IN THE INCOME TAX APPELLATE TRIBUNAL

"D" BENCH, MUMBAI

BEFORE SMT. BEENA PILLAI (JUDICIAL MEMBER)

AND

SHRI ARUN KHODPIA (ACCOUNTANT MEMBER)

I.T.A. No. 6129/Mum/2024
Assessment Year: 2017-18

Dosti Realty Limited 1st Floor, Lawrence & Mayo House, 276 Dr. D. N. Road, Fort, Mumbai-400001 **PAN:AACCD7714K**	Vs.	**The Deputy Commissioner of Income Tax, Circle 1(1)(1),** Room No.533, 5th Floor, Aayakar Bhavan, Maharishi Karve Road, Mumbai-400020
(Appellant)		**(Respondent)**

Appellant by	Shri Vijay Mehta
Respondent by	Shri Umashankar Prasad, CIT D.R.

Date of Hearing	02.09.2025
Date of Pronouncement	28.10.2025

ORDER

Per: Smt. Beena Pillai, J.M.:

The present appeal filed by the assessee arises out of order dated 30/09/2024 passed by an FTC daily for assessment year 2017-18 on following grounds of appeal:

> " *Being aggrieved by the appellate order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeals Centre (NFAC),*

Delhi, this appeal petition is submitted on the following grounds, which it is prayed may be considered independently without prejudice to one another:-

1. *On facts and circumstances of the case and in law, the order passed by Ld. CIT(A) ignoring the requests of personal hearing before passing the impugned appellate order in a violation of principles of natural justice as well as mandatory procedure prescribed in "Faceless Appeals Rules 2021," is an arbitrary order and is bad in law. The same needs to be quashed and the grounds of appeal needs to be allowed.*

2. *Disallowance of depreciation on goodwill of Rs. 9,82,98,189/-*

a. *On facts and circumstances of the case and in law, Ld CIT(A) erred in confirming the action of Ld AO of disallowance of depreciation on goodwill amounting to Rs. 9,82,98,189/- by holding that no new asset has been transferred from amalgamating company to amalgamated company. Disallowance of depreciation, ignoring the provision of AS-14, scheme of merger approved by High Court & accepted by Income Tax Department, is bad in law and needs to be cancelled.*

3. *Expenditure capitalized to Work In Progress of Rs. 1,01,02,054/-*

a. *On facts and circumstances of the case and in law, Ld CIT(A) erred in confirming the action of Ld AO of disallowing the expenditure debited toP&L A/c and capitalizing it to WIP account totalling to Rs. 1,01,02,054/-being advertisement & marketing expense (Rs. 73,78,886/-), legal & professional fees (Rs. 10,04,760/-) and brokerage fees (Rs.17,18,408/-) by merely holding that copy of bills/supporting are not submitted and appellant failed to justify how this expenditure are related to revenue expenditure. Confirming such treatment of capitalizing the expense without appreciating the submissions of the appellant and favourable decisions of Hon'ble Mumbai ITAT in appellant's own case for AY 2014-15 and AY 2016-17, is arbitrary action and without application of mind and against the judicial discipline. The expenses need to be considered as part of Profit and Loss Account and allowed during this year only.*

b. *On the facts and circumstances of the case and in law, the Ld CIT(A) erred in confirming capitalization of the expenses amounting to Rs. 1,01,02,054/-Ignoring the accounting treatment laid down in Guidance Note for accounting of Real Estate Transactions &*

Accounting Standard 2 issued by the Institute of Chartered Accountants of India, ICDS notified by Central Government and without appreciating the fact that same is allowable u/s. 37(1).

4. *Addition u/s. 14A r.w.r 8D of Rs. 3,06,36,636/-:-*

a. *On the facts and circumstances of the case and in law, Ld CIT(A) erred in confirming the action of Ld AO of calculating disallowance u/s. 14A r.w.r 8D of Rs. 3,06,47,747/- and confirming excess disallowance of Rs. 3,06,36,636/- without giving any reason for not being satisfied having regard to the books of accounts of the appellant with the correctness of the claim of the appellant.*

b. *On facts and circumstances of the case and in law, Ld. CIT(A) erred in confirming the excess disallowance of Rs. 3,06,47,747/- u/s. 14A of the Act made by the Ld AO without appreciating and following the decision of Hon'ble Mumbai ITAT (ITA No. 2043/Mum/2022) dated 13.04.2023in appellant's own case for AY 2016-17 wherein disallowance u/s. 14A as calculated by Ld AO was cancelled. The addition needs to be deleted.*

c. *Without prejudice to the above and without admitting, on facts and circumstances of the case and in law, Ld. CIT(A) erred in confirming the action of the Ld AO adjusting the book profit u/s. 115JB by considering the disallowance u/s. 14A r.w.r BD of Rs. 3,06,36,636/-. Addition made to the book profit u/s. 115JB considering the calculation of disallowance u/s. 14A as per rule 8D is bad in law and the entire addition of disallowance u/s. 14A needs to be deleted..*

