

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

BEFORE SHRI PRASHANT MAHARISHI, AM
AND
SHRI SANDEEP SINGH KARHAIL, JM

ITA No. 1525/MUM/2016

(Assessment Year 2011-12)

M/s. Merk Limited
Godrej One, 8th Floor,
PirojshaNagar ,
Eastern Express Highway Vs.
Vikhroli(E)
Mumbai-400 079

(Appellant)

DCIT 7(2)(1)
Range 7(2)(1)
Mumbai

(Respondent)

ITA No. 1798/MUM/2016

(Assessment Year 2011-12)

ACIT CIR 7(2)(1)
R.No. 573, 5th Floor, Aayakar
Bhavan, M.K. Road,
Mumbai-400 020

(Appellant)

M/s. Merk Limited
Shivsagar Estate A Dr.
A.B. Road, Worli,
Mumbai-400 018

(Respondent)

PAN No. AAACE2616F

Assessee by : Ms. AratiVissanji, Ms. Astha
Shah
Revenue by : Shri. Samuel Pitta

Date of hearing: 07.09.2022

Date of pronouncement : 05.12.2022

ORDER

PER PRASHANT MAHARISHI, AM:

01. These are Cross appeals filed by the assessee M/s. Merck Limited [Assessee/ Appellant] as well as the DCIT Range 7/(2)/(1), Mumbai (the Id. AO) for A.Y. 2011-12 against the assessment order passed u/s.

143(3) r.w.s. 144C(13) of the Income Tax Act, 1961 (The Act) by the ACIT, 7(2)(1), Mumbai on 25.01.2016 passed in pursuance of order passed u/s. 92C(1)(3) of the Act dated 12.01.2015 which was submitted to direction u/s. 144C(5) of the Dispute Resolution Panel-3, Mumbai (Id. DRP) dated 23.12.2015, assessing the total income of Assessee at ₹ 110,30,25,578/-.

02. The assessee is aggrieved by the assessment order has raised following grounds of appeal in ITA No. 1525/MUM/2016.

"1. General

1 On the facts and circumstances of the case and in law, the Learned Assessing Officer (AO)/Hon'ble Dispute Resolution Panel (DRP)/ Transfer Pricing Officer (TPO)(as the case may be) erred in –

1.1 Passing the order U/s. 143(3) r.w.s. 144C(13) of the Income Tax Act, 1961 (the Act) making huge additions and disallowances on the basis of surmises, conjectures, presumptions and assumptions and without considering the papers and documents submitted as also submission made during the course of assessment proceedings and the proceedings before the Hon'ble Dispute Resolution Panel.

1.2 Passing the impugned order which is illegal and bad in law and consequently, null and void.

2. Transfer Pricing Issues:

2 On the facts and circumstances of the case and in law, the learned Assessing Officer (AO)/ Hon'ble Dispute Resolution Panel (DRP)/ Transfer Pricing Officer (TPO)(as the case may be) erred in-

2.1 Not upholding the alternate objection of the appellant that the learned AO did not satisfy himself about the necessity and requirement of referring the matter for determination of arm's length price in respect of the international transaction between the appellant and the AEs and hence, hence the reference by learned AO to the Learned TPO is illegal and bad in law;

2.2 Not upholding the objection of the appellant that the transfer pricing adjustment made under provisions of section 92CA of the Act cannot be tax as the same is not a "charging provision" under the Income-tax Act and there is no corresponding provision to charge "such adjustment" as income of the appellant under section 4 of the Act nor there is any provision for such income to be taxed under section 5 of the Act.

2.3 Without prejudice to each of the above grounds, not upholding the appellant alternate grounds that the reference made by Learned Assessing Officer to the learned TPO in reference to the CBDT instruction no 10/2013 dated 05.08.13 as regards threshold limit of ₹ 15 crores for reference to him under "administrative limits" under said circular has no force of law and the reference made by following the said

circular by the Ld. Assessing Officer was illegal and bad-in-law.

2.4 Not upholding the grounds of the appellant while making huge transfer pricing adjustment on the basis of surmises and conjectures, assumptions and presumptions without considering the papers and documents submitted as also submissions made during the course of the Transfer Pricing/ DRP proceeding, Assessment proceedings and therefore, the Order passed is illegal and bad-in-law and therefore, the Order passed is illegal and bad-in-law and consequently, null and void.

