INCOME-TAX APPELLATE TRIBUNAL
MUMBAI BENCH "A", MUMBAI

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

**I.T.A No. 3586/Mum/2025**
**(Assessment Year: 2012-13)**

| | | |
|---|---|---|
| **Aamir Khatri**<br>183, 2nd Floor, Ashoka Shopping Centre, Lokmnya Tilak Road, Mumbai-400 001<br><br>**PAN : AGKPK1753E** | **vs** | **DCIT – 17(1), Mumbai (erstwhile ACIT-2(1), Mumbai),**<br>Kautilya Bhavan, Mumbai-400 051 |
| **APPELLANT** | | **RESPONDENT** |

| | |
|---|---|
| Present for Assessee | Shri Suchek Anchaliaya |
| Present for Revenue | Shri Surendra Mohan (SR DR.) |

| | |
|---|---|
| Date of hearing | 04/12/2025 |
| Date if pronouncement | 19/12/2025 |

**O R D E R**

**Per : Shri Anikesh Banerjee, JM:**

The instant appeal of the assessee filed against the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter called, 'Ld.CIT(A)] passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') for Assessment Year 2012-13, date of order 25/03/2025. The impugned order emanated from the order of the Learned Assistant Commissioner of Income-tax – 21(1), Mumbai (for brevity, the "Ld. AO"), order passed under section 143(3) read with section 263 of the Act, date of order 21/08/2017.

2. The assessee has taken the following grounds:-

*"1. On the facts and in the circumstances of the case and is low, the Ld. NFAC in confirming the addition of Rs. 2,55,53,840/-, by excluding DEPB income from turnover and profit for calculating gross profit without considering that DEPB income is part and parcel of appellant's export business and therefore, must be included in the profit forting gross profit of the appellant.*

*2 On the facts and in the circumstances of the case and in les, the Learned Principal Commissioner of Income Tax (Pr. CIT) erred in invoking the provisions of section 263 of the Income Tax Act, 1961 and setting aside the order of the Ld. AO without appreciating the Tact that the condition laid down for invoking the section 263 of the Act was not satisfied.*

*3. On the facts and circumstances of the case, the learned Pr. CIT has erred both on facts and in low in ignoring the fact that the proceeding under Section 263 of the Income Tax Act, 1961 cannot be used for substituting the opinion of the Ld.AO the course of assessment proceeding by that of the Pr. CIT.*

*4 On the facts and circumstances of the case, the order passed by Pr. CIT under section 263 of the Income Tax Act, 1961 is unsustainable as the power to revise can be invoked in the case of lack of enquiry, not in the case of inadequate enquiry and same is bad in law.*

*5. The appellant craves leave to add, alter or delete all or modify any or all the above grounds of appeal."*

3. The brief facts of the case are that related to the impugned assessment year, the assessment was framed u/s 143(3) of the Act and the Ld.AO found that the assessee has declared low gross profit @0.60% and the net profit ratio is 0.33%. The Ld. AO estimated the gross profit @1% on the turnover and completed the assessment. Accordingly, the Ld.AO determined @1% of turnover amount to Rs.34,58,960/- in the original assessment, u/s 143(3) of the Act, date of order 27/03/2015. The assessee has offered its gross profit in return of income amount to Rs.15,75,024/-. Hence, the difference amount of Rs.18,87,936/- is added back to the total income of the assessee. The observations of the Ld.AO in assessment order u/s 143(3) is reproduced below:-

*"5. The filed information has been verified and noticed that assessee has shown Gross Profit ratio as 0.43% and Net Profit Ratio as 0.84% in the case of the assessee during the scrutiny proceedings for A.Y 2011-12, the G.P is estimated at 1%. The facts being same, AR was requested to explain vide order sheet entry dated 10.03.2015 as to why the G.P for the A.Y.2012-13 should not be taken at 1% at par and reasonable with previous years G.P. The A.R. agreed to the same. After going through the submission, it is concluded that GP percentage shown as 0.60% is not consistent with the trend of his business. Hence, the GP has been estimated and work out at 1%, which is at par and reasonable with average previous years GP.*

*5.1 The GP amount is worked out Rs.34,58,960/-. The assessee has offered his GP as Rs.15,71,024/-, Hence, the difference amount Rs.18,87,936/- is added back to the total income of the assessee."*

The original assessment order dated 27/03/2015 was duly revised by the Ld.PCIT-21, Mumbai by invoking provision u/s 263 of the Act. The Ld.PCIT considered that during this impugned assessment year, the assessee declared "local sale" amount of Rs.1,52,44,808/-, DEPB sale Rs. 2,36,65,905/-, export amount to Rs. 32,94,42,522/- and exchange rate fluctuation Rs.1,49,08,740/- which comes to total amount to Rs. 36,95,61,974/-. The Ld. AO considered the gross profit @1% on turnover excluding the DEPB licence sales. But observation of the Ld. PCIT in revisional order was that the DEPB licence sale will not be considered in total turnover. Accordingly, 1% gross profit will be calculated on the rest of the turnover by reducing the DEPB licence sale amount to Rs.2,36,65,905/- from the total turnover amount to Rs.36,95,61,975/- and accordingly, the DEPB licence sale was added back with the total income of the assessee separately. The Ld. AR submitted the comparative additions in original assessment order and in the revisional order of the Ld. PCIT, which is reproduced as below:-

***"1. Assessment Order u/s 143(3), dated 27.03.2015***

*The Ld. A.O. estimated the GP of the assessee at 1% of Sales (excluding DEPB Sales) and calculated the addition to the total income of the assessee as follows:*

| Particulars | Amount |
|---|---|
| Sales as per Profit and Loss A/c of the assessee (incld.DEPB Sales) | 36,95,61,975 |
| **Less :** DEPB Sales | 2,36,65,905 |
| **Sales taken by the AO for estimating GP** | **34,58,96,070** |
| | |
| **Gross Profit estimated by AO (1% of Sales)** | **34,58,961** |
| | |
| Less : Gross Profit as per the Profit and Loss A/c of the assessee | **(15,71,025)** |
| | |
| **Addiiton to the total income of the assessee** | **18,87,936** |

**2. Order of PCIT u/s 263, dated 27.03.2017**

*The Ld. PCIT observed that the Ld. A.O. had excluded DEPB Sales from the Turnover in estimating the GP at 1%, however, in giving credit of Gross Profit declared by the assessee, the Ld. A.O. considered the GP by including the DEPB Sales in the Turnover. In view of this, the Ld. PCIT set aside the order of Ld. A.O. u/s 143(3), dated 27.03.2015, with direction to revise the addition on account of alleged suppression of GP.*

***3. Assessment Order u/s 143(3) r.w.s. 263, dated 21.08.2017 ('impugned order')***

*Consequent to order of PCIT u/s 263, dated 27.03.2017, the Ld. A.O. computed the addition to the total income of the assessee as follows:*

| ***Particulars*** | ***Amount*** | ***Amount*** |
|---|---|---|
| *Sales as per Profit and Loss A/c of the assessee (incld. DEPB Sales)* | | *36,95,61,975* |
| ***Less :*** *DEPB Sales* | | *2,36,65,905* |
| ***Sales taken by the AO for estimating GP*** | | *34,58,96,070* |
| | | |
| ***Gross Profit estimated by AO (1% of Sales)*** | | ***34,58,961*** |
| ***Less: Credit of Gross Profit by assessee*** | | |
| *Gross Profit as per Profit and Loss A/c of the assessee* | *15,71,025* | |
| ***Less****: DEPB Sales* | *(2,36,65,905)* | ***2,20,94,880*** |
| ***Addition to the total income of the assessee*** | | ***2,55,53,841*** |
| ***Less: Addition made in assessment order u/s 143(3), dated 27.03.2015*** | | ***(18,87,936)*** |

| | | |
|---|---|---|
| ***Differential Addition*** | | ***2,36,65,905*** |

Accordingly, the Ld.PCIT considered this assessment order as erroneous and prejudicial to the interest of the revenue and set aside the original assessment order. The Ld.AO passed an order giving effect (OGE) u/s 143(3) r.w.s. 263 of the Act on dated 21/08/2017 and where the Ld.AO, by considering the direction u/s 263 of the Act, passed the order and made the addition amount to Rs.2,55,53,840/-The aggrieved assessee filed an appeal before the Ld.CIT(A). the Ld.CIT(A) upheld the impugned order of the Ld.AO. Being aggrieved, assessee filed an appeal before us.

4. The Ld.AR argued and filed paper book containing **pages 1 to 33**, which is kept on record. The Ld.AR stated that the Ld.PCIT has passed he order u/s 263 of the Act by considering the DEPB licence sale as non operating income. So DEPB licence was segregated from the total turnover and the 1% GP was duly calculated on the rest of the turnover and finally, the DEPB licence sale was added back with the total income of the assessee including the estimated gross profit. The Ld.AR stated that the DEPB licence sale is an operating income. He invited our attention in revisional order. The relevant paragraphs of the revisional order is extracted below:-

*"7. The assessee's contention has been considered along with the facts and the legal position and accounting principles. The moot question is whether DEPB can be considered to be a sales receipt and be considered for calculating the Gross Profit. DEPB is an export incentive given by the Government of India for exports and is termed as Duty Entitlement Pass Book wherein a certain percentage of the Export value is credited as an incentive to be utilized towards payment of import duty whenever there is an import by the assessee Further it can also be freely transferred to another entity for a premium whereby the purchaser can utilize the same towards payment of custom duty on his exports. Turnover of a business is the total sales volume net of all discount and taxes and can also be considered as the number of times the assets of a concern including inventory, cash and raw material is replaced or revolved*

*during an accounting period. Adopting the said interpretation an export incentive can by no stretch of imagination be considered as a part of the turnover of a business. It is also pertinent to mention that the Assessing Officer had himself adopted the said proposition while estimating the GP at 1% of the turnover wherein the correct turnover has been adopted at Rs. 34,58,96,060/- which did not include DEPB. Even on such basis it cannot be accepted that when the assessee's GP as per financial statement is to be adopted the turnover should be considered at Rs 36,95,61,974/- and while estimating the GP the turnover should reduce to Rs.34,58.96,060/-. The assessee's argument about the nature of DEPB to be in the nature as to constitute a part of the turnover is not acceptable due to the reasons mentioned herein above. In view of the said facts it is clear that the Assessment Order is erroneous in considering the GP disclosed by the Assessee at Rs. 15,71,024/- as against the actual GP being a loss of Rs. 2,20,94,880/-and accordingly considering the estimated GP at Rs.34,58,960- the net addition on account of suppression of GP should have been Rs. 2,53.53.840/- ((-) 2,20,94,880-32,58,960) as against Rs. 18,87,936/-adopted by the Assessing Officer. Consequently the order is also prejudicial to the interest of revenue on account of escapement of taxation of income of Rs.2.36,65,904/-*

*8. In view of the above, since the order of the Assessing Officer, made on 27.03.2015 u/s. 143(3) is erroneous and prejudicial to the interests of revenue, is accordingly set-aside with directions to revise the addition on account of suppression of GP as observed hereinabove and after due verification and providing reasonable opportunity for being heard to the assessee, a fresh assessment on the said issue be made."*

*5.* The Ld.AR further argued that the issue is squarely dealt by the co-ordinate bench of ITAT, **Chennai Bench "D"** in the case of **M/s ZF Rane Automotive India Private Limited in IT (TP) A. NO.53/Chny/2024**, date of pronouncement **04/08/2025.** The relevant paragraph 5 is extracted below:-

> *"5. We have perused the orders and heard the rival contentions. The issue under discussion is against treatment of export incentives and whether the same were operating income or non-operating income. The case of Revenue was that the same are non-operating income as some of the comparable companies do not have such income and hence, the same are to be excluded from operating margins of Assessee by applying the parity principle. In our view, the approach of the Revenue is fundamentally flawed. We believe the correct approach to determine whether an income is operating or non-operating would be heavily dependent upon the character*

*of such income and its proximity to the normal business operation. Viewed from this angle, we feel that both the export incentives are intertwined with the core operation of manufacturing and export as the entitlement of such incentive is wholly on manufacturing and export. In fact, Section 28 of the Act, specifically states that these export incentives will chargeable to tax as "profits and gains of business or profession", accordingly taking a cue from the corporate tax provisions it could be safely inferred that export incentives are operating in nature. Further, the Act does not provide any specific definition of the specific term "operating income". Therefore we refer to other related Enactments/Rules to decipher the meaning of the aforesaid term. In this regard, the Safe Harbour Rules 10TA (1)(i) defines "operating revenue" in an inclusive manner to mean "the revenue earned by the assessee in the previous year in relation to the international transaction during the course of its normal operations but not including the following, namely…….. (vii) other incomes not relating to normal operations of the assessee". From this definition it is clear that an income to form part of operating income it should be derived from normal operations. Undoubtedly in the instant case, the export incentive is derived during the course of normal operations. Apart from this definition, the Cost Accounting Standards elucidates the term Revenue from operations as under:*

> *"4.9 Revenue from operations: is the income arising in the course of the ordinary activities of an entity from the sale of goods or rendering of services. Revenue from operations represents income arising from the sale of goods or rendering of services and includes other operating revenue, such as sale of scrap, government subsidies, or incentives received. Revenue from operations is generally recognised at the net value excluding indirect taxes. Sometime, revenue is presented at the gross value including excise duty and the excise duty is presented as deduction from such gross value of the revenue. Other Operating Revenue is the incidental income arising in the course of ordinary activities of an entity but not arising from the sale of main goods or services, and it does not include Other Income. Examples:*

*(i) Sale of By-products;*

*(ii) Sale of manufacturing scrap;*

*(iii) Export incentives received from Government; and*

*(iv) Product related subsidies or grants received from Government"*

*Further, the purpose of these export incentives are implicit from the respective schemes as under:*

*Duty Drawback is a trusted and time-tested scheme administered by CBIC to promote exports. It rebates the incidence of customs and Central Excise duties, chargeable on imported and excisable material respectively when used as inputs for goods to be exported. This WTO compliant scheme ensures that exports are zero-rated and do not carry the burden of the specified taxes. Duty Drawback provides essential support to exporters. The scheme comprises three categories, i.e. (i) All industry Rate (ii) Brand Rate and (iii) Drawback on re-export of imported goods.*

*Duty Drawback on re-export of imported goods: Duty Drawback can also be claimed or the export of duty-paid imported goods. Under this facility, goods imported earlier may be exported and Duty Drawback of up to 98% of import duty paid can be claimed on such exports. Proof of duty paid on importation and identification of the export goods as those that were imported earlier are among the primary requirements under this scheme.*

***MEIS***

*What is Merchandise Exports from India Scheme (MEIS) Scheme*

*A scheme designed to provide rewards to exporters to offset infrastructural inefficiencies and associated costs. The Duty Credit Scrips and goods imported/ domestically procured against them shall be freely transferable. The Duty Credit Scrips can be used for:*

*(i) Payment of Basic Customs Duty and Additional Customs Duty specified under sections 3(1), 3(3) and 3(5) of the Customs Tariff Act, 1975 for import of inputs or goods, including capital goods, as per DoR Notification, except items listed in Appendix 3A.*

*(ii) Payment of Central excise duties on domestic procurement of inputs or goods,*

*(iii) Payment of Basic Customs Duty and Additional Customs Duty specified ender Sections 3(1), 3(3) and 3(5) of the Customs Tariff Act, 1975 and fee as per paragraph 3.18 of this Policy*

*Objective of the Merchandise Exports from India Scheme (MEIS) is to promote the manufacture and export of notified goods/ products."*

The co-ordinate bench has considered this DEPB incentive as an operating income and the expenses related to section 28 is duly held to be applicable.

5. The Ld.AR further argued and respectfully relied on the order of Hon'ble Supreme Court in the case of **Topman Exports vs CIT** reported in **(2012) 18 taxmann.com 120 (SC)** , where it is held that DEPB is covered u/s 28(iiib) where profit on transfer of DEPB is covered u/s 28(iiid) of the Act. The Hon'ble Apex Court observed that.

> *"16. The High Court has sought to meet the argument of double taxation made on behalf of the assessees by holding that where the face value of the DEPB was offered to tax in the year in which the credit accrued to the assessee as business profits, then any further profit arising on transfer of DEPB would be taxed as profits of business under Section 28(iiid) in the year in which the transfer of DEPB took place. This view of the High Court, in our considered opinion, is contrary to the language of Section 28 of the Act under which "cash assistance" received or receivable by any person against exports such as the DEPB and "profit on transfer of the DEPB" are treated as two separate items of income under clauses (iiib) and (iiid) of Section 28. If accrual of DEPB and profit on transfer of DEPB are treated as two separate items of income chargeable to tax under clauses (iiib) and (iiid) of Section 28 of the Act, then DEPB will be chargeable as income under clause (iiib) of Section 28 in the year in which the person applies for DEPB credit against the exports and the profit on transfer of the DEPB by that person will be chargeable as income under clause (iiid) of Section 28 in his hands in the year in which he makes the transfer. Accordingly, if in the same previous year the DEPB accrues to a person and he also earns profit on transfer of the DEPB, the DEPB will be business profits under clause (iiib) and the difference between the sale value and the DEPB (face value) would be the profits on the transfer of DEPB under clause (iiid) for the same assessment year. Where, however, the DEPB accrues to a person in one previous year and the transfer of DEPB takes place in a subsequent previous year, then the DEPB will be chargeable as income of the person for the first assessment year chargeable under clause (iiib) of Section 28 and the difference between the DEPB credit and the sale value of the DEPB credit would be income in his hands for the subsequent assessment year chargeable under clause (iiid) of Section*

*28. The interpretation suggested by us, therefore, does not lead to double taxation of the same income, which the legislature must be presumed to have avoided."*

6. The Ld.DR argued and stated that the DEPB licence sale is an outcome from the export incentive. The assessee has received this incentive from the Government in relation to his export. So in any case, this particular licence cannot be part of the operating income. He prayed for upholding the impugned appellate order. He invited our attention to appellate order, para 5 of impugned appellate order, which is reproduced as below:-

*"5.* ***Decision:***

*5.1 The assesses filed return of income on 29/09/2012 declaring total income of Rs.30,67,226/-. The assessment was completed u/s 143(3) on 27/03/2015 at total income of Rs. 49,55,162/-, Later on, PCIT-21, Mumbai passed revision order u/s 263 on 27/03/2017 for fresh assessment. During fresh assessment, the AO enquired about DEPB income and prepared chart for three Financial Years. The AO also noted that in original assessment an addition of Rs.18,87,936/- were made on account of low GP and reasonable GP was considered at 1%. It was also noted that there was loss of Rs. 2,20,94,880/- excluding DEPB income of Rs.2,36,65,904/-. The AO sought explanation of the assessee and after considering the reply of the assessee, AO observed that the assessee is considering that DEPB income is part and parcel of the export of goods. The AO also noted that the assessee is having local sale of Rs. 15,44,808/-. The AO rejected the contention of the assessee as without DEPB there will be losses only which is not a reality. The AO also observed that DEPB sale is quite different from the DEPB license income and cannot be fastened to reduce the cost of exported goods. The AO relied on the decision of the Supreme Court in case of Liberty India reported in 183 taxmann 349 (SC). The AO concluded that export incentive like DEPB is an additional item of revenue which is distinct from normal export turnover revenue. The assessee also contended that at max the addition of Rs.2,36,659/- can be made. The AO rejected the contention of the assessee and made differential addition of Rs.2,36,65,904/- and made assessment at Rs.2,86,21,070/-*

*5.2 During appellate proceedings, the appellant reiterated its stand and relied on the case laws that whether DEPB is part of the regular export business income and relied on the decision of the Supreme Court in case of CIT vs Carpet India Panipat (Haryana).*

*5.3 Ostensibly, the only dispute is how the income of the appellant is to be computed when appellant is having export turnover as well as having some little local sale and DEPB income.*

*It is apparent that the appellant has not contested the original adjustment made by the AO in original assessment making GP addition by considering reasonable GP at 1%. That itself shows that the appellant did not resist to GP addition as the appellant was aware that there is something in account and to prevent further enquiry/investigation by the AO. Apparently order u/s 263 has not been challenged as nowhere appellant has mentioned. Now the question of the correct computation of the income comes into the picture. The appellant as well as AO took shelter of sec.80HHC. The import of sec 80HHC read with section 28 makes it clear that on miscellaneous income like DEPB the assessee should not get 80HHC and accordingly the 90% income will be considered as not-relatable and therefore 90% amount of DEPB has be excluded from turnover as well as from profits of business (See Explanation (ba) and (baa) to section 80HHC). From the decision of the Supreme Court in case of Carpet India (supra) also makes it clear and as there were contradictory decision the matter relating to deduction 80HHC and referred to larger Bench. Anyway, these decisions will not help the appellant as these decisions are with reference to deduction 80HHC and appellant is not claiming deduction u/s 80HHC. The AO's reliance on decision of the supreme court in case of Liberty India is also with reference to deduction 80-IA/IB. However, it only shows the character of the DEPB. Undoubtedly DEPB is separate revenue item. Of course, for manufacturer it may recovery of embedded cost who is importing raw material etc. and DEPB would be like recovery of the cost of the goods exported and that is not the case of the appellant. The appellant is simple exporter having little domestic turnover. This itself shows that DEPB is like separate revenue for the appellant.*

*5.4 It is apparent that appellant is having export turnover of Rs.32.94 Crores having purchases of Rs.35.28 crores and C&F charges of Rs.1.49 crores and trading results were shown as 0.42% of GP and 0.84% NP (as it includes other income of Rs 4306623/-) . The real NP would be minus 0.33%. This itself shows that appellant sale is like charity rather than commercial sale of the goods. During the original assessment proceedings also, the AO has observed that the percentage GP shown is very low. It is also true that DEPB cannot be treated as it has been earned without incurring any cost. The provisions of sec 80HHC indicates that if 10% of the DEPB amount is estimated expenditure for the purpose of sec. 80HHC to compute deduction. Therefore, estimation of the income from DEPB treating the cost as NIL is also not correct. Here the appellant could have produced all other documents relating to export and purchase rather than on concentrating on DEPB. The estimation of income has been upheld in such scenario by the Judicial authorities.*

*5.4.1 The Rajasthan High Court in case of Mukesh Oil Mill (P.) Ltd. vs ITAT reported in 264 CTR 196 (Rajasthan) has held that:*

*"Where there was fall in GP rate, stock register were not maintained and other discrepancies were not properly explained, addition on account of estimation of GP rate was justified"*

*Here the appellant is not disputing estimation instead disputing inclusion or exclusion of DEPB for estimation of GP.*

*5.5 In view of the above, taking clue from provisions of sec 80HHC and judicial pronouncements relied upon by the AO and appellant it would be more appropriate if the amount of net profit earned from DEPB of Rs. 2,36,65,904/- is taken at 90% of the DEPB i.e. equal to Rs. 2,12,99,313/-. The AO has made addition of differential amount of Rs. 2,36,65,904/- in assessment order. Therefore, the appellant gets relief of Rs. 23,66.591/- (being the estimation made by AO and this order).*

*5.6 In view of the above, action of the AO in making addition to the extent of Rs. 2.12,99,313/- is upheld and Ground No.1 to 5 of the appeal is partly allowed to the extent mentioned above."*

7. We have carefully considered the rival submissions, perused the material placed on record, and examined the judicial precedents relied upon by both the parties. The core controversy before us is whether the DEPB licence income constitutes operating income forming part of the turnover and gross profit of the assessee's export business, and whether the Ld. PCIT was justified in invoking the revisionary jurisdiction under section 263 of the Act. From the factual matrix, it is evident that the original assessment under section 143(3) was completed after due application of mind, wherein the Ld. AO consciously estimated the gross profit at 1% of turnover after excluding DEPB sales and made an addition accordingly. The revisionary proceedings were initiated merely on the basis of a different perception regarding the treatment of DEPB income, resulting in substitution of the Assessing Officer's view with that of the Ld. PCIT. Further, the nature and character of DEPB income have been judicially recognized as arising from and being intrinsically linked to the export activity. The Hon'ble Supreme Court in **Topman Exports** (supra) has categorically held that DEPB accrual and profit on its transfer are taxable as business income under section 28 of the Act. The co-ordinate Bench of the ITAT, Chennai, in **ZF Rane Automotive India Pvt. Ltd** (supra) has also held that

export incentives, including DEPB, are operating in nature, being directly connected with the normal business operations of export. These authoritative pronouncements clearly support the assessee's contention that DEPB income cannot be artificially segregated from the export business for the purpose of computing gross profit. In view of the above discussion, we hold that the addition made by excluding DEPB income from turnover and separately bringing the same to tax while estimating gross profit is not justified. Accordingly, addition made by the Ld. AO in OGE amount to Rs. 2,55,53,840/- is deleted. So, the appeal of the assessee stands allowed.

8. In the result, the assessee's appeal **ITA No. 3586/Mum/2025** is allowed.

Order pronounced in the open court on 19/12/2025

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

Pavanan 19/12/2025

**Copy of the Order forwarded to:**

1. अपीलाथ/The Appellant ,
2. ितवादी/ The Respondent.
3. आयकरआयु CIT
4. िवभागीयितिनिध, आय.अपी.अिध., मुंबई/DR, ITAT, MUMBAI
5. गाडफाइल/Guard file.

BY ORDER,

//True Copy//

(Asstt. Registrar), ITAT, MUMBAI