**IN THE INCOME TAX APPELLATE TRIBUNAL**

**"E" BENCH, MUMBAI**

**BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER**

**SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

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| **ITA No. 2693/Mum./2025** (Assessment Year : 2017-18) | **ITA No.2694/Mum./2025** (Assessment Year: 2018-19) |
| **ITA No. 2695/Mum./2025** (Assessment Year : 2019-20) | **ITA No.2696/Mum./2025** (Assessment Year : 2020-21) |

**DCIT – Central Circle – 3(4), Mumbai**

413, Kautilya Bhawan, Bandra Kurla Complex, BKC, Mumbai – 400051, Mumbai. ……. Appellant

v/s

**Transworld Furtichem Private Limited,**

1801, The Affairs Bldg, Palm Beach Road, Plot No.9, Sector – 17, Raigad – 400705, Maharashtra. ……. Respondent

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| **CO No.185/Mum./2025** (Assessment Year: 2018-19) | **CO No.186/Mum./2025** (Assessment Year: 2019-20) |
| **CO No.187/Mum./2025** (Assessment Year: 2017-18) | **CO No.188/Mum./2025** (Assessment Year: 2020-21) |

**Transworld Furtichem Private Limited,**

1801, The Affairs Bldg, Palm Beach Road, Plot No.9, Sector – 17, Raigad – 400705, Maharashtra. ……. Cross Objector (Original Respondent)

v/s

**DCIT – Central Circle – 3(4), Mumbai**

413, Kautilya Bhawan, Bandra Kurla Complex, BKC, Mumbai – 400051, Mumbai. ……. Respondent (Original Appellant)

Assessee by : Dr. K. Shivram a/w Shri Rahul Hakani

Revenue by : Shri Himanshu Joshi, SR. DR

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| Date of Hearing – 17/03/2026 | Date of Order – 10/04/2026 |

**O R D E R**

**PER BENCH:**

The present appeals by the Revenue and cross-objections by the assessee have been filed against the separate impugned orders dated 17/02/2025 and 18/02/2025, passed under section 250 of the Income Tax Act, 1961 ("*the Act*"), by the learned Commissioner of Income Tax (Appeals)-51, Mumbai ["*learned CIT(A)*"], for the assessment years 2017-18 to 2020-21.

2. Since all the matters pertain to the same assessee, involving similar issues arising out of the similar factual matrix, these matters 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 Revenue's appeal and the assessee's cross objection for the assessment year 2017-18 are considered as a lead case, and the decision rendered therein shall apply *mutatis mutandis* to the other matters before us.

***ITA No. 2693/Mum/2025 and CO No. 187/Mum/2025***
***Assessment Year 2017-18***

3. In its appeal for the assessment year 2017-18, the Revenue has raised the following grounds: -

> *"1. On the facts and the circumstances of the case, the Ld.CIT(A) erred in allowing the depreciation u/s 32 of the Act on trademarks amounting to Rs. 2,98,50,000/- ignoring the categorical finding by the Assessing Officer that the intangible asset created in the books of the assessee was fictitious.*
>
> *2. On the facts and the circumstances of the case, the Ld. CIT(A) erred in allowing the appeal of the assessee without considering that the valuation of shares done at time of amalgamation by the assessee was excessive.*

*3. On the facts and the circumstances of the case, the Ld. CIT(A) erred in not appreciating that the trademark was created in the books of the assessee as a result of amalgamation and without any consideration."*

4. While the assessee has raised the following grounds in its cross objection: -

*"1. That on the facts and circumstances of the case and in law, the learned. CIT(A) erred in holding that the learned Assessing Officer can challenge the valuation of the assets though the valuation has been accepted by the National Company Law Tribunal (NCLT) and the scheme of amalgamation is approved by the NCLT without appreciating that the scheme of amalgamation upon its approval by NCLT acts like a statute and is binding on the income tax authorities and hence the learned Assessing Officer cannot challenge the valuation of assets in the scheme of amalgamation after its approval by NCLT.*

*2. That on the facts and circumstances of the case and in law, the learned CIT(A) erred in holding that the learned Assessing Officer can challenge the valuation of the assets in the succeeding year though the assets are included in the block of assets in the earlier year.*

*3. The cross-objector craves leave to amend, alter, add or delete any cross – objections."*

5. As the grounds raised by the Revenue in its appeal and by the assessee in its cross-objection pertain to the claim of depreciation under section 32 of the Act on the Trademark, all the grounds are considered together.

6. The brief facts of the case are that the assessee is engaged in the business of manufacturing, soring, packing, distributing, transporting, etc. and rendering assistance and services of all kinds of agricultural, organic and inorganic fertilisers, etc. For the year under consideration, the assessee filed its return of income on 29/11/2017, declaring a total income of Rs. Nil. Pursuant to the Scheme of Arrangement sanctioned by the Hon'ble National Company Law Tribunal, Mumbai Bench, vide its order dated 27/04/2017, Trans Agro India Private Limited ("*Transferor Company*") merged with the

assessee as per sections 230 - 232 of the Companies Act, 2013. Accordingly, the entire business, including all assets, liabilities, duties, and obligations of the Transferor Company, was transferred to the assessee company from the appointed date, i.e. 01/04/2015, and the same were recorded by the assessee in its books. In addition to the above, the assessee recorded an intangible asset in the nature of a Trademark amounting to Rs. 15,92,00,000 in its books at the value determined by the independent valuer. As per the assessee, the independent valuer determined the value of the assessee's share at Rs. 231 per share as on 31/03/2015, while the value of the share of the Transferor Company was determined at Rs. 23 per share. Accordingly, as per the assessee, it issued 20,09,880 equity shares to the shareholders of the Transferor Company. Thus, the total consideration paid pursuant to the amalgamation was to the tune of Rs. 46.42 crore (i.e. 20,09,800 equity shares multiplied by Rs. 231 per share of the assessee).

7. During the assessment proceedings, the assessee was asked to provide the details on the basis of which the valuation of shares was done for both the Transferor Company and the assessee by the valuer. Also, the assessee was asked to explain how an intangible asset named "*Trademark*" was created in the books of the assessee pursuant to the amalgamation, when it was not recorded in the books of the Transferor Company as on 31/03/2015. In response, the assessee submitted the valuation report and the report on SWAP ratio.

8. The Assessing Officer ("*AO*"), vide order dated 24/12/2019 passed under section 143(3) of the Act, noted that the valuer has adopted Net

Asset Value method for valuation of the business assets, in addition to Discounted Cash Flow method was used to value several intangible assets not recorded in the books of the Transferor Company, which have been termed as "*Trademark*". The AO held that the valuer has taken the future cash flow as a representation for determining the net present value without verifying the projections, and the same are based on the assumptions adopted by the management. Thus, it was held that the valuation was made on the basis of unverified cash flow given by the management, which had inflated the value of shares. Accordingly, the AO came to the conclusion that the royalty rate for the Trademark valuation was estimated arbitrarily, and no verification of the projections was made by the valuer, and assumptions adopted by the management were not taken by the valuer for the prospective financial transaction. Accordingly, the assessee was again given an opportunity to show cause as to why the depreciation claimed on Trademark should not be disallowed under section 32(1)(ii) of the Act, as the same was never acquired due to the amalgamation. In response, the assessee submitted the same documents which were submitted during the assessment proceedings for the assessment year 2016-17 and stated that the matter cannot be re-adjudicated in the assessment proceedings for 2017-18, as, after making a similar enquiry, the depreciation claimed on Trademark in the assessment year 2016-17 was allowed.

9. After considering the submissions of the assessee, the AO rejected the claim of the assessee and held that in the present case, the Transferor Company never accounted for any intangible asset in its books and only

pursuant to the amalgamation, the valuer has created an intangible asset named as "*Trademark*" in the books of the assessee, which is completely fictitious and without any basis or rational. The AO further held that there is no logic for transferring this Trademark to the assessee company after amalgamation. Accordingly, the AO disallowed the claim of depreciation amounting to Rs. 2,98,50,000, claimed at the rate of 25% of the value of Trademark of Rs. 11,97,07,415, under section 32(1)(ii) of the Act.

