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

BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND
SHRI JAGADISH, ACCOUNTANT MEMBER

ITA No.1432/Mum/2024 (Assessment year: 2020-21)
ITA No.1450/Mum/2024 (Assessment year: 2018-19)

Tata AIG General Insurance Company Ltd. 15th Floor Tower A Peninsula Business Park G.K. Marg Lower Prel Mumbai-400013 **PAN: AABCT3518Q**	**vs**	**Deputy Commissioner of Income Tax C.C.-6(2), Mumbai** Room No.1903, AIR India Building, Nariman Point, Mumbai-400021
APPELLANT		**RESPONDENT**

ITA No.2398/Mum/2024 (Assessment year: 2020-21)
ITA No.2403/Mum/2024 (Assessment year: 2018-19)

Deputy Commissioner of Income Tax C.C.-6(2), Mumbai Room No.1903, AIR India Building, Nariman Point, Mumbai-400021	**vs**	**Tata AIG General Insurance Company Ltd.** 15th Floor Tower A Peninsula Business Park G.K. Marg Lower Prel Mumbai-400013 **PAN: AABCT3518Q**
APPELLANT		**RESPONDENT**

Assessee by	:	Shri Madhur Agrawal
Revenue by	:	Shri Ritesh Misra (CIT DR)
Date of hearing	:	21/01/2026
Date of pronouncement	:	05/03/2026

O R D E R

Per Bench :

A bunch of appeal filed by the assessee and revenue against the order of the Ld. Commissioner of Income Tax (Appeal)-54, Mumbai [for brevity 'the ld. CIT(A)], order passed under section 250 of the Income Tax Act 1961 (for brevity 'the Act') for assessment year 2018-19 and 2020-21, date of order 02.02.2024 and 05.02.2024 respectively The impugned orders emanated from the order of the Ld. Assistant Commissioner of Income Tax C.-8(3)(1),Mumbai (for brevity the 'Ld. AO') order passed under section 143(3)/260 of the Act date of order 20.05.2022 for A.Y. 2018-19 and orders passed by Assessment Unit Income-tax Department u/sec. 143(3) r.w.s. 144B date of order 29.09.2022 for A.Y. 2020-21.

2. Since all the appeals pertain to the same assessee, involving similar issues arising out of a similar factual matrix, these appeals were heard together as a matter of convenience and are being decided by way of this consolidated order. With the consent of the parties, the appeal for the **A.Y. 2018-19,** assessee's appeal **ITA No. 1450/Mum/2024** and revenue's appeal **ITA No. 2403/Mum/2024** are treated as a lead case, and the decision rendered therein shall apply mutatis mutandis to other appeals before us.

ITA No.1450/Mum/2024 (Assessee's appeal, AY 2018-19)

3. The assessee has taken the following grounds:

"1. The learned CIT(A) has, on the facts and circumstances of the case and in law, erred in not allowing deduction to the extent of Rs 2,81,64,694 out of the total deduction of Rs 37,59,52,195 claimed by the Appellant on account of reversal of reserve for unexpired risk ('UEPR') made during the year under consideration, by holding that the reversal of Rs 2,81,64,694 pertaining to

the UEPR disallowed in the previous year other than the immediately preceding year, which in the instant case is AY 2015-16, is not allowable as a deduction in light of proviso to Rule 6E of the Income-tax Rules, 1962

2. The learned CIT(A) has, on the facts and circumstances of the case and in law, erred in confirming the action of the learned AO of denying exemption under section 10(38) of the Act claimed by the Appellant with respect to long-term capital gains amounting to Rs 29,20,85,189 arising on sale of equity shares.

3. The learned CIT(A) has, on the facts and circumstances of the case and in law, erred in confirming the action of the learned AO in taxing the profit on sale of investments as "Business Income" and not as "Capital Gains".

4. Without prejudice to Ground number 3 above, the learned CIT(A) has, on the facts and circumstances of the case and in law, erred in not taxing the profit on sale of investments by applying the tax rate provided under section 111A of the Act and section 112 of the Act on short term gains and long term gains, respectively.

5. The learned CIT(A), on the facts and circumstances of the case and in law, erred in confirming the action of the learned AO in not allowing deduction of Rs 16,37,818 towards rent equalisation adjustment representing rent paid over and above the rent expense recorded in the books of account.

6. The learned CIT(A), on the facts and circumstances of the case and in law, erred in confirming the action of the learned AO in levying interest under section 234A, by holding that levy of such interest is mandatory and consequential in nature, while no such levy was permissible as per section 234A of the Act as the Appellant had filed return of income (ROI) for the subject year on 28 November 2018, i.e., before the due date of 30 November 2018 applicable for filing of ROI as per section 139(1) of the Act.

7. The learned CIT(A), on the facts and circumstances of the case and in law, erred in confirming the action of the learned AO in levying interest under section 234B and section 234D of the Act."

ITA No.2403/Mum/2024 (Revenue's appeal, AY 2018-19)

4. The revenue has taken the following grounds:

"1. Disallowance of reinsurance premium paid/payable to non-resident reinsurance.

2. Disallowance of the provision towards claims incurred but nor reported (IBNR) and claims incurred but not enough reported (IBNER).

3. Disallowance of exemption under section 10(34) in respect of dividend.

4. Not allowing deduction of provision of expenses reversed in A.Y. 2017-18 which were already disallowed in earlier years.

5. Disallowance of deduction of expenses which were disallowed in the previous year.

6. Disallowance of deduction for leave encashment.

7. Disallowance of deduction of rent equalization adjustment.

8. Disallowance of depreciation.

9. Disallowance of co-insurance administration fees."

5. The brief facts of the case are that the assessee is engaged in general insurance business pursuant to the license issued by the Insurance Regulatory and Development Authority of India (IRDAI). The assessee's case was taken on scrutiny and the addition was made under different heads. The aggrieved assessee filed an appeal before the Ld. CIT(A). Ld. CIT(A) partly allowed the appeal of the assessee. Being aggrieved both assessee and revenue challenged the order of the Ld. CIT(A).

