

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**"J" BENCH, MUMBAI**

**BEFORE SHRI PRAMOD KUMAR, VICE PRESIDENT AND**

**SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA No.633/Mum./2021**  
(Assessment Year : 2016-17)

M/s. Sulzer Tech India Pvt. Ltd.  
701, 7<sup>th</sup> Floor, Liberty Tower  
Cloud City Campus, Thane Belapur Raod  
Airoli, Navi Mumbai 400 708  
PAN – AAKCS3696K

..... Appellant

v/s

Addl./Jt./Dy./Asstt. Commissioner  
Of Income Tax, National Faceless  
Appeal Centre, Delhi

.....Respondent

Assessee by : Shri Ravi Saeana a/w  
Ms. Malika Ahuja  
Revenue by : Shri Tejinder Pal Singh

Date of Hearing – 17/05/2022

Date of Order – 25/07/2022

**ORDER**

**PER SANDEEP SINGH KARHAIL, J.M.**

The present appeal has been filed by the assessee challenging the final assessment order dated 31/03/2021 passed under section 143(3) read with section 144C(13) and 144C(13) read with sections 143(3A) and 143(3B) of the Income Tax Act, 1961 (*'the Act'*) by the Assessing Officer, for the assessment year 2016-17.

2. In this appeal, the assessee has raised following grounds: –

*"Being aggrieved by the order of the Ld. AO, read with the order of the Hon'ble DRP, Mumbai, the assessee begs to prefer the present appeal on the following grounds:*

*1. The lower authorities erred both in facts and in law, in proposing an adjustment of Rs.6,69,18,234/- to the income earned by the assessee from its associated enterprises for rendering of engineering, tendering and IT support services.*

*1.1. The lower authorities erred in excluding Desein Pvt. Ltd. from the set of comparables which were adopted by the assessee in benchmarking its international transaction, on the sole ground that the said comparable had earned a lower profit as compared to other comparable companies.*

*1.2. Without prejudice, the Ld. TPO/ AO erred in not giving effect to the directions of the DRP and in not revising the computation of adjustment to the income earned by the assessee on account of providing engineering, tendering, and IT support services.*

*2. The lower authorities erred both in facts and in law, in proposing an adjustment of Rs. 2,52,49,650/- to the payment made by the assessee to its associated enterprise for the receipt of IT support service.*

*2.1. The lower authorities erred in facts and in law, in rejecting the transfer pricing documentation and the economic analysis undertaken by the assessee vis-à-vis the transaction of availing of IT support services without any reasons, and consequentially erred in determining the arm's length price at 'Nil' and in disregarding the benefits derived by the assessee therefrom.*

*2.2. The lower authorities erred both in facts and in law, in determining the arm's length price of IT support services to be Nil without following the procedure laid down for the determination of ALP by way of one of the prescribed methods under section 92C(1) of the Act read with Rules 10AB, 10B and 10C of IT Rules.*

*2.3. The lower authorities erred in going beyond the scope of section 92CA of the Income tax Act, 1961 and in questioning the commercial rationale of the legitimate business expenses incurred by the assessee.*

*3. The amount paid by the assessee in the nature of Education Cess and Higher and Secondary Education Cess ought to be allowed as deduction in computing the business income."*

3. The issue arising in ground No.1, raised in assessee's appeal, is pertaining to adjustment of Rs. 6,69,18,234 made by the Transfer Pricing Officer ('TPO') in respect of international transaction of 'Rendering of Tendering, Design & Engineering services and IT services'.

4. The brief facts of the case pertaining to this issue, as emanating from the record, are: The assessee is mainly engaged in providing design and engineering services and drawings relating to engineering, and IT services. For the year under consideration, assessee e-filed its return of income on 29/11/2017 declaring total income at Rs. 3,28,39,010. The assessee is global technical resource centre to support Sulzer Group companies. It provides efficient and cost-effective shared engineering and tendering solution. For the year under consideration, assessee entered into following international transactions with its associated enterprises:

<i>Sl. No.</i>	<i>Nature of International Transaction</i>	<i>Amount (in INR)</i>
1.	<i>Rendering of tendering, design &amp; engineering services and IT services</i>	<i>22,52,05,595</i>
2.	<i>Payment of Corporate IT support services</i>	<i>2,52,49,650</i>
3.	<i>Annual charges towards software licensing</i>	<i>28,34,920</i>
4.	<i>Reimbursement of expenses</i>	<i>12,35,633</i>
5.	<i>Recovery of expenses</i>	<i>1,92,90,168</i>

5. In respect of international transaction pertaining to 'Rendering of Tendering, Design & Engineering services and IT services', assessee provide specialisation based tendering and engineering services to its associated enterprises. The assessee has deployed personnel for undertaking the tendering and engineering related work. These personnel are provided the requisite training by the associated enterprises and given access to the relevant database. For benchmarking this transaction, the assessee used Transactional Net Margin Method ('TNMM') as the most appropriate method with Profit Level Indicator ('PLI') of operating profit to

total expenses. By considering itself as the tested party, assessee identified following 4 companies as comparable:-

- i) *Mahindra Consulting Engineers Ltd.;*
- ii) *Tata Consulting Engineers Ltd.;*
- iii) *Desein Pvt. Ltd.; and*
- iv) *DRA Consultants Pvt. Ltd.*

6. The weighted average net cost plus margin (3-years) of the aforesaid comparables was 13.67% as against 7.28% of the assessee. Since, as per its own transfer pricing study, the aforesaid international transaction was not at arm's length price, the assessee had suo-moto made transfer pricing adjustment and offered the amount of Rs. 1,43,16,761 (i.e. the difference between transactions price and the arm's length price) in its return of income.

7. The Assessing Officer made reference to TPO for the determination of arm's length price of the aforesaid international transaction. During the transfer pricing assessment proceedings, the TPO observed that Desein Pvt. Ltd. has significantly lower margin as compared to other companies in the search. The TPO further observed that Desein Pvt. Ltd. has been actively associated with Central Government statutory bodies such as Central Board of Irrigation and Power, Central Electricity Authority, etc. for standardisation and modernisation of thermal power plant, design and engineering. The TPO further noted that the government projects are based on tender/competitive bidding where the company which has lowest bidding is accorded the project and same could be the reason for this company to have lower margin. Accordingly, the TPO vide order

dated 01/11/2019 passed under section 92CA(3) of the Act excluded Desein Pvt. Ltd., as comparable for benchmarking the international transaction pertaining to 'Rendering of Tendering, Design & Engineering services and IT services'. The average return on operating costs of final set of comparables selected by TPO was computed at 18.16%. By applying the arm's length margin, the TPO, inter-alia, proposed an upward adjustment of Rs. 6,69,18,234 in respect of international transaction pertaining to 'Rendering of Tendering, Design & Engineering services and IT services'. In conformity, the Assessing Officer, inter-alia passed the draft assessment order under section 144C of the Act.

8. Vide directions dated 18/03/2021 issued under section 144C(5) of the Act, the learned Dispute Resolution Panel ('DRP') rejected the objections filed by the assessee, by observing as under:

*"18.2 The Panel has gone through the assessee's submissions made in this regard. Since the DRP proceedings are nothing but an extension of TPO proceedings, the assessee was again asked to submit further submissions if any and the assessee except for the submissions made along with Objections, write-ups thereto has not brought anything else on record. The TPO in his order has clearly given the reason for rejection of Desein Pvt. Ltd., as a comparable based on his analysis at para 4.1 of the order. It was found that Desein Pvt Ltd has significantly lower margin as compared to other companies selected by assessee. It was found that this company has been actively associated with Central Government statutory bodies such as Central Board of Irrigation & Power (CBIP), Central Electricity Authority (CEA), etc. for standardization & modernization of thermal power plant design & engineering. The government projects are based on the tender/ competitive bidding where the company which has lowest bidding is accorded the project. This was the reason for this company to have lower margin as compared to other companies selected by assessee. Before the panel the assessee submitted its financials, financials of Desein Pvt. Ltd., and financials of DRA Consultants Pvt. Ltd and also extracts of the clientele of other two comparables. It is observed from the assessee's financials, its revenues constitute receipts from Engineering and Tendering Services and SAP training services which are in the nature of professional receipts. Similarly in the case of DRA*

*Consultants Pvt. Ltd, the revenue is only from one stream i.e. professional Services, Whereas, in case of Desein Pvt. Ltd, the revenue comprises of consultancy fees, Operation & Maintenance receipts in the ratio of 43:57. This entity has huge employee cost as compared to assessee and the other accepted comparables leading to low profitability. These are the material differences in the functional profile of this company and thus not comparable. Though the assessee claims that the other comparables accepted also have government contracts, the assessee could not prove with any statistics from the financials of these comparables as to how the same affected PLI of the companies which are at higher levels than that of the rejected company. In view of these specific findings in the TPOS order as well as during the DRP proceedings and there is nothing contrary brought on record by assessee before the panel, the TPOS action to reject this company Desein Pvt. Ltd., as a comparable is upheld and the objection raised by assessee is accordingly rejected."*

9. Accordingly, the Assessing Officer passed the impugned final assessment order dated 31/03/2021. Being aggrieved, the assessee is in appeal before us.

10. During the course of hearing, learned Authorised Representative (*learned AR*) submitted that the lower authorities completely ignored the fact that Desein Pvt. Ltd. is also having private clientele in addition to Central Government entities and thus this company cannot be said to be earning its revenue only from Central Government entities. On the other hand, learned Departmental Representative (*learned DR*) vehemently relied upon the order passed by the lower authorities.

11. We have considered the rival submissions and perused the material available on record. In the present case, the TPO directed exclusion of Desein Pvt. Ltd. on the basis that company is actively associated with Central Government statutory bodies, wherein project is accorded to company having lowest bidding and therefore same could have resulted in lower margin of this company. The learned DRP upheld the exclusion of

Desein Pvt. Ltd. by holding the same to be functionally not comparable to the assessee on the basis that the company has earned revenue from consultancy fees as well as Operation and Maintenance receipts. The learned DRP also upheld the aforesaid findings of the TPO and rejected the objections raised by the assessee. From the perusal of extracts from the website of Desein Pvt. Ltd., it is evident that Desein Pvt. Ltd. serves not only to the public sector clients but also to the private sector clients as well as the international clients. Therefore, it would be completely incorrect to assume that Desein Pvt. Ltd. has only earned its revenue from Central Government statutory bodies. Thus, in view of the above, we are of the considered opinion that the TPO as well as learned DRP were not justified in only considering Central Government entities clientele of Desein Pvt. Ltd.

12. The learned DRP also held that Desein Pvt. Ltd. has huge employee cost as compared to the assessee, which resulted in low profitability. From perusal of financials of Desein Pvt. Ltd., we find that employee benefits expenses are Rs.17,85,08,908, while in the case of assessee, such expenses are Rs. 11,92,74,939. Thus, we are of the considered view that such expenses cannot be considered as huge vis-à-vis the assessee.

13. Further, the learned DRP has also treated Desein Pvt. Ltd. as functionally not comparable to the assessee by referring to its revenue from operations. In the present case, functional profile of the assessee is

not in dispute. The details of functions performed by the assessee, as provided in its transfer pricing study, are as under: –

*"4.3.2 Functions performed by Sulzer Tech and A.Es*

- *Tendering Services*

*Tendering is an important activity in the sales process of pumps. This involves the preparation an offer document or proposal that provides technical as well as cost specifications to the This service is executed by engineering professionals who work in close collaboration with the sales team of the AEs. As mentioned above, the AEs have outsourced some of the tendering work being performed in-house to Sulzer Tech.*

*The step-by-step flow of activities involved in this service is set out below:*

- *The sales team of the AEs, passes on the customer requirements and specifications of the prospective customer to their respective tendering teams. The heads of the rendering scam of the AEs may take a decision to outsource this work to Sulzer Tech;*

- *On receiving the work request from its AEs, Sulzer Tech executes the relevant work which involves compilation of technical and cost details. This include an assessment of whether AIs can meet the required technical and cost specification. Based on the outcome of the assessment, Sulzer Tech may be required to interact with other Sulzer companies as well an thed party vendors. The completed tenders are sent to its AEs who review and approve them for subind to the prospective customer, and*

- *In the event the customer places the order with AEs of Sulzer Tech (the tender for which was prepared by the team at Sulzer Tech), further work for preparation of Order Entry Document (OED) may also be outsourced to Sulzer Tech OED is a detailed document that assists the project management team to coordinate the manufacture and execution of the said order. The execution of the above mentioned activities may require interaction with the prospective customer and continuance assistance from the A.Es.*

- *Engineering Services*

*The engineering server provided by Sulzer Tech caters to the needs of two departments of its AE namely 1 Product Development Center ('PDC'), and (ii) Order Related Engineering ('ORE').*

*Work performed for PDC: The work outsourced from PDC consists of creation of drawings for new product development, creating catalogues for bought out items, revision of old drawings, conversion of drawings not available in soft form to soft format etc. To enable the am at Salze Tech to perform the job, the scope of work is defined and reference drawings or drawing layouts and other reference documents are provided by its A.Es.*



*Work performed for ORE: The work from ORE consists of preparation of order related drawings of various types such as outline, sectional, piping and base frame drawings in 3D Format which enable Sulzer Tech's AEs to carry out feasibility studies as well as use them as a/es tools. Also, the order related manufacturing drawings for various components is outsourced by the AEs to Sulzer Tech. Here also, the scope of the work is defined and reference drawings or drawing layouts and other reference documents are provided by the A.Es.*

*Further the seam requires continuous assistance from its AEs while rendering these services.*

- *Rendering IT Services*

*During the year, Sulzer Tech rendered IT services to Sulzer Pumps which are in the nature of SAP support services.*

*Sulzer Tech provides routine IT services as per the specifications and requirements of Sulzer Pumps Limited. The services provided by Sulzer Tech primarily include:*

*Management of SAP technical environment including Basis, Advance Business Application Programming ('ABAP'), Business Warehouse (BW), Portals, reports & data migration, and*

*Provide second level support to key users and assists the Sulzer Pump Global Team (SPOT) rollout."*

14. From the above, it is evident that assessee's services are confined to Tendering, Engineering and IT services, which can be broadly characterised as consultancy in nature. On the other hand, in case of Desein Pvt. Ltd., we find from the perusal of financials, for the year ending 31/03/2016, that the company has earned income from consultancy fees as well as from Operation and Maintenance. We further find that Desein Pvt. Ltd. has recognised the revenue from aforesaid two streams differently. From the perusal of information available on the website of Desein Pvt. Ltd., we find that Desein Pvt. Ltd. and its Group companies have claimed itself to be among India's leading operation and maintenance service provider for power stations. Further, Desein Pvt. Ltd.

has also claimed to have successfully handled operation and maintenance contracts for all the major State Electricity Boards in India as well as for clients abroad. As per the information available on the website of Desein Pvt. Ltd., the company appears to be engaged in following scope of work under the head Operation and Management:

- *Study of plant specifications and review of contractor's commissioning test schedules and working out a detailed and comprehensive commissioning test schedule for the entire plant*
- *The development of routine test procedures of plant and equipments*
- *To develop maintenance schedules*
- *To maintain the plant for high availability, and operate the plant with high efficiency*
- *To train the client's O & M personnel so that they take over O & M of the plant on completion of the contract period.*

15. Thus, from the above it is evident that Desein Pvt. Ltd. is operating in a completely different segment insofar as its revenue from operation and maintenance is concerned and the aforesaid services, in our considered view, cannot be said to be comparable to the assessee. As noted above, Desein Pvt. Ltd. also earns income from consultancy fees and same has been declared separately in its financials at Note No. 18 to Accounts. However, in the present case, lower authorities didn't examine whether functions performed, assets employed and risks assumed for earning the income from consultancy fees is comparable to the assessee. Further, the segmental information regarding the income from consultancy fees was also not examined by any of the lower authorities and the company was excluded on one or the other reason as mentioned

above. Therefore, we deem to appropriate to remand the issue of comparability of relevant segment of Desein Pvt. Ltd. with assessee to the file of TPO for *de novo* adjudication after necessary examination of all the data. Further, the assessee is directed to file all the information regarding functions performed, assets employed and risks assumed by Desein Pvt. Ltd. for earning the income from consultancy fees before the TPO for the purpose of examination of comparability of relevant segment of Desein Pvt. Ltd. with the assessee. The assessee is also directed to file relevant segmental information of Desein Pvt. Ltd. before the TPO. We further direct that if upon examination of relevant segmental data and other information as directed above, it is found that the consultancy services provided by the Desein Pvt. Ltd. is comparable segment to the assessee, then arm's length price in respect of international transaction pertaining to 'Rendering of Tendering, Design & Engineering services and IT services' be computed, accordingly. We further direct the TPO to comply with the directions rendered by the learned DRP in para 18.3 of its directions dated 18/03/2021. Before concluding, it is relevant to note that Hon'ble Delhi High Court in Chrys Capital Investment Advisors India Pvt. Ltd. Vs. DCIT: [2015] 376 ITR 183 held that if the company is functionally comparable then same cannot be rejected on the basis of turnover. We order accordingly. Thus, with the above directions, ground no. 1, including grounds no. 1.1 and 1.2, raised in assessee's appeal are allowed for statistical purpose.

16. The issue arising in ground No. 2, raised in assessee's appeal, is pertaining to adjustment of Rs. 2,52,49,650 made by the TPO in respect of international transaction of 'Payment of Corporate IT Support Services'.

17. The brief facts of the case pertaining to this issue, as emanating from the record, are: – According to the transfer pricing study, Sulzer Management AG, associated enterprise of the assessee, provides various IT support services, which are basic for the international communication between the Sulzer Group entities including the assessee. The various services provided by the associated enterprise to group entities are in the nature of – IT infrastructure services, centralised IT Management Services and Other IT Services. During the year under consideration, assessee has paid Rs. 2,52,49,650 to the aforesaid associated enterprise for availing such IT support services. For benchmarking, the associated enterprise was considered as tested party. Further, Cost Plus Method was selected as the most appropriate method with PLI of operating profit to total expenses. Accordingly, assessee selected 68 comparables from both APAC and EU regions, whose three-year weighted average NCP margin range from 4.08% (35<sup>th</sup> percentile) to 7.08% (65<sup>th</sup> percentile) with a median of 5.69%. As per the Group Transfer Pricing Policy, the associated enterprise charged cost plus a markup of 5% for Corporate IT Support Services. Since, the assessee has paid for the aforesaid services to its associated enterprises with a markup of 5%, which is within the range of markup earned by the comparable companies, the international transaction

pertaining to 'Payment of Corporate IT Support Services' was considered to be at arm's length.

18. The TPO, vide order passed under section 92CA(3) of the Act, by applying need – evidence – benefit test determined arm's length price of the aforesaid international transaction to be NIL holding that in any third party case, assessee would not have paid any amount toward services which are not availed by it or which has not benefited its business. Accordingly, TPO made an adjustment of Rs. 2,52,49,650. The learned DRP vide directions issued under section 144C(5) of the Act rejected the objections filed by the assessee. Being aggrieved, assessee is in appeal before us.

19. During the course of hearing, learned AR referred to the agreement under which the aforesaid services were received by the assessee as well as copy of extracts of email communication between the employees of the assessee and the associated enterprise to justify the rendition of service. On the other hand, learned DR vehemently relied upon the orders passed by the lower authorities.

20. We have considered the rival submissions and perused the material available on record. As per the assessee, the associated enterprise of the assessee provides various IT support services in the nature of IT infrastructure services, centralised IT management services and other IT services, which are basic for the international communication between the group entities including the assessee. In this regard, assessee also

entered into an agreement dated 01/01/2015 with its associated enterprise, which is duly signed and forms part of the paper book. The agreement enlists the various IT services to be provided by the associated enterprise. The agreement further provides the remuneration model and payment terms in respect of IT services provided by the associated enterprise. The agreement also provides the allocation key to be adopted for charging remuneration for IT services. As per the agreement, the associated enterprise may also engage third-party for execution of entire or part of IT services. The assessee, in the paper book, has also provided sample copy of invoices raised on the associated enterprise by the third parties, in case where such services were rendered through a third party. From the perusal of invoices, it is evident that same also describe the services provided under the head IT services by the third-party. To prove the rendition of service, the assessee has also filed sample extracts of email communication between the employees of the assessee and the associated enterprise as well as screenshots and IT tickets raised mentioning the description of various IT services received. From careful perusal of all the details filed by the assessee, we are of the considered view that lower authorities were not justified in holding that no services were rendered by the associated enterprise in respect of which payments were made by the assessee. We are further of the view that none of the basis for rejecting these details by the learned DRP is arising from the record.

21. Further, the lower authorities claimed to have adopted 'other method' by applying need, benefit and evidence test for considering the arm's length price of this transaction to be NIL. In this regard it is pertinent to note that the provisions of Rule 10AB of the Income Tax Rules, 1962, which provides as under:

*"10AB. For the purposes of clause (f) of sub-section (1) of section 92C, the other method for determination of the arm's length price in relation to an international transaction or a specified domestic transaction shall be any method which takes into account the price which has been charged or paid, or would have been charged or paid, for the same or similar uncontrolled transaction, with or between non-associated enterprises, under similar circumstances, considering all the relevant facts."*

22. Thus, as per the provisions of aforesaid Rule, the 'other method' shall be the method which takes into account the price which has been or would have been charged or paid for the same or similar uncontrolled transaction between non-associated enterprises. However, in the present case, the lower authorities without searching for similar uncontrolled transaction between non-associated enterprises, straightaway treated the value of the international transaction to be at NIL. In this regard, it is relevant to note following observations of Hon'ble Delhi High Court in Cushman and Wakefield (India) Pvt. Ltd., [2014] 367 ITR 730 (Del.):

*"35. The TPO's Report is, subsequent to the Finance Act 2007. binding on the AO. Thus, it becomes all the more important to clarify the extent of the TPO's authority in this case, which is to determining the ALP for international transactions referred to him or her by the AO, rather than determining whether such services exist or benefits have accrued. That exercise of factual verification is retained by the AO under Section 37 in this case. Indeed, this is not to say that the TPO cannot-after a consideration of the facts-state that the ALP is 'nil' given that an independent entity in a comparable transaction would not pay any amount. However, this is different from the TPO stating that the assessee*

*did not benefit from these services, which amounts to disallowing expenditure."*

23. As noted above, in the present case, no search was conducted to find out the independent entity in a comparable transaction and the arm's length price of the international transaction was treated to be NIL. In the present case, no doubts about payments made by the assessee have been raised by the Assessing Officer under section 37 of the Act. Further, accrual of benefit to assessee or the commercial expediency of any expenditure incurred by the assessee cannot be the basis for disallowing the same, as held by Hon'ble Delhi High Court in the case of EKL Appliances Ltd. [2012] 345 ITR 241 (Del.).

24. We further find that Hon'ble jurisdictional High Court in CIT v/s Lever India Exports Ltd. [2017] 246 Taxmann 133 (Bom.), observed as under:

*"7. We note that the Tribunal has recorded the fact that the respondent assessee has launched new products which involved huge advertisement expenditure. The sharing of such expenditure by the respondent assessee is a strates to develop its business. This results in improving the brand image of the products, resulting in higher profit to the respondent assessee due to higher sales Further, it must be emphasized that the TPO's jurisdiction was to only determine the ALP of an International Transaction. In the above view, the TPO has to examine whether or not the method adopted to determine the ALP is the most appropriate and also whether the comparables selected are appropriate or not. It is not part of the TPO's jurisdiction to consider whether or not the expenditure which has been incurred by the respondent assessee passed the test of Section 37 of the Act and/or genuineness of the expenditure. This exercise has to be done, if at all, by the Assessing Officer in exercise of his jurisdiction to determine the income of the assessee in accordance with the Act. In the present case, the Assessing Officer has not disallowed the expenditure but only adopted the TPO's determination of ALP of the advertisement expenses. Therefore, the issue for examination in this appeal is only the issue of ALP as determined by the TPO in respect of advertisement expenses. The jurisdiction of the TPO is specific. and limited le. to determine the ALP of an International Transaction in terms of*



*Chapter X of the Act read with Rule 10A to 10E of the Income Tax Rules. The determination of the ALP by the respondent assessee of its advertisement expenses has not been disputed on the parameters set out in Chapter X of the Act and the relevant Rules. In fact, as found both by the CIT (A) as well as the Tribunal that neither the method selected as the most appropriate method to determine the ALP is challenged nor the comparables taken by the respondent assessee is challenged by the TPO. Therefore, the ad-hoc determination of ALP by the TPO de hors Section 92C of the Act cannot be sustained.”*

25. In view of the above, we are of the considered opinion that TPO as well as learned DRP were not justified in treating the value of international transaction of 'Payment of Corporate IT Support Services' to be NIL, in the present case. Accordingly, ground No. 2, including grounds no. 2.1 to 2.3, raised in assessee's appeal are allowed.

26. Ground No. 3, raised in assessee's appeal, was not pressed during the course of hearing. Accordingly, the same is dismissed as not pressed.

27. In the result, appeal by the assessee is partly allowed for statistical purpose.

Order pronounced in the open court on 25/07/2022

**Sd/-**  
**PRAMOD KUMAR**  
**VICE PRESIDENT**

**Sd/-**  
**SANDEEP SINGH KARHAIL**  
**JUDICIAL MEMBER**

**MUMBAI, DATED: 25/07/2022**