। आयकर अपीलीय अधिकरण न्यायपीठ , कोलकाता ।

IN THE INCOME TAX APPELLATE TRIBUNAL

"C" BENCH, KOLKATA

BEFORE SHRI RAJPAL YADAV, HON'BLE VICE PRESIDENT

&

SHRI GIRISH AGRAWAL, HON'BLE ACCOUNTANT MEMBER

ITA No. 317/Kol/2022

Assessment Years: 2019-2020

Bengal Peerless Housing Development Company Limited 6/1A, Mangal Deep, Ground Floor, Moira Street, Beckbagan Kolkata-700017 **[PAN: AABCB 3038 P]**	Vs.	**Deputy Commissioner of Income Tax, Circle-7(1), Kolkata**
(Appellant)		(Respondent)

Assessee by :	Shri Soumitra Choudhury, Advocate & Shri Pronobesh Sarkar, Advocate
Revenue by :	Shri G. Hukugha Sema, CIT

सुनवाई की तारीख/**Date of Hearing : 11/01/2023**

घोषणा की तारीख/**Date of Pronouncement : 01/03/2023**

O R D E R

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal by the assessee is directed against the order passed by the National Faceless Appeal Centre, Delhi, (hereinafter the "ld. CIT(A)") dated 27/09/2022 for Assessment Year 2019-20 against the intimation issued u/s 143(1) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') by Asst. Director of Income-tax, CPC, Bengaluru, dated 07/10/2020.

2. Brief facts of the case are that assessee is engaged in the business of real estate, primarily in the development of residential as well as commercial complexes. Return of income was filed on 30/10/2019 which was subsequently revised on 30/6/2020, reporting total income of Rs.11,17,38,170/- computed under the normal provisions of the Act since tax payable on the book profit

under section 115JB of the Act was less than the tax payable under the normal provisions of the Act. Return of the assessee was processed by Centralized Processing Centre, Bengaluru (CPC), for which intimation u/s 143(1) of the Act was issued on 7/10/2020. In the return so processed, adjustments aggregating to Rs. 18,35,758/- were made to the total income returned by the assessee. This amount comprised of Rs. 4,20,000/- towards disallowance u/s 40(a)(ia) of the Act and Rs. 14,15,758/- u/s 43B of the Act. Further, there was an adjustment made in the book profit computed u/s 115JB of the Act, by which the book profit was increased by an amount of Rs.1,62,91,689/-. Aggrieved, assessee went in appeal before the ld. CIT(A).

3. Before ld. CIT(A), it was submitted that, disallowance made u/s 40(a)(ia) and 43B of the Act have already been added by the assessee itself, in the computation of income while arriving at the total income reported in the return filed by the assessee. Making adjustments of these amounts again and increasing the returned total income, tantamount to taxing the same amount twice. In respect of the upward adjustments made in the book profit u/s 115JB of the Act, it was submitted that it was an arbitrary adjustment. It was further stated that this amount represented amount withdrawn from reserve/provision which stood credited in the profit and loss account for the year and was reduced while computing the book profit since it had already been offered to tax in the earlier years. Ld. CIT(A), after considering the submissions of the assessee, directed ld. AO to verify the facts with records and supporting evidence and consider making the additions/disallowance based on his verification.

4. Before the ld. CIT(A), assessee raised additional grounds claiming deduction of Rs. 3,82,54,259/-, representing expenditure incurred towards

marketing expenses, during the year, which was initially not claimed in the return filed by the assessee. While raising the additional grounds, assessee relied on the decision of Hon'ble Supreme Court in the case of *National Thermal Power Co. Ltd. v. CIT (1998) 229 ITR 383.* In the course of appellate proceedings, ld. CIT(A) admitted the additional grounds for adjudication.

4.1. Before ld.CIT(A), assessee contended that the said marketing expenses being purely related to sale are not linked with the cost of construction of the real estate project and, therefore, are allowable expenses u/s 37(1) of the Act, which have been incurred during the year under consideration. In this respect, it was also contended that these expenses were included in the work in progress under the inventories in its books of accounts and were not charged to profit and loss account. It was submitted that in accordance with the accounting policies, these expenses were debited along with construction expenses to Work-in-progress which is reported in the Balance Sheet under the head current inventories in Current Assets.