ITA No.1450/Mum/2024, Assessee's appeal.

6. **Ground No.1** the assessee has challenged the addition for not allowing deduction to the extent of Rs.2,81,64,694/- out of total deduction of Rs.37,59,52,195/- claimed by the assessee on account of reversal of reserves of unexpired risk (UEPR) which is made during the year under consideration by holding that reversal of alleged amount UEPR disallowed in previous year other than the immediate preceding years which is instant case assessment year 2015-16 which is not allowable as deduction in the light of provision of Rule 6E of the Income-tax Rule 1962. Ld. AR contended that the said deduction was duly allowed

for assessment year 2015-16 by the Coordinate Bench of ITAT Mumbai in assessee's own case **ITA 1834 and 1835, 1815 and 1816/Mum/2023** date of pronouncement 30.10.2024 covering the said order a miscellaneous application is also passed by the Bench bearing **M.A. No.52/Mum/2025** arising out of from **ITA No.1816/Mum/2023** date of order 27.07.2025. The relevant part of the order of MA of the Coordinate Bench of ITAT is contended as below:

"2.. This impugned miscellaneous application filed by the assessee pertains to ground no.8 relating to claim of deduction of reversal of UEPR as per proviso of Rule 6E of the Income Tax Rules, 1962 (Rules) for the amount of UEPR disallowed in the immediately preceding year, i.e., Assessment Year 2015-16. For the year under consideration, i.e., Assessment Year 2017-18, the deduction of Rs.2,89,63,479/- relates to reversal of UEPR during the said year out of the amount of UEPR disallowed in the year prior to the immediately preceding year which is Assessment Year 2015-16, being not the immediately preceding year. This ground has been allowed by stating that the issue is similar to the issue raised in the earlier year and thus, the finding in the earlier year would apply mutatis mutandis. In principle, the issue is covered in the earlier year though there is a slight change in fact for the year under consideration and therefore for the purpose of completeness, without changing the conclusion so drawn, assessee by way of this miscellaneous application sought an insertion to clarify the conclusion so drawn.

2.1. For this purpose, the fact is that reversal of reserve for unexpired risk (UEPR) for an amount of Rs.2,89,63,479/- in the books of accounts for the year under consideration was made out of the provision for UEPR created during the earlier financial year relevant to Assessment Year 2015-16 and not the immediately preceding year which 19 Assessment Year 2016-17. In this respect, Rule 6E provides Tonount carried over such reserve or additional reserve which allowed as a deduction under this rule in respect of any previous yeur shall hot be included in the total income for the assessment year relevant id the immediately next succeeding previous year in the revenue account relating to which the amount aforesaid is credited". While drawing the conclusion for the grounds so raised by theassessee, the rule is interpreted by applying the

purpose of interpretation, so as to avoid absurdity, for which we are in agreement with the submission made by the assessee that when Rule 6E was inserted in the statute, the insurance policies were only for a period of one year and, therefore, the reversal of the provision for UEPR would always be in the immediately next year and, accordingly, the same was provided in the rules. However, with the development in the insurance business and change in regulation, now insurance policies are permitted to cover span more than one year. In such a case, the reversal of the provision for UEPR would happen in more than one year depending upon the life of the policies. From the perusal of Rule 6E, the intention of the legislature is clear that the provision for UEPR which has been disallowed as deduction in one year should not be taxed in the year of reversal, as it would lead to double taxation. Since the reversal would now happen in more than one year, the rule would have to be interpreted to mean that the said reversal would not be taxable in the year in which it is reversed.

3. Thus, the above findings be read in para-53 of the impugned order of the Tribunal while dealing with ground no.8, there being no change in the conclusion already drawn."

7. The Ld. DR argued and relied on the order of revenue authorities but unable to bring any contrary fact against the submission of the assessee.

8. In our considered view, we find that the disallowance of expenses amount of Rs.2,81,64,694/- pertaining to the EUPR is already allowed of A.Y. 2015-16. By an order of the Coordinate Bench of ITAT, Mumbai in assessee's own case bearing **ITA No.1816/Mum/2023** (supra). Accordingly, the Ld. AO is directed to verify and examination of the same in compliance with aforesaid provision to Rule 6E of the Rules allowed the claim of the assessee after compliance of the condition prescribed in the said proviso for which the reasonable opportunity may be given

to assessee and to explain its case. Accordingly, following the order of the Coordinate Bench we set aside the ground to the file of the Ld. AO .

In the result, **Ground No.1** of the assessee's appeal is allowed for statistical purpose.

9. **Ground No. 2:** The assessee has claimed exemption under section 10(38) of the Act in respect of Long-Term Capital Gain (LTCG) amounting to Rs.29,20,85,189/- arising from the sale of equity shares. The issue is no longer res integra, as it stands squarely covered by the decision of the Coordinate Bench of the ITAT, Mumbai in the case of **General Insurance Corporation vs. ACIT in ITA No. 1080/Mum/2019**, order dated **30.03.2021** for A.Y. 2011-12. In the said decision, reliance was also placed on the order of the Coordinate Bench in the assessee's own case in **ITA No. 1834 & 1835/Mum/2023** and connected matters, order dated 30.10.2024, wherein it was categorically held that the assessee's claim for exemption under section 10(38) of the Act is allowable. Further, in the said order, the Coordinate Bench also took note of CBDT Circular No. 6/2016 dated 29.02.2016, particularly paragraph 3(a) thereof, which clarifies that where the assessee chooses to treat income arising from transfer of shares held for more than twelve months as capital gains eligible for exemption under section 10(38), the same shall not be disputed by the revenue.