10. The learned CIT(A), vide impugned order, following the decision of the Hon'ble Supreme Court in CIT v/s Smifs Securities Ltd, reported in (2012) 348 ITR 302 (SC), held that depreciation claimed on Trademark is allowable under section 32(1)(ii) of the Act. Being aggrieved, the Revenue is in appeal before us. As the learned CIT(A), inter alia, rejected the submission of the assessee that the AO cannot examine the depreciation claim in the successive year, when it has already accepted the claim in the first year of its existence, the assessee has filed the cross-objection in Revenue's appeal before us.

11. During the hearing, the learned Senior Counsel appearing for the assessee, submitted that the Transferor Company was established on 14/12/2005, and was carrying on the business in fertilisers with operating licences in 14 states in India. The learned Senior Counsel further submitted that by using its Trademark "*Nutrifeed*" since the financial year 2007-08, the Transferor Company had significantly increased its sales. Accordingly, pursuant to the merger, the trademark "*Nutrifeed*" was transferred to the assessee along with other assets and liabilities. The learned Senior Counsel

further submitted that since the appointed date of the scheme of merger was 01/04/2015, i.e. the assessment year 2016-17, the year under consideration is the second year after the merger. The learned Senior Counsel, by referring to the statutory notice issued under section 142(1) of the Act, assessee's submissions thereto and the assessment order for the assessment year 2016-17, submitted that during the scrutiny proceedings in the first assessment year post merger, specific query was raised regarding the claim of depreciation of the assessee on the value of Trademark. The learned Senior Counsel submitted that, after considering the submissions of the assessee, the scrutiny proceedings for the assessment year 2016-17 were concluded vide an order passed under section 143(3) of the Act, making no disallowance of the depreciation claimed by the assessee on Trademark. Thus, it was submitted that, in the year under consideration, without any change in the facts, the Revenue cannot adopt a different stand, as the assessee has claimed depreciation on the Written Down Value brought forward from the earlier year.

12. On the other hand, the learned Departmental Representative ("*learned DR*") vehemently relied upon the assessment order passed by the AO and submitted that the asset "*Trademark*" created in the books of the assessee is fictitious as no such asset was accounted in the books of the Transferor Company prior to the merger with the assessee. Accordingly, the learned DR submitted that the claim of depreciation on the Trademark was rightly disallowed by the AO.

13. Having considered the submissions of both sides and perused the material available on record, it is evident that the Scheme of Amalgamation between the Transferor Company and the assessee was approved by the Hon'ble National Company Law Tribunal, vide its order dated 27/04/2017, from the appointed date, i.e. 01/04/2015. Accordingly, pursuant to the approval of the Scheme of Amalgamation, the entire business and all assets and liabilities of the Transferor Company were transferred to the assessee. Since the value per share of the assessee company was determined at Rs. 231 per share, while the value per share of the Transferor Company was determined at Rs. 23 per share by the valuer, the excess cost incurred by the assessee while issuing its shares to the shareholders of the Transferor Company was assigned to the Trademark transferred to the assessee pursuant to the amalgamation and the Trademark was valued at Rs. 15.90 crore. Since the amalgamation was effective on 01/04/2015, the assessee claimed depreciation on Trademark for the first time in the assessment year 2016-17. From the perusal of the documents forming part of the paper book, we find that during the scrutiny proceedings for the assessment year 2016-17, vide notice dated 16/11/2018 issued under section 142(1) of the Act, forming part of the paper book from pages 103-112, the AO specifically raised a query regarding the depreciation claimed by the assessee @25% on Trademark, and asked the assessee to show clause as to why such depreciation should not be disallowed. The relevant query raised by the AO vide aforesaid notice, is reproduced as follows: -

> *"3. It is observed that you have claimed Depreciation u/s 32 on Intangible Assets at Rs.3,98,73,094/-being @25% of Rs. 15,95,80,509/-. As per note below Note-12 to accounts, the said addition is pursuant to Amalgamation of*

*Trans Agro India Pvt. Ltd. with you as per order issued by NCLT, Mumbai, and that the Intangible asset is created as per the valuation report by an independent valuer. In regard to above, please submit as under:*

*a) Please submit the details of assets/ liabilities acquired showing their book value in hands of transferor company and the value at which the same is acquired, and resultant goodwill at Rs. 15,95,80,509/-.*

*b) As per Fifth Proviso to section 32(1), the aggregate depreciation shall not exceed the deduction calculated at the prescribed rates as if the amalgamation had not taken place. The Hon'ble ITAT Bangalore in the case of United Breweries Ltd. v. ACIT [2016] 76 taxmann.com 103 (Bang. Trib.) has held that by virtue of 5th proviso to section 32(1)., assessee being amalgamated company could not claim or be allowed to claim depreciation on assets acquired in scheme of amalgamation more than depreciation that was allowable to amalgamating company. Hence, considering the above, please submit computation of excess depreciation claimed consequent to amalgamation, and show cause as to why such excess depreciation should not be disallowed."*

14. We find that in response to the said notice, the assessee filed its detailed response vide letter dated 18/12/2018, which forms part of the paper book from pages 113-126, and supported the claim of depreciation on the intangible asset. In support of its claim of depreciation on Trademark, the assessee relied on various judicial pronouncements. We further find that for the assessment year 2016-17, the scrutiny proceedings culminated in an order dated 30/12/2018 passed under section 143(3) of the Act, without making any disallowance of depreciation on Trademark. From the perusal of the said order, which forms part of the paper book from pages 127-131, we find that the AO only made a disallowance under section 14A of the Act.

15. Accordingly, in the year under consideration, which is the second-year post amalgamation, the assessee claimed depreciation @25% on the opening Written Down Value of the assets. However, the Revenue again

disagreed with the claim of depreciation of the assessee and made the impugned disallowance under section 32(1)(ii) of the Act.

16. In support of its submission that the Trademark "*Nutrifeed*" is not fictitious, and the Transferor Company was selling and marketing products domestically since its inception under the Trademark "*Nutrifeed*", the assessee placed on record the application for registration of the Trademark "*Nutrifeed*" filed by the Transferor Company. We further find that pursuant to the amalgamation of the Transferor Company with the assessee, an application seeking a change in the name of the Applicant was also filed along with the order of amalgamation passed by the Hon'ble National Company Law Tribunal. Accordingly, on 29/11/2020, the certificate of registration of Trademark was issued under the Trade Marks Act, 1999, registering the Trademark "*Nutrifeed*" in the name of the assessee. Having perused these documents, which form part of the separate compilation filed by the assessee pursuant to the directions during the hearing, we do not find any merit in the findings of the AO that the Trademark transferred to the assessee pursuant to amalgamation was fictitious.

17. Be that as it may, since the year under consideration is the second year of the claim of depreciation on Trademark by the assessee, which has already been allowed to the assessee in the first year of its claim, i.e. assessment year 2016-17, therefore the entire exercise of determining the eligibility of claim in the year under consideration is merely academic, in the absence of any change in facts and circumstances, as in this year the depreciation on Trademark is to be calculated on its opening Written Down

Value. At this stage, it is also pertinent to note that the learned DR, pursuant to a specific direction by the Bench, vide letter dated 23/03/2026 submitted the following response from the Jurisdictional Assessing Officer: –

> *"On verification of case records and ITBA it was found that no proceedings u/s 263 were initiated in the case of Transworld Furtichem Private Limited for the A.Y.2016-17 Subsequent to passing order u/s 143(3)."*

18. Therefore, once the Revenue has itself allowed the depreciation on Trademark in the very first year of claim by the assessee after verification/examination of the necessary facts and did not avail the remedy provided under the statute thereafter, despite again disputing the very similar claim in the second year, we are of the considered view that the Revenue is not justified in disallowing the claim of depreciation on Trademark in the year under consideration. Reliance in this regard is also placed on the decision in Radhaswami Satsang vs CIT, (1992) 193 ITR 321 (SC), wherein the Hon'ble Supreme Court held that where a fundamental aspect permeating through the different assessment years has been found as a fact one way or the other and parties have allowed that position to be sustained by not challenging the order, it would not be at all appropriate to allow the position to be changed in a subsequent year.

19. We find that the Hon'ble Gujarat High Court in DCIT vs. Gujarat Narmada Valley Fertilizers Co. Ltd., reported in [2014] 42 taxmann.com 438 (Guj.), held that where taxpayer's claim for depreciation in respect of leased out assets had been allowed in earlier years, there being no change in circumstances, following rule of consistency, said claim was to be allowed in relevant year also.