4.2. On these submissions, ld. CIT(A) gave his findings that since assessee has not claimed these expenses in his return of income, there is no disallowance made by the ld. AO. and therefore when no disallowance has been made, the question of allowing the same does not arise. Accordingly, this additional ground was dismissed by the ld. CIT(A).

5. Aggrieved, the assessee is in appeal before the Tribunal.

6. Before us, ld. Counsel for the assessee, referred to the computation of taxable income placed at page 13 of the paper book to demonstrate that adjustments made in the processing of return u/s 143(1) of the Act, in respect of disallowance made u/s 40(a)(ia) and 43B of the Act, had already been added by

the assessee *suo motto*. The relevant extract of the computation of taxable income is reproduced for ease of reference:-

Bengal Peerless Housing Development Company Limited
6/1A, Moira Street, "Mangal Deep", Ground Floor, Kolkata-700 017

Previous Year: 2018-2019
Assessment Year: 2019-2020
P.A. No. AABCB3038P

Computation of Taxable Income	Annual	
	₹	₹
Income from Business:		
NET PROFIT as per Statement of Profit and Loss		10,13,70,250
Add: Provision Gratuity Premium as per AS-15		14,15,758
Depreciation charged as per Companies Act, 2013		71,72,859
Loss on Discarded Asset		50,265
CSR Expenses u/s 37(1)		40,35,014
Donation		0
Directors Commission u/s 40(a)(ia)		2,70,000
Audit Fee u/s 40(a)(ia)		1,50,000
Interest u/s 244A for the AY 2012-13		15,19,061
Interest & Penalty paid u/s 37(1)		5,441
Provision for Doubtful Current Assets/ Advances u/s 36(1)(vii)		69,08,700
Provision for Further Expenses (Interest)		57,98,013
Provision for Leave Encashment		2,19,528
Notional loss booked arising from adoptation of IND AS (Change in Accounting Policies)		30,67,915
Provision for Medical Expenses		0
		13,19,82,804
Less: Short-term Capital Gains to be treated separately		36,42,724
		12,83,40,080
Less: Bad Debts Written off u/s 36(1)(vii)		
Depreciation allowable u/s 32(1) of the Income Tax Act, 1961 as per Tax Audit Report enclosed	36,22,356	
Profit on Sale of Fixed Asset	1,77,003	
Directors Commission added back u/s 40(a)(ia) in AY 2018-19	72,068	
Audit Fee added back u/s 40(a)(ia) in AY 2018-19	1,50,000	
Payment of Medical Expenses out of Provision added back in AY 2018-19	0	
Payment of Gratuity premium out of provision added back in AY 2018-19	22,03,724	
Payment of Leave Encashment of Provision added back in AY 2017-18	0	
Provision for contengencies credited to profit & Loss account by netting of expen (Now reduce , having offered to tax in A.Y 2017-18)	16291691.29	
Notional income arising from adoptation of IND AS (Change in Accounting Poli	10,00,708	
Deduction u/s 80G for Donation including CSR Expenses	20,17,507	
Deduction of Education & Higher Education Cess u/s 37(1) ITC Ltd. vs ACIT (IT	12,51,467	
		2,67,86,524
		10,15,53,556
Less: Unpaid Directors Commission of AY 2017-18 added back earlier, now written back		0
Total Business Income		10,15,53,556
Income from House Property:		
Fair Rent u/s 23(5)		64,59,600
Less: Deduction u/s 24(1)		19,37,880
Taxable Income from House Property		45,21,720
Income from Capital Gains:		
Short-term Capital Gains		56,62,895
Taxable Income from House Property		56,62,895
Gross Total Income		**11,17,38,171**
ROUNDED OFF u/s 288A		**11,17,38,170**

6.1. Ld. Counsel reiterated that such disallowance tantamount to taxing the same amount twice and, therefore, should be deleted. Ld. Sr. D/R when confronted with these facts could not controvert the same.

7. We find that, ld. CIT(A) has merely given directions to the ld. AO to verify the records and based on his verification of the records, he may consider the additions / disallowances to be made. We note that approach adopted by the ld. CIT(A) is not in accordance with the provisions of section 250 of the Act which prescribes the procedure in appeal to be complied with by the ld. CIT(A). Further, section 251 adequately empowers the ld. CIT(A) to exercise his powers while disposing the appeal. Despite such non adherence of the provisions of law by the ld. CIT(A), we ourselves find it proper to verify the records in this respect for the meritorious disposal.

7.1. Considering the facts on record and going through the computation of taxable income referred above, we without any hesitation hold that disallowance made u/s 40(a)(ia) and 43B of the Act, totaling to Rs. 18,35,758/- is not warranted.

7.2. Further, in respect of arbitrary adjustment made of Rs.1,62,91,689/- in the book profit computed u/s 115JB of the Act, assessee has adequately explained his case that this amount represented the amount withdrawn from reserve/provision and the same stands credited in the profit and loss account for the year under consideration and was reduced from the book profit since it was already offered to tax in the earlier years. We note that certain specific adjustments are only permitted to be made under the provisions of Section 143(1) of the Act. Considering the facts and the provisions of law, we direct to delete the adjustment made while computing the book profit u/s 115JB of the Act.

8. Accordingly, ground nos. 1 and 2 are allowed.

9. Now, we take up ground nos. 3 and 4 raised by the assessee in respect of the additional grounds which were taken up before the ld.CIT(A) but were summarily dismissed by stating that *'since the assessee had not claimed the said expenses in the return and that no disallowance was made by the ld.AO, thus the question of allowing the same does not arise'*. While dealing with this issue in the present case, we would like to understand the accounting treatment applicable on the given set of facts.

9.1. It is the responsibility of the assessee company to prepare its financial statements that give a true and fair view of its financial position, financial performance, changes in equity and cash flows in accordance with the accounting principles generally accepted in India, including the Accounting Standards specified under section 133 of the Companies Act, 2013. In the notes to the standalone financial statements for the year ended 31.03.2019 of the assessee, in note no. 2 on 'Statement of Compliance', it is disclosed by the assessee company that *"it has adopted Indian Accounting Standards (referred to as "Ind AS") notified under the Companies (Indian Accounting Standards) Rules, 2015 (as amended) read with section 133 of the Companies Act, 2013 with effect from 01.04.2018 and therefore Ind Ass issued, notified and made effective till the financial statements are authorized have been considered for the purpose of preparation of these financial statements. These are the Company's first Ind AS standalone financial statements."* It is also disclosed that Ind AS 115 on 'Revenue from Contracts with Customers' has been introduced with effect from 01.04.2018 (relevant to AY

2019-20) under modified retrospective approach which does not have any impact on the financial statements.

9.2. As per Ind AS 115, revenue shall be recognized based on satisfaction of performance obligation by transferring the control in the promised good or service to the customer. The said satisfaction of performance obligation can occur either 'over time' or 'at a point in time', depending upon fulfillment of one of the following criteria as specified in clause 35 of Ind AS 115 –

> *a) the customer simultaneously receives and consumes the benefits provided by the entity's performance as the entity performs;*
>
> *b) the entity's performance creates or enhances an asset (for example, work in progress) that the customer controls as the asset is created or enhanced; or*
>
> *c) the entity's performance does not create an asset with an alternative use to the entity and the entity has an enforceable right to payment for performance completed to date.*

9.3. For simple understanding, satisfaction of performance obligation *'over time'* can be taken analogous to the method of accounting known as *'project completed method (PCM)'* and that of *'at a point in time'* analogous to *'percentage of completion method (PoCM)'.*

9.4. In the present case, assessee has adopted 'control approach' for revenue recognition prescribed under the Ind AS 115 by considering satisfaction of performance obligation 'over time' which is taken to be analogous to PCM. According to the assessee, performance obligation is satisfied when real estate unit is handed over to customer on delivery or it can be proved that performance obligation is satisfied over a period of time. Assessee submits that as per the agreement entered with the customer, it has a cancellable clause and as per the same, at any time before possession, the customer can cancel the flat booked and take his money back as refund. Thus, until the possession is given to the customer, the performance obligation is not completed / satisfied.

9.5. In respect of fulfillment of criteria listed in clause 35 of Ind AS 115 as stated above, assessee submitted that if certain slab is completed then the customer neither receives nor consumes any benefit, it also does not creates or enhances an asset which the customer controls and that the assessee does not have any alternative use of that part of the construction as the same is done only for the customer to whom the completed unit is to be delivered. Also, assessee does not have an enforceable right to payment for performance competed to date.