10. On verification of the fact we find that the factual position of the impugned appeal being no change in material facts and applicable law in the order of the Coordinate Bench of ITAT, Mumbai. We respectfully following the order of the

Coordinate Bench of ITAT Mumbai at the order of the Hon'ble High Court of Bombay.

Accordingly, **Ground No.2** of the assessee is allowed.

11. **Ground No. 3** has been raised by the assessee, contending that the Ld. CIT(A) erred in upholding the action of the Ld. AO in taxing the profit arising from the sale of investments as business income instead of capital gains. It is submitted that this issue stands squarely covered by the decision of the ITAT, Mumbai in the assessee's own case in **ITA No. 1834 & 1835/Mum/2023**, order dated 30.10.2024. Further, Ground No. 3 is inextricably linked with the observations and findings recorded in Ground No. 2. The grievance of the assessee is that the Ld. AO wrongly treated the profit on sale of investments as income taxable under the head "Profits and Gains of Business or Profession" instead of under the head "Capital Gains," as declared in the computation of income.

12. The aforesaid issue has already been examined and adjudicated by the Coordinate Bench in the assessee's own case in ITA Nos. **1834 & 1835/Mum/2023** (supra). The relevant extract of the findings of the Coordinate Bench is reproduced here in below:

"44. Ground no.5 is inextricably linked to the observations and findings arrived at in ground no.4 above. The issue raised in ground no.5 is in respect of Id. AO treating the profit on sale of investment of Rs.58,02,44,507/- as income taxable under the head "profits and gains of business profession" instead of income under the head "capital gains", as per the position adopted by the assessee in its revised return of income.

44.1. In respect of this claim, reason for revision is based on CBDT circular No. 06/2016 dated 29.02.2016 by which in its para 3(a), an assessee was allowed to claim exemption u/s. 10(38) by treating the income arising from transfer of listed shares and securities held for more than 12 months immediately preceding the date of its transfer as capital gain and such a treatment by the assessee shall not be put in dispute by the Id. AO. The stand of the Id. AO is that assessee in all the earlier years had treated such income as business income. It is only in this assessment year that it has been characterised as capital gain by way of filing of revised return under section 139(5) of the Act. Thus, the aforesaid CBDT circular has given a concession to the assessee which cannot be denied since circulars issued by the CBDT are binding on the Department. To this effect, assessee placed reliance on the decision of Hon'ble Supreme Court in the case of UCO Bank vs. CIT [1999] 237 ITR 889 (SSC).

> *"13.1 It is also important to note about the binding nature of CBDT circular on the Income-tax Authorities for which gainful guidance is taken from the decision of Hon'ble Supreme Court in the case of CIT u. Hero Cycles [1997] 228 ITR 463 (SC) wherein it was held that circulars bind the ITO but will not bind the appellate authority or the Tribunal or the Court or even the assessee.*
>
> *13.2 In the case of UCO Bank [1999) 237 ITR 889 (SC), Hon'ble Supreme Court while dealing with the legal status of such circulars, observed thus (page 896): "Such instructions may be by way of relaxation of any of the provisions of the sections specified there or otherwise. The Board thus has power, inter alia, totone down the rigour of the law and ensure a fair enforcement of its provisions, by issuing circulars in exercise of its statutory powers under section 119 of the Income-tax Act, which are binding on the authorities in the administration of the Act. Under section 119(2)(a), however, the circulars as contemplated therein cannot be adverse to the assessee. Thus, the authority which wields the power for its own advantage under the Act is given the right to forgo the advantage when required to wield it in a manner it considers just by relaxing the rigour of the law or in other permissible manners as laid down in section 119. The power is given for the purpose of just, proper and efficient management of the work of*

assessment and in public interest. It is a beneficial power given to the Board for proper administration of fiscal law so that undue hardship may not be caused to the assessee and the fiscal laws may be correctly applied. Hard cases which can be properly categorized as belonging to a class, can thus be given the benefit of relaxation of law by issuing circulars binding on the taxing authorities."

13.3 In the matter of Nayana P. Dedhia (2004) 270 ITR 572 (AP), the Hon'ble Andhra Pradesh High Court held that the guidelines issued by the Board in exercise of powers in terms of section 119 of the Act relaxing the rigours of law are binding on all the officers responsible for implementation of the Act and, therefore, bound to follow and observe any such orders, instructions and directions of the Board.

13.4 In the decision of DCIT v. SunitaFinlease Ltd. (2011) 330 ITR 491 (CG,) it was held by the Hon'ble High Court of Chhattisgarh in para 16 that the administrative Instruction No. 9/2004 issued by the Central Board of Direct Taxes is binding on administrative officer in view of the statutory provision contained in section 143(2), which provides for limitation of 12 months for issuance of notice under section 143(2). While giving its finding, the Hon'ble High Court of Chhattisgarh placed reliance on the decisions in the case of UCO Bank (supra) and Nayana P. Dedhia (supra).

13.5 Hon'ble jurisdictional High Court of Calcutta in the case of Amal Kumar Ghosh (2014) 361 ITR 458 (Cal) dealt with the issue relating to CBDT circular which according to the Department cannot defeat the provisions of law. While giving its observations and finding on the issue, the Hon'ble Court referred to the decision of Hon'ble Chhattisgarh High Court in the case of SunitaFinlease Ltd (supra), which are as under.