2.5 Addition in respect of purchase of raw materials of ₹ 93,28,708/-:

On the facts and in the circumstances of the case, and in law, the Learned TPO erred in proposing an adjustment of rs. 3,97,18,708 and the Hon'ble DRP further erred in confirming an addition of ₹ 93,28,708 in respect of international transaction of purchase of raw materials from associated enterprise('AE').

(a) Rejection of Appellant's Most Appropriate Method

The learned TPO erred in proposing and the Hon'ble DRP further erred in confirming the rejection of Transactional Net Margin Method ("TNMM") considered as the most appropriate method in terms of Section 92C(2) of the Income-tax Act, 1961 ('the Act') read with Rule 10B(1) of the Income-tax Rules, 1962 ('the Rules')

(b) Incorrect selection of CUP method

The Learned TPO erred in proposing and the Hon'ble DRP further erred in considering the TPO's action of selection of Comparable Uncontrolled Price ('CUP') method as most appropriate method for determining the arm's length price of the international transaction ,without appreciating that the purported use of CUP data was not appropriate in terms of Rule 10B(2) and 10B(3) of the Rules.

(C) Cherry Picking

Without prejudice to above, on the facts and in the circumstances of the case, and in law, the Learned TPO erred and the Hon'ble DRP further erred in not considering that in case CUP method is considered as most appropriate method, the information of the raw material procured by other companies including USV, Intas and Torrent Pharma should also be called by using the powers under section 133(6).

(d)Non consideration of commercial and economic circumstances

The Ld DRP and consequently the Ld. AO erred in confirming the TPO's action of selecting and application of the CUP method as the most appropriate method without appreciating the Appellant's commercial rationale and economic circumstances that the import of raw material from the AE was in relation to the use of trademark "Concor 5" licensed from the AE.

(e) Consider the same/similar geographic market

Without prejudice to above, on the facts and in the circumstances of the case, and in law, the Learned TPO and the Hon'ble DRP further erred in not considering that in case CUP method is considered as most appropriate method, the price charged by the third party in the same geographical market should be considered as comparable transaction.

(f) Incorrect application of CUP Method

Without prejudice to the above, in case CUP method is considered as most appropriate method, suitable adjustments should be made on account of difference in the quality of raw material, contractual terms and market share of the finished product.

(g) Use of secret data

On the facts and in the circumstances of the case, and in law, the Ld DRP and consequently the Ld. AO erred in confirming the TPO's action of not considering the provisions of Rule 10C(2)(c) of the Rules; which provides that in selecting the most appropriate method, the availability, coverage and reliability of data necessary for the application of method should be taken into account; while applying the CUP method on the basis of data sourced by the TPO under Section 133(6) of the Act without appreciating that the Appellant could not have access to such data.

3. Disallowance U/s. 14A – ₹ 9,35,446/-

On the facts and in the circumstances of the case, and in law, the Learned AO/ the Hon'ble DRP erred in disallowing ₹ 9,35,446/- U/s. 14A of the Act read with Rule 8D, though however, it was contended that-

(a) The appellant did not incur any expenditure to earn the tax free income during the year except an amount of ₹ 3 lakhs estimated by it as a proportionate salary cost of the employee of the company who devoted part of his time for making investment in Mutual Funds etc. for the appellant.

(b) There was no person except the aforesaid person who devoted time for investment of surplus fund as authorized by the Board of Directors and there is no involvement of any other person except the said person in investment of surplus funds.

(c) In the appellant's own case, the Hon. Tribunal has held in its Order for assessment year 2007-08 that only 1% of the exempt income was liable to be disallowed under Section 14A of the Act.

4. Distribution of free samples – ₹ 3,00,62,583/-:

On the facts and in the circumstances of the case, and in law the Learned AO/ the Hon'ble DRP erred in –

(i) disallowing cost of samples distributed of ₹ 3,00,62,583/- on the ground that the issue was elaborately discussed in the previous years and

the additions made in the case of the appellant were sustained and following, the directions of the Hon. DRP in assessment year 2006-07, 2007-08, 2009-10 and 2010-11.

(ii) not following the directions of the Hon. Income Tax Appellate Tribunal in appellant's own case in respect of assessment year 2003-04 wherein, it has been directed that upon furnishing the details, i.e. names, addresses of the Doctors to whom the samples order of the Hon. Income Tax Appellate Tribunal was brought to the notice of the Hon. DRP/ Ld. A.O.

(iii) disregarding the details furnished as regards the names, address and quantities distributed for the entire year in the CD format and not verifying the details submitted to him by issuing the notice u/s. 133(6) as mentioned to him by and wrongly stating that he could not carry out so called independent investigation of the samples distributed.

(iv) without prejudice to the above and in the alternate not allowing the said expenditure as "trading loss" since there was no doubt that the stocks were manufactured by the company on which excise duty is paid and the said items were not lying with the company in its closing stock as at the year end.

5. Sales promotion- conference expenses – ₹ 62,59,227/-

On the facts and circumstances of the case, and in law the Learned AO/ the Hon'ble DRP erred in –

(a) disallowing an amount of ₹ 62,59,227/- incurred in respect of sales promotion conference expenses, being the expenses incurred towards conference, seminars and symposiums towards spreading awareness of new techniques, issues and developments, medical treatment of related therapeutic areas and such conferences were for the purpose of promoting and helping medical profession by sharing of specialized knowledge in the medical field.

(b) applying the CBDT's Circular 5/2012 issued on 1st August, 2012 to assessment year under reference, being A.Y. 2011-12.

(c) not considering the submission of the assessee that expenses incurred on conferences, seminars and symposium for doctors was not an offence or was not prohibited by any law.

6. Interest U/s. 234D ₹ 12,34,499:

On the facts and in the circumstances of the case, and in law, the Learned AO/ the Hon'ble DRP erred in charging interest U/s. 234D of ₹ 12,34,499/- as the appellant was not liable to pay the same.

7. Initiation of Penalty Proceedings U/s. 271(1)(c) of the Act:

On the facts and in the circumstances of the case, and in law, the Learned TPO/AO/ the Hon'ble DRP

erred in initiating penalty proceedings U/s. 271(1)(c) of the Act.

8. The above grounds of appeal are distinct and separate and without prejudice to each other.

9. It is humbly prayed that the reliefs as prayed for hereinabove and/or such other reliefs as may be justified by the facts and circumstances of the case and as may meet the ends of justice should be granted."

03. The learned AO is also aggrieved by the directions of Ld. DRP and therefore has raised following 2 grounds of appeal in ITA No. 1798/MUM/2016:

"1. On the facts and in the circumstances of the case, Hon'ble DRP erred in deleting the adjustment on account of value of technical service appreciating the fact that the assessee failed to substantiate that the assessee has benefited from the services so availed, the cost of services as incurred by the AE, the basis of allocation/allocation keys used by the AE to allocate the proportionate cost to the assessee and the quantification of the cost of services actually rendered by the AE to the assessee.

2. On the facts and in the circumstances of the case and in law, the Hon'ble DRP erred in deleting the addition on account of disallowance u/s. 2(24)(x) r.w.s. 36(1) of the Act by holding that provisions of Section 43B of the Act are applicable without appreciating the fact that the issue was not governed

by the provisions of section 43B of the Act in view of the CBDT's Circular No. 22/2015 dated 17.12.2015.

3. The appellant prays that the Directions of the Ld. DRP-1, Mumbai on the above grounds be set aside to the file of the AO or confirm the order of the AO."

04. The brief facts of the case shows that assessee is a company engaged in the business of manufacturing of pharmaceutical. It is subsidiary of Merk Group, Germany.
05. It filed its return of income on 29.11.2011 declaring income of ₹ 105,73,75,060/-. The return of income was picked up for scrutiny.
06. The Id. Assessing Officer noted that assessee has entered into 8 different kind of international transactions. The AO referred the matter to the Id. TPO for examination of arm's length price of those international transactions. The TPO noted that assessee has entered into international transactions of purchase of raw materials, payment of technical know-how fees, payment of royalty, purchase of other goods, sell of finished goods, Income of commission and reimbursement of expenses paid and received. All these international transaction were benchmarked using the Transactional Net Margin Method as most appropriate method. The business of the assessee is divided into 2 different business lines

such as pharmaceuticals and chemicals. The margin of the assessee in pharma segment is 13.10% whereas the margin of chemical business is 19.89%. For pharmaceutical, assessee identified 98 comparable companies whose average margin was 11.32% and 13 companies for chemical segment where the margin was 5.18%. As the margin of the assessee computed is higher than margin of comparables, in transfer pricing study report and Form No. 3CEB assessee claimed that all its international transactions are at arm's length.

07. The learned TPO examined that assessee has purchased raw materials from its associated enterprises. In A.Y. 2010-11, Transactional Net Margin Method adopted by the assessee was rejected and Comparable Uncontrolled Price Method (CUP) was applied. The differential price was applied to the quantity of raw material consumed. For this year, the TPO obtained information u/s. 133(6) of the Act from M/s. Unichem laboratories limited about the purchase rate of Bisoprolol Fumarate (BF) which was confronted to assessee on 18.11.2014. The rate of Unichem laboratory was ₹33,086 Per.Kg. and the price paid by the assessee was ₹62,211 Per.Kg. Therefore the TPO issued show caused notice to the assessee asking as to why the arm's length price of international transaction of purchase of raw material should not be determined using the CUP method and making the adjustment on account of difference on

account of external CUP price available and price of international transaction. The assessee submitted a detailed reason stating that, BF is the active single ingredient of Concor-5 tablet which is a trademark of Merk Global. It is a proprietary product of the group and there is a huge difference in quality, contractual terms of the product, therefore, the external CUP suggested by the TPO cannot be applied.

08. The learned TPO rejected the contention of the assessee adopted external CUP and held that 10% adjustment in the price is allowable. The AO/TPO also considered the volume discount. The CUP price was determined at ₹ 33,086 Per.Kg. It was applied on total quantity consumed of 407.30Kg and thereafter adjustment of ₹ 93,28,708/- was made to the international transaction of import of material.
09. The assessee has also paid technical consultancy ₹ 3,30,90,000/- which was also benchmarked using TNMM method. The assessee paid the above fees for support of engineering of production and quality control, training, advising, etc. It was a fixed fee of ₹ 3,00,00,000/- Per Annum plus applicable taxes. The Id. TPO asked the assessee to satisfy whether the services have been rendered or not. On the basis of the documents submitted by the assessee, the Id. TPO held that he needs to make a reasonable estimate of whatever services rendered by the associated enterprises. He estimated the actual use

of 100 hours Per month, adopted rate of ₹2500 per hour and therefore, he estimated the arm's length price of such service at ₹30,00,000/- in a year. Accordingly he made an adjustment of ₹3,03,90,000/- on the international transaction of ₹ 3,30,90,000/-. Accordingly, the order u/s. 92CA(3) of the Act was passed on 12.01.2015 proposing the total adjustment at ₹ 3,97,18,708/-.

010. Based on this, the draft assessment order u/s. 143(3) was passed. The Id. AO over and above the above adjustment

a. Disallowed ₹92,158/- on account of delay in payment of employees contribution of provident fund. He also made a disallowance u/s. 14A of ₹ 9,35,446/- whereas the dividend income received was ₹1,50,014/-.

b. Assessee has debited a cost of free sample and physician sample of ₹ 06,01,25,166/-. The Id.AO allowed 50% of such expenditure and made a disallowance of ₹ 03,00,62,583/-.

c. Assessee has also incurred the conference expenditure of ₹ 62,59,227/- towards travel and gift to the Doctors. Same was also disallowed by Id. Assessing Officers.

011. Accordingly, the income was computed at ₹113,35,07,736/- against returned income of ₹ 105,73,75,060/-.

012. Assessee preferred the objection before the Id. Dispute Resolution Panel, Where the Id. DRP
- a. following its own direction for A.Y. 2010-11, upheld that CUP is the most appropriate method and further as the Id. TPO has also granted adjustment of 10% to the import price confirmed the adjustment on account of import of BF.
 - b. On the transfer pricing adjustment with respect to technical services, the addition was deleted because of the decision of the co-ordinate bench in assessee's own case on the
 - c. It also deleted the disallowance of ₹92,158 in respect of late payment of employees contribution towards ESIC following the decisions of Hon'ble Bombay High Court in Ghadge Patil Transport Limited.
 - d. On the issues of disallowance u/s. 14A, the order of the Id. AO was upheld.
 - e. On the disallowance of free physician sample and sales promotion expenditure the action of the Id. TPO/AO was confirmed.
013. The directions were passed on 23.12.2015. Based on this the Id. AO passed the final assessment order 25.01.2016. Therefore, the assessee is aggrieved

against the disallowance confirmed by DRP and made by the Id. Assessing Officer, and Id. AO is aggrieved against the transfer pricing adjustment on account of technical fees deleted by the Id. DRP and disallowance of late payment of employees contribution fees deleted by the DRP.

014. We first come to the appeal of the Id. Assessing Officer. The first ground raised by the Id. TPO is against the direction of the Id. DRP wherein the Id. DRP followed the decision of the co-ordinate bench for A.Y. 2003-04. During the course of hearing, the Id. Authorized Representative submitted that for A.Y. 2009-10 and 2010-11 the order of the co-ordinate bench dated 31.03.2016 wherein the Hon'ble Bombay High Court in its order dated 16.09.2019 in Question No. 2(b) the deletion of the adjustment on account of payment of technical fees aggregated with other international transaction and applying TNMM was upheld. We also find that for A.Y. 2003-04 this issue is decided in favor of the assessee. In view of the above judicial precedent available in favor of the assessee on identical facts and circumstances of the case, we do not find any infirmity in the direction of the Id. Dispute Resolution Panel in deleting the adjustment of ₹3,03,90,000/- on account of technical consultancy fees. Thus, Ground No. 1 of appeal of AO is dismissed.

015. The Ground No. 2 of the appeal is against deletion of addition in respect of disallowance u/s. 2(24)(x) r.w.s. 36(1)(va) of ₹92,158 being late payment of employees contribution to the credit of respective authorities. We find that now this issued is squarely covered against the assessee by decision of the Hon'ble Supreme Court in case of Checkmate Services Private Limited Vs. CIT (2022) 143 taxmann.com 178. Therefore, now the direction of the Id. Dispute Resolution Panel is not correct. The Id. AO is correct in disallowing the above sum. Accordingly, Ground NO. 2 of the appeal of the AO is allowed.
016. In the result, ITA No. 1798/MUM/2016 filed by the Assessing Officer is partly allowed.
017. Now we come to the appeal of the assessee contesting the addition of ₹93,28,708/- in respect of purchase of raw material bisoprolol. The assessee has adopted Transactional Net Margin Method but the Id. TPO applied CUP Method and obtained data from Unichem Laboratory and worked out the external CUP price ₹33,086 Per.Kg. He granted a quality adjustment on 10% and thereafter made the adjustment of above sum. The Id. DRP confirmed the same.
018. The Id. Authorized Representative submitted that this issue is covered in assessee's own case by the order of the co-ordinate bench for A.Y. 2009-10 & 2010-

11 where the CUP Method was accepted as the most appropriate method. It was held that domestic sales made by Unichem Limited were considered as comparable. The co-ordinate bench further held that only such transaction in respect of a reasonable quantity i.e. 20kg should be taken into account. It was held that simple Arithmetic Mean should be considered. The Id. Authorized representative submitted that if the above order of co-ordinate bench is considered then the average price works out to ₹47,772 Per.Kg. and the adjustment would be reduced by ₹ 33,47,240/-. Without prejudice, the Id. AR also submitted that, assessee has purchased various raw materials from its associated enterprises, out of which only one raw material which is consisting of 55.75% of the total purchases Id. TPO adopted CUP, whereas for the other material, the Id. Transfer Pricing Officer has accepted the TNMM as the most appropriate method. She referred to the decision of Hon'ble Bombay High Court in Amphenol Interconnect P Ltd [2018] 91 taxmann.com 441 (Bombay)/[2019] 410 ITR 373 (Bombay) to submit that Where assessee made imports and exports of finished goods and various adjustments were required to be made due to differences in FAR analysis, CUP would not be MAM to arrive at ALP of transaction; TNM method would be MAM.

019. The Id. DR submitted that the issue is squarely covered against the assessee in assessee's own case

is specifically referred to the decision in the case of assessee for A.Y. 2009-10, 2010-11 where the issued has been discussed elaborately. Therefore, according to him there is no reason to deviate from that order. He vehemently submitted that even the judicial discipline demands that the ITAT must follow the order of the Bench.

020. We have carefully considered the rival contention and pursued the orders of the lower authorities. We find that identical issue arose in the case of the assessee for A.Y. 2009-10, 2010-11 and ITA No. 4926/MUM/2014 for A.Y. 2009-10 wherein for order dated 31.03.2016 has upheld the applicability of CUP Method, confirming the rejecting of TNMM as the most appropriate method. The co-ordinate Bench also considered the reasonable quantity of 20kg only. In view of this, principally Co-ordinate Bench decision in respect of the assessee is required to be followed. The Co-ordinate Bench in Para No. 15 it also agreed with the simple average of the prices. The Coordinate bench 2016] 69 taxmann.com 45 (Mumbai) in case of assessee deserves to be followed.
021. The assessee has contended that if the order of the co-ordinate Bench A.Y. 2009-10 is followed. The simple average works out to be ₹47,772 Per.kg. and it will reduced the adjustment substantially.
022. In view of this, we direct the AO/TPO to restrict the adjustment following the order of the co-ordinate

bench for A.Y. 2009-10. Accordingly, Ground No. 2 of the appeal is partly allowed.

023. The Ground No. 3 with respect to the disallowance u/s. 14A of ₹9,35,446/-. It was not pressed, hence dismissed.
024. With respect to the Ground No. 4 and Ground No. 5 regarding free sample distributed where the AO restricted the disallowance of 50% and with respect to the sales promotion, conference expenses the disallowance of ₹ 62,59,227/- was made.
025. On the issue of distribution of free sample the assessee submitted that the disallowance in support of free sample has been deleted by the co-ordinate bench in assessee's own case for past several years and therefore same should be followed.
026. with respect to the sales promotion disallowance , Id AR referred to the note on sales promotion and details of such expenses stating that same should be allowed as this are expense incurred for the purpose of business of the assessee.
027. The Id. Departmental Representative vehemently submitted that both these issues are covered by the decision of Hon'ble Supreme Court in case of Apex Laboratory Private Limited Vs. DCIT in 135 taxmann.com 286.

028. We have carefully considered the rival contentions. With respect to free samples , we do not find that same is covered against the assessee by the decision of Honourable SC or it is prohibited by MCI Guidelines. Free sample of medicines supplied to doctors is for promotion of the product of the pharmaceutical company. When a new product is launched, the doctors through the free sample provided, test marketability of new drug launched in the market, give necessary inputs regarding its acceptability etc. of the product. Provision of free samples help impart knowledge to other doctors about the new medicine/product coming into the relevant practice of their profession. Therefore, distribution of free samples is directly related to business promotion activity of the pharmaceutical company. Thus it is wholly and exclusively for the purposes of the business of the company. Further Providing samples of pharmaceutical products is not prohibited under either the Indian Medical Council (Professional Conduct, Etiquette and Ethics), Regulations 2002 (MCI Code) or the Uniform Code of Pharmaceutical Marketing Practices by the Department of Pharmaceuticals, 2014 (UCPMP) or 2019 Organization of Pharmaceutical Producers of India (OPPI) Code of Practice. The UCPMP prescribes guidelines under which medical samples should be dispensed which ensure that they are used strictly for clinical evaluation purposes and each sample

shall be marked “free medical sample – not for sale”. Even the draft Uniform Code for Medical Device Marketing Practices (UCMDMP) published for stakeholder consultation on March 16, 2022 lays down guidelines to ensure that medical devices are distributed as samples for evaluation purposes only. The Drugs and Cosmetics Rules, 1945 also recognizes the practice of providing drugs for distribution to medical professionals as a free sample by providing specific labelling requirements, requiring such samples to be labelled with the words ‘Physician’s Sample – Not to be sold,’ . Further assessee has submitted the complete details of such expenses therefore disallowing it to the extent of 50 % is not justified when the same issue is covered in favour of the assessee by the decision of the coordinate bench in earlier years. Thus, we direct lower authorities to delete the disallowance of expenses on free samples. Ground no 4 is allowed.

029. With respect to Ground no 5 of conference expenses We find that the issued is squarely covered against the assessee by the decision of the Hon’ble Supreme Court in case of Apex Laboratories Limited [supra]. Accordingly, Ground No. 5 is dismissed.
030. Ground No. 1 is general in nature and Ground No. 6 & 7 with respect to the interest and penalty are premature and hence dismissed.



031. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open court on 05.12.2022.

Sd/-
(SANDEEP SINGH KARHAIL)
(JUDICIAL MEMBER)

Sd/-
(PRASHANT MAHARISHI)
(ACCOUNTANT MEMBER)

Mumbai, Dated: 05.12.2022

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Mumbai