9.6. In clause (n) to Note 3 on 'Significant Account Policies' forming part of the standalone finance statements of the assessee as on 31.03.2019, assessee has disclosed the following policy for 'Revenue Recognition' –

> *"Revenue is measured based on the consideration specified in a contract with a customer and excludes amounts collected on behalf of third parties. The Company recognizes revenue when (or as) the entity satisfies the performance obligation by transferring a promised food or service (i.e. a dwelling unit) to a customer. A dwelling unit is transferred when (or as) the customer obtains control of that dwelling unit."*

10. With the above stated backdrop and understanding, we refer to the facts of the present case. During the year, assessee company had undertaken the development of following real estate projects:-

I. Avidipta II
II. Axis-sililguri
III. Digangana-extension
IV. Sonar tari- extension
V. Ghuni

10.1. Expenditure incurred by the assessee of Rs.3,82,54,258/- which have not been considered deductible as claimed before the ld. CIT(A), while computing, the total income of the assessee, includes -

1. Advertisement and Publicity - Rs. 3,50,900/-
2. Brokerage and commission - Rs.44,20,600/-
3. Business promotion - Rs.22,82,678/-

10.2. Details of expenses incurred on each of these projects is certified by the Chartered Accountant vide certificate dated 25/06/2019, which is extracted below:-

DE & BOSE

8/2, Kiran Sankar Roy Road, 2nd Floor
Room No. 1 & 18, Kolkata - 700 001
Ph. : 2248 5039/2243 4864
E-mail : deandbose1956@gmail.com

1, Garstin Place, Unit 1E, ORBIT
Kolkata - 700 001 ● Phone : 4005 6306
E-mail : desubrata@rediffmail.com

This is to certify that the total carrying amount of inventories (work-in-progess) comprises of the following expenses incurred during the year ended 31st March, 2019

(Amount in Rs.)

HEAD OF EXPENSES	PROJECT					Grand Total
	Avidipta – II	Axis – Siliguri	Digangana – Extension	Sonar Taroe-II (Ext)	Ghuni	
BOUNDARY WALL	14,22,048	-	-	-	23,58,656	37,80,706
SUB STRUCTURE	34,43,52,464	-	46,42,963	-	-	34,89,95,427
SUPER STRUCTURE	19,29,233	11,19,902	3,02,97,815	-	-	3,33,46,950
INTERNAL ELECTRIFICATION	2,78,482	-	14,02,136	-	-	16,80,618
INTERNAL SANITARY & PLUMBING	-	-	15,45,357	-	-	15,45,357
EXTERNAL ELECTRIFICATION	20,03,243	-	-	-	-	20,03,243
EXTERNAL SANITARY & SEWERAGE	-	-	15,32,062	-	-	15,32,062
ADMN. CHARGES ON PROVIDENT FUND	91,159	-	3,995	-	-	95,154
ADVERTISEMENT & PUBLICITY	3,15,50,900	-	94,000	-	-	3,16,44,900
BANK CHARGES	1,239	-	-	-	-	1,239
BASIC SALARY	1,74,36,647	-	7,65,984	-	-	1,82,02,631
BONUS	(80,451)	-	74,841	-	-	(5,610)
BOOKS & PERIODICALS	1,744	-	1,561	-	-	3,305
BROKERAGE & COMMISSION	44,20,680	-	-	-	-	44,20,680
BUSINESS PROMOTION	22,82,678	-	-	-	-	22,82,678
CAR HIRE CHARGES	7,59,615	-	-	-	-	7,59,615
CGST CHARGES (NO ITC)	37,495	-	80	-	-	37,575
CGST CHARGES (RM) -NON RECOVERABLE	58,500	-	-	-	-	58,500
CONVEYANCE EXPENSES	49,277	-	-	-	-	49,277
DEPOSIT LINKED INSURANCE	37,215	-	3,022	-	-	40,237
ELECTRICITY EXPENSES	25,76,022	-	2,58,476	-	-	28,34,498
EMPLOYER'S CONTRIBUTION TO PENSION FUND	6,20,050	-	50,278	-	-	6,70,328
EMPLOYER'S CONTRIBUTION TO PROVIDENT FUND	14,76,285	-	41,632	-	-	15,17,917
EMPLOYER'S CONTRIBUTION TO STATE INSURANCE CORPORATION	1,12,562	-	16,855	-	-	1,29,417
ENTERTAINMENT EXPENSES	7,235	-	-	-	-	7,235
EXGRATIA	11,93,441	-	69,516	-	-	12,62,957
GENERAL CHARGES	2,04,079	-	-	-	-	2,04,079
H.R.A	87,18,365	-	3,82,992	-	-	91,01,357
LABOUR WELFARE FUND (EMPLOYER'S CONTRIBUTION)	663	-	84	-	-	747
LEAVE ENCASHMENT BENEFITS	12,31,512	-	85,705	-	-	13,17,217
LEAVE TRAVEL ALLOWANCE	14,51,551	-	63,832	-	-	15,15,383
LEGAL EXPENSES	34,43,536	-	1,17,000	-	39,36,300	74,96,836
MAINTENANCE CHARGES	16,549	-	3,124	-	-	19,673
MANAGEMENT ALLOWANCE	81,09,432	-	1,45,860	-	-	82,55,292
MEDICAL ALLOWANCE	12,77,597	-	63,832	-	-	13,41,429
MEDICAL EXPENSES	5,11,577	-	-	-	-	5,11,577

