

आयकर अपीलीय अधिकरण "सी" न्यायपीठ पुणे में ।  
IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH, PUNE

(Through Virtual Court)

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER  
AND  
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

आयकर अपील सं. / ITA No. 3029/PUN/2017

निर्धारण वर्ष / Assessment Year : 2013-14

Piaggio Vehicles Private Limited  
'SKY ONE', 9<sup>th</sup> Floor, S. No.210,  
Final Plot No.72,  
Town Planning Scheme, Yerwada No.1,  
Kalyani Nagar, Pune-411 006.  
PAN : AABCP1225G

.....अपीलार्थी / Appellant

**बनाम / V/s.**

The Assistant Commissioner of Income Tax,  
Circle-4, Pune.

.....प्रत्यर्थी / Respondent

Assessee by : Shri Percy Pardiwala

Revenue by : Shri Vijay Bhaskhar Reddy

सुनवाई की तारीख / Date of Hearing : 17.03.2021

घोषणा की तारीख / Date of Pronouncement : 18.03.2021

**आदेश / ORDER**

**PER PARTHA SARATHI CHAUDHURY, JM:**

This appeal preferred by the assessee emanates from the direction of the Ld. Dispute Resolution Panel-2 (in short 'DRP'), Mumbai dated 13.09.2017 for the assessment year 2013-14 as per the following grounds of appeal on record :-

“On the facts and in the circumstances of the case and in law, the Hon'ble DRP and consequentially the learned AO have erred in completing assessment of the appellant on the following grounds which are without prejudice to each other:

**1. General ground challenging the transfer pricing adjustment of Rs.1,28,70,000**

*Erred in making transfer pricing adjustment amounting to Rs 1,28,70,000 to the value of international transaction by rejecting the analysis undertaken/ provided by the Appellant for its international transaction pertaining to export of spare parts and components to its Associated Enterprises.*

**2. Inappropriately combining of export of service spare and export of parts and components in global sourcing segment**

*Erred in combining the international transactions pertaining to export of service spares to AE and export of parts and components in global sourcing segment and consequently, following combined benchmarking approach thereby, ignoring the vital differences in functions performed and risk undertaken by the Appellant for the international transactions pertaining to export of service spares to AE vis-a-vis export of parts and components in global sourcing segment.*

**3. Inappropriate rejection of external Transactional Net Margin Method ('TNMM') approach for benchmarking international transaction of export of spare parts and components in global sourcing segment**

*Erred in rejecting the external TNMM approach adopted by the Appellant and inappropriately applying internal TNMM for determining the arm's length price for the international transaction of export of parts and components in the global sourcing segment.*

**4. Disregarding the decisions of Hon'ble Pune Income-tax Appellate Tribunal (ITAT) for in Appellants case for AY 2006-07 to AY 2009-10**

*Without prejudice to the other grounds of appeal, the learned TPO and the learned AO have erred in facts and in circumstances of the case by disregarding the decisions of Hon'ble Pune ITAT in Appellant's case itself for A Y 2006-07 to A Y 2009-10 and thereby, ignoring the analysis conducted by the Appellant for logistic support services (export of spare parts and components in global sourcing segment) in its TP Study Report.*

**5. Inappropriate consideration of foreign exchange fluctuations as non operating item while computing margins of the tested party segment as well as non AE segment.**

*Erred in considering foreign exchange fluctuations as non-operating item while computing operating margins of the tested party as well as margins from non-AE segment*

**6. Erroneous levy of penalty under section 271(I)(c) of the Act**

*Erred in proposing to levy penalty under section 271(1)(c) of the Act, without considering the fact that proposed transfer pricing adjustment to the international transactions is just on account of difference of opinion as to selection of methodology for undertaking the transfer pricing analysis, consequently resulting in an adjustment to income.*

*The Appellant craves leave to add, alter, vary, omit, substitute or amend the above grounds of appeal, at any time before or at, the time of hearing of the appeal, so as to enable the Hon'ble ITAT to decide this appeal according to law."*

2. The assessee has also raised additional grounds of appeal which reads as follows:

**"Ground No. 7: Deduction of education cess**

*7.1 On the facts and circumstances of the case and in law, the appellant prays that the liability for education cess on income tax paid for the year ought to be allowed as a deduction while computing the total income.*

**Ground 8: Restricting the rate of Dividend Distribution Tax paid on dividend paid to the Non-resident shareholder as per the Applicable Double taxation avoidance agreement ('DTAA')**