7. We have considered the rival submissions advanced by the learned Advocates. Even assuming that the intention of CBDT was to restrict the time for selection of the cases for scrutiny within a period of three months, it cannot be said that the selection in this case was made within the aforesaid period. Admittedly, the return was filed on 29th October, 2004 and the case was selected for scrutiny on 6th July, 2005. It may be pointed out that Mrs. Gutgutia was, in fact, reiterating the views taken by the learned Tribunal which we

also quoted above. By any process of reasoning, it was not open for the learned Tribunal to come to a finding that the department acted within the four corners of Circulars No.9 and 10 issued by CBDT. The circulars were evidently violated. The circulars are binding upon the department under section 119 of the I.T. Act.

8. Mrs. Gutgutia, learned Advocate submitted that the circulars are not meant for the purpose of permitting the unscrupulous assessees from evading tax. Even assuming, that to be so, it cannot be said that the department, which isState, can be permitted to selectively apply the standards set by themselves for their own conduct. If this type of deviation is permitted, the consequences will be that floodgate of corruption will be opened which it is not desirable to encourage. When the department has set down a standard for itself, the department is bound by that standard and cannot act with discrimination. In case, it does that, the act of the department is bound to be struck down under Article 14 of the Constitution. In the facts of the case, it is not necessary for us to decide whether the intention of CBDT was to restrict the period of issuance of notice from the date of filing the return laid down under section 143(2) of the LT. Act. (emphasis supplied by us by underline).

14. Considering the facts on record, perusal of the impugned order, submissions made by the Ld. Counsel and the department, CBDT circular and the judicial precedents including that of Hon'ble Supreme Court and the jurisdictional High Court of Calcutta, we are inclined to adjudicate on the additional ground in favour of the assessee by holding that the order passed by the Ld. CIT(E) is invalid and deemed to have never been issued as it fails to mention DIN in its body by adhering to the CBDT circular no. 19 of 2019. Accordingly, additional ground taken by the assessee is allowed. Having so held on the legal issue raised by the assessee in the additional ground, the grounds relating to the merits of the case requires no adjudication. Accordingly, the appeal of the assessee is allowed in terms of above observations and findings.

45. Considering the facts on record, claim made by the assessee in its revised return and the jurisdictional precedents referred and discussed above, following the same, we allow the claim

of the assessee on sale of investments as held by us while adjudicating on ground no. 4 above. Accordingly, ground no. 5 is allowed."

13. The Ld. DR advanced arguments in support of the orders of the revenue authorities; however, he was unable to place on record any contrary judicial precedent to rebut the submissions made by the Ld. AR.

14. Upon due consideration of the rival submissions and the material available on record, we find that the issue in dispute has already been conclusively adjudicated by the Coordinate Bench of the ITAT in the assessee's own case. Respectfully following the said decision, we allow **Ground No. 3** raised by the assessee.

15. **Ground No. 4**: In view of our decision in favour of the assessee on Ground No. 3, Ground No. 4 does not survive for adjudication and is accordingly dismissed as infructuous.

16. **Ground No.5**: On the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the action of the Ld. AO in disallowing the deduction of rent equalisation amounting to Rs. 16,37,818/-, being an adjustment representing rent paid in excess of the rent expense recognised in the books of account. The aforesaid issue has also been examined and adjudicated by the Coordinate Bench of the ITAT, Mumbai in the assessee's own case in **ITA Nos. 1834 & 1835/Mum/2023**, order dated **30.10.2024**. The relevant observations contained in paragraphs **57** to **60** of the said order are reproduced here in below:

"57. Now we taken up ground no.6 and 7 in respect of deduction of rent equalisation adjustment claimed by the assessee. In this respect, assessee submitted that in accordance to the applicable Accounting Standards, lease expenditure, i.e. rent expense is recognised in profit and loss account on a straight-line basis over the terms of lease, for example, if rent for three years is 9,000, 10,000 and 11,000 each for the relevant years, in the profit and loss account, Rs. 10,000 would be recognised in all the three years. However, from an income-tax perspective, the same is allowable only to the extent the lease expenditure (i.e., rent) which has been actually incurred (i.e., Rs. 9000/-in the first year, Rs 10,000 in the second year and Rs 11,000 in the third year, in the above example. Therefore, there is a reduction from the profit as per the P&L A/c in the computation of income in the earlier year and an additional claim in the later year. However, over the term of the lease, the rent expense recognised in the P&L A/c and the claim made as per the actual payment of the rent is equalised and, hence, the treatment from an income-tax perspective is nothing but a timing difference.

57.1. For the preceding years, rent expenditure accounted in the P&L A/c was higher than the actual rent expenditure incurred by the Assessee. Hence, such excess amount (i.e., amount debited to P&L A/cvis-à-vis the actual amount of rent paid by the assessee) for the relevant previous year has been disallowed and offered to tax.

57.2. During the captioned year, i.e., AY 2017-18, the actual rent payments made by the Assessee is higher by Rs 60,24,723 vis-à-vis the amount of rent expenditure recorded in the P&L A/c. Since this amount has already been disallowed in the earlier years, the Assessee has claimed a deduction of Rs 60,24,723 during the captioned year and hence, the same should not be disallowed. Further, as the expenditure has been incurred during the relevant year and is for the purpose of the business of the Assessee, the same is allowable as per section 37 of the Act. The Assessee further submits that merely because, the same was not debited to the P&L A/c in the relevant year, is not relevant in view of the facts explained above. Further, as it is a trite law, that entries in the books of account does not determine the treatment of an expenditure for the purpose of computing income under the provision of the Act. Reference is made to the decision of the Apex Court in the case of Kedarnath Jute Mfg. Co. Ltd v. CIT [1971] 82 ITR 363 (SC).

57.3. Further, in relation to section 44 of the Act read with First Schedule, reliance is placed on the Assessee's own decision for AY 2015-16 (ITA No. 1718/Mum/2020) by the co-ordinate bench wherein it had taken a purposive interpretation of Rule 5 of the First Schedule and allowed deduction of expense already disallowed in earlier years. Reference is made to paragraph 4 of the said decision. Reliance is also placed in the case of CIT v J.H. Gotla [1985] 156 ITR 323 (SC) wherein the Hon'ble Apex Court held that the interpretation which results in absurdity is required to be avoided. Assessee thus, prays that the deduction claimed for rent equalisation adjustment of Rs 60,24,723 be allowed.58. Assessee submits as an alternate ground which would only arise if no deduction of Rs 60,24,723 is allowed in respect of rent equalisation adjustment representing lease expenditure rent paid over and above the rent expense recorded in the books of account, then the rent expenditure recognised in the profit and loss account should be allowed as a tax-deductible expenditure under the provisions of the Act in AY 2016-17. Hence, the disallowance made by the assessee in AY 2016-17 on account of rent expenditure recognised in P&L A/c being higher than the actual rent paid, should also be held as not called for, and the rent expenditure recorded in the P&L A/c should be allowed as a tax deductible expenditure in AY 2016-17.

59. On the given set of facts as narrated above, whereby actual rent payment made by the assessee which is higher by Rs.60,20,723/- as against rent expenditure recorded in profit and loss account which has already been disallowed in the earlier years, is to be allowed. From the accounting perspective, the said amount has not been debited in the profit and loss account in the relevant year. However, income chargeable to tax under the Act is not based on entries in the book of accounts, to determine the treatment of expenditure for the purpose of computing income under the provisions of the Act. This issue has been addressed by the Hon'ble Supreme Court in the case of Kedarnath Jute Manufacturing Company vs. CIT [1971] 82 ITR 1863 (SC). Further, following the decision of Coordinate Bench of ITAT, Mumbai in assessee's own case (supra), we agree to undertake a purposive interpretation of Rule 5 of the First Schedule to allow deduction of expense already disallowed in the preceding years since interpretation which leads to absurdity are required to be avoided as held by Hon'ble Supreme Court in the case of CIT vs. J.H. Gotla [1985] 156 ITR 323 (SC). Accordingly, deduction claimed for rent

equalisationadjustmentofRs. 60,20,723/- is allowed. Thus, ground no.6 taken by the assessee is allowed. Ground no.7 raised by the assessee is an alternate ground to the ground no.6 as held above. Accordingly, the same is rendered infructuous and therefore not adjudicated upon.
60. Ground no.8 in Assessment Year 2016-17 is directly linked to the observations and findings dealt in ground no. 6 and 7 above for Assessment Year 2017-18. Accordingly, our findings given in ground no.6 and 7 for Assessment Year 2017-18, applies mutatis mutandis to the ground no.8 for Assessment Year 2016-17. Ground no.8 for Assessment Year 2016-17 is thus, allowed."

17. The Ld. DR argued and relied on the orders of revenue authorities.

18 We have considered the rival submissions and perused the material available on record. We find that the issue relating to deduction of rent equalisation adjustment is squarely covered by the decision of the Coordinate Bench of the ITAT, Mumbai in the assessee's own case in **ITA Nos. 1834 & 1835/Mum/2023** (supra). The Coordinate Bench, after examining the accounting treatment, the provisions of the Act, and the judicial precedents including Kedarnath Jute Mfg. Co. Ltd. (supra) held that the deduction representing actual rent paid in excess of the amount debited to the Profit & Loss Account, which had already been disallowed in earlier years, is allowable as a timing difference and cannot be denied merely on the basis of book entries.

The Ld. DR, though relied upon the orders of the revenue authorities, could not controvert the binding precedent in the assessee's own case.

Respectfully following the decision of the Coordinate Bench, we hold that the disallowance of rent equalisation amounting to Rs. 16,37,818/- is unsustainable. Accordingly, **Ground No. 5** raised by the assessee is allowed.

19. **Ground Nos. 6, 7 & 8**: These grounds relate to the levy of interest under section 234A, 234B & 234D of the Act. The assessee contends that the return of income was filed on 28.11.2018, i.e., before the due date of 30th November 2018, and therefore, no interest under section 234A is leviable up to the date of filing of return under section 139(1) of the Act. Considering the submissions of the assessee, we deem it appropriate to restore this issue to the file of the Ld. AO for the limited purpose of verification and recomputation. The Ld. AO shall examine the date of filing of the return and recompute the interest U/s 234A, if any, in accordance with law. Accordingly, this ground is allowed for statistical purposes.

The levy of interest under section 234B & 234D are consequential in nature and shall be recomputed, if required, in accordance with the outcome of the assessment.

Hence, **Ground Nos. 6, 7** & **8** are treated as consequential and disposed of accordingly.

20. In the result, the appeal of the assessee bearing **ITA No.1450/Mum/2024** is allowed.

ITA No.2403/Mum/2024, (Revenue's Appeal, AY 2018-19)

21. **Ground no.1:** The Ld. CIT(A) deleted the addition related to the provision for Claim Incurred But Not Reported (IBNR) and Claim Incurred But Not Enough Reported (IBNER). So the assessee claim that the expenses u/sec. 37(1) amount to Rs.6,45,04,77,112/-. But the Ld. AO rejected the same. The Ld. CIT(A) finally allowed the appeal of the assessee by observing the following facts and adjudicated the issue in favor of the assessee. The relevant para no.8.4 to 8.5 related page no. 44 of the impugned appellate order is reproduced as below:

"8.4 Similar issue was also there for AY 2016-17 and AY 2017-18, where the Ld CIT(A) following the said decision of Hon'ble (TAT has decided the issue in favor of the Appellant.

8.5 Respectfully following the decision of Hon'ble ITAT in assessee's own case and the CIT(A) orders for the previous years, the ground of appeal No. 4 is allowed."

22. Ld. DR argued and relied on the order of the Ld. AO .

23. We have heard the rival submissions and perused the material available on record. We find that the assessee claimed deduction of IBNER under section 37(1) of the Act amounting to Rs. 6,45,04,77,112/-. During the scrutiny proceedings, the Ld. AO observed that the said amount represented a provision created in anticipation of settlement of claims which were not ascertained at the relevant time. According to the Ld. AO, since the assessee had yet to assess the claims and determine the exact amount payable, the liability was in the nature of an unascertained provision and, therefore, not allowable under the Act. The Ld. AO further placed reliance on Rule 5 of the First Schedule to the Act and concluded that provisions for IBNR and IBNER are not allowable under section 37. However, we find that this issue is squarely covered by the decision of the Coordinate Bench of the ITAT, Mumbai in the assessee's own case in **ITA Nos. 1834 & 1835/Mum/2024**, order dated **30.10.2024**. There being no change in the material facts or in the applicable legal position in the year under consideration, we see no reason to interfere with the findings of the Ld. CIT(A), who has followed the decision of the Coordinate Bench in the assessee's own case.

Accordingly, **Ground No. 1** raised by the revenue is dismissed.

24. **Ground No.2 and 3**: The issue pertains to the disallowance of reinsurance premium paid to foreign reinsurers. The Ld. AO disallowed the said expenditure under section 37(1) of the Act and further held that no tax had been deducted at source, thereby invoking the provisions of section 40(a)(ia) of the Act. The revenue contended that the assessee had failed to deduct tax at source on reinsurance premium paid to non-resident insurers towards cession of risk. It was alleged that such payment was in contravention of section 101A(7) read with section 2(9) of the Insurance Act. On this basis, the Ld. AO disallowed an amount of Rs. 5,48,12,97,423/- under section 37(1) of the Act.

Aggrieved, the assessee preferred an appeal before the Ld. CIT(A). The Ld. CIT(A) adjudicated the issue at page 33, paragraphs 7.5 to 7.6 of the appellate order. The relevant paragraphs are reproduced below:

"7.5 Similar issue was also there for AY 2016-17 and AY 2017-18, where the Ld CIT(A) following the said decision of Hon'ble ITAT has decided the issue in favor of the Appellant.

7.6 Respectfully following the decision of Hon'ble ITAT in assessee's own case and the CIT(A) orders for the previous years, the grounds of Appeal No. 2 & 3 are 7.6 allowed.
Accordingly, ground no.2 and 3 of the revenues are dismissed."

25. We have considered the rival submissions and perused the material available on record. We find that the Ld. CIT(A) has adjudicated the issue by following the order of the Coordinate Bench of the ITAT, Mumbai in the assessee's own case in **ITA No. 1718/Mum/2020**, dated **25.04.2022** for AY 2015–16. The said decision was subsequently followed by the Coordinate Bench in the assessee's own case in **ITA Nos. 1834 & 1835/Mum/2023**, order dated **30.10.2024** for AYs 2016–17 and 2017–18. Thus, the issue is no longer res integra. We observe that the Ld. CIT(A) has correctly adjudicated the matter in

consonance with the binding precedents of the Coordinate Bench. The Ld. DR could not controvert the findings nor distinguish the earlier decisions of the Tribunal on identical facts. Respectfully following the orders of the Coordinate Bench and in adherence to the principle of judicial consistency, the appeal of the revenue on **Ground Nos. 2 and 3** stands dismissed.

26. **Ground No. 4**: It has been contended that the Department has erroneously raised Ground No. 4, as there was neither any loan against assets nor any profit on sale of assets during the year under consideration. The Ld. DR did not raise any specific objection or controvert the submissions advanced by the Ld. AR in this regard. In the absence of any material to the contrary, **Ground No. 4** raised by the revenue is dismissed.

27. **Ground No. 5** pertains to the reversal of expenses disallowed in earlier years and the consequent denial of deduction amounting to Rs. 68,56,976/-. The Ld. AO observed that the assessee had disallowed an amount of Rs. 68,56,976/- in earlier years and, during the year under consideration, claimed deduction on account of reversal of such expenses which had earlier been offered to tax. While computing income under the head "Profits and Gains of Business or Profession," the Ld. AO held that the said claim was not allowable in view of Rule 5 of the First Schedule to the Act and accordingly rejected the claim.

In appeal, the Ld. CIT(A) adjudicated the issue and allowed the claim of the assessee. The relevant observations are reproduced below:

"12.5 Similar issue was also there for AY 2016-17 and AY 2017-18, where the Ld. CIT(A), following the said decision of the Hon'ble ITAT, has decided the issue in favor of the Appellant.

12.6 Respectfully following the decision of the Hon'ble ITAT in the Assessee's own case and the CIT(A) orders for the previous years, the ground of appeal no. 11 is allowed."

Upon consideration of the order of the Ld. CIT(A), we find that the issue has already been duly examined and decided by the Coordinate Bench of the ITAT, Mumbai in **ITA No. 1834/Mum/2023**, order dated **30.10.2024**, in favour of the assessee. The Ld. DR was unable to point out any distinguishing facts or bring on record any contrary decision so as to warrant a different view from that taken by the Coordinate Bench and relied upon by the Ld. CIT(A).

Accordingly, we hold that the disallowance of Rs. 68,56,976/- is unsustainable in law. We find no infirmity in the order of the learned CIT(A) and, therefore, **Ground No. 5** of the revenue's appeal stands dismissed.