(Amount in Rs.)

HEAD OF EXPENSES	PROJECT					Grand Total
	Avidipta - II	Axis - Siliguri	Digangana - Extension	Sonar Taree- II (Ext)	Ghuni	
MISCELLANEOUS EXPENSES	2,70,831	-	49,035	-	-	3,19,866
MOBILE EXPENSES	87,584	-	9,131	-	-	96,715
OTHER ALLOWANCE	-	-	(3,000)	-	-	(3,000)
OUTSTATION ALLOWANCE	-	-	18,000	-	-	18,000
PLVR A/C	19,00,502	-	-	-	-	19,00,502
POSTAGE & TELEGRAM	30,628	-	412	-	-	31,040
PRINTING & STATIONERY	1,51,328	-	7,123	-	-	1,58,451
PROFESSIONAL FEES	69,18,200	-	6,15,000	-	-	75,33,200
RATES AND TAXES	5,26,213	-	30,645	-	-	5,56,858
RENT	-	-	71,000	-	-	71,000
REPAIRS & OFFICE MAINTENANCE	6,94,343	-	24,463	-	-	7,18,806
SANCTION FEES	96,95,837	-	-	-	-	96,95,837
SERVICE CHARGES	100	-	-	-	-	100
SGST CHARGES (NO ITC)	37,495	-	80	-	-	37,575
SGST CHARGES (RM) -NON RECOVERABLE	58,500	-	-	-	-	58,500
SITE ALLOWANCE	17,20,070	-	2,75,484	-	-	19,95,554
SPEACIAL ALLOWANCE	22,92,360	-	34,452	-	-	23,26,812
STAFF WELFARE	2,51,523	-	42,836	-	-	2,94,359
SUBSCRIPTION	1,44,500	-	6,500	-	-	1,51,000
SUPERANNUATION FUND (LICI)	17,32,483	-	76,598	-	-	18,09,081
T.A.	31,89,711	-	2,40,000	-	-	34,29,711
TECHNICAL FEES	44,28,225	-	30,000	-	-	44,58,225
TELEPHONE EXPENSES	7,362	-	-	-	-	7,362
TRAVELLING EXPENSES	6,16,739	-	80,264	-	-	6,97,003
TOTAL PROJECT EXPENSES DURING THE YEAR -	**47,23,37,158**	**11,19,902**	**4,32,71,025**	**-**	**62,94,958**	**52,30,23,043**
Add: Opening WIP	46,60,05,406	26,09,54,144	3,86,68,469	82,77,306	37,02,87,796	1,14,41,93,121
Less: Matching Cost to Proportionate Sale	-	-	(5,89,67,886)		-	(5,89,67,886)
Less: Transferred to Finished Stock	-	-	(1,48,82,908)		-	(1,48,82,908)
CLOSING WIP -	**93,83,42,564**	**26,20,74,046**	**80,88,700**	**82,77,306**	**37,65,82,754**	**1,59,33,65,370**

For DE & BOSE
Chartered Accountants
Firm's Registration No.- 302175E

DE & BOSE ★ KOLKATA ★ Chartered Accountants

Subrata De

SUBRATA DE
- Partner
Membership No. 054962

Place: Kolkata
Date: 25/06/2019

10.3. In respect of project Avidipta II, expenses incurred on advertisement and publicity, brokerage, and commission and business promotion (referred together as marketing and sales expenses) have been charged to the work-in-progress since the project is yet to be completed. These expenses have not been charged to the profit and loss account and thus, have not been claimed as deduction while computing the total income in the return originally filed by the assessee. In terms of adoption of Ind AS 115 for revenue recognition, revenue is recognized only when the project is completed i.e. when the customer obtains control over the promised good under the contract. Under this method, by following the matching concept of accounting principles, costs are accumulated during the course of contract. Profit and loss is established in the last accounting period only when the contract is completed and the performance obligation is satisfied by transferring the control of the dwelling unit to the customer.