*8.1 Whether the Appellant is right in law to take a view that dividend declared and paid by it to its non-resident shareholder i.e Piaggio & C S.p.A., Italy (a tax resident of Italy), is liable to be taxed at the rate provided under Article 11 under the India-Italy Double Taxation Avoidance Agreement (i.e.15%) and not as per section 115-O of the Income-tax Act, 1961 ('the Act') (as Dividend Distribution Tax (DDT) (at the rate of 16.223%);*

*8.2 Where DDT paid by the Appellant as per the provisions of section 115-0 of the Act is held to be in excess of the rate applicable for taxability of dividend in India as per the India -Italy Double Taxation Avoidance Agreement, is the Appellant entitled for refund of such excess DDT paid."*

**ADJUDICATION OF THE GROUNDS IN APPEAL MEMO**

3. The Ld. Senior Counsel for the assessee opening his argument submitted that **Ground No.1** is general in nature and hence, no adjudication is required.

4. **Ground Nos. 2, 3 and 4** pertains to inappropriately combining of export of service spare and export of parts and components in global sourcing segment.

5. The Ld. Senior Counsel for the assessee referring to the order of the Transfer Pricing Officer (TPO) at Para 6 demonstrated that the activities performed by the assessee company pertains to sale of service spares and sourcing of spares and components. He further submitted that in various assessment years in the case of the assessee, this issue has been decided by the Tribunal in favour of the assessee. Thereafter, the Revenue has preferred appeal before the Hon'ble Jurisdictional High Court and appeals are as on date pending before the Hon'ble Higher Forum.

5.1 Referring to Para 4.2.1 of the DRP's order, the Ld. Senior Counsel for the assessee demonstrated the above stated facts. For the sake of completeness this relevant Para is extracted as follows:

***"4.2.1 Findings***

*From the records, we find that similar disallowance made in AY 2012-13 was upheld by the DRP. In respect of these grounds, we have considered the facts of the case, the TPO orders and the submissions made. We find that this is recurring issue and Assessee has been granted relief by the ITAT in the earlier AYs, however, the department has preferred appeal before the High Court. As DRP is only an extension of the arm of the AO and since, DRP orders are no more appealable by the revenue, considering the fact that Revenue is still agitating the issue to keep issue alive, we hereby uphold the order of the TPO and the objections files are hereby rejected."*

5.2 The Ld. Senior Counsel for the assessee further submitted that even in the order of the TPO, the facts are clear that the assessee exports service spares to its AEs as well as non AEs. In addition, it also carries out sourcing of components required by the AE for manufacturing of two and three

wheelers and sourcing of components required by the AE for manufacturing of four wheelers namely 'New Quadracycle Poker' (NQP). That it was further analyzed by the TPO that against Tribunal decision in favour of the assessee, the Revenue filed appeal before the Hon'ble Jurisdictional High Court and it has formulated questions of law vide order No.ITA 2063 of 2012 dated 13.03.2013 which is as follows:

*“a) Whether, on the facts and circumstances of the case and in law the Tribunal erred in deleting the Transfer Pricing Adjustment accepting artificially created sub-segments of international transactions on the basis of application of spares and components required for servicing of the vehicles and required for manufacturing of vehicles ignoring that the Function, Assets and Risk analysis for the assessee, the tested party, were same being a trader of such spares and components?”*

5.3 Thereafter, the TPO vide Para 11 of its order stated that since the question of law has been framed in the case of the assessee by the Hon'ble High Court and considering that the facts of the case are similar to the year before the Hon'ble High Court, with a humble view to protect the right of revenue an addition is being proposed on the similar lines that of the order of the predecessor TPO. It was further reiterated in that same Para, TP adjustment was only being suggested to the Assessing Officer to protect the interest of the revenue at the stage of Hon'ble High Court. Demonstrating this Para, the Ld. Senior Counsel for the assessee submitted that even the TPO was convinced with the transaction of the assessee but only TP adjustment was made to secure the interest of the revenue at the stage of the Hon'ble High Court.