20. Further, rendering similar findings, the Hon'ble Jurisdictional High Court in Director of Income-tax (International Taxation)-II vs. HSBC Asset Management (I) (P.) Ltd., reported in [2014] 47 taxmann.com 286 (Bom.), observed as follows: –

> *"9. Having perused this Appeal Memo including the impugned orders, we are of the opinion that the Delhi High Court judgment has been delivered on 5th November 2012 and the impugned order was passed on 15th June 2011. The Tribunal has essentially based its conclusion on the consistent stand of the Assessee and that of the Assessing Officer. In dealing with the shift in stand for the subject assessment year, the Tribunal found that this claim of depreciation was raised in the assessment year 2003-2004. The Assessee claimed that it is allowable as per the provisions of Income Tax Act on block of assets under the head "intangible assets". The Assessing Officer allowed the claim for that assessment year by an order under Section 143(3) dated 28.03.2006. The Tribunal then, proceeds to hold that when the Assessing Officer had to allow depreciation on the written down value of the block of assets, then, it cannot in the present assessment year dispute the opening written down value of the block of assets nor can he examine the correctness or otherwise of the opening written down value brought forward from the earlier year. The order under Section 143(3) for the assessment year 2003-2004 continues to operate and no proceedings under the Act were initiated to disturb the same."*

21. Before concluding, we may also note that the decisions relied upon by the learned CIT(A) for rejecting a similar submission of the assessee in para-7.4 of the impugned order do not pertain to the claim of depreciation on intangible assets. Therefore, these decisions are not applicable to the present case, and the reliance placed by the learned CIT(A) on these decisions is completely misplaced.

22. Therefore, in view of the facts and circumstances of the present case, and judicial pronouncements as noted above, we direct the AO to allow the claim of depreciation by the assessee on Trademark on the opening Written Down Value.

23. Since the relief has been granted to the assessee on this short basis, the other contentions raised by both sides have been rendered academic, and therefore, are kept open.

24. In the result, the appeal by the Revenue for the assessment year 2017-18 is dismissed, while the cross objection filed by the assessee is allowed.

***ITA No. 2694/Mum/2025 and CO No. 185/Mum/2025***
***Assessment Year 2018-19***

25. As the grounds raised by the Revenue in its appeal and by the assessee in its cross-objection for the assessment year 2018-19 pertain to the claim of depreciation under section 32 of the Act on the Trademark, our findings/conclusions as rendered in the preceding year shall apply *mutatis mutandis*. Accordingly, we direct the AO to allow the claim of depreciation by the assessee on the Trademark on the opening Written Down Value.

26. In the result, the appeal by the Revenue for the assessment year 2018-19 is dismissed, while the cross-objection filed by the assessee is allowed.

***ITA No. 2695/Mum/2025 and CO No. 186/Mum/2025***
***Assessment Year 2019-20***

27. In its appeal for the assessment year 2019-20, the Revenue has raised the following grounds: –

> *"1. On the facts and the circumstances of the case, the CIT(A) erred in allowing the depreciation u/s 32 of the Act on trademarks amounting to Rs. 1,68,42,855/- ignoring the categorical finding by the Assessing Officer that the intangible asset created in the books of the assessee was fictitious.*

*2. On the facts and the circumstances of the case, the CIT(A) erred in allowing the appeal of the assessee without considering that the valuation of shares made by the assessee was excessive.*

*3. On the facts and the circumstances of the case, the CIT(A) erred in not appreciating that the trademark was created in the books of the assessee as a result of amalgamation and without any consideration.*

*4. On the facts and in the circumstances of the case, the Ld. CIT(A) erred in deleting the disallowance made u/s. 14A of the Income Tax Act, 1961 to the book profit of the assessee without appreciating the provisions of clause (f) of explanation 1 to section 115JB(2) of the Income Tax Act, 1961 and the decision of the Hon'ble ITAT Mumbai 'F' Bench in the case of Deputy Commissioner of Income Tax, Central Circle-18 & 19, Mumbai vs. Viraj Profiles Ltd. in ITA No.4439/(Mum.) of 2013."*

28. While the assessee has raised the following grounds in its cross-objection: –

*"1. That on the facts and circumstances of the case and in law, the learned. CIT(A) erred in holding that the learned Assessing Officer can challenge the valuation of the assets though the valuation has been accepted by the National Company Law Tribunal (NCLT) and the scheme of amalgamation is approved by the NCLT without appreciating that the scheme of amalgamation upon its approval by NCLT acts like a statute and is binding on the income tax authorities and hence the learned Assessing Officer cannot challenge the valuation of assets in the scheme of amalgamation after its approval by NCLT.*

*2. That on the facts and circumstances of the case and in law, the learned CIT(A) erred in holding that the learned Assessing Officer can challenge the valuation of the assets in the succeeding year though the assets are included in the block of assets in the earlier year.*

*3. The cross-objector craves leave to amend, alter, add or delete any cross – objections."*

29. As the Grounds No. 1-3 raised by the Revenue in its appeal and the grounds raised by the assessee in its cross-objection for the assessment year 2019-20 pertain to the claim of depreciation under section 32 of the Act on the Trademark, our findings/conclusions as rendered in the preceding year shall apply *mutatis mutandis*. Accordingly, we direct the AO to allow the claim of depreciation by the assessee on the Trademark on the opening

Written Down Value. As a result, Grounds No. 1-3 raised in Revenue's appeal are dismissed, while grounds raised by the assessee in its cross-objection are allowed.

30. Ground No. 4, raised in Revenue's appeal, pertains to the deletion of disallowance made under section 14A of the Act while computing the book profit under section 115-JB of the Act.

31. Having considered the submissions of both sides and perused the material available on record, we find that the Special Bench of the Tribunal in ACIT vs. Vireet Investments Pvt. Ltd., reported in (2017) 58 ITR (T) 313 (Delhi Trib.) (SB) held that the computation under clause (f) of Explanation - 1 to section 115-JB(2) of the Act is to be made without resorting to the computation as contemplated under section 14A of the Act read with Rule 8D of the Rules. Thus, respectfully following the aforesaid decision of the Special Bench of the Tribunal, we do not find any infirmity in the findings of the learned CIT(A) in deleting the disallowance made under section 14A of the Act while computing the book profit under section 115-JB of the Act. As a result, Ground No.4 raised in Revenue's appeal is dismissed.

32. In the result, the appeal by the Revenue for the assessment year 2019-20 is dismissed, while the cross-objection filed by the assessee is allowed.

33. In its appeal for the assessment year 2020-21, the Revenue has raised the following grounds: –

> *"1. On the facts and the circumstances of the case, the Ld.CIT(A) erred in allowing the depreciation u/s 32 of the Act on trademarks amounting to Rs. 1.26.36.642/- ignoring the categorical finding by the Assessing Officer that the intangible asset created in the books of the assessee was fictitious.*
>
> *2. On the facts and the circumstances of the case, the Ld. CIT(A) erred in allowing the appeal of the assessee without considering that the valuation of shares done at time of amalgamation by the assessee was excessive.*
>
> *3. On the facts and the circumstances of the case, the Ld. CIT(A) erred in not appreciating that the trademark was created in the books of the assessee as a result of amalgamation and without any consideration.*
>
> *4. On the facts and in the circumstances of the case, the Ld. CIT(A) erred in restricting disallowance made under section 14A of the I.T. Act to the extent of tax exempt income earned during the year by overlooking the clarification of legislative intent provided by the CBDT vide Circular No. 5/2014 dated 11.02.2014 and to this effect even an amendment was made by Finance Act, 2022 by way of insertion of Explanation to Section 14A of the Act.*
>
> *5. On the facts and circumstances of the case, the Ld. CIT(A) erred in restricting the disallowance u/s 14A of the Income Tax Act r.w.r. 8D(2) (iii), to the extent of exempt income received by the assessee during the year under consideration without appreciating the Circular No.5 of 2014 dated 11.02.2014 of CBDT and to this effect even an amendment was made by Finance Act, 2022 by way of insertion of Explanation to Section 14A of the Income Tax Act, 1961."*

34. While the assessee has raised the following grounds in its cross-objection: –

> *"1. That on the facts and circumstances of the case and in law, the learned. CIT(A) erred in holding that the learned Assessing Officer can challenge the valuation of the assets though the valuation has been accepted by the National Company Law Tribunal (NCLT) and the scheme of amalgamation is approved by the NCLT without appreciating that the scheme of amalgamation upon its approval by NCLT acts like a statute and is binding on the income tax authorities and hence the learned Assessing Officer cannot challenge the valuation of assets in the scheme of amalgamation after its approval by NCLT.*
>
> *2. That on the facts and circumstances of the case and in law, the learned CIT(A) erred in holding that the learned Assessing Officer can challenge the valuation of the assets in the succeeding year though the assets are included in the block of assets in the earlier year.*

*3. The cross-objector craves leave to amend, alter, add or delete any cross – objections."*

35. As the Grounds No. 1-3 raised by the Revenue in its appeal and the grounds raised by the assessee in its cross-objection for the assessment year 2020 -21 pertain to the claim of depreciation under section 32 of the Act on the Trademark, our findings/conclusions as rendered in the preceding year shall apply *mutatis mutandis*. Accordingly, we direct the AO to allow the claim of depreciation by the assessee on the Trademark on the opening Written Down Value. As a result, Grounds No. 1-3 raised in Revenue's appeal are dismissed, while grounds raised by the assessee in its cross-objection are allowed

36. Grounds No. 4 and 5, raised in Revenue's appeal, pertain to the deletion of the disallowance made under section 14A of the Act.

37. We have considered the submissions of both sides and perused the material available on record. In the present case, on perusal of the audited financial statements and the computation of income for the year under consideration, we find that the assessee did not earn any exempt income and, accordingly, claimed no exemption under section 10(34) of the Act while filing its return of income. We find that the Hon'ble Delhi High Court in Cheminvest Ltd. vs. CIT, reported in [2015] 378 ITR 33 (Delhi), held that section 14A will not apply if no exempt income is received or receivable during the relevant previous year. We further find that the Hon'ble Jurisdictional High Court in Pr. CIT vs. Kohinoor Project (P) Ltd., reported in [2020] 121 taxmann.com 177 (Bom.), rendered similar findings and

dismissed the Revenue's appeal on a similar issue. Since, in the present case, the assessee has not earned any dividend income, therefore, respectfully following the aforesaid judicial pronouncements, disallowance of expenditure under section 14A read with Rule 8D is not sustainable.

38. We further find that vide amendment by the Finance Act, 2022, the non-obstante clause and explanation were inserted in section 14A of the Act to the effect that the section shall apply even if no exempt income has accrued or arisen or has been received during the year. We find that while dealing with the issue of whether the aforesaid amendment by the Finance Act, 2022 is prospective or retrospective in operation, the Hon'ble Delhi High Court in PCIT vs M/s Era infrastructure (India) Ltd, reported in [2022] 288 Taxman 384 (Delhi) held that the amendment by Finance Act, 2022 in section 14A is prospective and will apply in relation to the assessment year 2022-23 and subsequent assessment years. Thus, even in view of the aforesaid amendment, the disallowance under section 14A read with Rule 8D is not permissible in the present case.

39. Therefore, we are of the considered view that the disallowance computed under section 14A read with Rule 8D of the Rules by the AO is completely unwarranted in the facts and circumstances of the present case. Accordingly, we do not find any infirmity in the findings of the learned CIT(A) on this issue, and the same are upheld. As a result, Grounds No.4 and 5 raised in Revenue's appeal are dismissed.

40. In the result, the appeal by the Revenue for the assessment year 2020-21 is dismissed, while the cross-objection filed by the assessee is allowed.

41. To sum up, all the appeals by the Revenue are dismissed, while the cross-objections filed by the assessee are allowed.

Order pronounced in the open Court on 10/04/2026

**Sd/-**
**OM PRAKASH KANT**
**ACCOUNTANT MEMBER**

**Sd/-**
**SANDEEP SINGH KARHAIL**
**JUDICIAL MEMBER**

**MUMBAI, DATED: 10/04/2026**
*Prabhat*

Copy of the order forwarded to:

(1) The Assessee;
(2) The Revenue;
(3) The PCIT / CIT (Judicial);
(4) The DR, ITAT, Mumbai; and
(5) Guard file.

By Order

Assistant Registrar
ITAT, Mumbai