5. *Addition of Rs. 1,76,71,268/- (net) on account of House Property income:-*

a. *On facts and circumstances of the case and in law, Ld. CIT(A) erred in confirming the addition of deemed rent of Rs. 1,76,71,268/- towards unsold flat lying in the closing stock by ignoring various decisions, particularly jurisdictional decisions relied upon by the appellant & also ignoring that the amendment in s. 23(5) for taxability is applicable from AY 2018-2019 and does not apply to stock in trade. The addition being arbitrarily made, not following the law of precedents, needs to be deleted.*

6. *The appellant craves leave to add, to amend, alter/delete and/or modify the above grounds of appeal on or before the final hearing"*

Brief facts of the case are as under:

2. The assessee is a builder and real estate developer. For the year under consideration the assessee filed its return of income on 30/11/2017 declaring total income at Rs.60,59,95,110/- under normal provisions of the act, and book profit of Rs.84,40,20,695/- under section 115 JB of the act.

2.1 The return was processed under section 143(1) of the act and subsequently, the case was selected for scrutiny. Accordingly, statutory notices under section 142(1) and 143(2) of the act were issued to the assessee. In response to the same, representatives of the assessee appeared before the Ld.AO and filed requisite details as called for.

2.2 Based on the submissions furnished by the assessee, Ld.AO made following disallowances:

- disallowance of depreciation on goodwill at Rs.9,82,98,189/-
- disallowance of capital expenses of Rs.1,01,02,054/-
- addition under section 14A read with rule 8D at Rs.3,06,36,636/-
- deemed rental income (Net) at Rs.1,76,71,268/-

2.3 The Ld.AO also made addition under section 14A read with Rule 8D to the book profit under section 115 JB of the act.

Aggrieved by the order of the Ld.AO assessee preferred appeal before the Ld.CIT(A).

3. The Ld.CIT(A) after considering the submissions of the assessee, Ld.CIT(A) confirmed the additions made by the Ld.AO.

Aggrieved by the order of CIT(A), the assesse is in appeal before this *Tribunal*.

4. The Ld.AR submitted that **Ground No.1** filed by the assessee is general in nature and therefore is not pressed.

4.1 Ground No.2 raised by the assessee is against disallowance of the depreciation on goodwill amounting to Rs.9,82,98,189/-.

4.2 The Ld.AR submitted that the goodwill emerged out of amalgamation of two entities with the assessee being, Dosti Land Developers Pvt. Ltd. and Friends Development Corporation (Imperial) Pvt. Ltd. It is submitted that, the said scheme of amalgamation was approved by *Hon'ble Bombay High Court*vide the *order dated 26/02/2016* effective date from 01/04/2015.

4.3 The Ld.AR submitted that, for assessment year 2016-17, coordinate bench of this *Tribunal* in ITA No.2043/Mum/2022 and CO No.122/Mum/2022 vide order dated 13/04/2023 considered identical issue being the first year of amalgamation. It is submitted that during the assessment year 2016-17 this *Tribunal*analysed this issue and allowed the claim of depreciation by observing as under:

> *"7. In the case of Smifs Securities Ltd., the Supreme Court has held that 'goodwill' is an intangible asset eligible for depreciation under the provisions of section 32 of the IT Act. A decision is only an authority for what it actually decides. Hence, the said case can be said to be an authority only to the extent that goodwill is a depreciable asset. In the case of U.P. State Industrial Development Corpn. [CIT v. U.P. State Industrial Development Corpn. [1997] 225 ITR 703], the Hon'ble Supreme Court held that it is a well-accepted proposition that for the purposes of ascertaining profits and gains the ordinary principles of commercial accounting should be applied, so long as they do not conflict with any express provision of the relevant statute. The said principle was again retreated by the Supreme Court in the case of Woodward Governor [CIT v. Woodward Governor India (P.) Ltd. [2009] 312 ITR 254]*

