

आयकर अपीलिय अधिकरण "A" न्यायपीठ मुंबई में।

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

**BEFORE SHRI MAHAVIR SINGH, JUDICIAL MEMBER
AND SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No. 2897/Mum/2011

(निर्धारण वर्ष / Assessment Year : 2007-08)

M/s Alkyl Amines Chemicals Limited, 401-402, Nirman Vypar Kendra, Plot No. 10, Sector-17, Vashi, Navi Mumbai-400 703	बनाम/ v.	Assistant Commissioner of Income Tax – Range 10(3) Mumbai.
स्थायी लेखा सं./PAN : AAACA6783F		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)

Assessee by	Shri Divyesh J.Shah / Moksha K.Shah
Revenue by :	Shri A. Ramachandran

सुनवाई की तारीख / **Date of Hearing** : 16-6-2016

घोषणा की तारीख / **Date of Pronouncement** : 12-09-2016

आदेश / ORDER

PER RAMIT KOCHAR, Accountant Member

This appeal, filed by the assessee company, being ITA No. 2897/Mum/2011, is directed against the appellate order dated 31st January, 2011 passed by learned Commissioner of Income Tax (Appeals)- 22, Mumbai (hereinafter called "the CIT(A)"), for the assessment year 2007-08, the appellate proceedings before the learned CIT(A) arising from the assessment order dated 24th December, 2009 passed by the learned Assessing Officer (hereinafter called "the AO") u/s 143(3) of the Income Tax Act,1961 (Hereinafter called "the Act").

2. The grounds of appeal raised by the assessee company in the memo of appeal filed with the Income Tax Appellate Tribunal, Mumbai (hereinafter called "the Tribunal") read as under:-

"1.The Commissioner of Income Tax (Appeals)-22, Mumbai ["the CIT(A)"] erred in directing the Assistant Commissioner of Income Tax, 10(3) , Mumbai ("the A.O.") to find out the ratio of investment in shares to the total assets and apply the same to the amount of interest paid by the assessee while making the disallowance u/s 14A of Income Tax Act, 1961("the Act").

1.1 The CIT(A) erred in confirming the action of the A.O. in making the disallowance under section 14A without pointing out any specific expenditure incurred by the appellant to earn the dividend income which was exempt u/s 10(34) of the Act.

1.2 Without prejudice to above, the CIT(A) erred in not directing such expenses which were 'in relation' to investment to be capitalized.

1.3 The Appellant prays that the disallowance u/s 14A be deleted.

1.4 Without prejudice to above, the said disallowance u/s 14A be made on reasonable basis.

2. The CIT(A) erred in confirming the action of the A.O. in disallowing the claim u/s 35(2AB) on the alleged ground that it had failed to furnish the certificate in the prescribed form issued in the prescribed authority.

2.1 The appellant prays that the claim for the deduction u/s 35(2AB) of the Act be allowed.

3. The CIT(A) erred in confirming the action of the A.O. in disallowing sundry balances written off amount to Rs. 14,44,832/- on the alleged ground that the appellant has failed to prove the conditions laid down u/s 36(1)(vii) r.w.s. 36(2) .

3.1. The Appellant prays that the said write off sundry balance be allowed as deduction.

3.2 Without prejudice to above, the appellant prays that the said write off of sundry balances be allowed as trading loss."

3. The brief facts of the case are that the assessee is engaged in the business of manufacturing amine and amine derivatives.

4. On perusal of computation of income during the course of proceedings u/s 143(3) read with Section 143(2) of the Act , it was observed by the AO that the assessee has earned dividend income of Rs.1,15,64,882/- which was claimed as exempt u/s. 10(34) of the Act. The AO asked the assessee to submit the details of expenses attributable to exempt income as per provisions of Section 14A of the Act read with Rule 8D of Income Tax Rules, 1962. The assessee in its reply before the AO submitted that no expenses have been incurred for earning exempt income and hence no disallowance is called for u/s. 14A of the Act. Without prejudice, the assessee submitted the working of disallowance u/r. 8D of Income Tax Rules, 1962 which worked out to Rs. 1,13,010/-. The AO rejected the contentions of the assessee keeping in view Board's letter F.No. 173/172/2008-I.T.A.I dated 04-02-2009 whereby Board directed to consider applicability of provision of Section 14A of the Act keeping in view the judgment of Special Bench of the Tribunal in the case of Daga Capial Management Limited (ITA No. 8057/Mum/2003 dated 20-10-2008) whereby the Tribunal held that provisions of Section 14A(2) and 14A(3) of the Act though introduced by Finance Act, 2006 w.e.f. 01-04-2007 are clarificatory in nature and shall apply retrospectively w.e.f. 01-04-1962 and in the result Rule 8D will also apply accordingly. The AO worked out disallowance u/s 14A of the Act read with Rule 8D of Income Tax Rules, 1962 of Rs. 11,87,415/- , of which disallowance for interest u/r 8D(2)(ii) of Income Tax Rules, 1962 was worked out to be of Rs.10,74,405/- , while disallowance u/r 8D(2)(iii) of Income Tax Rules, 1962 for indirect and administrative expenses @0.5% of average investment worked out to Rs.1,13,010/-, vide assessment order dated 24-12-2009 passed by the AO u/s. 143(3) of the Act.

5. Aggrieved by the assessment order dated 24-12-2009 passed by the AO u/s. 143(3) of the Act, the assessee filed first appeal with the learned CIT(A).

6. Before the learned CIT(A), the assessee submitted that Rule 8D of Income Tax Rules, 1962 is not applicable for the assessment year 2007-08 and the disallowance should be made on reasonable basis for the expenses incurred in relation to the earning of income not forming part of the total income. It was submitted by the assessee that no expenses have been incurred by the assessee to earn dividend income which is claimed as exempt u/s 10(34) of the Act. The assessee relied upon the decision of Hon'ble Bombay High Court in the case of Godrej and Boyce Manufacturing Company Limited v. CIT (2010) 328 ITR 81(Bom.) and stated that Rule 8D of Income Tax Rules, 1962 is applicable from the assessment year 2008-09 and cannot be applied retrospectively and disallowance is to be worked out on reasonable basis.

The learned CIT(A) rejected the contentions of the assessee and held that the assessee has mixed pool of funds both interest bearing as well interest free funds and it is not acceptable that the assessee has not incurred any expenses for earning the exempt income. The assessee has both taxable income as well exempt income and the expenses were incurred which are towards earning both the incomes. The learned CIT(A) directed the AO to make disallowance u/s. 14A of the Act on a reasonable basis. The AO was directed by the learned CIT(A) to find out the ratio of investment in shares to the total assets and apply the same to the amount of interest paid by the assessee and make the disallowance u/s. 14A of the Act, vide appellate order dated 31.01.2011 passed by learned CIT(A).

7. Aggrieved by the appellate order dated 31.01.2011 passed by learned CIT(A), the assessee filed second appeal with the Tribunal.

8. Before the Tribunal, learned counsel for the assessee contended that the assessee's own funds comprising of share capital and reserves after adjusting miscellaneous expenditure as at 31-03-2007 was Rs.5562.13 lacs (Rs. 3902.04 lacs as at 31-03-2006) , while investment made by the assessee as at 31-03-2007 was Rs.226.02 lacs (Rs.226.02 lacs as at 31-03-2006) and hence presumption shall apply that the assessee has invested its own funds as it has its own funds sufficient to make investment and no disallowance can be made u/s 14A of the Act with respect to interest paid by the assessee. The audited financial statements of the assessee for the financial year 1997-98 to 2006-07 are placed in paper book page 47-106 filed with the Tribunal. It was contended that loans were raised for various purposes such as cash credit, export credits, car loans and term loans and none of the loans were utilized for making investments . The loan agreements are placed in paper book page 5-46 filed with the Tribunal. The details of interest paid is also placed in paper book page 107 and details of secured and unsecured loans raised by the assessee is placed on paper book page 108-121. Thus, it was submitted that keeping in view decision of Hon'ble Bombay High Court in the case of CIT v. Reliance Utilities and Power Limited (2009)313 ITR 340(Bom.) and HDFC Bank Limited v. DCIT (2016) 67 taxmann.com 42(Bom) , the disallowance of interest to the tune of Rs. 10,74,405/- as disallowed by authorities below is not sustainable. For the other disallowances of Rs. 1,13,010/-towards administrative and indirect expenses disallowed u/s 14A of the Act , it was submitted that reasonable disallowance be sustained. It was submitted that strategic investments are made by the assessee and no expenses were incurred by the assessee attributable to the earning of exempt income.

9. The ld. DR supported the orders of the learned CIT(A).

10. We have heard the rival parties and considered the material on record including case laws relied upon by the parties. We have observed that the

assessee had made investments of Rs.226.02 lacs as at 31-03-2007 (Rs.226.02 lacs as at 31-03-2006) which are stated to be strategic investment. The assessee's own funds are to the tune of Rs. 5562.13 lacs as at 31-03-2007 and Rs. 3902.04 lacs . The audited financial statements for financial year 1997-98 to 2006-07 are filed by the assessee and are placed in paper book page 47-106. It could be observed as detailed above that the assessee's own funds are much higher than the investments made by the assessee which are capable of yielding exempt income. The assessee received dividend income of Rs.1,15,64,882/- which was claimed as an exempt income u/s. 10(34) of the Act. The assessee has also submitted details of various loans raised by the assessee and interest paid to contend that none of the loans raised were deployed towards investments made and these are old investments and no fresh investment are made during the impugned assessment year. The assessee has placed details of loans raised, loan agreements and details of interest paid during the previous year relevant to the impugned assessment year to contend that none of the loans raised by the assessee were directed towards acquisition of investments. The said documents are placed in paper book filed with the Tribunal. In our considered view, the presumption shall apply as was held by the Hon'ble Bombay High Court in the case of CIT v. Reliance Utilities and Power Limited (supra) and HDFC Bank Limited v. CIT(supra) that the assessee has invested its own funds towards making investment unless contrary is brought on record by the Revenue. Nothing incriminating is brought on record by the Revenue to prove that interest bearing funds were specifically used for making investments and hence in our considered view , addition of Rs.10,74,405/- made by the AO is not sustainable and is ordered to be deleted. With respect to disallowance of Rs.1,13,010/- made by learned AO towards administrative and other indirect expenses attributable to the earning of exempt income being dividend of Rs.1,15,64,882/- received by the assessee during the previous year relevant to the impugned assessment ,

which disallowance of Rs.1,13,010/- in our considered view is very reasonable and fair which we upheld and sustain and do not intend to interfere with the orders of the authorities below keeping in view of fairness and reasonability of the disallowance keeping in view facts and circumstances of the case as emanating from the records before us. This disposes of ground no 1 (1.1 to 1.4) raised by the assessee in the memo of appeal filed with the Tribunal. We order accordingly.

11. The second ground raised by the assessee is with respect to claim for deduction u/s. 35(2AB) of the Act. It was observed by the AO from the computation of income that the assessee has claimed weighted deduction u/s. 35(2AB) of the Act of Rs.60,33,820/-. The assessee was asked to furnish the details of such expenses with supporting evidences including certificates in form no. 3CK , 3CL and other relevant evidences including research carried on by the assessee and the approval granted by the Government in this regard.

The assessee in reply submitted certain details and the AO observed that the claim of the assessee while framing assessment u/s 143(3) of the Act for assessment year 2006-07 has been examined at length by calling details. It was held in the assessment for assessment year 2006-07 that the assessee R & D facility has not been approved by the prescribed authority i.e. Secretary , Department of Scientific and Industrial Research. It was further held that the R & D expenditure shows that the same has been incurred and related purely to sales promotion , testing, manpower expenses and includes expenditure incurred on clinical drug trial , obtaining approval from the regulatory authorities under any central, state or provincial Act and filing an application for a patent. It was held that the assessee has not furnished any evidences to establish that it has an in-house R & D facility which carried out any research and development activities in respect of any drug or

pharmaceuticals. The assessee did not also comply with conditions mentioned in the form no 3CK for the purposes of making application to the prescribed authority and form no 3CL granting approval for the said facility has not been furnished by the assessee. The assessee did not comply with the conditions of maintenance and audit and separate accounts for the approved facility. On the above grounds claim for deduction was denied to the assessee for the assessment year 2006-07 and in the instant assessment year the assessee reiterated the same submissions which were filed for earlier years and no new facts were brought on record to substantiate its claim. Thus as the facts for the instant year were identical to the preceding year and the assessee did not comply with the requirements of Section 35(2AB) of the Act, the AO disallowed the excess weighted claim of the assessee and thus deduction of Rs. 60,33,820/- claimed u/s. 35(2AB) of the Act was disallowed by the AO vide assessment order dated 24.12.2009 passed u/s 143(3) of the Act.

12. Aggrieved by the assessment order dated 24.12.2009 passed u/s. 143(3) of the Act by the AO, the assessee filed first appeal with the learned CIT(A).

13. The assessee contended before the learned CIT(A) that Section 35(2AB) of the Act mandate that in case of a company which is engaged in the business of manufacture or production of any drugs, pharmaceuticals, incurs any expenditure on scientific research on in-house research and development facility as approved by the prescribed authority, then, there shall be allowed a deduction of a sum equal to one and one-half times of the expenditure so incurred. The assessee further submitted that application forms 3CK and 3CL are prescribed under Rule 6(4) and 7(a) of the Income Tax Rules, 1962 relate to the approval of the Government and the report in relation to the approval to be given by Director General (Exemptions). It was submitted by the assessee that the provisions of Section 35(2AB) of the Act only requires that R

& D facility should be approved by the prescribed authority and there is no mandate as to the form of application or approval. The assessee relied on following decisions:

- (i) Mukta Arts Private Limited v. ACIT , 105 ITD 533(Mum. Trib)
- (ii) CIT v. Crown Products, 304 ITR 106
- (iii) Fenoplast Limited v. ACIT, 82 ITD 178(Hyd Trib)
- (iv) ACIT v. Tusnial Trading Co. , 61 TTJ 700(Gau. Trib.)
- (v) ITO v. Meghalaya Bonded Warehouse, 60 TTJ 219(Gau. Trib)

The learned CIT(A) called for remand report from the AO to verify genuineness of the claim of the assessee. The remand report was sent by the AO to the learned CIT(A). The learned CIT(A) observed that the AO has stated in his remand report that the assessee has not submitted the certificate in the prescribed forms viz. Form No. 3CL and Form 3CM issued by the prescribed authority , which is Secretary, DSIR, Ministry of Scientific Research. The learned CIT(A) concurred with the findings of the AO and confirmed the disallowance as the assessee failed to submit the prescribed forms issued by prescribed authorities, vide appellate orders dated 31.01.2011 passed by learned CIT(A).

14. Aggrieved by the appellate order dated 31.01.2011 passed by learned CIT(A) , the assessee filed second appeal with the Tribunal.

15. Before the Tribunal, learned counsel for the assessee submitted that the assessee has received approval from prescribed authorities and the assessee has duly complied with the requirements of the approval by the prescribed authorities as well requirements of Section 35(2AB) of the Act and the assessee is now eligible for weighted deduction claimed by the assessee in the return of income filed with the revenue. It was submitted by learned counsel

for the assessee that if an opportunity is given , then the assessee will produce all necessary approvals before the learned AO and will also satisfy the AO that the assessee has duly complied with the all the terms and conditions of the approval stipulated by the prescribed authorities as well requirements of the provisions of Section 35(2AB) of the Act which the AO can verify by examination , enquiry , investigation etc as may be decided by the AO before granting weighted deduction u/s 35(2AB) of the Act. It is submitted that necessary documents are placed in paper book pages 122-153 filed with the Tribunal and these documents can be subjected to verification by the AO to satisfy that the assessee has duly complied with all legal and statutory requirements before granting deductions u/s 35(2AB) of the Act. Ld. DR relied upon the orders of the learned CIT(A) .

16. We have considered the rival contentions and perused the material on record. We have observed that the assessee has claimed weighted deductions u/s 35(2AB) of the Act of Rs. 60,33,820/- towards R& D carried on by the assessee, which was not allowed by the authorities below as the approvals from prescribed authorities were not submitted as well genuineness of the research conducted by the assessee was doubted by the authorities below as evidences of conducting research in the field of drugs and pharmaceuticals were not submitted by the assessee before the authorities below. Further, the AO has also held that the assessee did not complied with the conditions of maintenance and audits and separate accounts for the approved facility. The assessee has now contended that the approvals from prescribed authorities have been received and if an opportunity is granted the assessee will produce all necessary evidences and approvals to satisfy the AO that the assessee has fully and duly complied with all the legal and statutory requirements for availing weighted deductions u/s 35(2AB) of the Act. It is the contentions of the assessee that the AO can make necessary verifications, enquiries, examination and investigation before granting the benefit of weighted

deduction u/s. 35(2AB) of the Act. The assessee has placed all documents in connection thereof in paper book page 122-153. We are of the considered view that in the interest of substantial justice, this issue need to be set aside and restored to the file of the AO for de-novo examination of the issue on merits by the AO before granting weighted deduction u/s. 35(2AB) of the Act in accordance with law. We would like to clarify and place on record that we have not made any comments on merits of the claim of the assessee for weighted deduction u/s 35(2AB) of the Act and the AO shall adjudicate this issue on merits in accordance with law uninfluenced by observation, if any made by us on this issue of claim of deduction u/s 3(2AB) of the Act in this order. The provisions of Section 35(2AB) of the Act allows weighted deduction and is a beneficial provisions and hence the same is to be strictly construed at the first stage to determine the eligibility of the assessee under the beneficial provision and once the entitlement and eligibility of the assessee is established by strictly construing the same, then the provision is to be liberally construed so that full effect is given of the beneficial provision to achieve the intended objective for which the beneficial statutory provision is placed on the statute. Needless to say proper and adequate opportunity of being heard shall be accorded by the AO to the assessee in accordance with principles of natural justice in accordance with law , and all the relevant evidences and explanations submitted by the assessee to support its contentions shall be admitted by the AO and shall be adjudicated on merits in accordance with law. This disposes of ground no 2(2.1) raised by the assessee in the memo of appeal filed with the Tribunal. We order accordingly.

17. The next ground raised by the assessee is with respect to disallowance of deduction of Rs.14,44,832/- being towards sundry balances written off on the ground that the assessee has failed to prove the conditions laid down u/s 36(1)(vii) r.w.s. 36(2) of the Act. From the Profit and Loss account of the assessee, it was observed by the AO that the assessee has debited an amount

of Rs.14,44,832/- on account of advances/amount written off. The assessee was asked by the AO during the course of assessment proceedings u/s 143(3) read with Section 143(2) of the Act to justify its claim as per provisions of Section 36(1)(vii) read with Section 36(2) of the Act. The assessee in reply thereof furnished before the AO breakup of such advance write off and no explanation was furnished by the assessee. The AO rejected the contentions of the assessee as the assessee has written off advances which were not on revenue account and the same cannot be equated with debt. The said advances were not offered as income either in the instant assessment year or in earlier years and hence the advance written off of Rs.14,44,832/- was not allowed as deduction and added to the income of the assessee by the AO vide assessment order dated 24.12.2009 passed by the AO u/s. 143(3) of the Act.

18. Aggrieved by the assessment order dated 24.12.2009 passed by the AO u/s. 143(3) of the Act , the assessee filed first appeal with the learned CIT(A).

19. The assessee contended before the learned CIT(A) that the debit balances of creditors which were advances or debits raised in the normal course of business and subsequently turned irrecoverable were written off and also write off was made on account of premium paid on foreign exchange contract entered into hedge export debtors which was amortized as per AS-11 issued by ICAI. It was observed by the learned CIT(A) that during assessment proceedings , the assessee did not furnished the reasons for such write off and satisfaction of conditions u/s 36 of the Act. It was observed by the learned CIT(A) that the assessee submitted details of such advances during appellate proceedings . The learned CIT(A) called for remand report from AO to establish the genuineness of the claim of the assessee. The AO sent the remand report to the learned CIT(A) wherein the AO made observations w.r.t. write off's as under:

i. The sum of Rs. 2,50,852/- written off in respect of M/s. Software Algorithms (I) P. Ltd. represents advance given for purchase of export related software , which was a capital advance. Hence, write off of such capital advance cannot be allowed as revenue deduction.

ii. Deferred premium account of Rs.1,02,592 is claimed to be on account of foreign exchange fluctuation difference pertaining to FY 05-06. The said claim is not allowable as the same is prior period expenditure / charge and the assessee is following mercantile system of accounting.

iii. Service Tax credit of 04-05 amounting to Rs. 6,14,920 is claimed as deduction by the assessee. The said service tax is not paid during the year. The deduction for service tax is not allowable as per the provisions of Section 43B of the Act. The assessee has not furnished any details as to why the claim is made in the year under consideration.

iv. A sum of Rs. 28,780 is claimed as excess payment of TDS on commission . Such claim is not allowable as firstly , it is not explained as to how & why excess payment was made and secondly, the procedure for claiming refund of the excess payment, if any , could have been followed by the assessee.

v. As regards claim of Rs. 4,30,774 , the assessee has failed to demonstrate the fulfillment of conditions laid down u/s. 36(2) r.w.s. 36(1)(vii) of the Act. It is not explained by the assessee as to whether and when the relevant amounts were included in the income of the assessee company.”

The assessee did not file any comments before learned CIT(A) on these observations of the AO in remand report despite the fact that copy of the remand report was forwarded by learned CIT(A) to the assessee. The learned CIT(A) confirmed/sustained the additions as made by the AO as the assessee failed to prove that the conditions laid down u/s. 36(1)(vii) read with section 36(2) of the Act were satisfied, vide appellate order dated 31.01.2011 passed by the learned CIT(A).

20. Aggrieved by the appellate order dated 31.01.2011 passed by the learned CIT(A), the assessee filed second appeal with the Tribunal.

21. Before the Tribunal, the learned counsel for the assessee contended that the assessee could not reply before the learned CIT(A) with respect to the observations of the AO in remand report as proper and sufficient opportunity was not granted by learned CIT(A) to the assessee. The learned counsel submitted that the assessee is eligible for deduction on account of write off as it has satisfied all the requirements of Section 36(1)(vii) read with Section 36(2) of the Act and if opportunity is granted then the assessee will explain in details that the assessee duly fulfilled all the conditions stipulated u/s 36(1)(vii) read with Section 36(2) of the Act and is eligible for deduction on account of these write off of Rs.14,44,832/-. The assessee placed on record various details in paper book filed with the Tribunal which are placed at page 154-262. It was submitted before us that the AO can make necessary verifications, enquiries, examinations and investigation as may be desired by him before granting the benefit of deduction to the assessee u/s. 36(1)(vii) read with Section 36(2) of the Act. Learned DR on the other hand relied on the orders of learned CIT(A).

22. We have considered the rival contentions and perused the material on record. We have observed that the assessee has claimed deduction for write off advances to the tune of Rs.14,44,832/- which was not allowed by the authorities below as in their opinion the assessee has not complied with the requirements of Section 36(1)(vii) read with Section 36(2) of the Act. The learned CIT(A) called for remand report from the AO which was confronted to the assessee but the assessee did not submitted any explanation before the learned CIT(A) in response to remand report of the AO. It is the contention of the assessee that the assessee was not given proper and adequate opportunity by the learned CIT(A) which prevented assessee from giving reply before learned CIT(A) in response to the remand report of the AO. It is the contentions of the assessee that if the matter/ issue is set aside to the file of the AO, then the entire details will be submitted to the AO and the AO can make necessary verifications, enquiries, examination and investigation before granting the benefit of claim of deduction on account of write off advances to the tune of Rs.14,44,832/-. The assessee has placed all documents in connection thereof in paper book page 154-262. We are of the considered view that in the interest of substantial justice, this issue need to be set aside and restored to the file of the AO for de-novo examination of the issue on merits by the AO before granting deduction on account of write off of advance of Rs.14,44,832/- u/s. 36(1)(vii) read with Section 36(2) of the Act in accordance with law. We would like to clarify and place on record that we have not made any comments on the merits of the claim of the assessee for deduction on account of write off of advance of Rs.14,44,832/- u/s. 36(1)(vii) read with Section 36(2) of the Act and the AO shall adjudicate this issue on merits in accordance with law uninfluenced by observation, if any made by us on this issue of claim of deduction on account of write off of advance of Rs.14,44,832/- u/s. 36(1)(vii) read with Section 36(2) of the Act in this order. Needless to say proper and adequate opportunity of being heard shall be accorded by the AO to the assessee in accordance with principles of natural

justice in accordance with law, and all the relevant evidences and explanations submitted by the assessee to support its contentions shall be admitted by the AO and shall be adjudicated on merits in accordance with law. This disposes of ground no 3(3.1 to 3.2) raised by the assessee in the memo of appeal filed with the Tribunal. We order accordingly.

23. In the result, appeal filed by the assessee in ITA No. 2897/Mum/2011 for the assessment year 2007-08 is allowed in the manner as indicated above.

Order pronounced in the open court on 12th September, 2016.

आदेश की घोषणा खुले न्यायालय में दिनांक: 12-09-2016 को की गई ।

Sd/-
(MAHAVIR SINGH)
JUDICIAL MEMBER

sd/-
(RAMIT KOCHAR)
ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated 12-09-2016

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व.नि.स/ R.K., Ex. Sr. PS

आदेश की प्रतिलिपि अग्रहित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)- concerned, Mumbai
4. आयकर आयुक्त / CIT- Concerned, Mumbai
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai "A" Bench
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai