

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND
SHRI SOUNDARARAJAN K, JUDICIAL MEMBER**

ITA Nos.290 to 294/Bang/2025
Assessment Year: 2017-18 - 2021-22

Edgeverve Systems Limited, Plot No.44, Hosur Main Road, Electronic City, Bangalore – 560 100. PAN – AADCE 6300 K	Vs.	The Asst. Commissioner of Income Tax, Circle – 2(2)(1), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri Padamchand Kincha, CA
Revenue by	:	Shri Shivanad Kalakeri, CIT (DR)

Date of hearing	:	11.12.2025
Date of Pronouncement	:	30.01.2026

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

These five appeals filed at the instance of the assessee, are directed against the separate orders of the National Faceless Appeal Centre, Delhi (hereinafter the Ld. CIT(A)) passed under section 250 of the Income Tax Act, 1961 (hereinafter, the Act) for A.Ys. 2017-18 to 2021-22, which were heard together.

2. First, we take up ITA No. 290/Bang/2025 pertaining to A.Y. 2017-18 as the lead case. The assessee, in the memo of appeal, has raised four grounds bearing numbers as 1.1, 2.1 to 2.3, 3.1 to 3.4 and Ground No. 4.

3. The assessee vide application undated also raised an additional ground of appeal contending that taxes paid in foreign countries which are not eligible for credit under section 90/91 of the Act should be allowed as business expenses under section 37 of the Act.

3.1 The assessee, in the application for admission of additional ground of appeal, argued that the issues raised may not arise from the appellate order but the same are fundamental and necessary to correctly assessee the tax liability to the resolution of the case. Consequently, the assessee's learned AR requested that the additional ground be admitted for adjudication.

4. On the other hand, the learned (DR) opposed the admission of the additional ground of appeal, arguing that these grounds had not been raised before the lower authorities.

5. We have heard the rival submissions of both the parties and perused the materials available on record. The Hon'ble Supreme Court in the case of National Thermal Power Co. Limited vs. CIT reported in 229 ITR 383 has held as under:

" Under section 254 of the Income-tax Act, 1961, the Appellate Tribunal may, after giving both the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit. The power of the Tribunal in dealing with appeals is thus expressed in the widest possible terms. The purpose of the assessment proceedings before the taxing authorities is to assess correctly the tax liability of an assessee in accordance with law. If, for example, as a result of a judicial decision given while the appeal is pending before the Tribunal, it is found that a non-taxable item is taxed or a permissible deduction is denied, there is no reason why the assessee should be prevented from raising that question before the Tribunal for the first time, so long as the relevant facts are on record in respect of the item. There is no reason to restrict the power of the Tribunal under section 254 only to decide the grounds which arise from the order of the Commissioner of Income-tax (Appeals). Both the assessee as well as the Department have a right to file an appeal/cross-objections before the Tribunal. The Tribunal should not be prevented from considering questions of law arising in assessment proceedings, although not raised earlier.

5.1 From the above, it is clear that limiting the Tribunal's powers to only those issues that came up before the Commissioner (Appeals) is too

narrow. The Tribunal does have the authority to allow or reject new grounds. Since the issue in the additional ground is important to properly assess the assessee's income, and as per the judgment mentioned above, we accept the new ground raised by the assessee. Now that we have accepted the additional grounds of appeal, we will look into the specific issues raised by the assessee in the original and additional grounds of appeal.

6. The Ground Nos. 1 and 4 are general in nature and therefore the same do not require any separate adjudication. Hence, we dismissed the same as infructuous.

7. The next issue raised through Ground No. 2.1 to 2.3 of the appeal is regarding the deductibility of software expenses as revenue expenditure.

8. The facts in brief are that the assessee, a public company, is engaged in the business of providing technical solutions to customers. During A.Y. 2017-18 (the year under consideration), the assessee incurred an amount of Rs. 20,20,95,795/- towards software licence fees/services for maintenance of licensed software. The impugned expenditure was claimed by the assessee as revenue expenditure.

9. On being questioned by the AO during the assessment proceedings, the assessee submitted that it procured software packages for its business use. The licences for the use of such software were for limited periods and thereafter required payment of renewal fees. Hence, upon payment of the licence fees, it secured only a limited right to use the software without acquiring the source code, title, or ownership. The assessee further claimed that it was prohibited from modifying, duplicating, decompiling, or disassembling the impugned software and reiterated that it was only allowed to use such software for its business

in a limited manner. Hence, the same were only application software license for limited period up to 2 years. The assessee to substantiate furnished supporting documents vide annexure 21, through its reply dated 16th February 2021 which included copy of purchase order, copy of invoice and a table showing the breakup, description of software and period or duration of software license. Accordingly, the assessee claimed that the payment made for securing licences of such software cannot be classified as a capital asset and is therefore allowable as revenue expenditure. In support of its contention, the assessee placed reliance on the judgment of the Hon'ble jurisdictional High Court of Karnataka in the case of CIT vs. Toyota Kirloskar Motor Pvt. Ltd., reported in 349 ITR 65, and in the case of CIT vs. IBM India Limited, reported in 357 ITR 88.

9.1 Without prejudice to the above, the assessee also submitted that in case the expenditures incurred on impugned application of software were not allowed as revenue expenditure, the depreciation should be allowed at the rate of 60% considering the same as "computer including computer software. In contending so, the assessee placed reliance on the decision of this tribunal in case of assessee's holding company namely Infosys Ltd. pertaining to A.Y. 2005-06 and placed reliance on numerous other decisions of Delhi and Mumbai Tribunal in case of different assessee.

10. However, the AO rejected the assessee's explanation. The AO found that the license soft-wares are classified as an intangible asset as per Appendix-1 of IT Rules and as per part-B of the appendix-1, the same is eligible to depreciate at 25%. The AO also referred to Accounting Standard 26-Intangible Assets which describes that software which is not an integral part of related hardware is to be treated as intangible assets. The AO also referred the decision of ITAT in the case

of M/s Pentamedia Graphics Ltd. Accordingly, the AO treated the purchase of license software as intangible assets and disallowed the claim of revenue expenditure. Hence, the AO after providing allowances of depreciation at 25% made an addition of Rs. 15,15,71,847/- to the total income of the assessee.

11. The aggrieved assessee preferred an appeal before the Ld. CIT(A).

12. The assessee before the Ld. CIT(A), reiterated its submission from the assessment proceedings. The Ld. CIT(A) observed that there is no definitive test or formula to determine whether the software expenditure is capital or revenue expenditure. As such, it depends upon particular facts which may change from case to case or even year to year. The Ld. CIT(A) found that the AO categorised the procurement of software license by the assessee as capital expenditure merely relying on the depreciation rate provided under Income Tax Rule. It was also found that the AO has not examined documents available on record such as agreement between the assessee and owner of software license, nature and utility of such software licenses. Hence, the Ld. CIT(A) held that the approach of the AO is not correct in classifying the expenditure on software license as capital expenditure. The Ld. CIT(A) referred the case law relied upon by the assessee in the case of IBM India Ltd (supra) and accordingly held that if the software licenses are on the nature of application software and enduring long lasting benefit to the assessee, then such expenditure incurred on such software will be classified as revenue expenditure and vice versa.

13. In view of the above observation, the Ld. CIT(A) remitted the issue back to the file of the AO with the direction for fresh assessment after carefully examining documents thoroughly and considering the

judgment of Hon'ble High Court as discussed above. It was also directed to the AO that if the lifespan of the software license is longer than 2 years then it is necessary to consider same as capital expenditure eligible for depreciation.

13.1 Regarding the alternative claim of the assessee i.e. allowances of depreciation at 60%, the learned CIT(A) noted identical issue has been decided by tribunal in the case of holding company of the assessee and other group companies where rate of depreciation on software license has been allowed at 60%. Hence, the learned CIT(A) directed the AO to allow depreciation at 60% if any of software license classified as capital expenditure.

14. Being aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before us.

15. The learned AR before us filed paper book 1 to 940 and a compilation of case law running from pages 941 to 1093.

16. The learned AR before us submitted that the lower authorities erred in treating the software expenses claimed by the assessee as revenue expenditure as capital in nature. It was argued that the assessee had incurred expenditure towards application software, which was used for smooth conduct of day-to-day business and did not result in acquisition of any enduring asset. The Id. AR pointed out that the software licenses were for a limited period, mostly up to two years, and were routine business tools requiring periodic renewal. Reliance was placed on judicial precedents, including the decision of the jurisdictional High Court in *CIT v. IBM India Ltd.(supra)*, wherein it was held that expenditure on application software with a short useful life is allowable as revenue expenditure. The Id. AR further contended that all relevant documents evidencing the nature and duration of software licenses were

already placed on record before the AO, and therefore the remand by the learned CIT(A) was unwarranted. On facts and in law, it was prayed that the software expenses be allowed as revenue expenditure as claimed by the assessee in the return of income.

17. Per contra, the Id. DR said that the lower authorities were correct in treating the software expenses as capital in nature. According to him, the software purchased by the assessee was not just for minor or routine use but was important for running the business and helped the assessee over a longer period of time. Because of this long-term benefit, the expenditure should be treated as capital expenditure and not as a regular business expense. He further explained that just because the software was obtained through a license, or because the license had to be renewed after some time, it does not automatically mean that the expense is revenue in nature. If the software strengthens or forms part of the business set-up and helps in earning income over several years, it should be considered a capital asset. Accordingly, the Id. DR requested that the decision of the lower authorities be upheld and that the software expenditure should not be allowed as a revenue expense.

18. We have heard the rival contentions of both the parties and perused the materials available on record. The issue before us relates to the allowability of software licence expenditure claimed as revenue expenditure and the correctness of the action of the learned CIT(A) in remanding the matter to the file of the Assessing Officer for fresh adjudication

18.1 From the records, it is evident that the assessee incurred expenditure towards application software licences which were used in the regular course of its business. The licences were for limited periods, mostly up to two years, and required renewal thereafter. The assessee

did not acquire ownership, source code, or any proprietary rights in the software. It was merely granted a restricted right to use the software, without any right to modify, duplicate, or transfer the same. The supporting documents such as purchase orders, invoices, and detailed break up of software with licence period were furnished before the Assessing Officer during the assessment proceedings. These facts clearly show that the expenditure was incurred to facilitate efficient conduct of business and did not result in creation of any enduring asset in the capital field.

18.2 The Assessing Officer treated the expenditure as capital in nature mainly by relying on the classification under Appendix I of the Income-tax Rules and Accounting Standard-26, without properly examining the nature, utility, and duration of the software licences. Such an approach, in our view, is not sustainable in law. The issue whether software expenditure is capital or revenue has to be decided based on the functional test and the real nature of the advantage obtained, and not merely on the basis of depreciation rates prescribed in the Rules. The Hon'ble jurisdictional High Court in *CIT v. IBM India Ltd.* and *CIT v. Toyota Kirloskar Motor Pvt. Ltd.* (Supra) has clearly held that expenditure on application software with a short useful life and requiring frequent upgradation or renewal is allowable as revenue expenditure. The facts of the present case squarely fall within the ratio laid down in these decisions.

18.3 Coming to the action of the learned CIT(A), we find that the learned CIT(A) has accepted the legal position that application software expenditure may be revenue in nature depending on facts and has also noted that the Assessing Officer did not examine the relevant agreements and documents in detail. However, despite the fact that all

primary facts and documentary evidence were already on record and no further investigation was required, the learned CIT(A) chose to remand the matter back to the Assessing Officer for fresh adjudication.

18.4 In this context, it is necessary to examine the powers of the learned CIT(A). Prior to 1.6.2001, the ld. CIT(A) had expressed powers under section 251 of the Act to set aside the assessment and remand the matter to the Assessing Officer. However, by the Finance Act, 2001, with effect from 1.6.2001, the power to set aside or remand the assessment to the Assessing Officer has been withdrawn. From assessment years commencing on or after 1.6.2001, the ld. CIT(A) is required to adjudicate the issues on merits and can either confirm, reduce, enhance, or annul the assessment. Remand to the Assessing Officer is permissible only in limited situations, such as for calling for a remand report or for verification of additional evidence admitted under Rule 46A, but not for setting aside the issue for fresh decision when all relevant material is already available on record. It is also pertinent note that vide Finance Act 2024 a proviso inserted below to section 251(1)(a) of the Act confirming power to commissioner/joint commissioner of appeal in respect of setting aside the assessment and refer back the case to the AO for fresh assessment, but such power can only be exercised when the assessment made under section 144B of the Act.

18.5 In the present case, the assessment year involved is A.Y. 2017-18, much after the withdrawal of remand powers. The assessee had already furnished complete details regarding the nature and duration of software licences before the Assessing Officer. Therefore, there was no legal justification for the learned CIT(A) to remand the issue back to the Assessing Officer for fresh adjudication. The learned CIT(A) ought to

have decided the issue conclusively on merits based on the materials available on record.

18.6 On merits, considering the nature of the software, the limited licence period, the absence of any enduring benefit, and the binding judicial precedents of the Hon'ble jurisdictional High Court, we hold that the software licence expenditure incurred by the assessee is allowable as revenue expenditure. Consequently, the disallowance made by the Assessing Officer is deleted. In view of this conclusion, the alternative claim made by the assessee relating to allowance of depreciation does not survive. Accordingly, on facts and in law, we allow the grounds raised by the assessee and direct the Assessing Officer to allow the software expenditure as revenue expenditure as claimed in the return of income. Hence, the ground raised by the assessee is hereby allowed.

19. The next issue raised by the assessee through Ground Nos. 3.1 to 3.4 is pertaining to depreciation on intangible assets.

20. The relevant facts are that the assessee company entered 2 different business transferred agreement (BTA) with its holding company Infosys Ltd. The first BTA was entered as on 1st July 2014 i.e. during the F.Y. 2014-15 for transfer of Edge suit of product division for a consideration of Rs. 421 crores. The second BTA was entered as on 17th April 2015 i.e. during the F.Y. 2015-16 for transfer of transfer Finacle Universal Banking Solution Business division and Edge-services Business division for a consideration of 3222 crores and 177 crores respectively which aggregates to Rs. 3399 crores. As per the assessee, the consideration for purchase of the business division was made for bundled of assets comprising in those division without any breakup or division of the price over assets. Hence, the assessee took an exercise for allocation of purchase consideration based on independent valuer

report. Accordingly, certain intangible assets were identified in both the BTA which are detailed as under:

Particular-	BTA-1 -amount	BTA-2- amount
Intangible asset- Technology	Rs. 128,65,68,000/-	Rs. 808,05,00,000/-
Intangible asset- Trade name		Rs. 125,95,00,000/-
Intangible asset- customer contacts	Rs. 30,060,000/-	Rs. 85,33,00,000/-
Goodwill	Rs. 280,39,08,132/-	Rs. 2016,21,78,480/-
Total	Rs. 412,05,36,132/-	Rs. 3035,54,78,480/-

21. On the above identified intangible assets, the assessee claimed depreciation under section 32 of the Act from F.Y. 2014-15 relevant to A.Y. 2015-16 till the year under consideration in the following manner:

A.Y.	Opening WDV (Rs.)	Addition during the year (Rs.)	Total assets (Rs.)	Depreciation at 25% (Rs.)	Closing WDV (Rs.)
2015-16	-	412,05,36,132	412,05,36,132	103,01,34,033	309,04,02,099
2016-17	309,04,02,099	3035,54,78,480	3344,58,80,579	836,14,70,145	2508,44,10,434
2017-18	2508,44,10,434	-	2508,44,10,434	627,11,02,609	1881,33,07,825

21.1 Thus, during the year under consideration, the assessee claimed depreciation on the WDV of the intangible assets for Rs. 627,11,02,609/- only.

22. During the assessment proceedings, the AO observed that the valuation assigned to technology, business contracts and goodwill appeared artificial and unjustified. According to the AO, the Finacle and Edge-services business was primarily dependent on employees who were

transferred along with the business, and the skills, technical know-how and experience resided with such employees rather than in separately identifiable intangible assets. Therefore, assigning large standalone values to technology and business contracts was held to be prima facie unreasonable and done only with the intention of inflating the cost of assets to claim higher depreciation and thereby reduce taxable income.

22.1 The AO further held that technology and business contracts do not qualify as "intangible assets" within the meaning of Explanation 3 to section 32(1) of the Act. While such contracts may generate revenue, they do not confer any enduring ownership rights or permanency so as to be treated as identifiable, non-monetary intangible assets. Their execution depends on employees' skills and technological capabilities, and hence no independent ownership right is created in favour of the assessee.

22.2 With respect to goodwill, the AO observed that the assessee had already acquired the trademark or trade name, and therefore the separate valuation of goodwill was arbitrary and unnecessary. According to the AO, the valuation of goodwill closely resembled the valuation of the trademark, and assigning value to goodwill was done only to claim depreciation by inflating the actual cost of intangibles.

22.3 The AO also noted that the transfer was in the nature of a succession of business within the meaning of section 170 of the Act. The intangible assets in question were self-generated in the hands of the transferor and were never reflected in its books nor used for claiming depreciation. Accordingly, applying the fifth proviso to section 32(1) of the Act, the AO held that depreciation in the hands of the successor cannot exceed the amount what would have been allowable to the predecessor. Since no depreciation was allowable or claimed by Infosys

Ltd on such intangibles, no depreciation could be allowed to the assessee.

22.4 The AO further observed that the valuation exercise was primarily undertaken to comply with accounting requirements under AS-26 and Indian GAAP, which by itself does not confer eligibility to claim depreciation under the Income-tax Act. The AO also referred to judicial precedents and held that the Hon'ble Supreme Court decision in *Smifs Securities Ltd* reported in 348 ITR 302 was limited to the issue of goodwill being an intangible asset and does not override the restriction contained in the fifth proviso to section 32(1) of the Act.

22.5 In view of the above facts and circumstances, the AO concluded that the intangible assets claimed by the assessee were not eligible for depreciation under section 32(1) of the Act. Accordingly, the AO disallowed the depreciation claimed on intangible assets in relation BTA-2 and added the amount of ₹5,69,16,52,215/- to the total income of the assessee. The assessee's alternative claim for enhanced deduction under section 10AA of the Act on account of increased profits was also rejected for want of direct nexus.

23. The aggrieved assessee preferred an appeal before the learned CIT(A).

24. Before the learned CIT(A), the assessee submitted that during the relevant assessment year, the Finacle and Edgeservices businesses were transferred by Infosys Limited to the appellant pursuant to a duly executed Business Transfer Agreement. The transfer was carried out on a going concern basis for a lump-sum consideration, and the appellant acquired all assets, liabilities, rights, and obligations relating to the said businesses. As part of this transfer, identifiable intangible assets such as developed technology, trademarks, business/customer contracts and

goodwill were acquired and duly recorded in the books of accounts at fair value based on an independent valuation report.

24.1 The appellant claimed depreciation on such intangible assets under section 32(1)(ii) of the Act. However, the AO/NFAC disallowed the depreciation primarily on the ground that the said assets do not qualify as "intangible assets" under section 32(1)(ii), that the valuation was artificial, and that the transaction was structured only to claim higher depreciation. The appellant claimed that the findings of the lower authorities are contrary to facts, accounting principles, statutory provisions and settled judicial precedents.

24.2 It is submitted that section 32(1)(ii) of the Act allows depreciation on intangible assets such as know-how, patents, copyrights, trademarks, licenses, franchises or any other business or commercial rights of similar nature, provided the assets are owned wholly or partly by the assessee and are used for the purposes of business.

24.3 The section does not require that such intangible assets should have been self-generated or separately paid for. Once ownership and business use are established, depreciation is a statutory allowance and cannot be denied based on subjective notions regarding intention or motive.

24.4 In the present case, there is no dispute that the appellant is the owner of the impugned intangible assets, the assets were acquired for running the business and the assets were used in the business during the year. Therefore, the basic conditions of section 32(1)(ii) of the Act stand fully satisfied.

24.5 The assessee argued that the allegation of the AO that the transaction was structured only to claim depreciation is completely unfounded. The transfer of Finacle and Edge-services businesses by the

parent company to it was driven by strong commercial and business considerations. The objective was to enable the appellant to operate, scale and market the products and services in a more focused and seamless manner across global markets.

24.6 The transfer was not undertaken for tax benefits but for operational efficiency, market positioning and strategic alignment. The valuation of assets was not carried out by the assessee internally but was entrusted to an independent professional valuer, thereby eliminating any allegation of manipulation or inflation of values. Mere reduction of tax liability because of a legitimate business transaction cannot be equated with tax avoidance. It is a settled principle that tax planning within the framework of law is permissible.

24.7 The appellant further submitted that AS-26 mandates that intangible assets acquired in a business combination must be recorded at fair value. Accordingly, the valuation exercise was undertaken only to comply with mandatory accounting standards and statutory requirements under the Companies Act. The assignment of fair value by an independent valuer cannot be brushed aside merely on suspicion. Once fair value is determined in accordance with accounting standards, the same constitutes the "actual cost" for the purposes of section 32 of the Act. The lower authorities have erred in holding that compliance with accounting standards does not entitle the assessee to depreciation under the Income-tax Act. On the contrary, accounting recognition of assets is a necessary foundation for claiming depreciation.

24.8 The assessee submitted that developed technology acquired from Infosys Limited represents a valuable bundle of rights, embedded knowledge, source codes, system architecture, product design, functional capabilities and technical documentation. Without acquisition

of such technology, the assessee would have been required to redevelop the same from scratch, involving huge time, cost and risk. The finding of the AO that technology resides only in employees is factually incorrect. No separate payment was made to employees, and employees are not assets owned by the assessee. Further, in the software industry, employee turnover is high, and therefore business continuity cannot depend solely on individuals. Technology acquired is independent of employees and continues to exist even if employees leave. Therefore, technology is clearly an identifiable intangible asset.

24.9 Without prejudice, technology squarely falls within the definition of "know-how" as provided in Explanation 4 to section 32(1) of the Act. Know-how includes industrial information or techniques likely to assist in manufacture or processing of goods. Software products are goods once embedded in tangible media or electronic form, and hence developed technology qualifies as know-how eligible for depreciation. The rejection of depreciation on technology is thus legally untenable.

24.10 Furthermore, the assessee submits that trademarks are specifically listed under section 32(1)(ii) of the Act. There is no dispute regarding ownership or use of trademarks by the assessee. The AO has not provided any cogent reason for disallowing depreciation on trademarks. Once the statute expressly includes trademarks, depreciation cannot be denied on conjectures or overlapping concepts with goodwill. The disallowance of depreciation on trademarks is therefore liable to be deleted outrightly.

24.11 Regarding the business contract, the assessee submitted that business contracts acquired as part of the transfer confer enforceable rights, assured revenue streams and commercial advantages. These contracts enable the assessee to carry on business and are valuable

tools of trade. The expression "any other business or commercial rights of similar nature" has been interpreted by Hon'ble Courts in a wide and purposive manner. Any right which facilitates carrying on the business and generates economic benefit qualifies under section 32(1)(ii) of the Act. The conclusion of the AO that business contracts are dependent on employees is misconceived. Without contracts, employees have no role to play. The contracts exist independently and are valuable commercial rights. Alternatively, even if business contracts are not viewed independently, they form an integral part of goodwill. In such a situation also, depreciation is allowable as held by the Hon'ble Supreme Court.

24.12 Regarding Goodwill, the assessee submitted that goodwill represents the excess consideration paid over the net value of identifiable assets and reflects reputation, customer relationships, brand value and future earning potential. The Hon'ble Supreme Court in *Smifs Securities Ltd (surpa)* has categorically held that goodwill falls within the expression "any other business or commercial rights of similar nature" and is eligible for depreciation under section 32(1)(ii) of the Act. The AO's attempt to distinguish goodwill from trademark or to allege inflation of value is contrary to settled law. Further, the amendment made by Finance Act, 2021 denying depreciation on goodwill is prospectively and therefore, it establishes that depreciation on goodwill was allowable for all earlier years.

24.13 The assessee also submitted that the lower authorities have wrongly invoked the 5th proviso to section 32 of the Act relating to succession. The proviso applies only where depreciation is allowable to both the predecessor and successor. In the present case, the intangible assets were recognized for the first time by the assessee upon acquisition. Infosys Limited had not claimed depreciation on such assets

as they were self-generated and not recorded in its books. Therefore, the 5th proviso to section 32(1) of the Act has no application, and thus, the claim of depreciation in the hands of the assessee cannot be restricted or denied on this basis.

24.14 Without prejudice to the above submissions, the assessee submitted that if depreciation is disallowed and income is enhanced, such enhanced profits attributable to SEZ units must be considered for deduction under section 10AA of the Act. The denial of such consequential benefit is unjustified and contrary to law.

25. However, the learned CIT(A) after considering the assessment order and assessee's submission found that the business contract, technology, trademark and goodwill on merits are intangible assets and eligible for depreciation under section 32(1)(ii) of the Act. However, confirmed the disallowance of depreciation in the case of the assessee by referring to 6th proviso to section 32(1) of the Act. The learned CIT(A) also doubted the valuation of intangible assets. The finding of the learned CIT(A) is summarised in following paragraphs.

Regarding the Business contract

25.1 The learned CIT(A) observed that business contracts are intangible in nature, as they are identifiable, non-monetary and arise out of contractual or legal rights. Such contracts provide future economic benefits to the holder in the form of assured revenue, continuity of customers and smooth running of business. Without acquisition of these contracts, the assessee would have been required to start the business from scratch and undergo a long gestation period.

25.2 Relying upon the principles laid down by the Hon'ble Delhi High Court in *Areva T & D India Ltd.* 345 ITR 421 and the Hon'ble Supreme Court in *Techno Shares and Stocks Ltd.* 327 ITR 323, the

learned CIT(A) held that business contracts form part of "business or commercial rights of similar nature" as envisaged under section 32(1)(ii) of the Act. These rights function as tools of trade which enable the assessee to carry on business without interruption. Accordingly, on merits, business contracts qualify as intangible assets eligible for depreciation.

25.3 With regard to technology, the learned CIT(A) noted that technology is the backbone of modern software businesses and plays a crucial role in enabling the assessee to deliver products and services to clients. Developed technology acquired under the BTA is a valuable right that provides competitive advantage and commercial benefit.

25.4 The contention of the Assessing Officer that technology resides only in employees was not accepted. The learned CIT(A) observed that employees are not assets of the company, and technology continues to exist independently even if employees leave the organisation. The assessee acquired technology for valuable consideration, and such technology is clearly an intangible asset.

25.5 The learned CIT(A) further observed that expenditure incurred on research and development after acquisition does not negate the existence or value of already developed technology. Research and development are meant to enhance or innovate new solutions and does not diminish the value of the acquired technology. Therefore, technology falls within the expression "business or commercial rights of similar nature" under section 32(1)(ii) of the Act, and depreciation on technology is allowable on merits.

Regarding Trademarks

25.6 The learned CIT(A) noted that trademarks are specifically mentioned in section 32(1)(ii) of the Act and are expressly eligible for

depreciation. There is no dispute regarding ownership or use of trademarks by the assessee. Therefore, on merits, depreciation on trademarks is allowable, and the Assessing Officer was not justified in denying the same without any cogent reasoning.

Goodwill and its distinction from Trademarks

25.7 The learned CIT(A) examined the Assessing Officer's observation that goodwill and trademarks are similar and that there was no necessity to acquire goodwill separately. After analysing statutory provisions and judicial precedents, the learned CIT(A) held that goodwill and trademark are distinct assets.

25.8 Goodwill represents the reputation, customers loyalty, brand strength and future earning potential of a business, whereas a trademark is a legally protected symbol or mark identifying goods or services.

25.9 The learned CIT(A) further relied upon the decision of the Hon'ble Supreme Court in *Smifs Securities Ltd.(supra)*, wherein it was held that goodwill falls within the expression "any other business or commercial rights of similar nature" and is therefore eligible for depreciation under section 32(1)(ii) of the Act. It was also noted that the amendment introduced by the Finance Act, 2021 denying depreciation on goodwill is prospective and applicable only from assessment year 2021-22 onwards. Accordingly, for the year under consideration, goodwill is eligible for depreciation on merits.

Valuation of Intangible Assets

25.10 The learned CIT(A) observed that the Assessing Officer had doubted the valuation of intangible assets on the ground that the transaction was structured to reduce tax liability. However, no concrete

evidence was brought on record establishing that the valuation was artificially inflated.

25.11 It was noted that if the Assessing Officer had doubts regarding valuation, the correct course of action was to invoke Explanation 3 to section 43(1) and determine the actual cost of acquisition based on accepted valuation principles. The Assessing Officer, however, did not undertake such an exercise and merely rejected the valuation without conducting a detailed examination of the BTA and valuation report.

25.12 At the same time, the learned CIT(A) also noted that the valuation report relied heavily on management inputs and assumptions without independent verification by the valuer. Since the transaction was between related parties, the valuation could not be said to be completely free from arbitrariness. Thus, while the existence of intangible assets was accepted, the valuation aspect remained questionable.

Proviso to Section 32 of the Act

26. The most crucial issue considered by the learned CIT(A) was the applicability of the sixth proviso to section 32 of the Act. It was held that acquisition of Finacle and Edge-services businesses under the BTA amounts to succession within the meaning of section 170 of the Act.

26.1 Relying on decisions of the Hon'ble Jurisdictional Tribunal in *United Breweries Ltd.*, the Hon'ble Mumbai Tribunal in *Archroma India Pvt. Ltd.* in ITA No 306/Mum/2019, and other judicial precedents, the learned CIT(A) held that the sixth proviso to section 32 applies to cases of business acquisition through slump sale or business transfer agreement.

26.2 The proviso mandates that depreciation allowable to the successor cannot exceed the depreciation that would have been

allowable had the succession not taken place. Since Infosys Ltd, the predecessor, had not claimed depreciation on these intangible assets, the allowable depreciation in the hands of the appellant is effectively restricted to nil.

27. The learned CIT(A) further held that the sixth proviso applies not only in the year of acquisition but also in subsequent years, including the year under appeal. The reliance placed by the assessee on *Smifs Securities Ltd.(supra)* was held to be misplaced, as that decision only dealt with the nature of goodwill as an intangible asset and did not override the restriction imposed by the proviso to section 32 of the Act.

Final Conclusion

28. In view of the above discussion, the learned CIT(A) concluded that although business contracts, technology, trademarks and goodwill qualify as intangible assets on merits under section 32(1)(ii) of the Act, the claim of depreciation is hit by the sixth proviso to section 32 of the Act due to the nature of succession involved in the present case. Accordingly, the learned CIT(A) upheld the Assessing Officer's action in disallowing depreciation on intangible assets and dismissed the appeal on this ground.

29. Being aggrieved by the order of the learned CIT(A), the assessee is in appeal before us.

30. Before us the learned AR submitted that the Appellant acquired the Finacle and Edge-Services divisions under duly executed Business Transfer Agreements after carrying out independent third-party valuation and purchase price allocation. Based on such valuation, the total purchase consideration was allocated to identifiable intangible assets such as business contracts, technology, and goodwill, and depreciation was claimed under section 32 of the Act.

30.1 The learned AR pointed out that the AO originally disallowed the claim on the ground that the assets were not eligible intangible assets. However, the Id. Commissioner (Appeals) has categorically held that the assets acquired, namely business contracts, technology, trademarks, and goodwill, are indeed intangible assets eligible for depreciation under section 32 of the Act. Therefore, the foundational objection of the Assessing Officer that the assets are not intangible assets no longer survives. Once it is accepted that the assets are eligible intangible assets, depreciation cannot be denied except on legally sustainable grounds.

30.2 The learned AR submitted that the sole surviving reason for disallowance, as upheld by the Commissioner (Appeals), is the invocation of the sixth proviso to section 32(1) of the Act by treating the transaction as a case of succession under section 170 of the Act. It was argued that this conclusion is legally and factually incorrect. The sixth proviso to section 32(1) of the Act applies only where depreciation is allowable to both the predecessor and the successor and where there is an aggregate claim of depreciation in the same year. In the present case, the intangible assets were never recorded in the books of the transferor, and no depreciation was ever claimed by the transferor. Since there was no depreciation claimed by the predecessor, there is no question of aggregate deduction, and therefore the sixth proviso to section 32(1) of the Act is not attracted at all.

30.3 The learned AR further submitted that even otherwise, the essential condition for invoking section 170 of the Act, namely succession to a business as a whole, is not satisfied in the present case. Succession implies that the transferor goes out of business and the transferee takes over the entire business as a whole, with continuity of

identity. In the present case, only specific product divisions and service divisions were transferred over different years under separate agreements. The software development business as a whole continued to remain with the transferor, and even after the transfer, the transferor continued to develop and launch several other software products. Therefore, the transaction is only a piecemeal transfer of certain divisions and not succession to a business as a whole.

30.4 The learned AR emphasized that the acquisitions happened over multiple years and under independent agreements. One agreement related to the Edge suite of products during the F.Y. 2014-15, while subsequent agreements related to Finacle and Edge-Services during the F.Y. 2015-16. These divisions were carved out and transferred in parts. After the first transfer, both the transferor and the transferee continued to carry on business in a truncated form. Such piecemeal transfer of assets or divisions does not amount to succession under section 170 of the Act. Hence, the basic assumption of the lower authorities that there was succession of business is fundamentally flawed.

30.5 The learned AR also submitted that, without prejudice, even if it is assumed that there was a case of succession, the sixth proviso to section 32(1) of the Act can apply only in the year of succession and not in subsequent years. The years under consideration before the Tribunal are not the year of alleged succession. Therefore, the proviso cannot be invoked for the assessment years under appeal. Judicial precedents clearly support the proposition that the restriction under the proviso operates only in the year of succession and only to restrict aggregate depreciation in that year.

30.6 The learned AR further submitted that the claim of depreciation on similar intangible assets acquired under an earlier Business Transfer

Agreement was consistently allowed in earlier assessment years under section 143(3) of the Act. For assessment year 2015-16, the claim was allowed in scrutiny assessment, and although reassessment proceedings were initiated later, the Hon'ble High Court has granted interim stay. For assessment years 2016-17 to 2018-19, depreciation was allowed and no reassessment proceedings were initiated. Therefore, the Revenue has accepted the allowability of depreciation on identical assets in earlier years. On principles of consistency, the Revenue cannot take a contradictory stand for the assets acquired under the subsequent agreement.

30.7 The learned AR also clarified that there is no allegation by the Assessing Officer that the assessee inflated the cost of assets or claimed excess depreciation in violation of section 43 of the Act. In fact, the Id. Commissioner (Appeals) has also recorded a finding that there is no issue with valuation or cost allocation of intangible assets. Once valuation and cost are accepted, and once the assets are held to be eligible intangible assets, depreciation cannot be denied by invoking an inapplicable proviso.

31. In view of the above facts and legal position, the learned AR submitted that the invocation of the sixth proviso to section 32(1) of the Act is wholly incorrect, both on facts and in law. There is no succession of business under section 170 of the Act, there is no aggregate claim of depreciation, and the year under consideration is not the year of succession. Accordingly, the learned AR prayed that the Hon'ble Tribunal may allow the claim of depreciation on intangible assets as claimed by the assessee and grant appropriate relief.

32. Per contra, the Id. DR submitted that the Id. Commissioner (Appeals) was correct in restricting the depreciation claim by applying

the sixth proviso to section 32(1) of the Act. According to the DR, the Appellant had taken over running business divisions of the transferor, along with all the related assets, customers, contracts, and technology. Such a transfer, in substance, amounted to succession of business under section 170 of the Act, even if it was described as a transfer of divisions under Business Transfer Agreements.

32.1 The Id. DR explained that the Finacle and Edge-Services divisions were independent and functional business units. When these divisions were transferred, the Appellant stepped into the place of the transferor and continued the same business activity without interruption. Therefore, the essential character of succession—continuity of business—was present in the transaction.

32.2 The Id. DR further argued that once the transaction is treated as succession, the sixth proviso to section 32(1) of the Act automatically applies. This proviso restricts depreciation in the year of succession so that the total depreciation claimed by both the predecessor and the successor together does not exceed the depreciation that would have been allowable had the succession not taken place.

32.3 According to the Id. DR, the fact that the transferor may not have claimed depreciation on the intangible assets in its books is not decisive. What matters is that depreciation was otherwise allowable on those assets in the hands of the transferor. Therefore, the safeguard under the proviso must still be applied to prevent excessive depreciation.

32.4 The Id. DR also contended that the Appellant cannot avoid the application of section 170 merely by splitting the transfer into multiple agreements or spreading it over different years. In substance, the Appellant acquired key revenue-generating businesses of the transferor.

Such structuring, according to the Id. DR, cannot change the real nature of the transaction as a business succession.

32.5 The Id. DR further submitted that allowing full depreciation to the Appellant would defeat the intent of the sixth proviso, which is to prevent a situation where depreciation is effectively claimed twice on the same business assets. Therefore, the action of the Id. Commissioner (Appeals) in invoking the proviso was justified. On these grounds, the learned DR prayed that the order of the Commissioner (Appeals) be upheld and that the depreciation claimed on the intangible assets be restricted in accordance with the sixth proviso to section 32(1) of the Act.

36. We have heard the rival contentions of both the parties and perused the materials available on record. The issue before us is whether the assessee is entitled to depreciation under section 32(1)(ii) of the Act on intangible assets such as technology, business contracts, trademarks and goodwill acquired under Business Transfer Agreements entered into with its holding company, and whether such claim is barred by the sixth proviso to section 32(1) read with section 170 of the Act.

36.1 At the outset, we note that the learned CIT(A) has given a clear and categorical finding that the assets acquired by the assessee, namely technology, business contracts, trademarks and goodwill, are "intangible assets" within the meaning of section 32(1)(ii) of the Act and are otherwise eligible for depreciation on merits. This finding has not been disturbed by the Revenue, and in fact, the learned CIT(A) has accepted the assessee's contentions on the nature and eligibility of these assets. Therefore, the foundational objection of the Assessing Officer that these assets do not qualify as intangible assets does not survive. Once the assets are held to be eligible intangible assets under section 32(1)(ii) of

the Act, depreciation becomes a statutory allowance and can be denied only if there is a clear legal prohibition.

36.2 The sole reason for sustaining the disallowance by the learned CIT(A) is the application of the sixth proviso to section 32(1) of the Act by treating the transaction as a case of succession under section 170 of the Act. We therefore proceed to examine whether, in the facts of the present case, section 170 and consequently the sixth proviso to section 32(1) of the Act are applicable.

36.3 Section 170 of the Act contemplates succession to a business as a whole. Succession, in its legal sense, implies that the transferor goes out of business and the transferee steps into its place, taking over the entire business with continuity of identity. It also implies that the whole business is transferred and not merely a part of it.

36.4 In the present case, the facts clearly demonstrate that there was no succession to the business of Infosys Limited as a whole. Infosys Limited continues to exist and continues to carry on its software development business even after the transfer. Only certain product divisions and service divisions were transferred to the assessee under separate Business Transfer Agreements executed in different financial years. The Edge suite of products was transferred during FY 2014-15, whereas Finacle and Edge-Services divisions were transferred during FY 2015-16. These transfers were in piecemeal and spread over time. After the first transfer, both the transferor and the transferee continued to carry on business in a truncated and split form. The software development business as a whole, including development of new products, remained with Infosys Limited.

36.5 Therefore, the essential condition for invoking section 170 of the Act, namely succession to a business as a whole, is not satisfied. The

transaction is only a transfer of specific divisions or assets and not a succession of the entire business. In such circumstances, section 170 of the Act has no application, and consequently, the sixth proviso to section 32(1) of the Act, which is attracted only in cases of succession, amalgamation or demerger, cannot be invoked.

36.6 Even otherwise, we find that the sixth proviso to section 32(1) of the Act operates only where depreciation is allowable to both the predecessor and the successor and where there is an aggregate claim of depreciation in the same year. In the present case, the intangible assets were not recorded in the books of the transferor, and no depreciation was ever claimed or allowable to Infosys Limited on such assets, as they were self-generated. The assets were recognised for the first time in the hands of the assessee upon acquisition and valuation. Since, there was no depreciation claimed or allowable in the hands of the predecessor, there is no question of any aggregate deduction of depreciation in the same year. In the absence of aggregate deduction, the sixth proviso to section 32(1) of the Act does not get triggered at all.

36.7 We also find merit in the alternative submission of the learned AR that even assuming, without admitting, that the transaction amounted to succession, the restriction under the sixth proviso to section 32(1) can apply only in the year of succession and not in subsequent years. The assessment year under consideration before us is not the year of alleged succession. Judicial precedents have consistently held that the proviso restricts only the overall quantum of depreciation in the year of succession and has no role to play in later years. Therefore, on this ground also, the application of the proviso by the lower authorities is legally unsustainable. In this regard, we place our reliance on the judgment of Hon'ble Karnataka High Court in the case of Padmini

Products Pvt. Ltd. Vs. DCIT reported in 121 taxmann.com 237 wherein it was held as under:

8. It is noteworthy to mention here that 5th proviso to section 32(1) of the Act restricts the total depreciation which can be claimed in case of succession etc. to the depreciation which would have been allowable had there been no succession. The 5th proviso (earlier 4th proviso) to section 32(1) was inserted by Finance Act, 1996 to restrict the claim of aggregate deduction, which is evident from the memorandum to Finance Bill, 1996, which reads as under:

In cases of succession in business and amalgamation of companies, the predecessor of the business and successor the amalgamating company and amalgamated company as the case may be, are entitled to depreciation allowance on same assets which in aggregate exceeds depreciation allowance for Previous year at the prescribed dates. It is proposed to restrict the aggregate deduction in a year to the deduction computed at the prescribed rates and apportion the allowance in the ratio of number of days for which the assets were used by them.

9. Thus, it is evident that 5th proviso to section 32 of the Act restricts aggregate deduction both by the predecessor and the successor and if in a particular year there is no aggregate deduction, the 5th proviso does not apply. Thus, it is axiomatic that until and unless it is the case of aggregate deduction, the proviso has no role to play. The 5th proviso in any case will apply only in the year of succession and not in subsequent years and also in respect of overall quantum of depreciation in the year of succession. Accordingly, the third substantial question of law is answered in favour of the assessee and against the revenue.

36.8 Coming to the issue of valuation, we observe that the learned CIT(A), while accepting the existence and eligibility of intangible assets, expressed doubts regarding valuation. However, neither the Assessing Officer nor the learned CIT(A) has invoked Explanation 3 to section 43(1) of the Act or undertaken any exercise to determine a different "actual cost" of the assets. There is also no finding that the assessee inflated the cost of acquisition or claimed depreciation in violation of section 43 of the Act. In fact, the learned CIT(A) himself has recorded that section 43 is not attracted in the present case. Once valuation is supported by an independent valuer and is not disturbed in accordance with law, depreciation cannot be denied merely on suspicion or conjecture.

36.9 We further find that the principle of consistency strongly supports the case of the assessee. Depreciation on similar intangible assets acquired under an earlier Business Transfer Agreement was allowed in scrutiny assessments under section 143(3) for earlier years. For assessment year 2015-16, the claim was allowed, and reassessment proceedings initiated thereafter have been stayed by the Hon'ble High Court. For assessment years 2016-17 to 2018-19, depreciation was allowed and no reassessment proceedings were initiated. Thus, the Revenue has accepted the allowability of depreciation on identical assets created based on identical business transfer agreement in earlier years. In the absence of any change in facts or law, the Revenue cannot take a contradictory stand in the year under consideration. The settled principle that the Revenue cannot blow hot and cold at the same time squarely applies.

36.10 In view of the above discussion, we hold that there is no succession of business under section 170 of the Act in the present case, the sixth proviso to section 32(1) of the Act is not applicable, and the disallowance of depreciation sustained by the learned CIT(A) is not in accordance with law. Since, the intangible assets are held to be eligible on merits and no legal bar exists, the assessee is entitled to depreciation under section 32(1)(ii) of the Act. Accordingly, we set aside the order of the learned CIT(A) on this issue and direct the Assessing Officer to allow the depreciation claimed on intangible assets. The grounds raised by the assessee on this issue are allowed.

37. Coming to issue raised through additional ground of appeal regarding allowances of foreign tax as business expenses under section 37 of the Act.

38. The relevant facts are that during the year under consideration, the assessee earned income from foreign parties. On such income, taxes were deducted in the respective foreign countries at varying rates on gross receipts, and such foreign taxes were paid by way of tax deduction at source by the foreign payers.

38.1 For the purpose of claiming Foreign Tax Credit (FTC) in India, the assessee computed the eligible credit on the basis of net income in accordance with the provisions of section 90 of the Income-tax Act, 1961, and not on gross receipts. Consequently, a portion of the foreign tax paid, which was not eligible for relief under section 90, could not be claimed as foreign tax credit in the return of income.

38.2 The assessee, therefore, did not claim such excess foreign tax paid as FTC. The amount of foreign tax so paid but not eligible for credit and remaining unclaimed during the year under consideration amounted to ₹53,07,847, the detailed working of which was enclosed as Annexure 1 in the written submissions. The assessee for the first time before us has made claim for deduction of the impugned foreign tax business expenses.

38.3 The Id. AR before us contended that since the said foreign taxes were paid wholly and exclusively in connection with its business income earned from abroad, and since such taxes were neither allowable as foreign tax credit under section 90 of the Act nor hit by the disallowance provisions of section 40(a)(ii) of the Act, the same should be allowed as a business expenditure under section 37(1) of the Act.

38.4 In support of this contention, reliance was placed on judicial precedents, including the decision of the ITAT Ahmedabad Bench in *Mastek Ltd. v. DCIT* and the judgment of the Hon'ble Bombay High Court in *Reliance Infrastructure Ltd.*, wherein it was held that foreign

taxes, which are not eligible for relief under section 90 of the Act and do not fall within the definition of "tax" under section 2(43) read with section 40(a)(ii) of the Act, are allowable as business expenditure.

39. On the contrary, the learned DR before us opposed the contention of the assessee and supported the orders of the lower authorities. He submitted that the foreign taxes paid by the assessee are in the nature of income tax and are directly linked to the profits earned abroad. Such taxes, according to the learned DR, represent application of income and not an expenditure incurred for the purpose of carrying on business. Therefore, they are not allowable as a deduction under section 37(1) of the Act. The learned DR sought to distinguish the judicial precedents relied upon by the assessee by submitting that those decisions were rendered on their own facts and cannot be applied mechanically to the present case. He submitted that the true nature of the foreign taxes paid by the assessee needs to be carefully examined to determine whether they are, in substance, income taxes, in which case the same would not be deductible.

39.1 Without prejudice to the above submissions, the learned DR fairly stated that he had no objection if the issue is restored to the file of the Assessing Officer for fresh examination and verification of the nature of foreign taxes paid and their allowability in accordance with law. Accordingly, the learned DR prayed that the disallowance be sustained, or alternatively, that the matter be remanded to the Assessing Officer for fresh consideration.

40. We have heard the rival contentions of both the parties and perused the materials available on record. The issue raised relates to the allowability of foreign taxes paid on income earned from abroad, to the extent such taxes were not eligible for Foreign Tax Credit under section

90 of the Act and remained unclaimed in the return of income. The assessee has contended that the said foreign taxes were incurred wholly and exclusively for the purposes of its business and are not hit by the provisions of section 40(a)(ii) of the Act and therefore qualify for deduction under section 37(1) of the Act. We note that the assessee has raised this claim for the first time before the Tribunal. It is also evident from the record that the allowability of such foreign tax as business expenditure would require verification of relevant facts, including the nature of income earned abroad, the computation of eligible Foreign Tax Credit under section 90 of the Act, the quantum of foreign tax paid but not eligible for credit, and whether such taxes do not fall within the scope of disallowance under section 40(a)(ii) of the Act. The assessee has relied on judicial precedents to support its claim; however, the application of such precedents would depend upon the factual verification of the assessee's case. Hence, in the interest of justice, we deem it appropriate to restore this issue to the file of the AO. The AO is directed to examine the assessee's claim of deduction of foreign tax paid as business expenditure under section 37(1) of the Act, after due verification of facts and supporting documents, and to consider the applicability of the judicial precedents relied upon by the assessee. The AO shall provide reasonable opportunity of being heard to the assessee and thereafter grant appropriate relief in accordance with law, if the claim is found to be admissible. With these directions, the additional ground of appeal raised by the assessee is allowed for statistical purposes.

41. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Coming to ITA No. 291/Bang/2025 pertaining to A.Y. 2018-19

42. The Ground Nos. 1 and 6 of the assessee's appeal are general Grounds which do not require any separate adjudication. Hence, we dismiss the same as infructuous.

43. The Ground No. 2 of the assessee's appeal pertains to deductibility of software expenses as revenue expenses.

44. At the outset, we note that the issue raised by the assessee in its grounds of appeal for the AY 2018-19 is identical to the issue raised by the assessee in ITA No. 290/Bang/2025 for the assessment year 2017-18. Therefore, the findings given in ITA No. 290/Bang/2025 shall also be applicable for the assessment year 2018-19. The ground of appeal of the assessee for the A.Y. 2017-18 has been decided by us vide paragraph No. 19 of this order favouring assessee. The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2017-18 shall also be applied for the assessment year 2018-19. Hence, the ground of appeal filed by the assessee is hereby allowed.

45. The next issues raised by the assessee through Ground No. 3 of the appeal pertain to disallowances of depreciation on intangible assets.

46. At the outset, we note that the issues raised by the assessee in its grounds of appeal for the AY 2018-19 is identical to the issue raised by the assessee in ITA No. 290/Bang/2025 for the assessment year 2017-18. Therefore, the findings given in ITA No. 290/Bang/2025 shall also be applicable for the assessment year 2018-19. The appeal of the assessee for the A.Y. 2017-18 has been decided by us vide paragraph No. 36.11 of this order favouring assessee. The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2017-18 shall also be applied for the assessment year 2018-19. Hence, the ground of appeal filed by the assessee is hereby allowed.

47. The next issue raised by the assessee through Ground No. 4 of the appeal pertains to disallowances of weighted deduction under section 35(2AB) of the Act claimed on account of R&D facility.

48. The necessary facts are that during the year under consideration, the assessee incurred revenue expenditure of ₹1,25,59,57,776/- on research and development (R&D) activities carried out in its in-house R&D units. These R&D units were approved by the Department of Scientific and Industrial Research (DSIR). Based on this, the assessee claimed weighted deduction at 150% under section 35(2AB) of the Income-tax Act, amounting to ₹1,88,39,36,665/- only.

48.1 During the assessment proceedings, the AO issued a show cause notice under section 142(1) asking the assessee to submit relevant documents, including a copy of Form 3CL, in support of the deduction claimed under section 35(2AB) of the Act. In response, the assessee filed the DSIR approval letter for the R&D units. However, the assessee stated that Form 3CL had not been issued by DSIR for the year under consideration.

48.2 The assessee contended that once recognition and approval of the R&D facility is granted by DSIR, the weighted deduction under section 35(2AB) of the Act should be allowed, irrespective of whether Form 3CL has been furnished by DSIR to the Director General of Income Tax. The assessee also relied on certain judicial precedents to support this contention.

48.3 However, the AO did not accept the submissions of the assessee. The AO held that as per Rule 6(7A)(b) of Income Tax Rules, the submission of Form 3CL issued by DSIR is mandatory for allowing weighted deduction under section 35(2AB) of the Act. Since the assessee failed to furnish Form 3CL for the relevant year, the AO concluded that

the assessee was not eligible for weighted deduction at 150%. Accordingly, the AO disallowed the excess weighted deduction claimed under section 35(2AB) amounting to ₹62,79,78,889/-, being the difference between the weighted deduction claimed and the actual expenditure incurred (₹1,88,39,36,665 minus ₹1,25,59,57,776). The AO restricted the deduction under section 35(2AB) of the Act to 100% of the actual expenditure incurred on scientific research and denied the additional weighted portion solely on account of non-furnishing of Form 3CL issued by DSIR.

49. The aggrieved assessee preferred an appeal before the learned CIT(A).

50. Before the learned CIT(A), the assessee reiterated that it had incurred revenue expenditure of ₹1,25,59,57,776/- on in-house research and development activities during the year. The R&D facilities were duly approved by the DSIR. Based on such approval, the assessee claimed weighted deduction under section 35(2AB) of the Act. The assessee contended that the basic and primary condition for claiming deduction under section 35(2AB) of the Act, namely approval of the R&D facility by DSIR, was fully satisfied in its case.

50.1 It was further argued that the non-submission of Form 3CL cannot be a ground to deny the weighted deduction. As per Rule 6(7A), Form 3CL is required to be issued and forwarded by DSIR to the prescribed income-tax authority within 120 days. The assessee has no control over the issuance or communication of Form 3CL by DSIR. Therefore, the assessee cannot be penalized for any delay or failure on the part of DSIR in issuing or forwarding Form 3CL.

50.2 The assessee submitted that it had duly filed the audit report in Form 3CLA within the prescribed time and had complied with all

requirements under the Act and Rules. The delay or omission, if any, was entirely attributable to DSIR and not to the assessee. Reliance was placed on judicial precedents, including the decision of the Hon'ble Delhi High Court in *SRF Ltd. v. Union of India reported in 143 taxmann.com 332*, wherein it was held that merely because DSIR failed to issue or forward Form 3CL, the assessee's claim for deduction under section 35(2AB) of the Act cannot be denied.

50.3 The assessee also pointed out that Form 3CL for the year under consideration was subsequently issued by DSIR, which clearly establishes that the expenditure incurred by the assessee was eligible and approved for the purposes of section 35(2AB) of the Act. Hence, the disallowance made by the AO was unjustified and contrary to law.

50.4 Without prejudice, the assessee submitted that even if a portion of the expenditure is considered as not approved by DSIR for weighted deduction under section 35(2AB) of the Act, such expenditure is still allowable under section 35(1)(i) of the Act, which does not require any approval from a prescribed authority. Alternatively, the assessee contended that the expenditure was incurred wholly and exclusively for the purposes of business and is revenue in nature, and therefore allowable as a normal business deduction under section 37(1) of the Act. On the basis of the above submissions, the assessee pleaded that the weighted deduction under section 35(2AB) of the Act be allowed in full and the disallowance made by the AO be deleted.

51. However, the learned CIT(A) observed that after the amendment to Rule 6(7A) with effect from 01.07.2016, the grant of weighted deduction under section 35(2AB) of the Act is not automatic merely on approval of the in-house R&D facility by DSIR. According to the learned CIT(A), the amended provisions mandate that the prescribed authority,

i.e. DSIR, must not only approve the facility but also quantify the eligible expenditure, and such quantification is required to be communicated to the Income-tax Department through Form 3CL. In the absence of such quantified approval, the assessee cannot claim weighted deduction under section 35(2AB) of the Act.

51.1 The learned CIT(A) further observed that Form 3CL is not a mere procedural requirement but a substantive and mandatory condition for allowing weighted deduction under section 35(2AB) of the Act. It was held that the Assessing Officer was justified in disallowing the weighted deduction during the assessment proceedings since Form 3CL was not furnished before the AO at that stage, and therefore the AO had no option but to deny the claim.

51.2 The learned CIT(A) noted that although the assessee had filed Form 3CL during the appellate proceedings, the said form was approved and quantified only for part of the total expenditure incurred by the assessee on in-house research and development. As per the Form 3CL placed on record, DSIR approved expenditure of ₹1,23,43,57,000, whereas the total expenditure claimed by the assessee was ₹1,25,59,57,776. Accordingly, the learned CIT(A) held that weighted deduction under section 35(2AB) can be allowed only to the extent of expenditure expressly approved and quantified by DSIR and not beyond that amount.

51.3 The learned CIT(A) specifically observed that the balance expenditure of ₹2,16,00,776, which was not approved by DSIR in Form 3CL, is not eligible for weighted deduction under section 35(2AB) in view of the clear mandate of Rule 6(7A) of the Income Tax Rules. The learned CIT(A) rejected the assessee's contention that once the R&D

facility is approved, the entire expenditure incurred therein automatically qualifies for weighted deduction.

51.4 The learned CIT(A) also rejected the assessee's plea that Form 3CL is only a procedural formality and that delay or failure on the part of DSIR in issuing Form 3CL should not prejudice the assessee. It was observed that after the statutory amendment, the legal position has changed and the judicial precedents relied upon by the assessee, which held Form 3CL to be non-mandatory, pertained to periods prior to the amendment and therefore are not applicable to the facts of the present case.

51.5 Further, the learned CIT(A) observed that the alternative claim of the assessee to allow the unapproved expenditure under section 35(1)(i) or section 37(1) of the Act cannot be entertained at the appellate stage. According to the learned CIT(A), since this alternative claim was not made before the Assessing Officer, the AO did not have an opportunity to examine the nature of the expenditure, and therefore such claim cannot be allowed in appeal.

51.6 Based on the above observations, the learned CIT(A) partly confirmed the disallowance made by the Assessing Officer by sustaining the denial of weighted deduction under section 35(2AB) of the Act in respect of expenditure of ₹2,16,00,776 and restricted the allowance of weighted deduction only to the extent of expenditure approved and quantified by DSIR in Form 3CL.

52. Being aggrieved by the order of the learned CIT(A), the assessee is in appeal before us.

53. The learned AR before us pointed out that the AO disallowed the weighted deduction only on the ground that Form No. 3CL was not furnished during the assessment proceedings. It was argued that the

denial of deduction was purely technical and procedural in nature, without doubting either the incurrence of expenditure or the eligibility of the R&D facility. The learned AR submitted that the assessee had complied with all substantive conditions under section 35(2AB) of the Act, including maintaining separate books of account, getting the accounts audited, and furnishing the audit report to DSIR in Form 3CLA.

53.1 It was further submitted that during the appellate proceedings, the assessee furnished Form No. 3CL issued by DSIR, wherein the expenditure eligible for weighted deduction was duly quantified. The learned AR argued that once Form 3CL is available on record, even if it is produced at the appellate stage, the benefit of weighted deduction cannot be denied. The learned AR emphasized that appellate proceedings are a continuation of assessment proceedings and all legitimate claims supported by evidence should be considered.

53.2 The learned AR strongly contended that Rule 6(7A), which mandates quantification of expenditure by DSIR, is a procedural mechanism and cannot override the substantive provision of section 35(2AB) of the Act. It was argued that section 35(2AB) itself does not restrict the weighted deduction only to the amount quantified by DSIR, unlike section 35(2B) of the Act, where the Act specifically uses the words "expenditure certified by the prescribed authority." Therefore, the Rule cannot curtail the scope of the deduction granted by the Act.

53.3 In this context, the learned AR relied on settled legal principles that rules framed under the Act cannot go beyond or override the provisions of the Act. Reliance was placed on judgments of the Hon'ble Supreme Court, including *Assam Co. Ltd. v. State of Assam* reported in 248 ITR 567 and *CIT v. Chennappa Mudaliar* reported in 74 ITR 41, to

submit that if there is any conflict between the Act and the Rules, the Act must prevail.

53.4 The learned AR further submitted that the mandate to quantify expenditure was introduced only by amendment to the Rules with effect from 01.07.2016, without any corresponding amendment to section 35(2AB) of the Act. Therefore, DSIR's role of quantification cannot be treated as determinative of the assessee's statutory entitlement under the Act. The assessee cannot be denied weighted deduction merely because DSIR has approved a lower amount in Form 3CL or has not quantified the entire expenditure.

53.5 Without prejudice, the learned AR submitted that even the expenditure not quantified by DSIR is otherwise allowable as scientific research expenditure under section 35(1)(i) of the Act, as it was incurred wholly and exclusively for the purposes of business. Alternatively, the same is allowable as revenue expenditure under section 37(1) of the Act. The nature of expenditure has never been disputed by the Assessing Officer.

53.6 The learned AR also highlighted the object and intent behind section 35(2AB) of the Act, which is to promote and encourage in-house research and development activities in India. A hyper-technical interpretation denying weighted deduction for genuine R&D expenditure would defeat the very purpose of the incentive provision. In view of the above submissions, the learned AR prayed that the weighted deduction under section 35(2AB) of the Act should be allowed on the entire eligible expenditure incurred by the assessee for both the assessment years. Alternatively, it was prayed that the expenditure not approved or quantified by DSIR be allowed under section 35(1)(i) or section 37(1) of the Act, and the disallowance made by the lower authorities be deleted.

54. Per contra, the learned DR supported the action of the Assessing Officer and the lower authorities in denying the weighted deduction under section 35(2AB) of the Act. He argued that furnishing of Form No. 3CL, duly issued by DSIR, is a mandatory requirement for claiming weighted deduction. Since the assessee did not submit Form 3CL during the assessment proceedings, the AO was justified in disallowing the claim.

54.1 The Id. DR contended that section 35(2AB) read with Rule 6(7A) clearly envisages a role for DSIR not only in approving the R&D facility but also in quantifying the eligible expenditure. According to him, the weighted deduction can be allowed only to the extent of expenditure approved and certified by DSIR in Form 3CL. If DSIR has approved or quantified a lower amount, the assessee cannot claim a higher deduction on its own.

54.2 The learned DR further submitted that Rule 6(7A) is not merely procedural but is an integral part of the statutory mechanism for granting weighted deduction. The purpose of involving DSIR is to ensure that only genuine and eligible R&D expenditure receives the benefit. Therefore, the Assessing Officer cannot ignore the quantification made by DSIR and independently allow deduction on the entire expenditure claimed by the assessee.

54.3 The Id. DR also argued that allowing Form 3CL to be filed at the appellate stage would dilute the statutory requirement and render the assessment proceedings meaningless. According to him, compliance with procedural requirements at the appropriate stage is necessary, especially for incentive provisions which have to be strictly construed.

54.4 Without prejudice, the learned DR submitted that even if Form 3CL is now available, the deduction under section 35(2AB) should be

restricted strictly to the amount quantified by DSIR and not beyond that. Any expenditure not approved or quantified by DSIR cannot qualify for weighted deduction.

54.5 The learned DR further contended that the assessee cannot automatically seek allowance of the unapproved expenditure under section 35(1)(i) or section 37(1) of the Act. According to him, once a specific claim is made under section 35(2AB), the assessee must satisfy all the conditions of that provision, and failure to do so disentitles the assessee from alternative relief unless the claim is independently examined by the AO.

54.6 Accordingly, the learned DR prayed that the disallowance made by the Assessing Officer be upheld, or alternatively, that the weighted deduction be restricted only to the amount approved and quantified by DSIR in Form 3CL, and no further relief be granted.

55. We have carefully considered the rival submissions, perused the materials available on record, and examined the orders of the lower authorities. The issue before us is whether the assessee is entitled to weighted deduction under section 35(2AB) of the Act on the entire expenditure incurred on in-house research and development, including the portion of expenditure which was not quantified and approved by the DSIR in Form No. 3CL, for the assessment year under consideration

55.1 The facts are not in dispute. The assessee incurred revenue expenditure of ₹1,25,59,57,776 on in-house R&D activities. The R&D facility was duly approved by the DSIR. The assessee claimed weighted deduction at 150% under section 35(2AB) of the Act. The Assessing Officer restricted the deduction to 100% of the actual expenditure and disallowed the weighted portion solely on the ground that Form No. 3CL was not furnished during the assessment proceedings. Subsequently,

during appellate proceedings, Form No. 3CL was produced, wherein the DSIR quantified and approved expenditure of ₹1,23,43,57,000, leaving a balance amount of ₹2,16,00,776 not quantified.

55.2 At the outset, we observe that the approval of the in-house R&D facility by the DSIR is an undisputed fact. The Assessing Officer has not questioned the genuineness of the expenditure, the nature of the expenditure, or the nexus of such expenditure with the assessee's business. The sole reason for disallowance of the weighted deduction is the non-furnishing of Form No. 3CL during the assessment proceedings and the partial quantification of expenditure by DSIR.

55.3 We now examine the legal position. Section 35(2AB) of the Act grants weighted deduction on expenditure incurred on approved in-house research and development facilities. The section itself does not use the expression "expenditure certified by the prescribed authority." It only mandates approval of the facility by the prescribed authority. The requirement of quantification of expenditure by DSIR has been introduced by way of amendment to Rule 6(7A) of the Income-tax Rules with effect from 01.07.2016. Thus, the quantification requirement flows from the Rules and not directly from the substantive provision of the Act.

55.4 It is a settled principle of law that Rules framed under the Act cannot override or curtail the scope of the substantive provisions of the Act. If there is any conflict between the Act and the Rules, the Act must prevail. In the present case, section 35(2AB) of the Act does not restrict the allowance of weighted deduction only to the amount quantified by DSIR. Unlike section 35(2B) of the Act, where the statute expressly limits the deduction to the amount "certified" by the prescribed authority, no such restrictive language is found in section 35(2AB) of the Act. Therefore, the Rule cannot be interpreted in a manner so as to read into

the section a limitation which the legislature itself has consciously not provided.

55.5 We further note that the assessee has complied with all substantive conditions prescribed under section 35(2AB) of the Act, namely maintaining separate books of accounts for the R&D facility, getting such accounts audited, and furnishing the audit report to DSIR in Form No. 3CLA. The delay or partial quantification by DSIR is an event over which the assessee has no control. The assessee cannot be made to suffer for administrative or procedural lapses on the part of the prescribed authority.

55.6 Coming to the aspect of Form No. 3CL being furnished at the appellate stage, it is well-settled that appellate proceedings are a continuation of assessment proceedings. Once Form No. 3CL is brought on record, even at the appellate stage, the claim cannot be rejected merely on the ground that it was not furnished before the Assessing Officer. The Assessing Officer's action may have been justified at the assessment stage due to non-availability of Form No. 3CL, but once the form is available on record, the claim has to be examined on merits in accordance with law.

55.7 As regards the portion of expenditure of ₹2,16,00,776 which was not quantified by DSIR, we are of the considered view that mere non-quantification by DSIR cannot automatically render such expenditure ineligible for weighted deduction under section 35(2AB) of the Act, when the facility itself is approved and the expenditure is otherwise found to be incurred on in-house R&D activities. There is nothing on record to show that this expenditure falls outside the scope of approved R&D activities or is of a nature specifically excluded under the Act.

55.8 At the same time, we find merit in the alternative contention of the assessee that even if, for any reason, weighted deduction under section 35(2AB) is not granted on the unquantified portion, such expenditure is otherwise eligible for deduction under section 35(1)(i) of the Act, subject to verification, as it represents expenditure on scientific research related to the business of the assessee. The learned CIT(A) erred in holding that such alternative claim cannot be examined merely because it was not raised before the Assessing Officer. The powers of the appellate authority are co-terminus with that of the Assessing Officer, and a legitimate claim supported by facts and law cannot be rejected on technical grounds.

55.9 Considering the object of section 35(2AB) of the Act, which is to encourage and promote in-house research and development, we are of the view that a hyper-technical interpretation which denies weighted deduction on genuine R&D expenditure would defeat the legislative intent. Incentive provisions should be construed liberally, so long as the basic conditions prescribed by law are fulfilled. In view of the above discussion, we hold that the assessee is entitled to weighted deduction under section 35(2AB) of the Act on the entire eligible expenditure incurred on its approved in-house R&D facility. Alternatively, and without prejudice, the expenditure of ₹2,16,00,776, which was not quantified by DSIR, is directed to be allowed under section 35(1)(i) of the Act, subject to verification by the Assessing Officer that the expenditure is indeed incurred on scientific research related to the assessee's business. Accordingly, the disallowance sustained by the learned CIT(A) is set aside. The Assessing Officer is directed to grant appropriate relief in accordance with law. The ground raised by the assessee is allowed.

60. The Ground No. 5 of the assessee's appeal pertains to levy of interest under section 234D of the Act which is consequential in nature and does not require any separate adjudication. Hence, the same is dismissed as infructuous.

61. Coming to issue raised through additional ground of appeal regarding allowances of foreign tax as business expenditure.

62. At the outset, we note that the issue raised by the assessee in its grounds of appeal for the AY 2018-19 is identical to the issue raised by the assessee in ITA No. 290/Bang/2025 for the assessment year 2017-18. Therefore, the findings given in ITA No. 290/Bang/2025 shall also be applicable for the assessment year 2018-19. The appeal of the assessee for the A.Y. 2017-18 has been decided by us vide paragraph No. 41.2 of this order favouring assessee for statistical purposes. The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2017-18 shall also be applied for the assessment year 2018-19. Hence, the ground of appeal filed by the assessee is hereby allowed for statistical purposes.

63. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Coming to ITA No. 292/Bang/2025, pertaining to A.Y. 2019-20

64. The Ground Nos. 1 and 6 of the assessee's appeal are general Grounds and the same do not require any separate adjudication. Hence, these grounds are dismissed as infructuous.

64.1 The Ground No. 2 of the assessee's appeal pertains to the deductibility of software expenses as revenue expenses.

65. At the outset, we note that the issue raised by the assessee in its grounds of appeal for the AY 2019-20 is identical to the issue raised by the assessee in ITA No. 290/Bang/2025 for the assessment year 2017-18. Therefore, the findings given in ITA No. 290/Bang/2025 shall also be applicable for the assessment years 2019-20. The appeal of the assessee for the A.Y. 2017-18 has been decided by us vide paragraph No. 19 of this order favouring assessee. The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2017-18 shall also be applied for the assessment year 2019-20. Hence, the ground of appeal filed by the assessee is hereby allowed.

66. The next issue raised by the assessee through Ground No. 3 of the appeal pertains to disallowance of depreciation on intangible assets.

67. At the outset, we note that the issues raised by the assessee in its grounds of appeal for the AY 2019-20 are identical to the issue raised by the assessee in ITA No. 290/Bang/2025 for the assessment year 2017-18. Therefore, the findings given in ITA No. 290/Bang/2025 shall also be applicable for the assessment year 2019-20. The appeal of the assessee for the A.Y. 2017-18 has been decided by us vide paragraph No. 36 of this order favouring assessee. The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2017-18 shall also be applied for the assessment year 2019-20. Hence, the ground of appeal filed by the assessee is hereby allowed.

68. The next issue raised by the assessee through Ground No. 4 of the appeal pertains to disallowances of weighted deduction under section 35(2AB) of the Act claimed on account of R&D facility.

69. At the outset, we note that the issue raised by the assessee in its grounds of appeal for the AY 2019-20 is identical to the issue raised by the assessee in ITA No. 291/Bang/2025 for the assessment year 2018-

19. Therefore, the findings given in ITA No. 291/Bang/2025 shall also be applicable for the assessment year 2019-20. The appeal of the assessee for the A.Y. 2018-19 has been decided by us vide paragraph No. 55 of this order favouring assessee. The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2018-19 shall also be applied for the assessment year 2019-20. Hence, the ground of appeal filed by the assessee is hereby allowed.

70. The Ground No. 5 of the assessee's appeal pertains to levy of interest under section 234B of the Act which is consequential in nature and the same does not require any separate adjudication. Hence, the same is dismissed infructuous.

71. Coming to the issue raised through additional ground of appeal regarding allowances of foreign tax as business expenditure.

72. At the outset, we note that the issue raised by the assessee in its grounds of appeal for the AY 2019-20 is identical to the issue raised by the assessee in ITA No. 290/Bang/2025 for the assessment year 2017-18. Therefore, the findings given in ITA No. 290/Bang/2025 shall also be applicable for the assessment year 2019-20. The appeal of the assessee for the A.Y. 2017-18 has been decided by us vide paragraph No. 41 of this order favouring assessee for statistical purposes. The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2017-18 shall also be applied for the assessment year 2019-20. Hence, the ground of appeal filed by the assessee is hereby allowed for statistical purposes.

73. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Coming to ITA No. 293 & 294/Bang/2025, pertaining to A.Y. 2020-21 and 2021-22

74. The Ground No. 1 and 5 of the assessee's appeals are general Ground which do not require any separate adjudication. Hence, the same are dismissed as infructuous.

75. The Ground No. 2 of the assessee's appeal pertains to deductibility of software expenses as revenue expenses.

76. At the outset, we note that the issues raised by the assessee in its grounds of appeals for the AYs 2020-21 & 2021-22 are identical to the issue raised by the assessee in ITA No. 290/Bang/2025 for the assessment year 2017-18. Therefore, the findings given in ITA No. 290/Bang/2025 shall also be applicable for the assessment years 2020-21 2021-22. The appeal of the assessee for the A.Y. 2017-18 has been decided by us vide paragraph No. 19 of this order favouring assessee. The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2017-18 shall also be applied for the assessment years 2020-21 and 2021-22. Hence, the grounds of appeals filed by the assessee for A.Ys. 2020-21 and 2021-22 are hereby allowed.

77. The next issue raised by the assessee through Ground No. 3 of the appeals pertains to disallowances of depreciation on intangible assets.

78. At the outset, we note that the issues raised by the assessee in its grounds of appeals for the AYs 2020-21 & 2021-22 are identical to the issue raised by the assessee in ITA No. 290/Bang/2025 for the assessment year 2017-18. Therefore, the findings given in ITA No. 290/Bang/2025 shall also be applicable for the assessment years 2020-21 2021-22. The appeal of the assessee for the A.Y. 2017-18 has been decided by us vide paragraph No. 36 of this order favouring assessee.

The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2017-18 shall also be applied for the assessment years 2020-21 and 2021-22. Hence, the grounds of appeals filed by the assessee for A.Ys. 2020-21 and 2021-22 are hereby allowed.

79. The Ground No. 4 of the assessee's appeal pertains to levy of interest under section 234A to 234D of the Act which is consequential in nature and does not require any separate adjudication. Hence, the same are dismissed as infructuous.

80. Coming to the issue raised through additional ground of appeal regarding allowances of foreign tax as business expenditure.

81. At the outset, we note that the issues raised by the assessee in its grounds of appeal for the AY 2020-21 and 2021-22 are identical to the issue raised by the assessee in ITA No. 290/Bang/2025 for the assessment year 2017-18. Therefore, the findings given in ITA No. 327/Bang/2025 shall also be applicable for the assessment years 2020-21 and 2021-22. The appeal of the assessee for the A.Y. 2017-18 has been decided by us vide paragraph No. 41 of this order favouring assessee for statistical purposes. The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2017-18 shall also be applied for the assessment years 2020-21 and 2021-22. Hence, the grounds of appeals filed by the assessee for the AYs 2020-21 and 2021-22 are hereby allowed for statistical purposes.

82. In the result, both the appeals of the assessee are partly allowed for statistical purposes.

83. In the combined result, all 5 appeals of the assessee are partly allowed for statistical purposes.

Order pronounced in court on 30th day of January, 2026

Sd/-

(SOUNDARARAJAN K)
Judicial Member

Sd/-

(WASEEM AHMED)
Accountant Member

Bangalore
Dated, 30th January, 2026

/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore