

आयकर अपीलीय अधिकरण “जे” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“J” BENCH, MUMBAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकरअपील सं./ I.T.A. No.4041/Mum/2007
(निर्धारण वर्ष / Assessment Year: 2003-04)

ACIT-2(3) Room No.555 Aaykar Bhavan Mumbai – 400 020.	बनाम/ Vs.	M/s. Tata Sons Ltd. Bombay House 24, Homi Modi Street Fort, Mumbai – 400 001.
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. AAACT-4060-A		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

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आयकरअपील सं./ I.T.A. No.3664/Mum/2007
(निर्धारण वर्ष / Assessment Year: 2003-04)

M/s. Tata Sons Ltd. Bombay House 24, Homi Modi Street Fort, Mumbai – 400 001.	बनाम/ Vs.	ACIT-2(3) Room No.555 Aaykar Bhavan Mumbai – 400 020.
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. AAACT-4060-A		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Ms. Aarti Vissanji -Ld.AR
Revenue by	:	Shri Sanjay Singh-Ld.CIT-DR

सुनवाई की तारीख/ Date of Hearing	:	23/03/2021
घोषणा की तारीख / Date of Pronouncement	:	05/05/2021

आदेश / ORDER

:: Manoj Kumar Aggarwal (Accountant Member)::

1.1 Aforesaid cross appeals for Assessment Year (AY) 2003-04 contest the order of Ld. Commissioner of Income-Tax (Appeals)-XXXIII, Mumbai, [in short referred to as 'CIT(A)'], Appeal No.CIT(A)-XXXIII/Rg.2(3)/IT/41-T/06-07 dated 16/03/2007.

1.2 The grounds urged by revenue reads as under: -

On the facts and in the circumstances of the case and in law, the (learned CIT(A) has erred in allowing relief to the assessee to the extent impugned in the grounds enumerated below:

1. The learned CIT(A) has erred in directing the Assessing Officer to assess the foreign dividend income received on net basis,
2. The learned CIT(A) erred in directing the Assessing Officer to ensure that if appellant has admitted the interest income as income from other sources, the net income should have been taxed.
3. The learned CIT(A) erred in directing the Assessing Officer that if software purchase treated as stock in trade or purchase of raw material, such expenses should be treated as revenue expenditure and has allowed a relief of Rs.84.44 crores.
4. The learned CIT(A) erred in allowing the assessee deduction u/s.10A relying on the CBDT Circular No. 1/2005 which clarifies claims u/s. 10B and not 10A
5. The learned CIT(A) erred in directing the Assessing Officer to re-compute the deduction considering entire profits of software business as a whole as profits and apply the ratio of export turnover to the total turnover including the total turnover of 10A units.

1.3 The grounds urged by assessee reads as under: -

1) Overseas Taxes:

The CIT(A) erred in not considering the Appellant's claim for deductibility of overseas taxes not covered / considered for relief under section 90/91 of the Income-tax Act, 1961 ('the Act').

2) Disallowance of Software Expenditure:

The CIT(A) erred in holding that software for internal use of Rs.33.70 crores was capital in nature and denying deduction in respect thereof.

3) Uncollected Debtors:

The CIT(A) erred in holding that uncollected debtors should not be excluded from the "Total Turnover" for the purpose of computing the deductions under section 10A/80HHE of the Act.

4) Disallowance of Interest Expenditure:

The CIT(A) erred in allocating interest expenditure on a proportionate basis as an allowable deduction under sections 36(1)(iii) & 57(iii) of the Act and, thereby, denying the Appellant's claim for deduction of the entire interest expenditure as an allowable deduction under section 36(1)(iii) of the Act.

Without prejudice to the above, the Appellant submits that the CIT(A) erred in coming to a finding that the provisions of section 14A of the Act will be applicable if the Appellant is entitled to a deduction under section 80M of the Act (para 17.4 of CIT(A) Order). The Appellant submits that the provisions of section 14A of the Act apply only in relation to income not includible in the total income and not where deductions in respect of certain incomes are available under the provisions of Chapter VIA of the Act.

The CIT(A) further erred in not adjusting the entire interest income earned against interest expenditure and restricting the said adjustment to only a part of the interest income on a proportionate basis.

5) DIT Relief:

The CIT(A) erred in not granting DIT Relief in respect of overseas taxes paid, under section 90/91 of the Act, of Rs.154.86 crores as claimed by the Appellant.

Without prejudice to the above, the CIT(A) erred in not granting DIT Relief of Rs.117.41 crores, computed on the method followed by the Department in earlier years.

The CIT(A) erred in not considering the arguments and judgments of the High Court and Supreme Court as advanced by the Appellant and, further erred in concluding that DIT Relief will not be applicable to overseas taxes paid in relation to income on which a deduction is allowed under section 10A/80HHE of the Act.

6) Interest U/S.234D:

The CIT(A) erred in concluding that the provisions of section 234D of the Act, introduced on the statute with effect from 1 June 2003, will be applicable in Assessment Year 2003 - 2004.

7) Bad Debts Written Off:

The CIT(A) erred in not enhancing the "Profits of the Business" for the purpose of section 10A/80HHE of the Act, by the relevant overseas bad debts already excluded from the "Export Turnover" in earlier years.

However, Ground Nos.1, 2, 6 & 7 of assessee's appeal as well as additional grounds have not been pressed during hearing and therefore, these grounds stand dismissed. In ground No.5, the assessee is seeking certain directions with regard to deduction of foreign local taxes paid by the assessee.

1.4 The learned counsel for Assessee, Ms. Aarti Vissanji, at the outset, submitted that some of the issues in cross-appeals are covered by the earlier orders of the Tribunal as follows: -

- (i) ITA No.4630 & 4637/Mum/2016 order dated 07/08/2020 for AY 2009-10
- (ii) ITA No.3192 & 3508/Mum/2013 order dated 06/11/2019 for AY 2008-09
- (iii) ITA No.4978/Mum/2014 10 Taxmann.com 87 23/02/2011 AY 2000-01
- (iv) ITA No. 629/Mum/2003 order dated 13/01/2006 for AY 1995-96

Reliance has also been placed on various other decisions including the decision of Hon'ble Bombay High Court in assessee's own case for AY 1996-97, ITA No.410 of 2009 rendered on 20/04/2009. The copies of the orders have been placed on records. The written submissions have also been filed by both the sides which we have carefully considered. The Ld. CIT-DR, Shri Sanjay Singh, made arguments to support the assessment order. After due consideration of relevant material on record, our adjudication to the subject matter of cross-appeals would be as given in succeeding paragraphs.

2. The assessee being resident corporate assessee stated to be engaged in export of software was assessed for the year under consideration u/s 143(3) on 21/03/2006 wherein the returned income of Rs.10.53 Crores as filed by the assessee was assessed at Rs.858.87 Crores. The assessee is stated to be an investment company holding major investment in the equity of Tata group of companies. It has a division namely 'Tata Consultancy Services' which specializes in computer software as well as other consultancy divisions. The following issues crop-up during assessment proceedings which are the subject matter of appeal before us: -

3. Deduction of Overseas Taxes & DIT Relief

3.1 The assessee debited an amount of Rs.161.91 Crores in respect of overseas taxes (foreign taxes paid and provided) and claimed the same as deductible expenditure u/s 37(1). Reliance was placed on the decision of Tribunal for AYs 1984-85 & 1985-86. However, Ld. AO opined that payment of taxes was mere application of income. Going by the amendment to Sec.40(a)(ii) insertion of Explanation-1 by Finance Act, 2006 w.e.f. 01/04/2006, the deduction was denied since the assessee had claimed DIT (double taxation) benefit on the said amount u/s 90 and / or u/s 91 of the Act.

3.2 The assessee claimed double taxation relief of Rs.117.41 Crores based on method followed by the department. The same has been tabulated in para-9 of the assessment order. The assessee earned income in USA, UK, Canada, Japan & few other countries and determined the actual liability in foreign countries. The DIT claim was restricted to rates specified in Income Tax Act, 1961. However, it was noted by Ld. AO that the assessee claimed credit of US / Canada State Taxes also whereas the treaty would cover US federal taxes only. The treaties do not cover state and local taxes and therefore, the claim to that extent was denied. Further, since the assessee has been given partial exemption u/s 10A as well as u/s 80HHE, the quantum of DIT relief should be restricted to income doubly taxed in India and abroad. The assessee furnished revised working and claimed relief of Rs.90.51 Crores. The Ld. AO, after examining the relevant clauses of Treaties (DTTA) with respective countries, opined that the assessee would be entitled for relief only to the extent of taxes paid overseas on the income

which has been offered to tax abroad and is also taxable in India, so as not to exceed the rate of tax payable in India. Therefore, the assessee's working was not acceptable and the credit would be available only to the extent of taxes paid overseas at the rates applicable on such income and not exceeding the tax liability payable in India. Reworking the same, the relief was restricted to the extent of Rs.65.07 Crores which has been attached as Annexure 'A' to the assessment order.

3.3 The Ld. CIT(A) directed Ld. AO to rework the disallowance on the basis of Explanation-1 to Sec.40(a)(ii) and grant deduction only if the tax was not eligible for tax relief u/s 90 or 91 of the Act. Similar directions were given with respect to state and local taxes of USA and Canada. Regarding DIT relief u/s 90 / 91, Ld. CIT(A) confirmed the action of Ld. AO but finding certain computational errors, directed Ld. AO to verify the working of DIT relief and grant appropriate relief.

3.4 From the perusal of appellate-order giving effect order dated 26/04/2007, it is evident that the deduction of state and local taxes of USA / Canada amounting to Rs.38.33 Crores has already been granted to the assessee.

3.5 Though the assessee has raised ground nos. 1 & 5, however, Ld. AR did not press these grounds except for the directions that deduction may be granted for foreign state tax laws. As noted in para 3.4, since appropriate relief has already been granted to the assessee in order dated 26/04/2007, no further directions are required in the matter. Accordingly, ground No.1 stand dismissed as 'not pressed' whereas ground no. 5 stand dismissed as being infructuous.

4. Foreign Dividend

4.1 The assessee offered foreign dividend received by it as 'Income from Other sources'. The same was offered at Rs.164.03 Lacs on net basis without including tax deducted by the foreign company for Rs.11.27 Lacs. The Ld.AO opined that the same would be taxable on gross basis and not on net basis as per CBDT circulator No.369 dated 17/09/1983. Similar view was taken in appellate order for AY 2001-02. Therefore, the foreign dividend was increased by an amount of Rs.11.27 Lacs.

4.2 The Ld. CIT(A), following Tribunal's order for AY 1995-96 (supra), directed Ld. AO to tax the dividend on net basis. Aggrieved, the revenue is in further appeal before us by way of ground no. 1.

4.3 The Ld. AR has relied upon the decision of Tribunal in assessee's own case for AY 1995-96 & 2000-01 which has followed the decision of Hon'ble Bombay High Court in **CIT V/s Ambalal Kilachand (210 ITR 844)**.

4.4 The Ld. CIT-DR submitted that facts in **CIT V/s Ambalal Kilachand (supra)** were different since in that case dividend paid by UK companies was after payment of taxes. The recipients were not liable to tax but the company could reduce the tax at standard rate from the dividends and the recipients could claim refund if it was UK resident. The resident shareholders in UK were entitled to tax credit for the amount of tax deductible from the dividend. However, the recipients of dividend who were not resident in UK were not entitled for credit of taxes. The Ld. CIT-DR relied on the decision of Hon'ble Madras High Court in **AFW Low (211 ITR 213)** wherein Hon'ble court referring to the decision of

Hon'ble Apex Court in **Clive Insurance Company Ltd. (113 ITR 136)** held that the gross dividend must be considered. The aforesaid decision of Hon'ble Apex Court, as per Ld. CIT-DR, was not noticed in **Ambalal Kilachand (supra)**. Further this decision did not go into the question of double taxation.

4.5 However, Ld. AR, in the rejoinder, submitted that the case law of **Ambalal Kilachand (supra)** already considered the said decision of Hon'ble Apex Court and the decision of jurisdictional High Court was binding. Further, the Tribunal in its decision for AY 1995-96 as well as in AY 2000-01 has followed the decision of **Ambalal Kilachand (supra)** while deciding this issue in assessee's favor.

4.6 After going through the decisions, we find that the facts in this year are quite identical to facts in AY 2000-01. As of now, the issue is squarely covered in assessee's favor by the orders of Tribunal for AY 1995-96 as well as for AY 2000-01. In AY 2000-01, the bench following the decision of Hon'ble Bombay High Court in **CIT V/s Ambalal Kilachand (210 ITR 844)** decided the issue in assessee's favor. Further, Hon'ble Bombay High Court has not admitted question of law raised by revenue on this issue for AYs 1993-94 (ITA No.382 of 2009 dated 20/04/2009); AY 1994-95 (ITA No.381 of 2009 20/04/2009); AY 1996-97 (ITA No.410 of 2009 20/04/2009). Respectfully following the binding judicial precedents, we hold that the directions of Ld. CIT(A) would not require any interference on our part, in any manner. Ground No.1 of revenue's appeal stand dismissed.

4.7 Another similar issue arises from the fact that the assessee received foreign interest income and offered the same net of tax. The Ld.

AO did not consider the assessee's submissions. The Ld. CIT(A) directed Ld. AO apply the analogy of foreign dividend income. Aggrieved, the revenue is before us by way of Ground No.2. Since we have dismissed ground no.1, this ground would also stand dismissed since Ld. CIT(A) has followed the analogy of foreign dividend income only, which we have already confirmed.

5. Disallowance of Software expenditure

5.1 The assessee claimed software expenditure of Rs.114.14 Crores out of which Rs.80.44 Crores was on account of purchase of licenses for software packages from third parties for re-sale. The corresponding income received in re-sale was stated to be offered to tax. The balance Rs.33.70 Crores of software was stated to be purchased for internal use. Such software were stated to be standard software having general application and not developed to meet specific requirements of the assessee. Hence, the expenditure was claimed as revenue expenditure. However, following earlier years, Ld. AO opined that the assessee would be entitled for depreciation on the same. Accordingly, the aggregate expense of Rs.114.14 Crores was disallowed. However, depreciation on software of Rs.33.70 Crores put for internal use was allowed @30% which amounted to Rs.10.11 Crores. The deduction of Rs.80.44 Crores was altogether denied to the assessee.

5.2 The Ld. CIT(A) opined that the software of Rs.80.44 Crores which was purchased for resale was akin to purchases of raw material and therefore the same was an allowable expenditure. The remaining expenditure was held to be a capital expenditure. Aggrieved, the

revenue is in further appeal before us by way of ground no.3 whereas the assessee has not pressed this ground before us.

5.3 Before us, it is undisputed position that software of Rs.80.44 Crores was purchased for-resale and it was akin to purchase of raw material for the business. This being the case, no fault could be found in the adjudication of Ld. CIT(A). Ground No. 3 of revenue's appeal stands dismissed.

6. Claim u/s 10A and 80HHE

6.1 The assessee claimed deduction u/s 10A for Rs.1044.27 Crores and deduction u/s 80HHE for Rs.16.19 Crores against software exports. In support of claim u/s 10A, the assessee furnished prescribed Form No. 56F and in support of claim u/s 80HHE, it furnished Form No. 10CCAF. As against this, total profits for the year were Rs.846 Crores. The deduction was claimed in respect of software income of TCS division which was engaged in export of software and developing computer software and rendering services in overseas markets across the world. From the location-wise (20 locations in total) data furnished by the assessee, total export turnover was claimed to be Rs.4407.91 Crores which yielded profit of Rs.1163.51 Crores. The total unrealized export income was shown at Rs.28.32 Crores whereas proceeds received outside India with RBI approval were stated to be Rs.53.99 Crores.

6.2 It was noted by Ld. AO that till AY 2000-01, the assessee was claiming deduction u/s 80HHE which would ultimately be not available to assessee from AY 2005-06 onwards. The rate of deduction available in this year was 50%. However, from AY 2001-02 onwards, the assessee would be eligible for 100% deduction of profit for a further period of 10

years u/s 10A which applies to an industrial undertaking fulfilling certain conditions. In order to make substantial tax gains, the assessee cleverly switched its claim from Sec.80HHE to Sec. 10A on all his new and old software development centers. On all the old centers, the assessee was claiming deduction u/s 80HHE in earlier years. The Ld. AO identified 9 such old centers for which the assessee claimed deduction u/s 80HHE for AY 2000-01 but in this year, the deduction was claimed u/s 10A. It was noted by Ld.AO that the resources used in old centers viz. plant & machinery, staff, management etc, were continuing.

6.3 The assessee submitted that deduction u/s 80HHE was claimed in respect of undertakings not situated in Software Technology Park. The assessee, in the alternative, submitted that it would be eligible for deduction u/s 80HHE for Rs.537.40 Crores in respect of profit of undertaking against which deduction was claimed u/s 10A, apart from aforesaid claim of Rs.16.19 Crores. The assessee claimed that it was covered by the provisions of Sec.10A as well as the provisions of Sec.80HHE.

6.4 However, Ld. AO opined that the undertakings set up u/s 10A were nothing but formed by splitting or reconstruction of existing business and therefore, the assessee would not be eligible for any deduction u/s 10A with respect to turnover of Rs.1044.27 Crores of 9 old units as tabulated on page-18 of the assessment order. However, deduction u/s 80HHE would be available on these units. The assessee's arguments were rejected by observing that there was unity of control and management and most of the units claiming exemption u/s 10A were nothing but expansion of existing business. The case laws being relied upon by the

assessee were held to be not applicable. Similar view was taken in assessment orders for AYs 2001-02 & 2002-03.

6.5 The assessee made another submission that uncollected sales proceeds may be deducted in computing the export turnover as well as from total turnover while making computations. Another plea was that computation u/s 80HHE was to be worked out after reducing the turnover of Sec.10A units. However, both these pleas were rejected. Finally, deduction u/s 10A was computed at Rs.605.91 Crores whereas deduction u/s 80HHE was computed at Rs.186.64 Crores. The aforesaid working has been given on page nos. 30 & 31 of the order.

6.6 It is evident that deduction u/s 10A has been computed against 11 units having total turnover of Rs.2195.57 Crores. Total Realized export turnover amounts to Rs.2186.77 Crores after deduction of unrealized debtors for Rs.3.49 Crores. The attributable profits of Rs.590.67 Crores has been adjusted after adding back overseas taxes & software expenses disallowed but reduced by the amount of depreciation allowed on software. Finally, eligible deduction has been computed at Rs.673.23 Crores against which 90% deduction i.e. Rs.605.91 Crores would be available as deduction u/s 10A to the assessee.

6.7 The deduction u/s 80HHE has been computed against 9 units having total turnover of Rs.2212.33 Crores. Total Realized export turnover amounts to Rs.2314.22 Crores after deduction of unrealized debtors for Rs.25.64 Crores. The applicable profits of Rs.529.78 Crores has similarly been adjusted after adding back overseas taxes & software expenses disallowed but reduced by the amount of depreciation allowed on software. The eligible deductions have finally been computed at

Rs.373.28 Crores against which 50% deduction i.e. Rs.186.64 Crores would be available as deduction u/s 80HHE to the assessee. Notably, while computing the deduction, total turnover has been taken at Rs.4933.39 Crores including turnover of 10A units as against assessee's plea that the total turnover should be considered after reducing the turnover of 10A units. The assessee, in its computation, had considered total business profits including Sec.10A profits in the numerator and similarly included Sec.10A turnover in total turnover in denominator.

Appellate Proceedings

7.1 The Ld. CIT(A), relying upon appellate orders for AYs 2001-02 & 2002-03, held that assessee would be entitled for deduction u/s 10A on old units subject to fulfillment of conditions laid down in Sec.10A. This position was also clarified by CBDT in Circular No.1/2005 dated 06/01/2005.

7.2 During appellate proceedings, the assessee pleaded that by reducing the profits of Sec.10A units while computing deduction u/s 80HHE, the formula get distorted in as much as numerator gets reduced without corresponding reduction in total turnover in the denominator. Even the department has accepted the said methodology for AYs 2001-02 & 2002-03. Accordingly, a plea was raised that total turnover in the denominator should be taken after reducing the turnover of Sec.10A units since profits were reduced in the numerator. Reliance was placed on the decision of Hon'ble Bombay High Court in **CIT V/s Sudarshan Chemical Industries Ltd. 254 ITR 769**) as well as the decision of Bangalore Tribunal in **Wipro Ltd. V/s DCIT (96 TTJ 211)** where similar reduction was granted in numerator as well as denominator.

7.3 The Ld. CIT(A), in para 13.13 of the impugned order, observed that Sec.10A, in this year, was a deduction provision as against exemption provision earlier. Therefore, while computing deduction u/s 80HHE, the entire profits of software business (including profits of units claiming deduction u/s 10A) should be taken into account since it would not be fair to reduce the profits of Sec.10A units and again deducting export turnover of Sec.10A units from export turnover for the purposes of deduction u/s 80HHE. The Ld. AO did not deduct turnover of Sec.10A units in the calculation of total turnover for the purposes of deduction u/s 80HHE. Finally, Ld. AO was directed to take the entire profits of software business as a whole as profits and applying the ratio of export turnover (excluding the export turnover of Sec.10A units) to the total turnover including the total turnover of Sec.10A units.

7.4 Aggrieved, the revenue as well as the assessee is in further appeal before us. The assessee, in ground no.3, has pleaded that uncollected debtors were to be excluded from the turnover while computing deduction u/s 10A and 80HHE. The revenue, in ground nos.4 & 5, has assailed the action of Ld. CIT(A) in relying upon CBDT circular No.1/2005. The revenue has also assailed the final directions of Ld. CIT(A) with respect to computation of deduction u/s 80HHE.

Our findings and Adjudication

8.1 First we take up the issue as to whether the old units which was earlier claiming deduction u/s 80HHE could claim deduction u/s 10A in this year. We find that this issue is covered in assessee's favor by the decision of Hon'ble Bombay High Court in group concern titled as **CIT V/s Tata Consultancy Services (ITA No.1778 of 2016, AY 2005-06**

18/03/2019) wherein Hon'ble Court following the order of Hon'ble Delhi High Court in **CIT V/s Damco Solutions P. Ltd. 2011 (200 Taxman 26)** held as under: -

6) Section 80HHE of the Act pertains to deduction in respect of profits from export of computer software etc. Sub-section (5) of Section 80HHE provides that where deduction under said section is claimed and allowed in respect of the profits of the business referred to in sub-section (1) for any assessment year, no deduction shall be allowed in relation to such profits under any other provision of the Act for the same or any other assessment year. What sub-section (5) of Section 80HHE thus prohibits is the claim deduction allowed under Section 80HHE under any other provision, be it in the same assessment year or in other assessment year. In the present case, it is not even the ground of the revenue that the deduction under section 10A of the act claimed by the assessee in the present year is in relation to the profit for which the assessee was granted deduction under section 80HHE. Sub-section 5 of Section 80HHE of the Act, therefore, in the present case would have no applicability.....

Similar is the ratio of decision of Hon'ble Delhi High Court in **Pr.CIT V/s E-fund International India P. Ltd. (379 ITR 292)** wherein Hon'ble Court observed that making of claim u/s 80HHE in one year would not preclude an assessee from claiming the benefit u/s 10A in respect of the same unit in succeeding year. The purpose of sub-section (5) of Sec.80HHE was to avoid double benefit but that would not mean that if for a particular assessment year the assessee wants to claim a benefit only under Sec.10A of the act and not u/s 80HHE, then it would be denied to the assessee. Further, Mumbai Tribunal in **Prothious Engineering Services (P) Ltd. V/s ITO (88 Taxmann.com 47)** referring to CBDT Circular no. 1/2005 allowed similar deduction u/s 10A.

We further find that the allegations of Ld.AO that there was extension of existing business or the new units were formed by splitting or reconstruction of existing business is bereft of any positive material on record. Therefore, we do not find any infirmity in the impugned order, on

this issue. Resultantly, Ground No.4 of revenue's appeal stand dismissed.

8.2 Coming to the issue of adjustment of uncollected / unrealized debtors from total turnover in denominator, Ld. AR has followed reliance on the decision of Hon'ble Gujarat High Court in **Pr.CIT V/s Dishman Pharmaceuticals & Chemicals Ltd. (2019 112 Taxmann.com 91)**. The Hon'ble Court following the decision of Hon'ble Apex Court in **CIT V/s HCL Technologies Ltd. (404 ITR 719)** decided the issue in assessee's favor. It was further observed that SLP against similar view taken by Hon'ble Karnataka High Court in **Pr. CIT V/s Tesco Hindustan Service Center Private Ltd. (257 Taxman 92)** stood dismissed. The Hon'ble Karnataka High Court held that while computing deduction u/s 10A, if the export turnover in numerator is arrived at after excluding certain expenses, the said expenses should also be excluded from total turnover in denominator.

The Ld. CIT-DR, on the other hand, maintained that the question in HCL Technologies (supra) was deduction of freight, telecommunication charges and insurance attributable to delivery of computer software outside India. In this context, Hon'ble Court held that the amount excluded from the export turnover must also be reduced from total turnover. However, in the present case, the issue is with respect to export proceeds and foreign exchange not brought back within the stipulated time limit. If the contention of the assessee is accepted then the explicit requirement to bring export proceeds of convertible foreign exchange would have to be ignored which is not the intention of the legislatures. The interpretation sought by the assessee would go against

the statutory provisions of Sec.10A(3) as well as Sec.80HHE(2). The Ld. CIT-DR relied on the decision of Hon'ble Madras High Court in the case of **Galaxy Granites Private Ltd. V/s CIT (211 Taxman 78 23/07/2012)** as well as the decision of Mumbai Tribunal in **ITO V/s Artmis Exports Private Ltd. (ITA No.6035/Mum/2002 11/07/2006)** to support the same.

The Ld. AR, in the rejoinder, submitted that this decision of Hon'ble Madras High Court has not consistently been followed by the same High Court, in view of subsequent decision of Hon'ble Apex Court in HCL Technologies (supra). For the same, our attention has been drawn to subsequent decisions of Hon'ble Madras High Court in **CIT V/s Maars Software International Ltd. (TCA No.390 of 2009, 05/12/2018)** and **CIT V/s Teledata Informatics Ltd. (TCA No.741 of 2010, 03/12/2019)**.

It has been submitted that the decision of Maars Software (supra) considering the decision of Galaxy Granites Pvt. Ltd. (supra) as well as the decision in HCL Technologies (supra), decided the issue in assessee's favor by holding that total turnover for the purpose of formula would be actual sale proceeds excluding foreign exchange debtors as adopted for export turnover. The Ld. AR also referred to the decision of Hon'ble Bombay High Court in **CIT V/s Gem Plus Jewellery India Ltd. (2010 330 ITR 175)** to support the submissions that total turnover includes export turnover and therefore, the amount of export turnover in numerator could not be different from amount in denominator.

Upon careful consideration of subsequent decision of Hon'ble Madras High Court in Maars Software (supra), we find that Hon'ble Court has distinguished the decision in Galaxy Granites (supra) by observing that this decision was rendered in the context of Sec.80HHC and the same

would not advance the case of the revenue as far as the scheme of Section 10A or 10B was concerned. The Hon'ble Court chose to follow the same principle of interpretation as followed by Hon'ble Apex Court in HCL Technologies (supra) and held that the export turnover in numerator as well as denominator could not assume two different characteristics for two parts of the same formula. Therefore, if export turnover in numerator has excluded the unrealized foreign exchange, than the same figure has to be adopted in denominator. The other decisions has cited by Ld. AR has also taken the same view. Therefore, going by the ratio of these decisions, we direct Ld. AO to reduce the unrealized debtors from total turnover in denominator while computing deduction u/s 10A / 80HHE. Ground No.3 of assessee's appeal stand allowed.

8.3 The last issue under this head is adoption of correct formula to compute deduction u/s 80HHE. The revenue is aggrieved by the action of Ld. CIT(A) in directing Ld. AO to consider entire profits of software business as a whole and apply the ratio of export turnover to total turnover including the total turnover of Sec.10A units.

The Ld. AR, drawing attention to letter dated 05/09/2018, submitted that directions may be issued for application of correct formula as per the decision of Hon'ble Karnataka High Court in **CIT V/s Sasken Communication Technologies Ltd. (2014 50 Taxmann.com 134)** which has held as under: -

7. Therefore, to be eligible for deduction under s. 80HHE not only the assessee should be engaged in the business of computer software, he must be exporting it out of India. If the assessee is a 100 per cent export oriented unit there is no difficulty in computing the profit from export of computer software business. Whatever profit that the assessee earns is the profit from export of computer software, which would be eligible for deduction. The difficulty arises only when the company being engaged in pie business of computer software, a portion of his business includes export out of India and the remaining portion is for domestic consumption. It is in those circumstances, to

be eligible for the benefit of deduction in respect of profits from export of computer software that profit has to be determined. In order to determine the said profit sub-s. (3) of s. 80HHE prescribes a formula, which reads as under :

"(3) For the purposes of sub-s. (1), profits derived from the business referred to in that sub-section shall be the amount which bears to the profits of the business, the same proportion as the export turnover bears to the total turnover of the business carried on by the assessee."

8. The opening words of sub-s. (3) make it clear that the said formula is only for the purpose of sub-s. (1). Further, it also makes it clear that the profit derived from the business referred to in that sub-section means the business of computer software. Then in order to determine the profits derived from the export of computer software the amount shall be the amount which bears to the profits of the business, the same proportion as the export turnover bears to the total turnover of the business carried on by the assessee. Therefore, the total turnover of the business referred to under sub-s. (3) cannot be construed as the total turnover of the business carried on by the assessee. The total turnover refers only to the business carried on under s. 80HHE namely, the business of software. Therefore, if the assessee is carrying on business of computer software and is exporting such computer software and is also supplying it to the domestic market then the total turnover of the business includes the total turnover of export and the total turnover in the domestic market. But, merely because the assessee is owing two more units which fall under s. 10A, which is also engaged in computer business and is in the export business neither the profit earned by s. 10A units nor the total turnover of the said s. 10A units is liable to be included in the total turnover. Therefore, neither the profits of s. 10A units nor the turnover of s. 10A units could be added to find out the profit from export of computer software under s. 80HHE. In fact this is also clear from s. 80A which forms part of Chapter VI-A in which s. 80HHE also finds a place. The relevant provision is sub-s. (4) of s. 80A, which reads as under :

"(4) Notwithstanding anything to the contrary contained in s. 10A or s. 10AA or s. 10B or s. 10BA or in any provisions of this chapter under the heading 'C-Deductions in respect of certain incomes', where, in the case of an assessee, any amount of profits and gains of an undertaking or unit or enterprise or eligible business is claimed and allowed as a deduction under any of those provisions for any assessment year, deduction in respect of, and to the extent of, such profits and gains shall not be allowed under any other provisions of this Act for such assessment year and shall in no case exceed the profits and gains of such undertaking or unit or enterprise or eligible business, as the case may be."

9. This provision is inserted by Finance (No. 2) Act, 2009, which came into retrospective effect from 1st April, 2003 applicable to the asst. yr. 2003-04. In the case on hand, it relates to asst. yr. 2001-02. Nonetheless, this provision is explanatory in nature. The principle underlining the said provision makes it clear that when the profits and gains of an undertaking are allowed as deduction, the said benefit cannot be over again allowed under any other provisions. Consequently, the said profits and gains cannot be added under any provision also. If profits and gains cannot be added, the total turnover out of which the profits and gains are arising also cannot be added in computing the total turnover of yet another unit. Therefore, it is clear that once the

assessee has been given the benefit of total exemption from payment of tax under s. 10A in respect of these two units to which s. 10A is attracted, neither the profits and gains of that business nor the turnover of that business could be added to the business of which s. 10A is not applicable. In the instant case, the third unit is eligible for deduction in respect of export turnover of computer software under s. 80HHE. Therefore, in computing the profits of the said unit, the turnover of other s. 10A units cannot be added to arrive at the total turnover of the business as stipulated under sub-s. (3) of s. 80HHE. In that view of the matter, we do not see any justification to interfere with the well-considered order passed by the Tribunal which rightly set aside the order of the CIT and restored the order of the assessing authority. Thus, the substantial question of law is answered in favour of the assessee and against the Revenue.

We find that the ratio of above decision squarely applies to the facts in this case. No contrary decision has been placed on record. Therefore, we find this issue to be a covered one. Accordingly, Ld. AO is directed to deduct the profits of Sec.10A undertakings from the profit of the software business as a whole and applying the ratio of the export turnover (excluding the export turnover of 10A units) as divided by total turnover (excluding the total turnover of 10A units).

8.4 The Ld. AO is directed to re-compute deductions u/s 10A as well as u/s 80HHE in terms of our above order including our decision on overseas taxes, software etc.

8.5 Ground No.5 of revenue's appeal stand partly allowed in terms of our above directions.

9. Disallowance of interest expenditure of Rs.264.88 Crores.

9.1 The assessee held substantial investments of Rs.5501 Crores and had year-end unsecured and secured loans aggregating to Rs.3284.59 Crores. It claimed interest expenditure of Rs.264.88 Crores which was charged to Profit & Loss Account on net basis after adjusting interest income of Rs.40.12 Crores. The Ld. AO concluded that the assessee had increased portfolio substantially by borrowing funds. The major

investments were in Tata group of companies. The business of the assessee was to acquire the shares and rendering software consultancy services. The assessee incurred huge expenditure to acquire shares in Tata group of companies. After appreciating the objects of the assessee as well as meaning of business as defined u/s 2(13), Ld. AO held a conviction that holding of investment could not amount to business. Merely because the assessee has the object of dealing in investment in shares would not give it the characteristics of dealers of shares. In the above background, Ld. AO opined that interest expenditure could not be allowed either u/s 36(1)(iii) or u/s 37 since the same was not incurred wholly and exclusively for the purposes of business. Further, the same could also not be allowed u/s 57(iii) as it was not wholly and exclusively incurred for the purpose of earning of such income.

9.2 The assessee defended the claim by submitting that interest income of Rs.40.12 Crores was earned on short-term temporary deployment of funds borrowed by it and therefore, the same has rightly been set-off against interest expenses. It was submitted that the assessee was the principal investment holding company of the Tata group. It holds investment in the share capital of major Tata companies promoted by it and it takes active interest in the business of these companies. Accordingly, the interest paid on monies borrowed for making such investment would be deductible u/s 36(1)(iii). The dominant object of investment was to exercise business control by way of acquiring shareholding and not to earn the dividend. The assessee's activity of holding such shares constitute business activity and therefore, the interest was deductible u/s 36(1)(iii).

9.3 However, not convinced by assessee's explanation, Ld. AO formed an opinion that the assessee was not in the business of controlling interest as it could not give any indication as to whether the share in Tata group of companies were acquired with a view to sell them at a profit at a later date. The investee entities were working independently with separate Board of directors. The decision of Tribunal in assessee's own case for AY 1984-85 as well as other decision in the case of group concerns, as relied upon by the assessee, was held to be not applicable. Finally, Ld. AO opined that the assessee failed to establish that it was in the business of acquiring controlling interest with a view to sell investment it at a profit. The commercial expediency to make investment could not be shown by the assessee. The increase in stake in various group concerns was not to acquire the shares as part of stock in trade but the intention was to increase the controlling stake which would be capital in nature. Therefore, the interest was to be capitalized and not to be charged on revenue account. The dividend income earned by the assessee was only incidental. Further, the business of controlling interest has not yielded any income which is assessable and therefore, the interest was to be capitalized. The said expenditure would also be not allowable u/s 57(iii) as held in appellate order for AY 2001-02.

9.4 Before Ld. CIT(A), the assessee drew attention to the fact that the assessee as holding company and the principal investment company of the Tata group of companies, entered into agreement with various Tata group of companies relating to brand equity and business promotion of the Tata group which is managed and controlled by the assessee. The principal objective of the agreement was to protect and promote the

image / goodwill / brand equity of Tata group being the Tata name / mark which has an immense goodwill and brand awareness attached to it. The Tata group of companies joining the scheme made contribution in terms of the agreement with the assessee and the assessee, in turn, undertake various obligations of brand promotion / goodwill etc. Since there was income flow on the basis of it being the holding company and therefore, interest expenditure was eligible for deduction u/s 36(1)(iii). The assessee earned Rs.62.64 Crores as income from subscription from various investee entities under the said scheme which was offered to tax as Business Income. The assessee submitted that it is the holding & promoter company of various Tata companies and pioneered the setting up of various businesses including setting up of Tata Steel Limited, Tata Motors Limited, Tata Power Company Limited, Indian Hotels Company Limited, Tata Consultancy Services Limited, Titan Limited and Tata Teleservices Limited. Reliance was placed on various judicial pronouncements in support of assessee's eligibility to claim deduction u/s 36(1)(iii). These decisions have already been enumerated in the impugned order. In the alternative, it was submitted that the interest would be deductible u/s 57(iii) as per the decision of Hon'ble Apex Court in **CIT V/s Rajendra Prasad Moody (1978 115ITR 519 SC)**. The attention was drawn to a pertinent fact that unlike earlier years, dividend was not liable to tax in the current year and therefore, the appellate orders of earlier years would not be applicable.

9.5 The Ld. CIT(A) noted that the aim of investment was to earn good dividend income. The assessee also earned subscription revenue from group concerns. The assessee earned two types of income i.e. income

from subscriptions and income from dividends. The dividend income was taxable as 'Income from other sources' which would be eligible for deduction u/s 80-M. Therefore, the provisions of Section 14A would come into play. Therefore, expenses attributable to earning of such dividend income would have to be disallowed u/s 14A. The proportionate disallowance was to be worked out. Accordingly, Ld. AO was directed to distribute the interest expenses in the ratio of income from dividend to income from dividend plus subscription and disallow the same as it would be related to earning of dividend income and allow the remaining interest under the head 'Business Income'. However, the disallowed interest would be available as deduction u/s 57(iii) of the Act while computing income from dividend. Accordingly, deduction u/s 80-M was to be reworked. The earlier decisions of Tribunal would have no application since prior to AY 2001-02, the provisions of Sec.14A were not applicable. Regarding assessee's plea to net-off the interest expenditure by interest income of Rs.40.12 Crores, it was noted that the investments which earned interest income was made from joint funds i.e. borrowed funds as well as surplus funds. It was difficult for assessee to prove that investments were out of borrowed funds as well as difficult for department to prove that investments were out of surplus funds. Therefore, the interest income was to be allocated in the ratio of borrowed funds to borrowed funds plus net owned funds. The interest expenditure would be allowed to be net-off to that extent.

9.6 The perusal of order giving effect dated 26/04/2007 would show that the gross disallowance of Rs.264.88 Crores as disallowed earlier by Ld. AO has been reversed. The net-interest has been worked out at

Rs.246.88 Crores out of which an amount of Rs.80.85 Crores has been allowed under 'business income' whereas remaining interest expenditure of Rs.166.03 Crores has been allowed from dividend income which has been assessed as 'Income from other sources'. Since dividend income earned during the year amounted to Rs.126.73 Crores against which interest expenditure of Rs.166.03 Crores was apportioned, there was no income which remained to be taxable as dividend income. Consequently, deduction u/s 80M has been denied and hence the grievance of the assessee before us by way of ground no. 4. It could be noted that full interest expenditure has already been allowed to the assessee. The only grievance of the assessee is apportionment of interest expenditure and consequential denial of deduction u/s 80M.

Our findings and adjudication

10.1 Before us, Ld. AR has submitted that the issue is covered in assessee's favor by earlier decision of Tribunal for AY 2009-10 (supra) wherein at para 5.4 of the order, the bench has observed as under: -

5.4. We find that the Id. CIT(A) had further observed that borrowed funds utilised in making investments which had yielded tax free income to the assessee would be governed by the provisions of Section 14A of the Act and not Section 36(1)(iii) of the Act. Accordingly, the Id. CIT(A) held that interest on borrowed capital utilised for making investments would be eligible for deduction u/s.36(1)(iii) subject to the provisions of Section 14A of the Act. Against this observation, we find that revenue is in appeal before us. We find that assessee is a promoter investment holding company and exercise controlling interest in various Tata companies. Out of these investments, the assessee receives income by way of dividends, interest on investments, royalty income from brand, capital gains etc., Out of this only dividend income is exempt. All other receipts thereon are taxable receipts. Even otherwise, there is absolutely no bar for allowability of interest u/s.36(1)(iii) of the Act if the borrowed funds were utilised for making investments which are meant for the purpose of business of the assessee. There is absolutely no dispute that assessee is a promoter investment holding company thereby, it had to exercise controlling interest in various Tata group companies. For the purpose of making these investments if the assessee had to use the borrowed funds, if any, then the interest paid on such borrowings would be governed by the provisions of Section 36(1)(iii) of the Act and would be squarely allowable as deduction. The findings recorded by the

Id. CIT(A) that borrowed funds utilised for investment in shares of Tata group companies for acquiring the controlling stake in those companies would be treated as capital in nature is to be looked into from this perspective. We hold that the business and commercial expediency of assessee making investments in these Tata group companies either with or without the use of borrowed funds have been proved beyond doubt in the instant case. The assessee company had earned both taxable income as well as tax free income out of these investments as detailed supra. Hence, there is absolutely no question of disallowance of interest u/s. 36(1)(iii) of the Act. If the borrowed funds have been used for making investment for shares which in turn had yielded exempt income to the assessee, then, the allowability of interest need to be looked into from the angle of Section 14A of the Act r.w.r. 8D(2)(ii) of the Rules. This fact has been correctly dealt, in our considered opinion, by the Id. CIT(A) in his order. We also find that this issue is also covered in favour of the assessee's group company case by the order of this Tribunal in the case of Tata Industries Ltd., vs. ITO in ITA No.4894/Mum/2008 dated 20/07/2016 wherein this Tribunal by placing reliance on various decisions of the Hon'ble High Courts including the Hon'ble Jurisdictional High Court in the case of CIT vs. Phil Corporation Ltd., reported in 202 Taxman 368 had decided the issue in favour of the assessee with regard to allowability of interest. Hence, we do not find any infirmity in the observation made by the Id. CIT(A) that the interest on borrowed funds used for making investments would be allowable u/s.36(1)(ii) of the Act subject to the provisions of Section 14A of the Act. This observation made by the Id. CIT(A) is correct in the facts and circumstances of the instant case, which in our considered opinion, does not require any interference. Accordingly, ground No.2 raised by the revenue is dismissed.

10.2 However, Ld. CIT-DR submitted that the contention of controlling interest would no longer be applicable in view of the recent decision of Hon'ble Apex Court in **Maxopp Investment Ltd. (402 ITR 640)** which has rejected the theory of dominant object. This decision has not been considered in the aforesaid decision as well as other decision of group concerns as relied upon by the assessee. The Ld. CIT-DR also submitted that Sec.14A would be applicable since deduction u/s 80M is claimed by the assessee. The deduction u/s 80M is available only to net dividend income as per the decision of Hon'ble Apex Court in **Distributors (Baroda) Pvt. Ltd. 155 ITR 120** as well as the decision of Hon'ble High Court of Punjab & Haryana in **Hero Cycles (243 Taxman 28)**.

10.3 The Ld. AR, in the rejoinder, submitted that the provisions of Sec.14A would not apply in this year in case of deductions allowable under Chapter VIA. The amount on which deductions under Chapter VIA is allowed forms part of total income though not included in the amount on which tax is paid. For the said proposition, reliance has been placed on the decision of Hon'ble Delhi High Court in **CIT V/s Kribhco (349 ITR 618)** which was rendered after considering the distribution of Hon'ble Apex Court in **Distributors (Baroda) Pvt. Ltd. 155 ITR 120**. It was submitted that Special Leave Petition (SLP) against the decision of Hon'ble Delhi High Court in **CIT V/s Kribhco (supra)** has already been dismissed by Hon'ble Apex Court.

The Ld. AR further submitted that the assessee carried on an organized, systematic activity of investment which constitute business and therefore, the conditions of Section 36(1)(iii) were duly fulfilled by the assessee. The Ld. AR submitted that the ratio of judgment in Maxopp (supra) would not extend to assessee's claim u/s 36(1)(iii) since the dominant purpose test as considered by Hon'ble Apex Court was confined to the allowability of expenditure incurred for acquiring / holding investment in the context of Sec.14A. In fact, the said decision has not disturbed the deduction granted u/s 36(1)(iii) by Ld. AO after disallowing expenditure u/s 14A on apportionment basis. No observation or finding has been rendered in the context of relevance of dominant purpose for grant of deduction u/s 36(1)(iii).

In the above background, Ld. AR, in support of admissibility of deduction u/s 36(1)(iii), also relied on the decisions of Hon'ble Bombay High Court in **CIT V/s v Phil Corporation (202 Taxman 368)** & **CIT v Srishti**

Securities Pvt. Ltd. (321 ITR 498); decision of Hon'ble Calcutta High Court in **CIT V/s Rajeev Lochan Kanoria (208 ITR 616);** Hon'ble Delhi High Court in **Eicher Goodearth Ltd. V CIT (378 ITR 28);** decision of Hon'ble Madras High Court in **CIT vs. RPG Transmission Ltd. (359 ITR 673)**

10.4 At the outset, it could be noted that dividend income is not exempt in this year but a deduction is allowed to the assessee u/s 80-M in respect of dividend. We are of the considered opinion that there is clear distinction between 'exemption' and 'deduction' provision. In case of exemption, the income does not, at all, enter into gross total income of the assessee whereas in case of deduction, the income first enters the assessee's gross total income and thereafter, a deduction is given against the same upon fulfillment of conditions as prescribed under the relevant provisions of the Act. Going by the same, the provisions of Section 14A, in our considered opinion, would apply only in relation to income which does not form part of total income under this Act as given in Chapter III of the Act. Clearly, the provisions are attracted only in those cases where the income is altogether exempted under the provisions of the Act but does not apply in cases where though the income is includible in gross total income, however, it is eligible for certain deduction under the scheme of the Act. Therefore the invocation of provisions of Sec.14A by learned first appellate authority, in our considered opinion, was not correct. Accordingly, we hold that the provisions of Sec.14A were not applicable to the dividend income earned by the assessee during this year. The case laws as cited by Ld. AR also support our aforesaid view. For this very reason the decision of Hon'ble

Apex Court in **Maxopp Investment Ltd. (402 ITR 640)** as cited by Ld. CIT-DR would have no application since this decision has been rendered in the context of disallowance u/s 14A wherein Hon'ble court has rejected the dominant purpose theory advanced by the assessee to support the plea that disallowance u/s 14A would not be attracted in such cases.

10.5 Proceeding further, going by the factual matrix as enumerated in the preceding paragraphs, it is undisputed fact that the assessee was principal holding company for its various group entities. The object of investment in group concerns was to secure controlling interest. Under an agreement, the assessee received subscriptions from the group entities in lieu of Brand promotion / enhancement of goodwill of the group as a whole. Such subscriptions monies termed as 'brand promotion subscriptions' aggregated to Rs.62.64 Crores which were offered as well as accepted as 'Business Income'. The Ld. AO, in our considered opinion, failed to appreciate the fact that making of investments could, by itself, constitute business activity. In fact, Ld. AO after appreciating the object clause as well as report of Board of directors came to a conclusion that the main object of the assessee was to make investment so as to gain controlling interest. The assessee was in the business of making investments. For the said purposes, it obtained loans and paid interest thereon. Nevertheless, the purpose of loan was in furtherance of assessee's business activities and to fulfill its main objects. The dominant object of investment was to exercise business control by way of acquiring shareholding and not to earn the dividend. The assessee's activity of holding such investment, in our opinion,

constitute business activity and therefore, the interest would be fully deductible u/s 36(1)(iii) notwithstanding the fact that the assessee earned various streams of income out of these investments, one of which was assessable under the head 'Income from other sources'. Similar is the view of coordinate bench in assessee's own case for AY 2009-10 as extracted by us in preceding para 10.1. Further, it is trite law that the earning of the income was not a pre-requisite to grant deduction of expenditure. Therefore, we do not concur with the approach of Ld. CIT(A) in invoking the provisions of Sec.14A of the Act. Consequently, the interest expenditure of Rs.246.88 Crores would be fully deductible u/s 36(1)(iii) of the Act. The various case laws as enumerated in para 10.3 & relied upon by Ld. AR supports our conclusion. Accordingly, Ld. AO is directed to rework allowable deduction u/s 80M. Ground No.4 of assessee's appeal stand allowed to that extent.

Conclusion

11. The assessee's appeal as well as revenue's appeal stand partly allowed.

Order pronounced on 05/05/2021

Sd/-

(Mahavir Singh)

उपाध्यक्ष / Vice President

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / Accountant Member

मुंबई Mumbai; दिनांक Dated : 05/05/2021

Sr.PS, Jaisy Varghese

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.