officer recorded that assessee company attended hearing through video conferencing with authorised representative and reiterated their earlier submission. The assessee failed to furnish complete reply and other documents as called for. The Assessing Officer records that assessee filed further submissions and by referring to provisions of section 2(47), the assessee has stated that no long-term capital gain is assessable in their

hand.No land or property has been transferred or sold; hence, no capital gain is earned by them, which may be assessable in their hands. The assessee stated that no capital gain arose even under the Arbitration Award passed by the Arbitrator. As per Arbitration Award property still belonged to firm and it will be distributed as per section 48 of the Partnership Act. There is a litigation between the partners of the firm and the assessee has not received any benefit including the land which was originally introduced by them in firm. The land is still registered in the name of Kanha& Co. As per legal advice received, they recorded that land which was earlier introduced in the firm as 'fixed asset' in their balance-sheet. The land reserve was created at the time of introduction of capital as was transferred to reserve in the balance-sheet. The entire matter of dissolution is firm is under dispute. By referring the decision of Hon'ble Apex Court in Peerless General Finance & Investment Co. Ltd vs CIT dated 09/07/2009 wherein it was held that book keeping entries are not decisive or determinative nature of entries. The court haw to see the true nature of receipt and not the only entry in books of account. Hence, there is no question of taxability. The assessee also referred about the share holding pattern of different partners in Kanha& Co and various observations of Arbitrator in the Award. The contention of assessee was not accepted by Assessing Officer. The Assessing Officer worked out the capital gain by taking measurement of land at 4730.smtrs with FSI of 1.33 and market value @69,900/- and worked out the capital gain of Rs.1,16,35,82,223/-, as per working on page 39 of assessment order.

4. Aggrieved by the additions of Long-Term Capital Gain, the assessee filed appeal before CIT(A). Before CIT(A), the assessee challenged the reopening as well as the addition on merit. Since, no submission was made on the issue of reopening, therefore, facts relating to reopening are not recorded here. On addition of long term capital gain, the assessee apart from other factual submission, submitted that Assessing Officer erred in not appreciating the legal position that on distribution of asset to the partners, the capital gain were chargeable to tax in the hands of firm and not on the individual as per section 45(4) of the Act, in the year in which the transfer of asset takes place. There is no transfer of any asset of the firm as defined in section 2(47) of the Act as of date, consequently, there is no applicability of provisions of section 45(4) of the Act. The assessee has unilaterally passed a mere book entry to reflect the facts of the notice of dissolution of the books of account as per legal advice received. But, in fact, no asset is received by the assessee during the year as dissolution of firm was subject matter of Arbitration proceedings. The assessee has actually relinquished their right being a partner of the firm and in consideration thereof acquired the land. The difference between the market value of the land and the book value was taxable as capital gain. The assessee also stated that Assessing Officer erred in taking view that on dissolution of firm, the assessee company has acquired full right over the property which was introduced in the firm as capital contribution; hence, difference in the value relinquished vis-à-vis value acquired was a gain in the hands of the assessee.

5. The Ld.CIT(A), on considering the submission of assessee noted that it is an admitted fact that assessee entered into partnership in Kanha& Co and introduced various piece of land in the capacity of owner in accordance with agreement dated 25/03/1997 to jointly develop the property. The assessee, in the capacity as an owner of the land, granted the development right for the development of property in favour of Kanha& Co. Agreement was terminated and value of land of Rs.8.00 crores as originally introduced as investment in the firm were added to the 'fixed asset' of the assessee company. The Ld.CIT(A) in para 5.6.2 further recorded that original value of property was Rs.25.00 lakhs which was transferred from 'General Reserve'. The assessee, in the year 1997, introduced the land actually valuing at Rs.25.00 lakhs at an increased value of Rs.8.00 crores as their contribution to Kanha& Co. On termination of joint development agreement and on dissolution of firm, the assessee has relinquished their right being a partner of the firm and consideration thereof has acquired the land, which was by chance the same piece of land originally contributed by the assessee as a capital contribution. The assessee has not shown full value of consideration / market value received against it, it's right and re-entered the same value of Rs.8.00 crores, which was the value of land introduced as partner's contribution. The Ld.CIT(A) further noted that section 45(4) of the Act would have been relevant if the firm had paid taxes in accordance with the provisions of the Act. No return of income is filed by the firm nor tax is offered by. The Assessing Officer, thus rightly invoked the provisions of section 188A to tax as per partners joint and several liability to pay tax payable by firm. Capital Gain

tax is attracted the moment assessee has acquired the right to receive profit and it is not necessary that it should have actually received the property. The Assessing Officer correctly observed that capital gain is attracted the moment assessee company has acquired the right or received the profit and it is not necessary that assessee company should have actually received the profit. The Ld.CIT(A) also confirmed the observation of Assessing Officer that all arrangements is to camouflage the taxability of assets received through the re-introduction of the value of property which were against the relinquishment of right through dissolution process. The Assessing Officer given sufficient opportunity to submit documentary evidence in support of their claim, but assessee failed to submit documentary evidence before Assessing Officer. Further aggrieved, the assessee has filed present appeal before this Tribunal.

6. We have heard the submission of Shri JehangirDastur Mistry, learned Senior Advocate assisted by Mr. TanzilR Padvekar, Advocate,(hereafter reffered as learned Senior Counsel for assessee')The Ld.Senior Counsel for the assessee submits that assessee company was owner of certain piece of land at Lower Parel, Mumbai admeasuring about 14000 sq.metres. The assessee-company entered into partnership with, Bharat Barrel and Drum Manufacturing Co Private Limited, Vinod TejrajGowqani& Hitesh TejrajGowani. Consequent to partnership contract a partnership firm Kanha& Co was formed in 1997. The assessee was having substantial share in the said firm. The assessee made transfer of parcel of land as a capital contribution with the valuation of Rs.8.00 crores. In the year 2011, the dispute arose among the partners, consequently, the assessee issued notice for dissolution of firm on

05/10/2011. As per the agreement of partnership, there was Arbitration clause. Thus, Arbitrator was appointed to resolve the dispute. The Arbitration award was passed by Sole Arbitrator vide award dated 24.09.2021. The assessee has channelled the validity of Arbitration Award by filing objection filed under section 34 of Arbitration & Conciliation Act, 1996. The petition against the Arbitration Award is still pending before the High Court. The Ld.Senior Counsel of the assessee filed copy of order of Bombay High Court dated 19/08/2022 wherein operation of Arbitration Award has been stayed. The ld Senior Counsel read over the relevant part of order of stay on Award e.g. "*Considering the evidence on record, the construction had never commenced and there being no action for respondent to change their position in the segment of entries as agreed, vide Deed of Partnership much less for their contribution in terms of finance which was to give only on the development actually commencing and taking place*". The learned Senior Counsel further submits that capital contribution of other partners was only Rs.10,000/-. Admittedly, the firm is dissolved and the assessee, on legal advice, re-introduced cost of land in their books of account at the same value as it was introduced at the time of capital contribution to the firm. The Ld. Senior Counsel for the assessee by referring the provisions of section 45(4) of the Act, would submit that capital gain shall be deemed to be income of the entity when any income or asset is received and not the date of dissolution or on reconstitution. The dissolution may be by operation of law or as per the consent of partners, or otherwise. It does not imply that on the day of dissolution, there is notional transfer of asset and that any of the capital

assets owned by firm stands transferred to other partners or the persons entitled to claim the share of the partner. The relevant date for ascertaining the year in which tax is to be levied on which the actual transfer takes place. Unless and until the capital asset is transferred on the dissolution of firm, there is no occasion for bringing to tax any capital asset on transfer which is not actually taken place in th present case. The learned Senior Counsel reiterated that Arbitration proceedings which were the subject matter of dispute after dissolution of firm has not attained finality as that matter is still pending before Bombay High Court. Merely the assessee made an entry in their books of account that will not give rise to Assessing Officer to tax the capital gain. To support his submission, he relied upon the decision of Madras High Court in CIT vs Vijayalaxmi Mill Industry 256ITR 540 (Mad). Further, in the case of Balmukund Paper vs ITO (2013) 37 taxmann.com 60 (Pune – Trib), wherein the co-ordinate bench of Pune Tribunal also took the view that where property was never transferred to partner on dissolution of firm, capital gain to be taxed in the hands of firm. The learned Senior Counsel by referring the decision of Karnataka High Court in CIT vs Dynamic Enterprises reported in (2013) 359 ITR 83 (Kar)(FB)would submit that High Court, while discussing the provisions of sub section (4) of section 45 held that in order to attract sub section (4) of section 45 of the Act, the condition precedent are – (i) there should be a distribution of capital asset of a firm; (ii) such distribution is a result of any transfer of capital asset by firm in favour of partner; (iii) on account of transfer, there should be a profit or gain derived by the firm; and (iv) such distribution should be on distribution of asset of firm

or otherwise and finally, the partners in whose favour the transfer is made should acquire interest, then only profit or gain arising from such transfer is liable to tax under section 45(4) of the Act. The learned Senior Counsel, by summing up all his submissions, reiterated that neither the Arbitration proceedings have attained finality nor the asset has been received on distribution of asset of partnership firm. Therefore, there is no occasion for Assessing Officer to tax capital gain in the hands of assessee and the appeal of assessee may be accepted by quashing the assessment order.

7. On the other hand, the Ld.CIT-DR for the revenue submits that order of High Court in staying the execution of Arbitration Award was not provided to the CIT(A). The assessment was completed on 31/03/2022 and the order on Arbitration Petition is passed by Bombay High Court only on 19/08/2022. Thus, it should have been at least provided to the CIT(A). There is clear observation of lower authorities that neither the copy of contract of partnership, dissolution deed or profit and loss account of firm nor dissolution deed of partnership was provided to the Assessing Officer or to the Ld.CIT(A). Therefore, matter may be restored back to the file of the CIT(A) for deciding the issue afresh with the direction to assessee to provide complete details and documents as desired by lower authorities to come to a clear conclusion on the taxability of capital gain in the hands of assessee.

8. We have considered the rival submissions of both the parties and have gone through the orders of lower authorities carefully. We have also deliberated on various case laws relied upon by the learned Senior Counsel for the assessee. We find that there is no dispute that assessee has introduced a piece of land

as a capital contribution in the firm. As per the assessee, no development on the land took place and ultimately as per difference and disputes among the partners, the partnership firm was dissolved. Consequent to dissolution of partnership, Arbitration proceedings were initiated. Arbitrator award passed on 24/09/2021. Arbitration Award dated 24/09/2021 is subject matter of objection under section 34 of Arbitration & Conciliation Act, 1996. We find that operation of Arbitration Award dated 24/09/2021 has been stayed by Hon'ble jurisdictional High Court on the petition filed by the assessee Vide in Commercial Arbitration Petition No.226 of 2022.

9. Before us, the Ld.Senior Counsel for assessee vehemently argued that there is no distribution of asset as Award passed by Arbitration Tribunal has been challenged by assessee before Hon'ble High Court. From the facts brought before us it is clear that there is no final distribution of asset of the firm. Thus, we may safely conclude that the land in question is not still not transferred to the assessee on dissolution of firm, though, the assessee has reintroduced in its books of account. It is also settled position in law that mere entry in the books of account in not decisive to determine the taxability of transaction as has been held by Madras High Court in CIT vs Vijayalaxmi Mill Industry (supra). We are also in full agreement with the submissions of learned Senior Counsel that in order to attract applicability of sub section (4) of section 45 of the Act, the condition precedent are distribution of capital asset of a firm,and on such distribution there is transfer of any capital asset by firm in favour of partner, on account of transfer, there should be a profit or gain derived by the firm and such distribution should be on distribution of

asset of firm or otherwise and finally, the partners in whose favour the transfer is made should acquire interest, then only profit or gain arising from such transfer is liable to tax under section 45(4) of the Act. Similar view was taken byfull bench of Karnataka High Court in CIT vs Dynamic Enterprises(supra). In view of the aforesaid factual and legal discussions, we do not find any justification in adding capital gain in the hand of assessee. Hence, the addition made by Assessing Officer on account of capital gain is deleted. In the result, ground No. 9 to 14 is allowed.

10. However, we direct the assessee that as and when the distribution of asset of firm is made final in accordance with section 48 of Partnership Act, or otherwise the assessee will inform jurisdictional assessing officer and offered the same to tax in accordance with law.

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

Order was pronounced in the open Court on 26/09/2025.

Sd/-	**Sd/-**
SHRI ARUN KHODPIA **ACCOUNTANT MEMBER**	**PAWAN SINGH** **JUDICIAL MEMBER**

MUMBAI, Dated: 26/09/2025
Pavanan
Copy of the order forwarded to:
(1) The Assessee;
(2) The Revenue;
(3) The PCIT / CIT (Judicial);
(4) The DR, ITAT, Mumbai; and
(5) Guard file.

By Order

Assistant Registrar
ITAT, Mumbai