10.4. Marketing and sales expenses attributable to Avidipta – II project as certified by the Chartered Accountants are incurred in relation to the said project and are directly linked with it and will be realized by way of revenue from the said project only. Thus, following the matching principle of cost and revenue, the profit will result in the year when the performance obligation is satisfied by transferring the control of the dwelling unit to the customer. Until then, all the attributable costs will get parked as 'work-in-progress', without any charge to the profit and loss account.

11. With this background on facts, assessee took additional grounds before the ld. CIT(A) to claim deduction of marketing and sales expenses from the computation of total income by asserting that entry in books of account are not determinative or conclusive for computing the total income of the assessee. The moot point before us in this respect, thus, relates to the allowability of these expenses as a deduction while computing taxable profit under the provisions of the Act vis-a-vis the book profit where in no such expenses have been claimed by the assessee in its profit and loss account.

11.1. Note no. 11 forming part of audited financial statements for the year ending 31.03.2019, relating to inventories, is tabulated as under:

Particulars	As at 31st March, 2019	As at 31st March, 2018	As at 31st March, 2017
Note: 11 – Inventories (As valued and certified by the management) (at cost or net realizable value, whichever is lower)			
Work-in-Progress	1,59,33,65,370	1,14,41,93,121	1,02,37,16,119
Stock of Flats and Commercial Units	23,83,57,515	40,12,07,258	43,23,78,028
Total	1,83,17,22,885	1,54,54,00,379	1,45,60,94,147

11.2. The above inventory of work-in-progress amounting to Rs. 159,33,65,370/- appears in the balance sheet under the head Current Assets placed at page number 26 of the paper book. A detailed composition of this work-in-progress project wise has already been extracted above, which has been duly certified by the Chartered Accountants.

11.3. As already noted above, assessee has adopted revenue recognition policy based on satisfaction of performance obligation 'over time' when the control is transferred to the customer, meaning thereby all costs are accumulated during the course of its completion and the same is charged against the revenue when the control of the completed unit is transferred to the customer to satisfy the criteria of matching concept of accounting. In the matching concept, revenue and income earned during an accounting period is compared with the expenses incurred during the same period. This matching concept has been recognized by the Hon'ble Supreme Court in the case of *Taparia Tools Ltd v. CIT [2015] 7 SCC 540 (SC)*.

11.4. We also note that section 145 and 145A of the Act provides for computation of income under the head 'profits and gains from business or profession' and 'income from other sources' by applying the 'Income Computation and Disclosure Standards (ICDS)'. Since no specific ICDS has been notified for real estate developers, revenue and cost recognition is governed by the applicable accounting standards and Ind AS discussed above.

11.5. Considering the factual matrix in the present case, the discussion made above on the accounting treatment in terms of applicable accounting standard and accounting principles as well as judicial precedents, we are of the considered view that claim of deduction made by the assessee towards marketing and sales expenses relating to project Avidipta-II are not allowable in the year under consideration while computing the total income under the provisions of the Act. However, keeping in mind the detailed discussion made above on the accounting treatment, we are of the considered view to hold that since these expenses have been accumulated in work-in-progress as per the above stated accounting standard and revenue recognition policy and also considering the matching concept of accounting principle, these have to be allowed and considered against the revenue in the year in which performance obligation is satisfied, in other words, in the year in which the said project is completed and sales are booked in the profit and loss account. Accordingly, ground no. 3 and 4 are dismissed.

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

Order pronounced in the open court on 01.03.2023.

Sd/-	**Sd/-**
(RAJPAL YADAV)	**(GIRISH AGRAWAL)**
VICE PRESIDENT	**ACCOUNTANT MEMBER**

Kolkata, Dated: 01.03.2023
SC. Sr. P.S.

Copy to:

1. The Appellant:
2. Respondent :
3. The CIT(A)- Kolkata
4. The CIT , Kolkata.
5. The DR ITAT, Kolkata.

//True Copy//
By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata