आयकर अपीलीय अधिकरण, मुंबई " के" खंडपीठ
Income-tax Appellate Tribunal -"K"Bench Mumbai
सर्वश्री राजेन्द्र,लेखा सदस्य एवं, शक्तिजीत डे, न्यायिक सदस्य
Before S/Shri Rajendra,Accountant Member and Saktijit Dey,Judicial Member

आयकर अपील सं/ ITA No. 1236/Mum/2010 : **निर्धारण वर्ष/Assessment Year-2005-06**
आयकर अपील सं/ ITA No.7588/Mum/2010 : **निर्धारण वर्ष/Assessment Year-2006-07**
आयकर अपील सं/ ITA No.7776/Mum/2011 : **निर्धारण वर्ष/Assessment Year-2007-08**
आयकर अपील सं/ ITA No.7488/Mum/2012 : **निर्धारण वर्ष/Assessment Year-2008-09**
आयकर अपील सं/ ITA No.1102/Mum/2014 : **निर्धारण वर्ष/Assessment Year-2009-10**
आयकर अपील सं/ ITA No.1127/Mum/2015 : **निर्धारण वर्ष/Assessment Year-2010-11**
आयकर अपील सं/ ITA No.388/Mum/2016: **निर्धारण वर्ष/Assessment Year-2011-12**

M/s. RBS Equities (India) Ltd. (Formerly known as ABN AMRO Asia Equities (India) Limited)., Level 5, 4th North Avenue, Maker Maxity,Bandra Kurla Complex, Bandra (E), Mumbai-400 051. **PAN:AAACH 1559 D**	Vs.	ACIT-Range-4(1) Mumbai.
(Appellant)		**(Respondent)**

Revenue by: Shri Shiddaramappa Kappattanvar & Sh. N K Chand
Assessee by: Shri Arvind Sonde

सुनवाई की तारीख **/ Date of Hearing: 04.10.2016 & 17.10.2016**
घोषणा की तारीख **/ Date of Pronouncement: 02.01.2017**

आयकर अधिनियम,1961 की धारा 254(1)के अन्तर्गत आदेश
Order u/s.254(1)of the Income-tax Act,1961(Act)

लेखा सदस्य, राजेन्द्र के अनुसार/ PER Rajendra A.M.-

Challenging the orders of CIT (A)-15,Mumbai and the order of the Assessing Officers (AO.s) passed in pursuance of the directions of the Dispute Resolution Panel(DRP),the assessee has filed the appeals for the above mentioned years.As most of the issues are common for all the Assessment Years(AY.s),so,for sake of convenience,we are adjudicating all the appeals by this single common order.Assessee-company is engaged in the business of broking and trading in shares.It is a licensed equity looking house registered with the Bombay Stock Exchange and National Stock Exchange.Its customers comprise of Foreign Institutional Investors(FII.s) including its Associated Enterprises(AE.s),Domestic Financial Institutions (FI.s), banks etc.The details of filing of returns,returned incomes,assessment dates, assessed incomes etc.can be summarised as under:

AY.	ROI filed on	Returned income	143(3) order-date	Assessed income	CIT/DRP order/directions
2005-06	29/10/2005	35,12,90,600/-	19/12/2008	42,08,80, 660/-	01.12.2009-CIT(A)
2006-07	27/11/2006	65,03,62,730/-	24/09/2010	70,25,70,740/-	18/08/2010-DRP
2007-08	06/11/2007	80,60,32,675/-	23/09/2011	93,66,03,400	16.08.2011-DRP-II

2008-09	30/09/2008	124,20,29,550/-	22/10/2012	158,91,41,710/-	25/09/2012-DRP-1
2009-10	29/09/2009	165,16,97,000/-	21/01/2014	204,70,38,580/-	27/12/2013-DRP-II
2010-11	08/10/2010	1,30,85,54,912/-	29/12/2014	1,44,05,01,100/-	14/11/2014-DRP-II
2011-12	28/11/2011	1,70,85,81,617/-	27/11/2015	1,85,03,85,390/-	15/10/2015-DRP-II

2.Adjustments made by the Transfer Pricing Officers(TPO.s)/AO.s,can be tabulated as under:

AY.	Adjustments made by the AO.s
2005-06	Rs.5.88 Crores.
2006-07	Rs.3.78Crores
2007-08	Rs.12.77 Crores
2008-09	Rs.8.51 Crores + Rs.26.18 crores taken as Nil
2009-10	*Rs.2.31 crores + Rs.17.92 crores taken as Nil*
2010-11	Rs.1.17 Crores+ Rs.11.18 Crores taken as Nil
2011-12	*Rs.13.36 Crores*

3.Effective ground of appeal,in all the AY.s.is Transfer pricing(TP)adjustments.International Transactions(IT.s)entered in to by the assessee with its Associated Entities(AE.s)included services provided to them under the head Clearing House(CH)trades.For the AY.s 2008-09 to 2011-12 it had availed Marketing and Research services form the AE namely ABN Amro Bank NV,Hongkong(Amro-H)and value of such services is the issue,that has been raised in those years.There are certain other grounds also in all AY.s.

ITA/1236/Mum/2010-AY.2005-06:

4.During the course of hearing,the Authorised Representative(AR)stated that the assessee was not interested in pursuing Grounds no.1 to 4.1,that ground no.7 stands decided against it,that GOA 8 was a general ground.We dismiss all the above grounds,treating them as not pressed.

5.First effective ground is about Transfer Pricing(TP)adjustment.To determine the Arm's Length Price(ALP) of the IT.s.,the assessee had adopted TNMM as most appropriate method(MAM).It was argued that the Net profit Margin(NMP)earned by it 63.73%,as compared to weighted average NMP of 26.15% earned by the independent comparables,that the margin earned by the assessee was higher as compared to the comparable companies and that same was at arm's length.Without prejudice to the above contention,it was argued that if (Comparable Uncontrolled Price)CUP was to be adopted MAM certain factors had to be considered,that there were differences in functions performed and risks assumed in respect of trade executed by the assessee for the AE.s vis a vis third parties, that the rate charged by it to third party client was not appro - priate brokerage rate to benchmark the transactions of brokerage rates charged to AE.s,that the

AE had availed execution only services,that the services availed by the AE.s from the assessee and the services availed by the AE from the Indian third party brokers were identical,that those rates provided the most appropriate comparable for applying the CUP method,that the data pertaining to brokerage charged by third party brokers to the AE was available from the AY. 2005-06 onwards,that for the purpose of computing the ALP arithmetic mean of all transaction should be considered and not the arithmetic mean of averages,that the arithmetic mean of the transactions was considered by the Transfer Pricing officer(TPO)for the AY.2004-05,that adjustments relating to marketing-cost, research-cost and volume adjustment should be made for the difference in the rates charged by the assessee to its AE.s and third parties,that the TPO had accepted that marketing adjustment should be provided while determining the ALP during the earlier years,that the turnover of the transactions entered into with the AE.s was significant,that an appropriate volume adjustment should be allowed, that criteria adopted to determine the ALP for the AY.2004-05 should be followed.

5.1. The TPO,while completing the TP proceedings,held that CUP was the appropriate method for determining ALP of the IT.s entered in to by the assessee,that multiple year data could not be used for computing the operating margin earned by the comparables,that top ten FII.s were to considered for benchmarking the IT.s for the CH trades,the assessee had failed to bring any evidence on record which could prove that broking services rendered by the unrelated Indian brokers to the AE were same as equity broking services rendered by it to its AE.s.,that difference in volume or other factors could not have any impact on the brokerage rates charged to different clients, that the assessee had not substantiated the fact that it was rendering 'Execution Only Broking Services'(EOBS)to its AE.s,that to other clients it was offering 'Full Broking Services' (FBS),that it had not provided any evidence in that regard.

5.2. Aggrieved by the orders of the AO.s,the assessee preferred appeals before the First Appellate Authority(FAA).Before him,it objected to the selection of MAM and working of adjustments. Alternatively,it was argued that if CUP was to be adopted as MAM certain adjustments had to be allowed.It was also contended that the assessee was providing EOBS to its AE.s,that to others it was offering FBS,that adjustment on account of marketing and sales expenses should be allowed, that adjustment should be allowed for volume of the business with AE(especially with the Mauritius AE),as well as for research activities,that the TPO had not followed his order for the

AY.2004-05,that the assessee did not file any appeal against the order for that AY.and had accepted the adjustments,that the facts for both the years were same,that in that year the TPO had made adjustment to ALP after considering the combined average of brokerage rate charged by the assessee to top-10 FIIs and the brokerage rates charged by independent third party brokers to AE.s,that the same TPO had changed his approach while examining the matter for the year under consideration, that while allowing adjustment under the head marketing and sales expenses the TPO had not followed a consistent policy.

5.3. After considering the submissions of the assessee and the orders of the TPO/AO,the FAA held that CUP was the traditional method and was more reliable then that TNMM,that the assessee had advanced the argument of incorporating some sort of an external CUP while determining the ALP,that once the internal CUP was available there was no reason to examine the brokerage rates charged by independent third party brokers to its AE.s,that the resultant combined average would dilute the benchmarking exercise and determination of ALP,that except for the AY.2004-05 for which the appellant did not prefer an appeal the TPO had taken a consistent stand,that the approach adopted by the TPO for the AY.2003-04 had to be followed, that the taxpayer had entered into transaction with unrelated parties where the services/products were that of CH trades,that all of them were FIIs and that they were similarly placed, that the AE and the other FIIs were situated in Mauritius,that the quality of the product/services were comparable as it related to homogeneous CH trades,that there was nothing on record to suggest that contract returns were different when the assessee dealt with the other FIIs,that the level of market was also same,that the transactions were in the same financial year,that the geographical market was identical,that there was a very high level of compatibility in respect of the in-house trade transactions undertaken by the assessee with its AE.s as well is the FII.s

5.3.1. The FAA rejected the request made by the assessee for volume adjustment as well is for research adjustment.With regard to marketing and sales adjustment,the FAA held that the assessee had calculated the marketing adjustment at the rate of 0.03%, that TPO had granted adjustment in respect of marketing function at 0.02%,that the assessee had objected to the not providing any reasons by the TPO for considering combine AE and non-AE trades,that there was no evidence about incurring of marketing cost of Rs. 4.83 Crores only for the third-party

clients,that it did not provide details of the employees exclusively engaged in marketing and sales of third parties.

6.Before us,the AR argued that the assessee had margin of 63% as per the TNMM method,that the updated margin for the year was 24.87%, that there was no justification in rejecting TNMM and adopting CUP,that the assessee was charging very low brokerage from its AE,that the TPO had himself had admitted that the assessee was in execution only services,that he had not brought the relevant facts on record, that as per the letters of third parties the assessee was providing all the services to them,that the assessee had worked out an adjustment of 0.05% under the head research,that the FAA rejected the claim made by the assessee holding that it was not probable that the assessee would risk the profit of its AE without undertaking any in-depth research about the sector,their earnings, historic price and the volume, that the TPO had arranged the arithmetic mean in a peculiar way,that only arithmetic mean of transactions should have been taken for determining the ALP,that he had wrongly selected TOP FII.s for benchmarking, that he had taken the arithmetic mean of top ten FII.s, that while completing the order for the AY.2004-05 identical issue was decided by the TPO,that he had not given any reason for departing from the stand taken for that year.

With regard to marketing adjustments,he argued that the dispute was about the denominator,that marketing expenditure was incurred for non-AE.s only,that the TPO decided that it should be considered for non AE.s as well as for the AE.s,that the approach adopted by TPO was incorrect, that the assessee was not giving any research services to the AE,that the TPO had not allowed adjustment for volume.He referred to page no. 146, 208,416,431,432 545, 549, 657 and 658 of the Paper Book.

The Departmental Representative(DR)contended that the TPO had rightly preferred CUP over TNMM as appropriate method,that the TPO had not accepted the fact that the assessee was in the field of execution only,that there was no evidence to show that the assessee was not render - ing research based services to the AE,that big groups would have to maintain centralised and research analysis establishment,that the assessee was artificially differentiating between FSB and EOBS,that it was rendering all the services to all its clients,it had not furnished the evidence as to what services were rendered to AE.s and non AE.s,that there was no need for allowing adjust - ment on account of volume,that there was no prior agreement with the AE about minimum

volume,that the TPO had rightly selected internal third party compa -rables,that he was justified in rejecting the FI as comparables,that Indian comparables had not to bear the foreign exchange difference, that except for the AY.2004-05 the TPO had taken a consistent view with regard to the comparables,that benchmarking adopted by him in the AY.2004-05 was not accordance with the provisions of section 92C of the Act.

7.We have heard the rival submissions and perused the material before us.We find that the TPO made an adjustment of Rs. 5.88 crores to the brokerage income on the premise that brokerage rates charged by the assessee to its AE was lower than the brokerage rate charged by it to FII.s, that the assessee had argued that TNMM was the MAM for the purposes of determining the ALP,that in case CUP was selected for benchmarking its CH trades the rate of brokerage paid by the AE to the unrelated brokers in India should be considered as CUP and that there was dissimilarity of services rendered by the assessee to its AE.s and the non-AE.s. In short the argument of the assessee was that services rendered by a unrelated brokers in India had to be considered as CUP. However,the FAA held that the arm's length rate of brokerage should be the CUP rate obtainable in the case of top 10 FII non-AE.s to whom equity broking services were rendered by the assessee.He also rejected the submission made by the assessee with regard to difference in volume and research cost.In our opinion we have to decide the basic two issue as to what should be the MAM for determining the ALP and secondly which adjustments should be allowed to the assessee.Issues related with adjustments,like adopting arithmetic mean,have also to be decided.

7.1. We find that the issue of adopting MAM(TNMM/CUP)for determining ALP of the IT.s,was decided by us,while adjudicating the appeal for the AY.2003-04 (ITA.No./3077/Mum/2009,dated 14/12/2016),as under:

> *"**6.2.**Coming to the issue of MAM to be adopted for benchmarking, we would like to state that TNMM requires establishing comparability at a broad functional level.The net profit margin realised by an AE is compared with net profit margin of the uncontrolled transactions to arrive at the ALP.The TNMM is quite similar to RPM and CPM to the extent that it involves comparison of margin earned in a controlled situation with margins earned from comparable uncontrolled situation.The only difference is that,in the RPM and CPM methods,comparison is of margins of gross profits and whereas in TNMM the comparison is on margins of net profit.*
> *CUP method is considered the most direct method for determining the ALP.Under this method, the price at which controlled transaction is carried out is compared to the price obtained in comparable uncontrolled transaction.An uncontrolled price is the price agreed between unconnec - ted parties for the transfer of goods or services.CUP can be internal or external.Under this method the properties of a product and accompanying circumstances and conditions have to be evaluated*

for comparison.Even a minor change in the properties of the products/ nature of services, circumstances of trade can affect the whole exercise.Product/service comparability is the absolutely key. Pricing of a product/service is a very subjective exercise and is true value, as received by the receiver,can differ from that received by others in the market place.CUP method requires a high degree of comparability along with the quality of the product or service, contractual terms,level of market, geographical market in which the transaction takes place,date of transaction,intangible property associated with the sale etc.Thus,it is clear that,broader business functions,and not just the product/service comparability have to be considered in CUP method.Not only this,the TPO has to take in to consideration the differences into account and examine as to whether these differences could be ironed out by way of making permissible adjustments for achieving comparability.

6.2.1.*We find that for the year under appeal the TPO had used the data available in the TP study report of the assessee,that he selected ten FII.s who had entered in to CH transactions with it,that there was high degree of comparability between the functions performed by the comparables and assessee.He took in to consideration factors like year of the business transactions, geographical location of the country where both of them had carried out business-they all were based in Mauritius and had availed services of the assessee in India.The assessee had not pointed out the factors would justify for not relying upon the data of the FII.s.If the terms and conditions of CH trade for the assessee and the FII.s were same then there was no justification for adopting any other method.It is not the case of the assessee that the AE was provided certain exclusive services that required use of intangible assets and thus the comparison got vitiated. Foreign exchange risk are similar for the AE and the other FII.s.In short,there was a high level of comparability in the exercise done by the TPO to adopt CUP as MAM.*

In the case before us,the TPO had allowed the assessee adjustment towards sales and marketing expenses while applying CUP method,though the assessee is not satisfied with the percentage of adjustment and not considering the claim for volume adjustment.But,these are procedural aspects-basic fact is selection of MAM.In our opinion,considering the facts of the case,CUP was more suitable method to determine the ALP of the IT.s.,for the year under consideration. So, confirming the order of the FAA,we hold that preference given by the TPO to CUP over TNMM was based on valid reasons and it does not require any interference from our side."

We also find that in the subsequent years the assessee itself at applied CUP for determining the ALP of the IT.s entered into by it with its AE.s.No reason was given by the assessee to switch over the method.Considering the above we hold that the FAA had rightly held that CUP was the appropriate method for the year under consideration to determine the fair market value of the transactions.

7.2. As far as issues of computing the denominator for computing the adjustment,adopting arithm -etic mean,volume adjustments are concerned,we would like to mention that identical issues

were decided by us,while deciding the appeal for the AY.2003-04(supra) in following manner:

*"**6.4.*** *XXXXXX*

But,we find merit in the argument of the assessee that only arithmetic mean and not the 'arithmetic mean of weighted average'should be considered to benchmark and determine the ALP.Proviso to section 92C(2)of the Act also approves the use of arithmetic mean for the purposes of benchmarking and determining the ALP an IT.Therefore,we direct the TPO/AO and rework the adjustment considering the arithmetic mean of the brokerage paid by TOP ten FII.s for the year under appeal.

6.5.*Now,we would like to deal with issue of adjustments to be made to'eliminate the material effects' in TP exercise.The assessee is not satisfied with the adjustment allowed to it under the head sales and marketing expenditure.It has also agitated the issue of not allowing the volume adjustment.We find that the assessee stated that it was entitled to an adjustment of 0.67% marketing and sales efforts as against the 0.48% allowed by the TPO,that the marketing cost of Rs.2.83 crores comprised of salary and related costs of two employees,that the role of those employees was restricted to Non-AE.s only.But it is found that the assessee had not produced the qualification,employment-contract details of those employees and the terms of engagement to establish the claim made by it about rendering of services by them to Non-AE client only.The TPO had reduced the adjustment by a small margin only.In absence of full details reduction made by him is held to be justifiable.It is not a case of non granting deduction at all.So,we uphold the order of the FAA.*

6.5.1.*However,we agree with the assessee that in the denominator only non-AE trades should be considered,as considered in the order of the TPO for the AY.2006-07.TPO/AO is directed to rework the denominator for the year under appeal."*

6.6.*With regard to volume adjustment,we want to mention that the assessee had generated a volume of 42.7% of the total turnover from its AE.s,that the revenue earned by it from its Mauritius-AE was 35% of the total revenue,that it had sought an adjustment of 0.42% on account of volume, that the FAA rejected the claim made by it.Here,one thing is noticeable that no evidence was produced by the assessee before the Revenue authorities or us to prove that there were some agreement that could prove committed volumes between the Mauritian AE and the assessee.It is not a rule that customer giving business of higher volume are invariably allowed some concessions. Rebates/commissions/privileges are subject to understanding between the parties.Such concessions are always graded.But,same are based on some formula.Basis for claiming 0.42% adjustment is not known.It is hard to believe that being the very first year,the assessee would have not entered in to some kind of agreement with the AE to allow it commission for higher volume.We cannot forget the year under appeal was the period when Indian share market was booming and was fast emerging as new destination for investment.Just because the Mauritian AE had given it business of 35% of the total business no adjustment can be allowed without some kind of document/agreement proving such understanding. Besides, volume adjustment can be allowed to ensure loyalty of the customer.In the case under considera -tion buyer is the AE of the assessee,so,loyalty was assured.A perusal of the records reveal that brokerages rate charged from the top ten FII.s varied from 0.17% to 0.50%, that the assessee had charged 0.17% brokers from the client with whom it had the minimum turnover.As per the established business norms, rate of brokerage rate would be higher for smaller turnover.But,the assessee has not followed the said general rule.Thus,there is no evidence to prove that it was following any fixed pattern about allowing volume discount with its clients.We agree with the FAA that it goes against the normal human behavior that an Mauritian-AE would negotiate a volume discount/adjustment when it earning making tax-free income in Mauritius from the Indian stock markets.Definitely,it had would have been allowed had it been documented by the parties.So,we affirm the decision of the FAA that the assessee should not be allowed any volume discount."*

7.2.1. Following the above,we direct the TPO/AO to rework the adjustment considering the arithmetic mean of the brokerage paid by the FII.s for the year under appeal.

Here,we would also like to tabulate the different approaches for calculating arithmetic mean followed by the TPO in the case of the assessee in from AY.2003-04 to 2011-12:

SN.	AY.	Approach for calculating Arithmetic Mean	Comparable transaction considered by the TPO
1.	2003-04	Arithmetic Mean of Averages	Top 10 FIIs
2.	2004-05	Arithmetic Mean of transactions	Brokerage charged by the Appellant to top 10 FIIs and Brokerage charged by third party Indian brokers to AEs.
3.	2005-06	Arithmetic Mean of transactions	Top 10 FIIs
4.	2006-07	Arithmetic Mean of transactions	Top 10 FIIs
5.	2007-08	Arithmetic Mean of Averages	Top 19 FIIs
6.	2008-09	Arithmetic Mean of Averages	Top 17 FIIs
7.	2009-10	Arithmetic Mean of Averages	Top 15 FIIs
8.	2010-11	Arithmetic Mean of Averages	Top 15 FIIs

From the above chart,it is clear that the AO was inconsistent in calculating the arithmetic mean while determining the ALP.We are unable to understand the logic behind changing the method when all the factors affecting the ALP were identical in the above mentioned years.We agree that the AO is empowered to take a different view from the earlier years in the subsequent assessment years.But, he has to mention the reasons for not following the decision of the earlier year.In the cases under consideration we do not find any reasons as to why he adopted different methods. Provisions of section 92 are not at all ambiguous-they stipulate that arithmetic mean has to be considered for determining ALP of the IT.s.Therefore,we direct him that 'arithmetic mean of weighted average'should not be considered to benchmark and determine the ALP.In short,no other formula other than arithmetic mean of the transactions should be followed.

7.2.2. Similarly,with regard to the denominator of marketing and sales adjustment,we direct that while considering the denominator only non-AE trades should be considered,as considered in the order of the TPO for the AY.2006-07.

7.2.3. We find that no evidence was produced before the AO/FAA to prove that expenditure incurred under the heads marketing and sales was only for the third-party clients and that the employees of the assessee did not interact with the AE.s, that there is no evidence of furnishing of details like qualification and terms of engagement of the employees who handled the marketing and sales of the assessee for the year under consideration.In absence of any details,we

are of the opinion that there is no need to disturb the order of the FAA with regard to marketing and sales adjustment.We have held that while calculating the denominator a uniform policy should be followed for all the AY.s.-only non-AE trades should be considered for the denomina -tor.In some of the AY.s.the TPO/AO has not followed the said principle.We direct the AO to follow our order for the AY.2003-04 for all the AY.s.,including the present AY.

The issue of providing EOSB and FBS to the AE.s and the non-AE.s respectively was also consi -dered by us while deciding the appeal for the AY.2003.04.The relevant portion of the order reads as follow:

> *"**6.7.**Lastly we would like to deliberate upon the additional ground raised by the assessee before the FAA.The assessee has claimed,before him,that it was offering EOSB services to its AE and to the Non-AE it was rendering FBS and the FAA had rejected the claim made by it.We are of the opinion that as per the provisions of section 92 of the Act,the onus is on the assessee to prove the claim made by it about the ALP of the IT.s.It is duty of the claimant to prove,with some cogent evidence,that statement made by it about a particular fact is correct and not merely an assertion.Evidences speak for themselves.Same could be in form of confirmations/letteres/ agreements/e-mails etc.But,they should primarily prove the existence of certain facts.It is true that in the proceedings under the Act strict rules of the Evidence Act are not applicable.But,it does not mean that a claim made by the assessee/AO should be accepted without verifying the veracity of such a claim.In short,claims made by a person(Assessee/AO)have to be corroborated by some kind of evidences/(s).Nothing has been brought on record that during the year under consideration the assessee had provided EOSB to its AE.For the first time before the FAA,the assessee had raised the issue of providing EOSB to its AE.He did not advance the said arguments before the TPO or AO.We know that there is no bar in raising a new issue or new stand in appellate proceedings.But,same was not accompanied by any document.The sum and substance of the argument of the assessee is that the Non-AE.s were provided services that were research based,whereas for the AE it was just executing the orders.We are not able to persuade ourselves to agree to the proposition advanced by the assessee.No prudent person will abide by the advice given to it that is not based on research and analysis and that especially in the field of purchase and sell of equities.The volatile nature of share market is such that no one would like to invest in it until and unless scientifically analysed data is made available to it.Secondly,the amount involved is not a few hundred or thousands rupees only.The transactions with the AE are huge-more than 40% of the total business carried out by the assessee for the year under consideration was from the AE.It goes against the normal human nature that for such a valuable customer any businessman will give advice without making sound research about the equities to be purchased or sold.If the assessee had simply bought and disposed off the shares as per the instructions of the AE,then the charges for rendering such services should have been very meager.Besides,why the AE would prefer to the abide by advice that is not based on research and analysis rather than take an informed decision.All these surrounding circumstances are preventing us to accept the argument that the assessee was providing execution only services to the AE.One more thing to be remembered here is that the year under consideration is one of the initial years when the assessee had started providing investment advices to its client,including its AE.For establishing itself in the competitive market of equities all the players would concentrate on market research and data analysis.Though the details of transactions entered in to by the AE with the parties,other than the assessee,for purchasing/selling equities for the year under consideration are not available. Otherwise,it would have given a fare idea about the services availed by it from the India based investor advisors.No*

correspondence has been produced before us that could prove that there was difference between the services rendered by the assessee to its AE.s and non-AE.s.We are not commenting upon the papers submitted by it for the subsequent AY.s.We would consider them while deciding the appeals for those years.Therefore,we confirm the order of the FAA in that regard and hold that there is no evidence to prove that the AE was provided execution only services for the year under appeal."

We have also perused the documents relied upon by the assessee i.e. pages 146, 208,416,431,432 545,549,657 and 658 of the paper book.In our opinion none of these documents prove that the assessee was rendering EOBS to the AE and FBS to non-AE.s.While deciding the appeal for the AY.2003-04,we have discussed the issue at length and have held as under:

"We are not able to persuade ourselves to agree to the proposition advanced by the assessee.No prudent person will abide by the advice given to it that is not based on research and analysis and that especially in the field of purchase and sell of equities.The volatile nature of share market is such that no one would like to invest in it until and unless scientifically analysed data is made available to it.Secondly,the amount involved is not a few hundred or thousands rupees only.The transactions with the AE are huge-more than 40% of the total business carried out by the assessee for the year under consideration was from the AE.It goes against the normal human nature that for such a valuable customer any businessman will give advice without making sound research about the equities to be purchased or sold.If the assessee had simply bought and disposed off the shares as per the instructions of the AE,then the charges for rendering such services should have been very meager.Besides,why the AE would prefer to the abide by advice that is not based on research and analysis rather than take an informed decision.All these surrounding circumstances are preventing us to accept the argument that the assessee was providing execution only services to the AE……."

Following our order for that AY. and considering the facts of the present AY.,we hold that the FAA had rightly held that the assessee was offering FBS to the AE as well the non AE clients. First effective ground is partly allowed..

8.Second ground of appeal is about disallowance made u/s.14 A of the Act.During the assess - ment proceedings,the AO found that the assessee had made investment in shares.He held that investment could give rise to tax free dividend income,that it had not allocated any expenditure incurred by it towards earning of tax exempt dividend.He asked the assessee to explain as to why disallowance u/s.14A should not be made.In its reply dt.3.12.2008 the assessee submitted that it had not earned any exempt income during the year under appeal, that it had neither incurred any expenditure not borrowed any funds which could be identified as towards purchasing of shares. However,the AO made a disallowance of Rs.72,116/- on account of interest paid and out of administrative expenses.Though the assessee agitated the issue before the FAA,but,he did not adjudicate it.

8.1.Before us,the AR reiterated the submissions that were made before the AO.The DR left the issue to the discretion of the Bench.We find that the AO himself had admitted that the assessee had not received dividend income during the year under consideration.Applying the provision of Rule 8D of the Income tax Rule,1962(Rules),he made the disallowance.In our opinion,the appli - cation of Rule 8D for the year under consideration was not as per the provisions of the law. Besides,no disallowance can be made u/s.14A Act also,if the assessee the has not claimed any expenditure.We find that neither exempt income was earned by the assessee nor any expenditure was claimed against it during the year under appeal.Therefore,we delete the addition made by the AO.Ground No.2 is decided in favour of the assessee.

Last ground of appeal,dealing with levy of interest u/s.234 D of the Act,is consequential in nature,hence,is not being adjudicated.

ITA/7588/Mum/2010,AY.2006-07:

9.First effective ground of appeal is about TP adjustment of Rs.3.78 Crores.The assessee adopted CUP as MAM for determining the ALP of the IT.s entered into it with AE.s.During the year,the total value of IT.s amounted to Rs.13,09,95,829/- and the assessee had showed brokers rate @ 0. 17 bps,but,TPO arrived at brokerage rate of 0.22%. He further held that the assessee had failed to establish the similarity of functions between the services rendered by it and the unrelated brokers in India to substantiate its argument in that regard, that the assessee had failed to establish that various factors like difference in volume/marketing and sales expenditure had any bearing with regard to chargeability of brokerage,that the risk profile of the unrelated brokers who were rendering broking services to the AE had not been brought on record so as to enable it to use as CUP for benchmarking the transaction of the assessee with the AE on the basis of CUP method, that the rate of brokerage obtainable in the case of non-AE in India could not be accepted as CUP rate for benchmarking the transaction, that arm's length rate of brokerage should be the CUP rate obtainable in case of top-10 FII non-AE.s to whom equity broking services were rendered by the assessee.He finally made an adjustment of Rs.3,78,35,704/-.

9.1. The AO,following the order of the TPO,forwarded a draft order to the assessee.Aggrieved by the draft order of the AO,it filed objections before the DRP.After considering the draft order of the AO and submission of the assessee,the DRP upheld the order of the TPO/AO and stated that he had correctly disregarded the plea of the volume adjustment and the adjustment pertaining to

research function undertaken by the assessee,that it could not be said that research function was performed only in relation to non-AE segment of the business.

9.2. Before us,the AR argued that the DRP was not justified in holding that the assessee had failed to establish that it was rending EOBS to the AE.s and FBS to other clients,that there was no basis for upholding the proposal of the TPO to arbitrarily compare the IT.s of the assessee with top 19 FII.s,without carrying out the mandatory functions,assets and risk analysis,that the DRP had approved the adoption of simple average of brokerage rates charged by the assessee to the FII.sfor determining the arm's length brokerage rate instead of the weighted average brokerage rate,that the order of the TPO for the AY.2004-05 was not followed by the TPO,that principles of consistency were not adhered to,that volume,marketing & research and advisory costs should be duly factored.The DR advanced the arguments that were made for the earlier AY.s.

9.3. We have perused the available material.While deciding the appeals for the earlier years we have dealt with the identical issues.We direct the TPO/AO follow our instruction with regard to arithmetic mean(paragraph 7.2.1 of our order for the earlier AY.).It is found that during the year the TPO had adopted the correct denominator about the marketing and sales adjustment.No interference is required from our side in that regard.Following our order for the AY.2005-06,we hold that there is no evidence to prove that the assessee was rendering execution only services to the AE and FBS to non-AE.s.

10. Second ground of appeal is about disallowance made u/s.14A of the Act,amounting to Rs. 1.94lakhs.The AR did not press it considering the smallness of tax effect.So,same stands dismissed as not pressed.

11. Third ground of appeal is about addition made by the AO in respect of Vsat/leased line and transaction charges aggregating Rs.2,01,41,77,903/-.During the assessment proceedings,the AO found that the assessee had debited and amount of Rs.1.14 Crores under the head leased line charges and Vsat charges, that the said transaction charges were payable to the stock exchange on account of services provided by it with regard to the transaction and securities through the exchange.

11.1. During the course of hearing before us,representatives of both the sides agreed that issue stands decided by the judgment of the Hon'ble Supreme Court, delivered in the case of Kotak Securities Ltd.(383ITR1).We would like to reproduce the relevant portion of the order and it reads as under:

> "*Managerial and consultancy services" and, therefore, necessarily "technical services", in Explanation 2 to section 9(1)(vii) of the Income-tax Act, 1961 would obviously involve services rendered by human effort. This has been the consistent view taken by the courts. However, in view of modern day scientific and technological developments which may tend to blur the specific human element in an otherwise fully automated process by which such services may be provided a more effective basis must be found for determining whether services are technical services.*
>
> *'Technical services" like "managerial and consultancy service" would denote seeking services to cater to the special needs of the consumer as may be felt necessary and the service provider making them available. It is this feature that would distinguish a service provided from a facility offered. While the former is special and exclusive to the seeker of the service, the latter, even if termed a service, is available to all and would therefore stand out in distinction to the former.*
>
> *….. that there was nothing special, exclusive or customised service that was rendered by the stock exchange.The service provided by the stock exchange for which transaction charges were paid failed to satisfy the test of specialised, exclusive and individual requirement of the user or consumer who may approach the service provider for such assistance or service. It was only service of the above kind that, should come within the ambit of the expression "technical services" appearing in Explanation 2 to section 9(1)(vii) of the Act. In the absence of the distinguishing feature, service, though rendered, would be merely in the nature of a facility offered or available which would not be covered by the provision of the Act. Moreover, the service made available by the Bombay stock exchange on line trading system for which the charges in question had been paid by the assessee were common services that every member of the stock exchange was necessarily required to avail of to carry out trading in securities in the stock exchange. A member who wanted to conduct his daily business in the stock exchange had no option but to avail of such services.The services provided by the stock exchange would be a kind of a facility provided by the stock exchange for transacting business rather than a technical service provided to one or a section of the members of the stock exchange to deal with special situations faced by such a member or the special needs of such member in the conduct of business in the stock exchange. In other words, there was no exclusivity to the services rendered by the stock exchange. Such services, therefore, would undoubtedly be appropriate to be termed as facilities provided by the stock exchange on payment and would not amount to "technical services" provided by the stock exchange, not being services specifically sought by the user or the consumer. The transaction charges paid to the Bombay stock exchange by its members were not for" technical services" but in the nature of payments made for facilities provided by the stock exchange. No tax on such payments would, therefore, be deductible under section 194J of the Act."*

In the case of Angel Capital & Debit Market Ltd. (Income-tax Appeal (L)No.475 of 2011,dated 28/02/2011),the Hon'ble Bombay High Court has held that Vsat and leased line charges paid by the assessee to stock exchange were merely reimbursement of charges paid/payable by the stock

exchange to the Department of telecommunication,that the charges did not have any element of income,that there was no justification for deducting tax while making such payments.Consider - ing the above,we decide third ground of appeal in favour of the assessee.

ITA/7776/Mum/2011,AY.2007-08:

First effective ground of appeal for the year under consideration is TP adjustment made by the TPO/AO.We find that the assessee had adopted CUP as MAM for determining the ALP of IT.s for the year under appeal.Ground raised by the assessee are identical to the grounds raised by it for the earlier AY.,the only difference is of the amount involved.Following our order for the AY. 2006-07,we partly allow the first effective ground of appeal in favour of the assessee,in part. The AO would follow our instructions with regard to arithmetic mean and denominator of marketing and sales adjustment(paragraph 7.2.1.&7.2.2),if applicable.

12. Second ground of appeal,deals with disallowance made u/s.14A of the Act,was not pressed during the coursing of hearing before us,considering the smallness of the tax effect(Rs.3,650/-. Hence,same stands dismissed.

13. Third ground is about disallowance of Vsat/Leased line charges and NSE processing charges. Following our order for the earlier year(paragraph no.11.1),we decide ground no.3 in favour of the assessee.

ITA/7488/Mum/2012,AY.2008-09:

14. First effective ground of appeal deals with TP adjustments with regard to services rendered by the assessee to its AE.s for broking services.As the facts and circumstances of the case are identical to the facts of earlier year,so,following the orders of those years,we decide the first effective ground of appeal in favour of the assessee,in part.The AO would follow our instructions with regard to arithmetic mean and denominator of marketing and sales adjustment(paragraph 7.2.1.&7.2.2),if applicable.

15. Second effective ground of appeal pertains to the TP adjustment made by the TPO/AO with regard to services availed by the assessee from its AE.During the year under consideration,the assessee availed Marketing Support Services (MSS)and Research Support Services (RSS) from its AE.s for which it paid Rs.26.18 Crores.Vide its letter,dated 16/09/2011,the TPO asked the

assessee to file details about the said transaction. In its reply,dated 03/10/2011,the assessee stated that an amount of Rs. 26,18,92,339/-was paid to ABN Amro Hong Kong Centre(Amro-H) to support and grow its equity business not only at India level but also at global level, that the Asian equities business was claimed to be organised on an integrated basis with certain activities concerned in Hong Kong,that the Hong Kong Centre was a centre of expertise and product knowledge and home to largest team of research and marketing.It provided details of marketing and research services.With regard to basis of charging of marketing and research services rendered by the AE,the assessee stated that the AE had charged the salary (including bonus) cost of the employees engaged in providing marketing services based on the time spent by them in providing the services to the assessee plus an arm's length markup of 20%, that for provision of research services,the AE had allocated the direct and indirect expenses incurred by it based on the revenue's attributable to the assessee from its equity business plus an arm's length markup of 10% on the same.The TPO called for further clarifications about non-deduction of TDS on payment made for marketing and research support services as well as applicability of Tax-treaty.Vide its letters dated 10/10/2011 and 17/10/2011,the assessee made details submissions on both the issues.

15.1. After considering same,the TPO held that the assessee was not required to avail services from its AE, that the assessee had its own marketing and research set up,that the benefit received by the assessee had not been quantified,that there was no connection between the additional sales being obtained as a result of these payments, that there was no agreement in place for payment by the assessee,that no tax was deducted at source,that the amount remained unpaid during the course of the year, that the Hong Kong entity and the assessee entered into an agreement in the month of June, 2010,that out of the total expenditure reported by the assessee at Rs.84.13 Crores Rs. 26.19 Crores was expenditure relating to services availed from AE under the head marketing and research, that in the earlier years such payments were not made, that the assessee did not bifurcated amounts payable for two different services i.e. marketing and research, that the markup charged was also different,that even then services were not recorded separately in the books of accounts,that same were clubbed under the same head in the accounts,that in a third-party situation(akin to CUP)such services would not have entailed any cost, that ALP of transaction shown under the head marketing and research services at Rs. 26.18 crores was to be taken at NIL.

15.2. Before the DRP,the assessee argued that it had conducted and submitted a detailed FAR analysis about the transactions, that it had appropriately benchmark the IT.s pertaining to payment for marketing support services and research support services to its AE,that the TPO had disregarded the detailed and methodical economic analysis conducted by the assessee for benchmarking the transaction,that he completely disregarded the evidence produced by it to support its claim, that the evidences clearly showed that it had received the marketing support services and research support services, that he had incorrectly held that there was no benefit from the services availed by it without giving any basis for the same.

15.2.1. After considering the order of the TPO/AO and the submission of the assessee, the DRP held that in the case under consideration arm's length principles have to be applied to see as to whether the charges paid by the assessee for intra group services(IGS)would be paid by independent parties dealing at arm's length for comparable services under comparable circumstances .It further held that an arm's length entity would be willing to pay for an activity only to the extent that the activity would confer on it benefit of economic or commercial value, that the expected benefit must be sufficiently direct and substantial so that an independent recipient,in similar circumstances would be prepared to pay for it,that if no benefits had been provided was expected to be provided the services would not be charged for,that the taxpayer had to prove that services were rendered, that the second aspect of IGS was the quantification of such services in terms of actual expenditure incurred and commensurate benefits derived there -from,that the expected benefit must be sufficiently direct and substantial,that the assessee should furnish documents and evidences to show that services were actually rendered by the AE, that services availed were in nature of stewardship activities or shareholder activities were not to be charged by the AE.s,that the CUP was the most appropriate method for determining the ALP of IGS, that the assessee had not been able to discharge its burden of proving that services were actually rendered by its AE, that by merely describing the activities ought to have been performed by the AE or submitting some emails or travel program details the assessee could not claim that it had actually avail the services from the AE,that no agreement was produced by the assessee in that regard,that the amount shown due on the last day of financial year and had been worked on adhoc/estimated basis, that the booking of the expenditure was an afterthought to minimise the tax liability,that the AO/TPO had rightly held that is that no services were rendered by the AE and that determina -tion of ALP at nil was fully justified.

15.3. Before us,the AR argued that the assessee had adopted TNMM for determining ALP of MSS,that NCP margin earned by the AE was 20% as compared to NCP of 31.22% on by independent comparable companies,that the NCP margin in case of the AE was 10% for RSS as compared to NCP of 18.77% of the independent comparables,that the margins earned by the AE were lower for both the services,that the assessee had rightly held that transactions were at arm's length, that between the assessee and a for availing the services were rendered before the revenue authorities, that it had furnished the sample copies of identity of marketing personal of the AE participating in the road shows/conferences and meetings, that details of time spent by various employees on marketing of India cash equities by the employees of the AE were also furnished.He relied upon the judgments of the Hon'ble Delhi High Court in the case of M/s.EKL Appliances(ITA.s 1068 & 1070 of 2011),Knorr Bremse(ITA 182 of 2013,dated 6/11/2015)of the Hon'ble High Court of Punjab and Haryana.He also referred to the case of this Dresser India Private Ltd.(ITA/8753/Mum/2010)of the Tribunal.He referred to pages 390,396-585, 666,617 - 770,771-794 of the PB.He further stated that matter could be remanded back to the AO/TPO.The DR supported the order of the FAA.

15.4. We have heard the rival submissions and perused the material before us.We find that the assessee had carried out FAR analysis for benchmarking the IT.s relating to availing MSS and RSS from its AE, that it had selected TNMM as MAM with the PLI of operating profit on total operating cost(NCP)for determining the ALP, that it considered the AE is the tested party claim - ing that same was a less complex entity in the context of the IT.s under consideration,that it selected six comparables for benchmarking the MSS and four comparables for benchmarking the RSS,that the TPO rejected the TNMM and applied CUP, that the assessee had made the payment to its AE on account of MSS and RSS for the first time during the year though it was receiving the said services during the earlier years also,that the formal agreement for availing the services was signed in the year 2010,that the TPO held that when a third-party situation (akin to CUP) such services would not have entailed any cost and he determined the ALP of the transactions at NIL.

15.4.1. We find that the margin of the AE for both the services was better than the comparables under TNMM,that NCP of the AE for MSS and for RSS was 20% and 10% as against NCP of 31.22% and 18.77% respectively of the comparables.In our opinion,IGS is a separate transaction

and it would get subsumed in TNMM in the circumstances that we are dealing with.In other words,IGS being a separate IT,has to be benchmarked separately by the TPO/AO.We find that the Revenue authorities have not benchmarked IGS separately,so,we are of the opinion that the matter needs further verification and re-calculation of ALP of the IT.s under consideration.We also hold that there was no justification for determining the ALP of both the services at Nil.The Hon'ble P&H High Court has in the case of Knorr Bremse(supra) has dealt with the similar issue.One of the question,in that case,was to determine the ALP of 'management fee for support system'.The TPO had held that various services,including MSS,were a class of transaction of their own and required separate analysis and considered the said segregated services/transaction accordingly under CUP method.Paragraphs 46 to 53 of the order are very relevant for deciding the issue before us.The Hon'ble Court has remanded the issue for fresh adjudication.The Hon'ble'ble Court had also held that earning of profit cannot be basis of determination of ALP,that requirement of availing services from the AE is the issue that is to be decided by the assessee,that under chapter X what has to be seen as to whether the IT is at arm's length or not. Justification of entering in to it is out of the domain of the tax authorities.Not paying charges in earlier years for availing services cannot become a stumbling block in claiming the expenditure in subsequent years,provided that the claim is supported by documentary evidences.We have gone through the paper submitted by the assessee and are of the opinion that same require further verification.

Considering the above,we are restoring back the matter to the file of the AO/TPO to decide the issue afresh.He would afford a reasonable opportunity of hearing to it.Second ground of appeal is decided in favour of the assessee,in part.

16. Third ground deals with disallowance made under section 14A of the Act,amounting Rs. 23, 643/-,being 0.5% of the average value of investment.Considering the smallness of the tax effect the AR did not press the ground.Hence, ground number three stands dismissed, as not pressed.

17.Next two grounds are directly linked with GOA-2.We have already restored back the issue to the file of the TPO/AO at paragraph 15.4.1.Therefore,grounds no.four and five are sent back to for fresh adjudication and stand allowed in favour of the assessee,in part.

ITA/1102/Mum/2014 ,AY.2009-10:

18.Gs.OA 1-4 deal with IT.s entered in to by the assessee with its AE for CH trades and MSS and RSS availed by it from its AE.We have decided these issues in the earlier years.Following the same we decide all the four grounds in favour of the assessee,in part.The TPO/AO will follow the direction mentioned at paragraphs 7.2.1.&7.2.2.,if applicable.

19. Ground No.5 is about payment of rent.During the assessment proceedings,the AO found that the assessee had claimed reimbursement expenditure of Rs.46.94 lakhs(Rs.7.23 lakhs-ABN AMRO Corporate Finances Pvt.Ltd.+Rs.39.71 akhs-Securities Trading Syndicates Pvt.Ltd.),that it had not deduct -ed tax on the above mentioned two payments.He directed it to explain the nature of expenditure with justification of payment and to explain as to why the above expenditure should not be disallowed u/s.40(a)(ia) for non deduction of TDS.The assessee, vide its letter dated 28.2.13, stated that the expenses were in the nature of reimbursement, that no TDS was to be made by it for such payments. The AO,after considering the reply held that the assessee had submitted only invoices raised by ABN AMRO Asia Corporate Finance Pvt. Ltd.(ABN-CF)having description as reimbursement of rent and other allocable charges,that the evidence was not sufficient to claim the expenditure as reimbursement, that it had not furnished copy of agreement between it and ABN-CF to justify the claim,that apart from providing invoices it had not produced any other evidence/document,that in absence of sufficient evidences amount in question would not be allowed as reimbursement,that the assessee was required to deduct tax at source for the expense which was a revenue receipt in the hands of recipient. Invoking the provisions of section 40(a)(ia) of the Act,he made a disallowance of Rs.7.23 lakhs for the rent paid to made to ABN-CF.He further held that the assessee had not given any proof to prove that payment of Rs. 39.71lakhs to Securities Trading Syndicates Pvt.Ltd.(STSPL)was reimbursement.He disallowed an amount of Rs.39, 71,487/- invoking the provisions of section40(a)(ia) of the Act.The DRP upheld the order of the AO.

19.1. During the course of hearing before us,the AR stated that it was reimbursement, that the rent paid to its group entity namely ABN-CF was exactly equal to the rent paid by ABN-CF to the landlord. He relied upon the case of Result Services Pvt. Ltd. (52SOT598) and referred to pg No.648-654 of the PB.

With regard to rent paid by the assessee to STSPL it was argued that it had received a Nil withholding certificate,that on the basis of the said certificate it did not deduct the tax at source

on the rent paid by it to STSPL.The Departmental Representative supported the order of the AO/DRP.

19.2. We have heard the rival submissions and perused the material before us. We have gone through page 648-654 of the PB.We find that the original leave and license agreement was entered into on 20th Jan. 2008 between the landlord and ABN-CF,that on 17.2.2009 a sub license agreement was signed by the assessee and ABN-CF,that the assessee was paying the same amount of rent that was charged by the owner of the property from ABN-CF.In our opinion,there is no doubt that payment was in the nature of reimbursement. Hence,the assessee was not required to deduct tax.

We find that AO/DRP has not taken into consideration the Nil withholding certificate received by assessee from STSPL.After going through it,we are of the opinion that there was no need for the assessee to deduct tax at source.However,the certificate was produced before us as an additional evidence by assessee.Therefore,the AO is directed to verify the certificate and not to make any disallowance in case it is found genuine.
Ground No.5 is decided in favour of the assessee,whereas Ground No.6 is decided in its favour,in part.

ITA 1127/Mum/ 2015,AY.2010-11

20. First three Grounds are similar to the Grounds decided by us in the earlier years i.e. IT.s related to CH Trades and MSS and RSS.Following our orders for the earlier years Grounds No. 1-3 are decide in favour of the assessee,in part.The AO is directed to follow our directions at para -graphs 7.2.1 and 7.2.2,if applicable.

21. Grounds 4, 5 & 6 are consequential in nature,hence,are not being adjudicated.

ITA No.388/Mum/ 2016-AY.2011-12:

22. First two Grounds are in respect of TP adjustments in respect of payment of marketing and research fees.While deciding the appeals for earlier years we have restored the issue to the file of the AO.Following the same,the matter is being sent back to him for fresh adjudication.First and second Ground are allowed in favour of the assessee,in part.

23. Grounds 3-5 are consequential in nature.

24.Grounds raised by the assessee,with regard to initiation of penalty u/s. 271(1)(c)of the Act,in all the AY.s are premature and therefore,are not being adjudicated.

As a result,all the appeals filed by the assessee stand partly allowed.
फलतः निर्धारिती द्वारा दाखिल की गई अपील अंशतः मंजूर की जाती है.

Order pronounced in the open court on 2nd January,2017.
आदेश की घोषणा खुले न्यायालय में दिनांक 02 जनवरी,2017 को की गई।

Sd/-	**Sd/-**
(**शक्तिजीत डे / Saktijit Dey**)	(राजेन्द्र / **Rajendra**)
न्यायिक सदस्य / **JUDICIAL MEMBER**	**लेखा सदस्य / ACCOUNTANT MEMBER**

मुंबई Mumbai; दिनांकDated : 02.01.2017.
Jv.Sr.PS.

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

1.Appellant /अपीलार्थी **2.** Respondent /प्रत्यर्थी
3.The concerned CIT(A)/संबद्ध अपीलीय आयकर आयुक्त, **4.**The concerned CIT /संबद्ध आयकर आयुक्त
5.DR "K " Bench, ITAT, Mumbai /विभागीय प्रतिनिधि, खंडपीठ,आ.अ.न्याया.मुंबई
6.Guard File/गार्ड फाईल

सत्यापित प्रति //True Copy//

आदेशानुसार/ **BY ORDER,**
उप/सहायक पंजीकार **Dy./Asst. Registrar**
आयकर अपीलीय अधिकरण, मुंबई **/ITAT, Mumbai.**