wherein it held that profits for income-tax purpose are to be computed in accordance with ordinary principles of commercial accounting, unless such principles stand superseded or modified by legislative enactments. In other words, it can be said that accounting treatment of any transaction is relevant only to the extent they are not in conflict with the express provisions of the IT Act. In case of merger and acquisition, the IT Act expressly requires recording of capital assets at the price appearing in the books of Target Company. Accordingly, the recognition of goodwill in accordance with Accounting Standard-14 and amortisation of the same in accordance with Accounting Standard-26 may not be of any help in claiming depreciation under the IT Act in view of the express provisions mentioned therein. Thus, the cost of acquisition of existing goodwill in the hands of the acquirer will be the cost/written down value in the hands of Target Company. Further, in case of goodwill arising out of amalgamation, the cost in the hands of target company would be NIL by virtue of section 55(2) (a) (ii) and, accordingly, the cost would be NIL in the hands of acquirer-company. It is pertinent to note that decisions favouring the proposition [CIT v. Smifs Securities Ltd. [2012] 348 ITR 302(SC)] that depreciation is available on goodwill arising out of amalgamation, section, viz., 5th proviso to section 32 (1), section 49(1)(iii)(e), Explanation 7 to section 43(1)and/or Explanation 2(b) to section 43(6)(c) and section 55(2)(a)(ii) were not referred..

8. Generally, when someone acquires a business and purchase consideration paid for the business is more than the net assets acquired, the difference is recognized as goodwill in accounting. Here in this case as amalgamation process has been carried out as per the direction of Hon'ble Bombay High Court and assessee clearly followed "pooling of interest" method, there can't be any separate purchase consideration, which assessee is supposed to pay. In the whole scenario the principle of "substance over form" has to be considered. In substance there is no goodwill involved at all and it is simply an accounting entry to balance the accounts of the transferee company by virtue of scheme implementation as per the directions of Hon'ble High Court.

9. Goodwill falls in the category of "Intangible Assets", but its advantages must be tangible and assessee has to establish on record that by virtue of "Goodwill" what are the financial and non-financial gains are accruing to him. In this case what we observed, pre-merger and post-merger is simply a consolidation of figures of entities involved and not a percentage growth in terms of sales, profitability, net worth

and customer base etc. post-merger. In view of the above discussion and legal history analysed, we are of the considered view that order of Ld. CIT (A) is not sustainable in law and order of AO is restored as found to be based on sound legal logics. In the result Ground Nos. 1&2 of the Revenue is allowed."

4.4 On the contrary, the Ld.DR relied on the orders passed that the authorities below.

We have perused the submissions advanced by both sides in the light of the records placed before us.

5. It is noted that this issue has been considered by this *Tribunal* in assessee's own case for assessment in 2016-17. Nothing contrary to the view taken by this *Tribunal* has been brought on record by the revenue.

5.1 Respectfully following the view adopted by this *Tribunal* for assessment year 2016-17 (supra) the disallowance made by the Ld.AO stands deleted.

Accordingly ground no.2 raised by the assessee stands allowed.

6. Ground No.3 raised by the assessee is against the disallowance of expenditure that was capitalised to work in progress amounting to Rs.1,01,02,054/-.

6.1 The Ld.AR submitted that, during the year under consideration, the assessee capitalised following expenditure as capital work in progress:

Advertisement and marketing expenses- Rs.73,78,886/-

Legal and professional fees- Rs.10,04,760/-

Brokerage fees Rs.17,18,408/-

The Ld.AO was of the view that assessee had completed more than 80% of the project and therefore the above expenses should not be treated as capital in nature.

6.2 The Ld.AR however submitted that, this issue has also been analysed by co-ordinate Bench of this *Tribunal* for assessment 2016-17 by observing as under:

> *"11. We found that it's a settled legal position of law that Legal & Professional Expenses and Marketing and Business Development Expenses are time related expenses and not related to any specific project. As far as Brokerage Expenses are concerned those were incurred only towards "Dosti Ambrosia" which has been completed during the year and revenue is also offered accordingly. For A.Y. 2014-15 also on the similar grounds claim of expenses was allowed by coordinate bench of ITAT, Mumbai vide ITA No. 7374/Mum./2019, Dated: 06-09-2022. As revenue is failed to produce any evidence or argument which differentiates the facts of the of the assessee for current A.Y. vis-à-vis A.Y. 2014-15, we respectfully follow the order of coordinate bench and dismiss the appeal of Revenue on this ground. As these are the revenue expenditure allowable u/s. 37 of the Act, further disallowance of the same and capitalising the same will tantamount to double addition, as on the one hand expenses claimed by the assessee is reduced on the other hand same are capitalised as work-in-progress will enhance the value of inventory and profits will be increased. Hence Ground No. 3 raised by the Revenue is dismissed."*

6.3 On the contrary, the Ld.DR relied on the orders passed by the authorities below. He submitted that though there is no revenue impact, however as per project completion method followed by the assessee, the expenditure has to be proportionately considered to determine the total income in the hands of the assessee from the activity.

We have perused the submissions advanced by both sides in the light of the records placed before us.

It is noted that, this issue has been considered by this *Tribunal* in assessee's own case for assessment in 2016-17 as reproduced herein above.

Nothing contrary to the observations of this *Tribunal* has been brought on record by the revenue for the year under consideration.

6.4 Respectfully following the view adopted by this *Tribunal* for assessment year 2016-17 (supra) the disallowance made by the Ld.AO stands deleted.

Accordingly ground no.3 raised by the assessee stands allowed.

7. Ground No.4 raised by the assessee is against disallowance made under section 14A of the act.

The Ld.AR submitted that, this issue is squarely covered by the decision of coordinate bench of this*Tribunal* for assessment year 2015-16, wherein the disallowance was reworked by taking into account investment in the partnership firms, on which, exempt income was earned. The Ld.AR submitted that the assessee is agreeable to the directions of this *Tribunal* which may be followed for the year under consideration.

7.1 The Ld.DR relied on the orders passed by the authorities below.

We have perused the submissions advanced by both sides in the light of the records placed before us.

8. It is noted that this *Tribunal* for assessment of 2015-16 in ITA No. 6128/Mum/2024 vide order dated 31/07/2025 and for

assessment year 2014-15 in ITA No.6130/Mum/2024 vide order dated 24/07/2025.

8.1 It is noted that, for year under consideration, the assessee earned exempt income from mutual funds at Rs.1,39,200/- and investment made in partnership firms at Rs.13,94,01,336/-. The assessee *suo moto* disallowed Rs.11,111/-. The Ld.AO disregarded the submissions of the assessee and computed disallowance under section 14A at 1% being average of monthly average investments by adopting the machinery under Rule 8D of Income tax Rules.

8.2 Co-ordinate bench of this *Tribunal* for assessment year 2014-15 (supra) observed as under:

> *"5. In the light of these observations in the present case before us, we note that Id. Assessing Officer in the impugned order in para-4 has pointed out the mistake/deficiency in the working of the suo moto disallowance by the assessee by stating that all the investments have not been taken into consideration for calculating the disallowance to be line with Rule 8D(2)(iii). Further, we note that the Coordinate Bench did not have any occasion to deal with the decision of Hon'ble Special Bench, Ahmedabad in the case of Vishnu Anant Mahajan (2012] 22 taxmann.com 88 (Ahd)(SB). Hon'ble Special Bench held that share income of partner from partnership firm is not liable to tax u/s.10(2A) and in such a case, provisions of section 14A apply to disallow expenditure incurred on earning the said income. Decision of Special Bench carries force of binding nature. Accordingly, share of profit from partnership firms earned by the assessee, during the year, requires disallowance u/s.14A of the Act. Since assessee has calculated suo moto disallowance by applying Rule 8D(2)(iii) instead of computing the same by considering expenses having regard to the books of accounts, the investment made by it in partnership firms ought to be included while making calculation under Rule 8D(2(iii).*
>
> *5.1. In the present set of facts, not all the investments made in various partnership firms have yielded share of profit. Thus, by applying the decision of another Hon'ble Special Bench in the case of Vireet*

Investment [2017] 82 taxmann.com 415 (Del) (SB) wherein it was heldthat only those investments are to be considered for computing average value of investment which yielded investment income during the year, the investments in partnership firms which yielded share of profit ought to be considered. Assessee has earned share of profit only from two partnership firms, namely, Friends Development Corporation and DostiSeaView Realty LLP. Based on the above finding, disallowance u/s.14A by applying Rule 8D(2)(iii) is re-calculated by taking into account those investments from which exempt income has been earned by the assessee and is tabulated below:

Sr. No.	*Investment*	*As on 01.04.2013 (Rs.)*	*As on 31.03.2014 (Rs.)*	*Average investment (Rs.)*	*Exempt income (Rs.)*
1.	*Mutual fund*				
2.	*Capital account balance with Friends Development Corp.*				
3.	*Capital account balance with Dosti Seaview Realty LLP*	*3,61,293*	*1,66,233*	*2,63,763*	*4,940*

6. Thus, the disallowance u/s.14A comes to Rs.19,54,691/-against which assessee has already suo moto disallowed Rs.5,13,698/-, the balance of Rs. 14,40,993/ is to be disallowed and added to the total income of the assessee as against addition of Rs.33,68,410/- made by the Ld. Assessing Officer. Accordingly, grounds raised by the assessee are partly allowed."

8.3 Before us, for the year under consideration the assessee provided following calculation towards the disallowance under section 14A, considering the investments on which exempt income was earned. The same is produced as under:

Sr. No.	**Investments in**	**PAN**		**As on 01.04.2016 (Rs.)**	**As on 31.03.2017 (Rs.)**	**Average investment (Rs.)**	**Exempt income (Rs.)***
1	Mutual funds			25,00,000	25,00,000	25,00,000	1,39,200
	Partnership Firms						

2	Capital account balance with Dosti Corporation (Presidio)	AAGFD2145R		11,65,66,446	14,45,68,974	13,05,67,710	2,527
3	Capital account balance with Dosti Corporation (Vihar)	AAGFD2146N		10,41,20,725	57,94,310	5,49,57,518	9,87,80,176
4	Capital account balance with Dosti Corporation (Pinnacle)	AAGFD2142J		17,48,57,411	8,71,40,061	13,09,98,736	4,06,18,633
Total						31,90,23,964	13,95,40,536
				1% thereof		**31,90,240**	

8.4 Respectfully following the view taken by this *Tribunal* in assessee's own case (supra), disallowance u/s.14A is to be restricted at Rs.31,90,240/-as computed hereinabove.

Accordingly, this ground raised by the assessee stands partly allowed.

9. Ground No.5 raised by the assessee is against the addition of notional rent of Rs.1.76 crore on vacant house property treated as stock in trade.

9.1 The Ld.AR submitted that, the unsold shop/flats were held as stock in trade and is to be considered as "business income" and not under the head "income from house property". The Ld.AR submitted that provisions of section 23(1) is to determine annual value of the property and is not applicable to the unsold flats, as they are not meant for letting out but the same is held for sale. The Ld.AR relied on various decisions of this *Tribunal*

wherein, it is been held that, no notional rent could be calculated in respect of unsold units held as stock in trade:

- *C.R. Developments Pvt. Ltd. (ITA No. 4277/Mum/2012) (13 May 2015)*
- *Runwal Builders P. Ltd. (ITA No. 5408/Mum/2016) (22 February 2018)*
- *Progressive Homes (ITA No.5082/Mum/2016) (16 May 2018). The Mumbai Tribunal noted the provisions of Section 23 were amended w.e.f. A.Y.18-19 by insertion of sub-section (5) to give relief to real estate developers by providing them exemption period of 1 year from notional taxation under House property.*
- *Haware Engineers & Builders Pvt. Ltd. (ITA No.7155/Mum/2016) (10 October 2018)*
- *M/s. Kolte Patil Developers Itd. Vs. DCIT, ITA No.2206/Pun/2016, Pune Tribunal dated 03.05.2019*
- *Shri Girdharilal K. Lulla vs DCIT, ITA No. 1604/Mum/2016, dated 17.11.2017*
- *Gujarat HC in case of Neha Builders ((2007) (296 ITR 661)]"*

9.2 He also submitted that, this issue was considered by coordinate of this *Tribunal for assessment year 2015-16 (supra),* wherein, it is held that, amendment to section 23 by way of insertion of sub-section (5) with effect from 01/04/2018, assessment of unsold inventory is to be assessed as 'income from house property' from assessment year 2018-19. It was submitted that present assessment year under consideration is 2017-18 and therefore the amendment is not applicable for year under consideration. The Ld.AR also placed reliance in the decision of coordinate bench of this *Tribunal* in case of *DCIT vs Inorbit Mall Pvt. Ltd.*, in *ITA No.2220/Mum/2021for assessment year* in *2017-18 vide order dated 11/10/2022,* identical issue was considered for similar assessment year under consideration.

9.3 On the contrary, the Ld.DR relied on the orders passed by the authorities below.

We have perused the submissions advanced by both sides in the light of the records placed before us.

10. The assessee filed before this *Tribunal* decision in case of *DCIT vs Inorbit Mall Pvt. Ltd.*, (supra). It is noted that this *Tribunal* in the decision of *Inorbit Mall Private Limited (supra)* considered the prospective effect of the amendment to section 23 brought on by Finance Act 2017 with effect from 01/04/2018 i.e; assessment to 2018-19. This *Tribunal* took a view after considering various decisions of *Hon'ble Delhi High Court*, *Hon'ble Gujarat High Court* and coordinate bench *Tribunal* by observing as under:

> *"19. Now, that specific provision has been brought in the statute which provides that, if building or land held as stock in trade and the property has not been let out during the whole or any part of the previous year, then annual value of such property after the period of one year (which was increased 2 years), shall be computed as income from house property and up to period of one year/two years income shall be taken to be 'nil'. Thus, when specific provision has been brought with the effect from 01.04.2018 which cannot be applied retrospectively, then in our humble opinion it cannot be imputed that ALV of the flats held as stock in trade should be taxed on notional basis prior to AY 2018-19. Without any legislative intent or specific provision under the Act, such notional or deeming income should not be taxed as cardinal principle, because assessee is not aware that any hypothetical income is to be shown when he has not received any real or actual income. In our view of Hon'ble Delhi High Court is too harsh an interpretation.*
>
> *20. Since, even prior to the amendment, there is one High Court judgment of Hon'ble Delhi High Court which is directly on this issue and against the Assessee, therefore same needs to be followed. Accordingly, we hold that Assessing Officer is correct in computing ALV on notional rent on unsold stock, but with following riders and directions to the AO as discussed herein after.*
>
> *21. Firstly, the flats or units on which assessee has received any advance in this year or in the earlier years but has not delivered or given final possession of the said flat/unit to the buyer, then no*

notional rent can be charged as it tantamount to sale. Secondly, if unit of flat is shown as work-in-progress in the books then also no notional rent can be computed. And Lastly, Ld. Assessing Officer is not justified in making estimate of 8.5% of investment as ALV which is unsustainable in view of the decision of Hon'ble Bombay High Court in the case CIT Vs. Tip top Typography reported in 368 ITR 330, wherein, it has been held that rent should be computed at Municipal ratable value. We accordingly direct the AO to ascertain the Municipal ratable value for computing the notional rent. This isalso been held by ITAT Mumbai Bench in the case of Dimple Enterprise Vs. DCIT (Supra), in the following manner:-

"Now the question is of the rental value. The assessing officer has not levied the deemed rent on municipal ratable value or any nearly similar instance. The reliability of municipal ratable value has been duly upheld in several decisions. The Assessing Officer cannot make any ad hoc computation of deemed rent. Honorable Bombay High Court decision in the case of CIT vs. Tip Top Typography [2014] 48 taxmann.com 191/[2015] 228 Taxman 244 (Mag.)/[2014] 368 ITR 330 duly supports this proposition. Thus assessing officer has made an ad hoc estimate of 8.5% of investment on the plea that assessee has not been able to provide the municipal ratable value. This is not sustainable on the touchstone of Hon'ble Bombay High Court decision in the case of Tip Top Typography (supra). In our considered opinion nothing stops the assessing officer from obtaining the municipal ratable value from Departmental or government machinery. Hence we direct the assessing officer to compute the valuation of deemed rent in accordance with our observation as above and take into account the Hon'ble Jurisdictional High Court decision as above. Since wehave decided the issue by duly taking note of Hon'ble Jurisdictional High Court decision and have also applied Hon'ble High Court decision, the reference to other decision in this case is not considered relevant to adjudication in this case."

22 Thus, AO is directed to compute accordingly as per direction given above. Accordingly, ground No.1 of the revenue is partly allowed for statistical purposes purposes"

10.1 Respectfully following the above view, we are of the considered opinion that the computation of notional rent needs to be revisited by the Ld.AR based on the above directions.

Accordingly ground no.5 raised by the assessee stands partly allowed.

In the result appeal filed by the assessee stands partly allowed.

Order pronounced in the open court on 28/10/2025

Sd/-	**Sd/-**
(ARUN KHODPIA)	**(BEENA PILLAI)**
Accountant Member	**Judicial Member**

Mumbai:
Dated: 28/10/2025
Poonam Mirashi,
Stenographer

Copy of the order forwarded to:

(1)The Appellant
(2) The Respondent
(3) The CIT
(4) The CIT (Appeals)
(5) The DR, I.T.A.T.

True Copy

By order

(Asstt.Registrar)
ITAT, Mumbai