5.4 The Ld. Senior Counsel for the assessee brought notice to the Bench that in assessee's own case for assessment year 2008-09 in ITA No.2583/PN/2012 wherein the Tribunal has referred to assessee's own case

for assessment year 2006-07 wherein the facts are para-materia with that of the assessment year 2008-09 and therein, the issues raised in the present grounds of appeal No. 2 to 4, those issues were decided in favour of the assessee specifically the activities for benchmarking the transaction of the assessee is that the assessee is engaged in manufacture and sale of three wheeled motor vehicles for transportation of goods and passengers and also sale of spares and components of three wheeled motor vehicles manufactured by it to support its after sale market both in India and abroad. Further, the assessee is also engaged in sourcing of components which are required by its associated enterprises abroad for manufacturing of two/three/four wheeled motor vehicles. According to the assessee, having regard to the nature of transactions with its associated enterprises and non associated enterprise, the two kind of transactions are not comparable and therefore, there was no credible internal comparable transactions which could be used for benchmarking the impugned international transaction of export of spares and components to its associated enterprise.

6. The Tribunal for the assessment year 2006-07 in ITA No. 1480/PN/2010 dated 23.07.2012 has dealt with this issue in the following manner:

*“7. The assessee has explained the varied nature of transactions which are comprised in the sales of ‘spares and components’ amounting to Rs 14,62,45,611/-. It has been explained that three categories of transactions are carried out in the activity of sale of ‘spares and components’. We may summarize the activities as follows – Category ‘A’ represents sale of spares by the assessee to third party distributors as well as to the AEs, which are required for the purposes of servicing the vehicles sold by the assessee company; Category ‘B’ represents sourcing of components required by the overseas AEs for manufacture of two and three-wheelers; and Category ‘C’ represents sourcing of components required by the overseas AEs for manufacture of four-wheelers, namely, New Quadracycle Poker. The point sought to be made out by the assessee is that the export to third parties (i.e. non-AEs) is comprised of only Category ‘A’ transactions, which has yielded the margin of 56.58%, whereas the exports to its AEs comprise of transactions of all three*

Categories, i.e. 'A', 'B' and 'C', which has yielded the margin of 11.63% and therefore the two are incomparable. By referring to the following Chart depicting the operating margins of various sub-segments of the transactions' of the sales of spares and components:

Particulars	Sales to Non-AEs			Export to AE		
	Domestic parties – spares BO (service spares)	Exports to third parties – spares BO (service spares)	Total sales to Non-AEs	Spares -BO (service spares)	Global sourcing and NQP(sourcing activities)	Total Exports to AE
Sales (Rs)	529461000	15451000	544912000	2186000	138934000	141120000
Net Profit (Rs)	75591000	5583000	81174000	877000	13832000	14709000
Total cost (Rs)	453870000	9868000	463738000	1309000	125102000	126411000
Profit margin (on sales)	14.27%	36.13%	14.90%	40.12%	9.96%	10.40%
Profit margin (on cost)	16.65%	56.58%	17.50%	67%	11.05%	11.63%

the assessee has pointed out that in relation to Category 'A' transactions, the operating margin on exports to AEs is 67% as against 56.58% with respect to the export to third parties (non-AEs) and therefore on this count itself the adjustment in question is untenable.

8. On the other hand, the learned CIT-Departmental Representative, appearing for the Revenue has defended the action of the authorities below by pointing out that the sub-segmentation of the activity within the transaction of export of spares and components is not called for. According to the Revenue, all the three Categories of transactions, namely, 'A', 'B' and 'C' constitute a singular activity. The entire activity is of supply of spares by the assessee to third party distributors and its

*AEs. It is pointed out that the spares being supplied to third parties and to the AEs may differ in their applications as stated, but spares remain spares. Therefore, the sub-segmentation canvassed by the assessee in order to benchmark the transaction is not relevant and has been rightly rejected by the income-tax authorities.*

9. *On this aspect, we have carefully considered the rival stands. It is a well-settled proposition that while carrying out the transfer pricing study of an international transaction, it is imperative that a comparison is made with the similarly placed transactions, as far as possible. In the present case, as noted earlier, the assessee benchmarked its International transaction of export of spares and components to its AE on the basis of TNM Method by relying on external comparable companies. So, however, the income-tax authorities have applied an internal TNMM mechanism in order to benchmark the impugned International transaction. The TPO analyzed the profitability of exports of spares and components to AEs on one hand, and compared it to the profitability of export of spares and components made by the assessee to third parties (i.e. non-AEs). At the threshold, the assessee has assailed the use of internal TNMM mechanism as inappropriate and has pointed out that the use of TNMM mechanism based on external comparable is more appropriate. Initially, we do not take up this controversy, which we shall deal with a little later. However, another pertinent plea of the assessee is to the effect that even the internal TNMM mechanism applied by the income-tax authorities is quite inappropriate and, therefore, the same has resulted in an unjustified adjustment to impugned International transaction. This aspect of the matter is being addressed at this stage. The assessee undertakes three categories of transactions in the course of the sale of spares and components. The three categories have been noted by us in the earlier part of the order and to briefly recapitulate, the same are as follows: Category 'A' transaction represents sale of spares by the assessee to third party distributors as well as to the AEs of such spares/components which are required for the purpose of servicing the vehicles sold by the assessee company. Category 'B' transactions represent sourcing of components required by the overseas AEs for manufacture of 2/3 wheelers, and category 'C' transactions represent sourcing of components required by the overseas AEs for manufacture of 4 wheelers, namely, New Quadracycle Poker. On the basis of submissions and material put-forth, it is sought to be explained that the category 'B' and category 'C' transactions involve supply to AEs (situated in Italy) of such parts and components which are used by the AE in the manufacture of vehicles abroad. It is sought to be made out that the source evaluation, pricing and procurement tests are the prerogative of the AE and that the assessee company based in India merely assists in logistic, co-ordination and facilitation/support services in respect of sourcing of such components. On the other hand, with regard to the category 'A' transactions, it involves supplies to third parties as well as AEs of the spares and components which are required for the purposes of servicing the vehicles manufactured and sold by the assessee company. In this category, the spares and components supplied are manufactured to the specifications prescribed the assessee company and as per the designs, dies, quality, packaging, etc., as mandated by the assessee*



company. On this basis, the assessee has attempted to point out that the margins in category 'A' transactions cannot be compared with the transactions of category 'B' and 'C', inasmuch as it involves functional and economic differences. It is sought to be made out that with regard to category 'B' and 'C' transactions, the assessee does not earn the kind of margins as it can earn by undertaking transactions of category 'A'.

10. In our considered opinion, the net profit margin in any particular kind of activity is indeed effected by various factors which are industry-specific and can also be unit-specific having regard to the degree of business experience enjoyed by an entity. The factors which can be industry-specific, for example can be in the field of competitiveness, new entrants, product differentiation and other Government regulations, etc. It is therefore quite imperative that while undertaking transfer pricing analysis one must examine the transactions undertaken with regard to the relevant factors effecting such transactions vis-à-vis transactions sought to be compared. In this context, we may now appreciate the distinction being set-up by the assessee in relation to transactions of category 'B' and 'C' on one hand and the transactions of category 'A' on the other. With regard to the transactions of category 'B' and 'C', which is in the realm of sourcing of components, quite clearly the same is in the nature of industrial supplies, which are in-turn, used by the buyer in manufacturing of vehicles and the services being rendered by assessee is merely logistic service equivalent. On the other hand, the nature of transactions in category 'A' effectuated by the assessee to its AE abroad as well as third party distributors involve supply of servicing spares and are purely in the realm of after-sale distribution. The assessee which manufactures vehicles and sells the same, also undertakes supply of spares and components required for servicing of such vehicles sold by it. Quite clearly, the supplies so undertaken are from already firmed-up sources, inasmuch as the assessee is the manufacturer of vehicles in which such components are used, and at the time of procurement for manufacturing the assessee has mandated the dies, design, quality, warranties, etc. Thus, supply of spare-parts and components as purely after-sales distribution results in higher margins. In contrast, the sourcing of products for overseas AE entailing category 'B' and 'C' transactions, the assessee has very limited role to play, which is akin to logistics support service provider.

11. In this background, we therefore deem it proper to conclude that even according to the internal TNMM mechanism sought to be applied, the comparison of margin of transactions of category 'B' and 'C' undertaken with the AEs is incomparable with the transactions undertaken with the third parties (i.e. non-AEs) which are purely in the nature of category 'A'. Ostensibly, the transactions of Category 'B' and 'C' are not undertaken with third parties (i.e. Non-AEs).

12. So, however, in so far as the transactions of category 'A' representing export of spares and components which are required for the purpose of servicing of vehicles sold by the assessee company, the transactions undertaken with third party distributors (i.e. non-AEs) are comparable to the transaction with the AEs. On this aspect, it is evident on the basis of the tabulation in para 7 that the profit margin (on cost) in relation to export to AEs is 67% and on transactions of exports to third party distributors (i.e. non-AEs) is 56.58% and the same clearly depicts that the transaction undertaken by the assessee of category 'A' with its AEs, namely, export of spares and components which are required for the purpose of servicing of vehicles sold by the assessee have been

*undertaken at an arm's length price and the same does not require any transfer pricing adjustment as done by the income-tax authorities."*

The same decision was also followed by the Tribunal for the assessment year 2007-08 in assessee's own case again in ITA No.1614/PN/2011 dated 28.06.2013. That the Tribunal in assessee's own case for assessment year 2008-09 (supra.) after going through the findings for assessment year 2006-07 (supra.) observed and held that in relation to the international transactions of export to the associated enterprises relating to the spares and components required in servicing of vehicle manufactured and sold by the assessee, the Tribunal found that even on an application of internal TNM mechanism the international transactions undertaken with associated enterprises was at an arm's length price.

7. That even in the present assessment year i.e. 2013-14, the same position holds good as can be seen from the tabulation enumerated by the TPO at Para 6 of his order. Therefore, following the aforesaid precedent, the adjustment computed by the TPO with regard to the export to associated enterprises of spares and components required for the purpose of servicing of vehicles sold by assessee is untenable, as the transactions undertaken with third-party distributors are comparable to the transaction with the associated enterprises.

8. That further regarding other part of the transactions relating to export of spares and components which are required by the associated enterprises for manufacture of two and three wheelers undertaken by them and the components which are required by the overseas associated enterprises for manufacture of four wheelers, namely, New, Quadracycle Poker. For these

two categories of transactions, the Tribunal negated the invoking of internal TNM mechanism by the TPO and instead remanded the matter back to the file of the Assessing Officer to examine the plea setup by the assessee. The relevant portion of the decision of the Tribunal for assessment year 2006-07 reads as follows:

*“13. Now, we are left with the transactions of category ‘B’ and ‘C’ which have been undertaken by the assessee with its AE. In so far as such transactions are concerned, there is no internal comparable transaction, inasmuch as such like transactions have not been carried out with non-AEs. The transactions of such nature involving sourcing of spares and components used in the manufacture of vehicles undertaken by the AE abroad have not been undertaken by the assessee with non-AEs. Therefore, in the absence of any internal transactions with third parties with similar functions and economic scenario, benchmarking of transactions of category ‘B’ and ‘C’ undertaken with AEs, cannot be done appropriately by invoking the internal TNMM mechanism. In this context, the assessee pointed out that for benchmarking the transactions between the assessee and the AEs in respect of such activities, the assessee has undertaken comparison with operating margins earned by third party support service providers in India and tabulation in this regard has been placed in page 223 of the Paper Book No. II. It is sought to be made out that the margins declared by the assessee on such activity at 11.05% compare favourably with the average operating margins earned by third party support service provider companies in India which worked out to 5.1%. In our considered opinion, the aforesaid plea of the assessee is liable to be examined with respect to its factual aspects. For the stated purpose, we therefore remand the issue back to the file of the Assessing Officer who shall carry out the requisite verification exercise and after being satisfied, he shall pass an appropriate order in accordance with law on this aspect.”*

In the present assessment year also, following the aforesaid precedent, we restore the issue back to the file of the Assessing Officer who shall carry requisite verification/exercise and re-adjudicate the matter while complying with the principles of natural justice. We direct the Assessing Officer to re-determine the ALP of the impugned international transaction of export of spares and components on the basis of the decision of the Tribunal in assessee’s own case for assessment year 2006-07 (supra.). Thus, **Ground Nos.2, 3 and 4 raised by the assessee are allowed for statistical purposes.**

9. With regard to **Ground No.5**, the Ld. Senior Counsel for the assessee submitted that since main grounds in this appeal are being remanded to the file of the Assessing Officer, similarly ground No.5 may also be restored to the file of the Assessing Officer for the sake of completeness and re-adjudication while complying with the principles of natural justice.

10. The Ld. DR conceded to the arguments put forth by the Ld. Senior Counsel for the assessee.

11. After hearing the parties herein, we remand ground No.5 also to the file of the Assessing Officer for re-adjudication as indicated hereinabove. Thus, **Ground No.5 raised in appeal by the assessee is allowed for statistical purposes.**

12. **Ground No.6** raised in appeal by the assessee is premature at this stage and hence, no adjudication is required.