28**.** This **Ground No.6** pertains to the allowability of deduction of expenses in respect of which tax was not deducted at source in the earlier years, but the requisite TDS was duly deducted and paid during the year under consideration. It is observed that an amount of Rs. 16,12,500/- was disallowed in the earlier years under section 40(a)(ia) of the Act on account of failure to deduct tax at source. The said disallowance was rightly made in those years in accordance with the provisions of section 40(a)(ia) of the Act. However, during the impugned assessment year, the assessee deducted and remitted the applicable TDS in respect of the said expenses and consequently claimed the deduction in the current year. The issue is squarely covered by the decision of the ITAT, Mumbai Bench in assessee's own case in **ITA No. 1834/Mum/2023**, order dated **30.10.2024**, wherein it has been held that where TDS is deducted and paid in a subsequent year, the corresponding expenditure becomes allowable in that year.

The Ld. DR did not raise any substantive objection to the submissions advanced by the Ld. AR.

In view of the above, we find that although the assessee had failed to deduct tax at source in the earlier years, it has duly complied with the provisions in the year under consideration by deducting and depositing the TDS. Therefore, the expenditure is allowable in the impugned assessment year. We do not find any infirmity in the observations of the Ld. CIT(A) on this issue.

Accordingly, **Ground No. 6** raised by the revenue stands dismissed.

29. **Ground No. 8**: This ground is merely a duplicate of Ground No. 3 raised by the revenue. The Ld. DR fairly conceded that Ground No. 8 is repetitive and relates to the same issue as raised in Ground No. 3.

Accordingly, **Ground No. 8** of the revenue's appeal, being duplicative in nature, stands dismissed.

30. **Ground No. 9**: The Ld. DR contended that the Ld. CIT(A) erred in allowing the deduction in respect of leave encashment paid during the year under consideration, which had been disallowed by the Ld. AO under section 43B of the Act.

The Ld. CIT(A), while adjudicating the issue in the impugned appellate order (page 83, paragraphs 4.4 to 4.5), observed as under:

"14.4 Similar issue was also there for AY 2016-17 and AY 2017-18, where the Ld. CIT(A), following the said decision of the Hon'ble ITAT, has decided the issue in favour of the Appellant.

14.5 Respectfully following the decision of the Hon'ble ITAT in the Assessee's own case and the CIT(A) orders for the previous years, the ground of appeal no. 13 is allowed."

We find that the issue has already been examined and adjudicated by the Coordinate Bench of the ITAT, Mumbai, in the assessee's own case in **ITA No. 1718/Mum/2020** vide order dated **25/04/2022** for **AY 2015-16** & **ITA Nos. 1834 & 1835/Mum/2023**, vide order dated **30.10.2024**. The Ld CIT(A) has followed the said binding precedent. In view of the above, we do not find any infirmity in the observations or findings of the Ld. CIT(A).

Accordingly, **Ground No. 9** raised by the revenue stands dismissed.

31. **Ground No.10:** this ground is pursuant to claim of deduction of tax in depreciation u/sec. 32 of the Act and as per the Ld. DR the Ld. CIT(A) wrongly allowed the provision of 32 and claim of depreciation amount of Rs.26,29,81,011/-. The Ld. CIT(A) had considered the said provision and accordingly impugned appellate order page no.92 para 16.4 to 16.5 had considered and the appeal of the assessee was allowed. The relevant paragraphs are reproduced as below:-

"16.4 Similar issue was also there for AY 2016-17 and AY 2017-18, where the Ld CIT(A) following the said decision of Hon'ble ITAT, has decided the issue in favor of the Appellant.

16.5 Respectfully following the decision of Hon'ble ITAT in Assessee's own case and the CIT(A) orders for the previous years, the ground of appeal no. 16 is allowed."

The Ld. DR was unable to place on record any contrary judicial precedent to rebut the submissions advanced on behalf of the assessee. We find that the issue has already been examined and adjudicated by the Coordinate Bench of the ITAT, Mumbai, in the assessee's own case in **ITA No. 1718/Mum/2020** vide order dated **25/04/2022** for **AY 2015-16** & **ITA Nos. 1834 & 1835/Mum/2023**, vide order

dated **30.10.2024**. The Ld CIT(A) has followed the said binding precedent. In view of the above, we do not find any infirmity in the observations or findings of the Ld. CIT(A).

Accordingly, **Ground No. 10** raised by the revenue stands dismissed.

32. **Ground no.13** is related to allowing deduction u/s 10(34) of the Act amount to Rs. 6,34,31,822/-. The Ld. DR contended that when it has been categorically established that the case of the assessee is covered u/s 44 r.w.r.5 of the Income Tax Rule, 1962.

The Ld. AR contended that the said issue is duly adjudicated in favour of the assessee in assessee's own case by the Coordinate Bench of ITAT-Mumbai in **ITA No. 3535 & 1702/Mum/2011** date of pronouncement **20/11/2025** & **ITA No. 5394/Mum/2025** date of order **23/12/2025** for AY 2013-14. The Ld. CIT(A) dealt the issue and the observation in pages 65 to 66 in impugned appellate order is reproduced as below:-

"11.3 The Assessing Officer denied the exemption u/s 10(34) of the Act of Rs. 6,34,31,822/- and of Rs. 56,20,83,736/- u/s 10(15)(iv)(h) by relying on Rule 5 of First Schedule stating that these disallowances are not permissible under Rule 5 of First Schedule.

11.4 From the record, I find that the issue has been decided by the Hon'ble ITAT Mumbai Bench "E" Mumbai in assessee's own case for A.Y. 2006-2007 to AY 2008-09 (ITA No.3535 & 1702/Mum/2011 and ITA No.4167/Mum/2012). The relevant part is reproduced as under.-

"8. In Ground No.5, the revenue is aggrieved for CIT(A)'s action for exempting dividend income.

9. This issue is also covered by the order of the Hon'ble Bombay High Court in the case of General Insurance Corporation of India, 342 ITR 27.

11.5 The jurisdictional Hon'ble Bombay High Court in the case of General Insurance Corporation of India vs. DCIT [2011] 342 ITR 27 (Bom) has clearly held that exemptions u/s 10 of the Act will be available to general insurance company as well.

11.6 Similar issue was also there for AY 2016-17 and AY 2017-18, where the Ld CIT(A) following the said decision of Hon'ble ITAT, has decided the issue in favor of the Appellant."

The Ld. DR was unable to place on record any contrary judicial precedent to rebut the submissions advanced on behalf of the assessee. We find that the issue has already been examined and adjudicated by the Coordinate Bench of the ITAT, Mumbai, in the assessee's own case in **ITA No. 3535 & 1702/Mum/2011** vide order dated **20/11/2015** & **ITA Nos. 5394/Mum/2025**, vide order dated **23.12.2025**. The Ld CIT(A) has followed the said binding precedent. In view of the above, we do not find any infirmity in the observations or findings of the Ld. CIT(A).

Accordingly, **Ground No. 13** raised by the revenue stands dismissed.

33. **Ground No. 14**: The Ld. AR submitted that this ground pertains to the alleged denial of applicability of section 14A of the Act. However, it was contended that the Department has misconceived the issue, as no such matter arises either from the assessment order or from the impugned order passed by the learned CIT(A).

The Ld. DR fairly accepted this factual position.

In view of the above, **Ground No. 14** raised by the revenue, being misconceived and not arising out of the impugned order, stands dismissed.

34. **Ground No.15:** The denial of exemption related to 10(15(iv)(H) amount of Rs.56,20,83,736/-. The Ld. DR stated that the Ld. CIT(A) wrongly deleted the addition without considering section 44 r.w.r 5 of the Rules. The observation of the Ld. CIT(A) is as follows.

"11.6 Similar issue was also there for AY 2016-17 and AY 2017-18, where the Ld CIT(A) following the said decision of Hon'ble ITAT, has decided the issue in favor of the Appellant.

11.7 Respectfully following the decision of Hon'ble ITAT in Assessee's own case and the CIT(A) orders for the previous years, the grounds of appeal no. 9 and 10 are allowed."

It is argued by the Ld. AR that issue is covered by the Coordinate Bench of the ITAT, Mumbai, in the assessee's own case in **ITA No. 3535 & 1702/Mum/2011** vide order dated **20/11/2015.**

In our considered view the issue has already been examined and adjudicated by the Coordinate Bench of the ITAT, Mumbai, in the assessee's own case in **ITA No. 3535 & 1702/Mum/2011** (supra). The Ld CIT(A) has followed the said binding precedent. In view of the above, we do not find any infirmity in the observations or findings of the Ld. CIT(A).

Accordingly, **Ground No. 15** raised by the revenue stands dismissed.

35. **Ground No. 16:** The ground pertains to non deduction of TDS by the assessee on co-insurance admin fees paid amount to Rs. 2,04,32,205/-. The Ld. DR contended that the Ld. AO correctly deducting tax @30% of the co-insurance admin fees paid amount to Rs. 61,29,662/- & made disallowance u/s 40(a)(ia) of the Act.

The Ld. AR contended that the same issue is no more res integra. The issue is examined & adjudicated by the Coordinate Bench of the ITAT, Mumbai, in the assessee's own case in **ITA No. 3535 & 1702/Mum/2011** vide order dated **20/11/2015.**

The Ld. CIT(A) has made observation in appellate order at page no. 107 related paragraph 18.2 and 18.3 which is reproduced as below:-

"18.2 The AO made disallowance of Rs. 61,29,662/- on account of non-deduction of TDS on co-insurance administration fee. According to AO, these payments attracted TDS as per section 194H of the Act and to keep the issue alive, the AO made an addition of Rs. 61,29,662/-.

18.3 From the record, I find that the issue has been decided by the Hon'ble ITAT Mumbai Bench "E" Mumbai in assessee's own case for A.Y. 2006-07 to 2008-09 (ITA No.3535 & 1702/Mum/2011 and ITA No.4167/Mum/2012). The relevant part is reproduced as under:-

xxxxxxxxxxxxxx"

The Ld. DR was unable to place on record any contrary judicial precedent to rebut the submissions advanced on behalf of the assessee. We find that the issue has already been examined and adjudicated by the Coordinate Bench of the ITAT, Mumbai, in the assessee's own case in **ITA No. 3535 & 1702/Mum/2011** (supra). The Ld CIT(A) has followed the said binding precedent. In view of the above, we do not find any infirmity in the observations or findings of the Ld. CIT(A). Accordingly, **Ground No. 16** raised by the revenue stands dismissed.

36. **Ground Nos. 7,11 & 12**: The remaining grounds raised by the revenue are general in nature and do not call for any specific adjudication. Accordingly, the same are dismissed as such.

37. In the result the appeal of the revenue's bearing **ITA No. 2403/Mum/2024** is dismissed.

38. In the result both the appeals of the assessee bearing **ITA Nos. 1432 & 1450/Mum/2024** are allowed and both the appeals of the revenue bearing **ITA Nos. 2398 & 2403/Mum/2024** are dismissed.

Order pronounced in the open court on 05th day of March 2026.

Sd/- Sd/-

(JAGADISH) (ANIKESH BANERJEE)
ACCOUNTANT MEMBER JUDICIAL MEMBER
Mumbai,दिनांक/Dated: 05/03/2026
SAUMYA*Sr.PS*

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
5. गार्डफाइल/Guard file.

BY ORDER,

//True Copy//

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