#### **ADJUDICATION OF ADDITIONAL GROUNDS**

13. Now coming to the additional ground in appeal, the first ground pertains to "*whether education cess can be allowed as deduction?*"

14. The Ld. Senior Counsel for the assessee has placed strong reliance on the decision of the Hon'ble Bombay High Court in the case of **Sesa Goa Limited Vs. Joint Commissioner of Income Tax, (2020) 107 CCH 0376 MumHC, Tax Appeal No.17 of 2013/18 of 2013** wherein the question raised before the Hon'ble High Court was "whether Education Cess and Higher and Secondary Education Cess collectively referred to as "cess" is

allowable as a deduction in year of its payment. It was held and observed by the Hon'ble High Court that "*legislature in section 40(a)(ii) has provided that 'any rate or tax levied' on profits and gains of business or profession shall not be deducted in computing income chargeable under head 'profits and gains of business or profession'. There is no reference to any 'cess'. Obviously, therefore, there is no scope to accept that 'cess' being in nature of a tax is equally not deductible in computing income chargeable under head 'profits and gains of business or profession'. If legislature intended to prohibit deduction of amounts paid by a assessee towards 'education cess' or any other 'cess' then legislature could have easily included reference to 'cess' in clause (ii) of Section 40(a) of the Act. The fact that legislature has not done so means that legislature did not intend to prevent deduction of amounts paid by the assessee towards 'cess' when it comes to computing income chargeable under head 'profits and gains of business or profession'. Though the claim for deduction was not raised in original return or by filing revised return, assessee had indeed addressed a letter claiming such deduction before assessment could be completed. However, even if Court proceed on basis that there was no obligation on Assessing Officer to consider claim for deduction in such letter, the Commissioner (Appeals) or ITAT, before whom such deduction was specifically claimed was duty bound to consider such claim.*

This substantial question of law was answered in favour of the assessee stating that the amount paid by the assessee towards education cess has to be allowed as deduction.

15. Similar view was also taken by the Hon'ble Rajasthan High Court in the case of **Pr. Commissioner of Income Tax, Kota Vs. M/s. Chambal Fertilizers and Chemicals Ltd., Income Tax Appeal No.52/2018 ( Raj HC).**

16. The Ld. Senior Counsel for the assessee submitted that since main grounds of this appeal have been remanded to the file of the Assessing Officer, similarly this ground may also be remanded to the file of the Assessing Officer.

17. The Ld. DR conceded to the submissions put forth by the Ld. Senior Counsel for the assessee.

18. After hearing both the parties herein, this additional ground in respect of 'Education cess' is also remanded to the file of the Assessing Officer to adjudicate the issue in view of the principles laid down by the Hon'ble Jurisdictional High Court in the case of Pr. Commissioner of Income Tax, Kota Vs. Sesa Goa Limited Vs. JCIT (supra.) and Hon'ble Rajasthan High Court in the case of M/s. Chambal Fertilizers and Chemicals Ltd. (supra.). **Thus, additional ground No.1 raised in appeal by the assessee is allowed for statistical purposes.**

19. Referring to the other **Additional Ground No.8.1 & 8.2**, the Ld. Senior Counsel for the assessee submitted that this issue requires factual verification in respect of the various DTAA agreements involved therein and after verification of such facts in pursuance to those DTAA agreements, a conclusive finding can be arrived at. Therefore, in the interest of justice, these additional grounds may also be restored to the file of the Assessing Officer.

20. The Ld. DR conceded to this argument put forth by the Ld. Senior Counsel for the assessee.

21. After hearing the parties herein and taking totality of facts and circumstances into consideration wherein the DTAA agreements has to be looked into and factual aspects needs to be verified. Therefore, these additional grounds are also remanded to the file of the Assessing Officer who shall adjudicate these issues while complying with the principles of natural justice. **Thus, Additional Ground Nos. 8.1 & 8.2 raised in appeal by the assessee are allowed for statistical purposes.**

22. In the result, **appeal of the assessee is allowed for statistical purposes.**

Order pronounced on 18<sup>th</sup> day of March, 2021.

Sd/-  
**INTURI RAMA RAO**  
**ACCOUNTANT MEMBER**

Sd/-  
**PARTHA SARATHI CHAUDHURY**  
**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 18<sup>th</sup> March, 2021  
SB

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-13, Pune.
4. The Pr. CIT-5, Pune.
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, "सी" बेंच,  
पुणे / DR, ITAT, "C" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

**// True Copy //**

निजी सचिव / Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.

		Date	
1	Draft dictated on	17.03.2021	Sr.PS/PS
2	Draft placed before author	18.03.2021	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		