IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH MUMBAI

BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT &
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER

ITA No. 3510/Mum/2025
(Assessment Year: 2019-20)

Reliance Retail Limited 3rd Floor, Court House, Lokmanya Tilak Marg, Dhobi Talao, Mumbai- 400 002	Vs.	**ACIT Circle-8(1)(1),** Room No. 670, 6th floor, Aayakar Bhavan, Maharshi Karve Road, Mumbai-400 020
PAN/GIR No. AABCR1718E		
(Applicant)		(Respondent)

&

ITA No. 4244/Mum/2025
(Assessment Year: 2019-20)

ACIT Circle-8(1)(1), Room No. 670, 6th floor, Aayakar Bhavan, Maharshi Karve Road, Mumbai-400 020	Vs.	**Reliance Retail Limited** 3rd Floor, Court House, Lokmanya Tilak Marg, Dhobi Talao, Mumbai- 400 002
(Applicant)		(Respondent)

Assessee by	Shri Madhur Agarwal & Shri Nimesh Vora, Ld. ARs
Revenue by	Shri Umashankar Prasad, Ld. DR

Date of Hearing	16.02.2026
Date of Pronouncement	10.03.2026

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आदेश / ORDER

PER MAKARAND VASANT MAHADEOKAR, AM:

These cross appeals arise out of the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter referred to as "CIT(A)"] dated 12.04.2025 for Assessment Year 2019–20. The impugned order was passed under section 250 of the Income-tax Act, 1961 [hereinafter referred to as "the Act"] in relation to the assessment framed by the Assessing Officer under section 143(3) read with section 144B of the Act vide order dated 27.09.2022.

Facts of the Case

2. The assessee is a company engaged in the business of trading and merchandising of goods and providing related services. The assessee filed its original return of income for Assessment Year 2019–20 on 30.11.2019 declaring total income of Rs. 4556,20,76,520/-. Subsequently, a revised return of income was filed on 29.07.2020 declaring total income of Rs. 4567,49,77,390/-. The return of income was selected for scrutiny assessment and notices under sections 143(2) and 142(1) were issued from time to time. The case was also referred to the Transfer Pricing Officer under section 92CA of the Act on 16.07.202, who passed an order dated 27.01.2022 without proposing any adjustment to the arm's length price.

3. The assessment was completed under section 143(3) read with section 144B of the Act vide order dated 27.09.2022. During

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the course of assessment proceedings, the Assessing Officer examined various claims made by the assessee and made the following additions and disallowances:

i. **Disallowance of deduction under section 80G**

The Assessing Officer observed that the assessee had incurred Corporate Social Responsibility expenditure amounting to Rs. 21,06,00,000/- and claimed deduction under section 80G of Rs. 10,53,00,000/- in respect of donations made to Reliance Foundation.

According to the Assessing Officer, Corporate Social Responsibility expenditure incurred under section 135 of the Companies Act lacked voluntary character and represented application of income. It was held that allowing deduction under section 80G would defeat the intent of Explanation 2 to section 37(1) of the Act. Accordingly, deduction of Rs. 10,53,00,000/- was disallowed.

ii. **Restriction of deduction under section 80JJAA**

The assessee claimed deduction under section 80JJAA amounting to Rs. 12,31,53,732/- which included deduction pertaining to earlier assessment years. The Assessing Officer held that deduction under section 80JJAA is allowable only in respect of additional employee cost relating to the relevant assessment year and restricted the deduction to Rs. 5,94,89,560/- while disallowing Rs. 6,36,64,216/-.

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iii. **Disallowance under section 14A**

The assessee made suo motu disallowance under section 14A amounting to Rs. 10,73,211/- towards expenditure relatable to exempt income. The Assessing Officer was not satisfied with the computation and applied Rule 8D. The disallowance was computed at Rs. 91,70,706/- and after reducing the amount already disallowed by the assessee, a further disallowance of Rs. 80,97,495/- was made.

iv. **Addition on account of creditors written back**

The Assessing Officer observed that creditors amounting to Rs. 12,43,28,110/- were written back during the year. The assessee submitted that the write-back had already been adjusted against general expenses in the Profit and Loss Account and therefore stood offered to tax. The Assessing Officer rejected the explanation and added Rs. 12,43,28,110/- to the income.

v. **Disallowance of AJIO marketing expenditure**

The Assessing Officer observed that the assessee incurred expenditure towards development of AJIO e-commerce platform and capitalized such expenditure in the books of account. Out of the total project development expenditure, marketing and promotional expenditure amounting to Rs. 105,90,92,717/- was claimed as revenue expenditure.

The Assessing Officer held that the expenditure resulted in creation of intangible asset and enduring benefit to the business

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and accordingly treated the same as capital expenditure. After allowing depreciation, addition of Rs. 79,43,19,538/- was made.

Accordingly, the total income was assessed at Rs. 4677,06,86,749/-.

4. Aggrieved by the assessment order, the assessee preferred an appeal before the CIT(A).Before the CIT(A), the assessee challenged the validity of the assessment order contending that the assessment completed on 27.09.2022 was barred by limitation under section 153 of the Act. It was submitted that the time limit for completion of assessment expired on 31.03.2022 even after considering extension available on account of reference to the Transfer Pricing Officer. The assessee further submitted that the notices issued under section 142(1) after the expiry of limitation period were invalid and the assessment order was void ab initio.

5. On merits, the assessee made detailed submissions on all additions. The CIT(A) rejected the assessee's challenge to the validity of the assessment order and held that the assessment completed on 27.09.2022 was within the extended limitation period ending on 30.09.2022 after considering extension granted due to Covid pandemic and further extension on account of reference to the Transfer Pricing Officer. On merits, the CIT(A) granted relief to the assessee on the issues relating to deduction under section 80JJAA, disallowance under section 14A, treatment of AJIO marketing expenditure and addition on account of creditors written back. The disallowance under section

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80G and certain other issues relating to foreign tax credit were decided against the assessee.

6. Aggrieved by the order of the CIT(A), the Revenue is in appeal before the Tribunal and has raised the following grounds:

> 1. *Whether on the facts and circumstances of the case, the Hon'ble CIT(A) is justified in allowing the deduction u/s 80JJA of the Act when the addition was rightly made in light of the assessee failing to discharge the onus with adequate evidence in order to substantiate the claim with documents and reconciliation and also to justify the claim about the fulfilment conditions laid down therein ?*
> 2. *Whether on the facts and circumstances of the case, the Hon'ble CIT(A) is justified in deleting the disallowance under section 14A made by the Assessing Officer although Circular 5/2014 dated 11.02.2014 Rule 8D r.w.s 14A of the Act provides for disallowance of the expenditure even where tax payer in a particular year has not earned any exempt income?*
> 3. *Whether on the facts and circumstances of the case, the Hon'ble CIT(A) is justified in treating the Capital expenditure incurred by the assessee company as Revenue expenditure although the assessee has incurred the expenses of an intangible asset under development and the same is developed for the enduring benefit of the business of the assessee company.*
> 4. *Whether on the facts and circumstances of the case, the Hon'ble CIT(A) is deleting addition on the issue of write-back of creditors only on the basis of assertions made by the assessee company, when the addition was rightly made in light of the assessee failing to discharge the onus with adequate evidence and reconciliation in order to substantiate the claim?*

7. The assessee has raised the following grounds of appeal:

> *On the facts and circumstances of the case and in law, the learned CIT(A):*
>
> ***Validity of assessment order dated 27 September 2022 passed under section 143(3) r.w.s. 144B of the Act***

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1. *Erred in not quashing the notice under section 142(1) of the Act and the order passed u/s 143(3) r.w.s. 144B of the Act without appreciating that the same are beyond the limitation period prescribed under section 153(1) r.w.s. 153(4) of the Act;*

2. *Failed to appreciate that the due date for completion of the assessment proceedings for AY 2019-20 as per section 153(1) r.w.s. 153(4) of the Act is 31 March 2022 and thereby the assessment order passed is bad in law and liable to be quashed;*

3. *Failed to appreciate that the Transfer Pricing Officer ('TPO') has passed the order on 27 January 2022 after due consideration of the limitation period of 31 March 2022 as prescribed under section 92CA(3A) r.w.s. 153 of the Act.*

Without prejudice to the above Grounds, Grounds of appeal in respect of the additions made by the learned AO are as under:

Allowability of deduction under section 80G in respect of contributions towards Corporate Social Responsibility ('CSR'): Rs. 10,53,00,000

4. *Erred in confirming disallowance of deduction claimed u/s 80G of Rs.10,53,00,000 in respect of donation amounting to Rs. 21,06,00,000 given to entities registered u/s 80G to meet Corporate Social Responsibility.*

Additional claim of foreign tax credit not granted: Rs. 78,67,620

5. *Erred in disallowing the additional claim of foreign tax credit of Rs. 78,67,620 on the ground that the Appellant did not file the Form 67 before the due date of filing the Return of Income ('ROI');*

6. *Erred in not entertaining the additional claim made by the Appellant of foreign tax credit, merely due to procedural delay in filing Form 67 by the Appellant and disregarding the fact that the Appellant had duly complied with the conditions prescribed under Rule 128 of the Income-tax Rules, 1962 and as such was eligible for the additional claim.*

The appellant craves leave to add, to amend, vary or alter including by substitution any of the grounds of appeal as they or their representatives may think fit at any time before or during the hearing of

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the above appeal and further craves leave to consider each of the grounds of appeal as without prejudice to each other.

8. First, we deal with revenue's appeal in **ITA No. 4244/Mum/2025.**We take up the grounds issue-wise as under.

Ground No. 1: Deduction under section 80JJAA

9. The assessee claimed deduction under section 80JJAA aggregating to Rs. 12,31,53,732/-. The Assessing Officer restricted the deduction to Rs. 5,94,89,560/- pertaining to A.Y. 2019–20 and disallowed Rs. 6,36,64,216/- on the premise that such portion related to A.Ys. 2017–18 and 2018–19 and was not allowable in the year under consideration.

10. The learned Departmental Representative (DR) submitted that the learned CIT(A) erred in allowing the deduction under section 80JJAA without proper verification of the relevant details. It was contended that the assessee had enhanced the claim of deduction under section 80JJAA in the revised return of income, however, the corresponding audit report in Form No. 10DA was not revised. According to the learned DR, the claim made in the revised return was not supported by a revised statutory report and therefore the allowability of the enhanced deduction remained unsubstantiated. The learned DR further submitted that the assessee had claimed deduction under section 80JJAA in respect of additional employee cost pertaining to earlier years, which according to the Assessing Officer was not allowable in the year under consideration. It was submitted that the Assessing Officer had rightly restricted the deduction to the amount

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relatable to the relevant previous year.According to the learned DR, the relief granted by the learned CIT(A) was based merely on submissions of the assessee without examination of the supporting evidences, reconciliation statements and statutory records.

11. The learned Authorised Representative (AR) submitted that the assessee had claimed deduction under section 80JJAA aggregating to Rs. 12,31,53,732/-, which comprised Rs. 5,94,89,516/- relating to Assessment Year 2019–20 and Rs. 6,36,64,216/- relating to Assessment Years 2017–18 and 2018–19.The learned AR submitted that section 80JJAA(1) clearly provides that deduction equal to 30 percent of the additional employee cost is allowable for three assessment years including the assessment year in which the employment is provided. Accordingly, the deduction relating to Assessment Years 2017–18 and 2018–19 was eligible to be claimed in the year under consideration as part of the second- and third-year deduction under the statutory scheme.

12. It was further submitted that during the course of assessment proceedings the assessee had furnished complete details of the deduction claimed under section 80JJAA. The learned AR referred to the submissions made before the Assessing Officer vide letter dated 05.08.2022, wherein the assessee furnished the working of deduction under section 80JJAA along with Form No. 10DA for Assessment Years 2017–18 to 2019–20.The learned AR further submitted that detailed

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submissions were also filed before the Assessing Officer vide letter dated 12.09.2022, explaining that deduction pertaining to Assessment Years 2017–18 and 2018–19 was allowable in accordance with section 80JJAA and could not be denied merely on the ground that it related to earlier years.

13. It was submitted that the Assessing Officer disallowed deduction of Rs. 6,36,64,216/- pertaining to Assessment Years 2017–18 and 2018–19 without properly appreciating the statutory provisions and the submissions made by the assessee. The learned AR submitted that the learned CIT(A), after considering the provisions of section 80JJAA and the material placed on record, correctly held that deduction under section 80JJAA is allowable for three assessment years including the year in which employment is provided and accordingly allowed the deduction relating to Assessment Years 2017–18 and 2018–19.

14. In rebuttal to the contention of the learned DR that the allowability of deduction under section 80JJAA requires verification as to whether the employees continued in subsequent years, the learned AR submitted that such verification is not required under the statutory scheme of section 80JJAA.According to the learned AR, the deduction is linked to the additional employee cost incurred in the year of employment and once the conditions prescribed under section 80JJAA are satisfied in the year in which such cost is incurred, the deduction at the prescribed rate automatically becomes allowable for the

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succeeding two assessment years as well.It was submitted that the statute does not require verification of continued employment in the subsequent years for allowing the second- and third-year deduction. The learned AR contended that the allowability of deduction is determined with reference to the additional employee cost incurred in the initial year, and once such cost qualifies under the provisions of section 80JJAA, deduction at 30 percent thereof is allowable for three consecutive assessment years irrespective of whether the concerned employees continued in employment in the subsequent years.

15. We have carefully considered the rival submissions and perused the material available on record. From the plain reading of section 80JJAA(1), it is evident that deduction equal to 30 percent of the additional employee cost incurred in the previous year is allowable for three assessment years including the assessment year relevant to the previous year in which such employment is provided. The scheme of the provision clearly contemplates that once the additional employee cost qualifies for deduction in the initial year, the deduction at the prescribed rate becomes allowable in the succeeding two assessment years as well.

16. The objection of the learned DR that the assessee enhanced the claim in the revised return without revising Form No. 10DA does not advance the Revenue's case, since the assessee has placed on record the working of deduction and the audit report in Form No. 10DA for the relevant assessment years during the

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course of assessment proceedings and also explained during the course of hearing before us. No specific defect in such details has been pointed out by the Assessing Officer.

17. Similarly, the contention of the learned DR that deduction requires verification of continuation of employees in subsequent years is not supported by the language of section 80JJAA. The deduction under the said provision is linked to the additional employee cost incurred in the year of employment, and once such cost satisfies the statutory conditions, deduction at the prescribed rate is allowable for three consecutive assessment years. The statute does not prescribe continuation of employment in subsequent years as a condition for allowability of deduction.

18. We further note that the learned CIT(A), after examining the provisions of section 80JJAA and the material placed on record, has held that the assessee was entitled to deduction in respect of additional employee cost pertaining to A.Ys. 2017–18 and 2018–19 in accordance with the statutory scheme. The findings of the learned CIT(A) are consistent with the plain language of the provision and do not call for any interference.

19. In view of the foregoing discussion, we find no infirmity in the order of the learned CIT(A) in allowing deduction under section 80JJAA in respect of the impugned amount of Rs. 6,36,64,216/-. Accordingly, Ground No. 1 raised by the Revenue is dismissed.

Ground No. 2 – Disallowance under section 14A r.w. Rule 8D

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20. Relating to this disallowance, the learned DR relied upon the findings recorded by the Assessing Officer in para 5.8 of the assessment order and submitted that the learned CIT(A) erred in deleting the disallowance made under section 14A read with Rule 8D.Referring to para 5.8 of the assessment order, the learned DR submitted that the Assessing Officer had examined the assessee's submissions and recorded that the suomotu disallowance of Rs. 10,73,211/- made by the assessee under section 14A was without any reasonable basis. The Assessing Officer noted that the assessee had investments capable of yielding exempt income and had also submitted a working under Rule 8D computing disallowance at Rs. 91,70,706/-. However, subsequently the assessee contended that no further disallowance was required beyond the suo motu disallowance. The Assessing Officer rejected this contention and computed total disallowance under section 14A at Rs. 91,70,706/-, resulting in additional disallowance of Rs. 80,97,495/- after reducing the amount already disallowed by the assessee.

21. The learned DR further referred to the findings recorded by the learned CIT(A), wherein the learned CIT(A) deleted the disallowance primarily on the ground that the assessee possessed sufficient own funds amounting to about **Rs. 12,257 crore** as against investments of about **Rs. 3,041 crore**, and therefore it was to be presumed that the investments were made out of interest-free funds, placing reliance on the decision of the Hon'ble

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Bombay High Court in the case of ***CIT vs. Reliance Utilities and Power Ltd. (313 ITR 340)***.

22. The learned DR submitted that the learned CIT(A) erred in restricting the analysis only to the question of availability of interest-free funds and the applicability of Rule 8D(2)(ii). According to the learned DR, the learned CIT(A) failed to adjudicate the disallowance under Rule 8D(2)(iii) relating to administrative expenditure, which is independent of interest expenditure. It was therefore submitted that even if the presumption regarding utilization of own funds is accepted, disallowance under Rule 8D(2)(iii) would still survive and the learned CIT(A) was not justified in deleting the entire disallowance without examining this aspect.

23. The learned AR submitted that in the return of income the assessee had made a suo motu disallowance of Rs. 10,73,211/- under section 14A being expenditure relatable to earning of exempt income. The learned AR submitted that the said disallowance was computed after making a detailed analysis of each head of expenditure debited to the Profit and Loss account. It was further submitted that during the course of assessment proceedings the assessee furnished a detailed note vide letter dated 08.09.2022 explaining the basis of suo motu disallowance made under section 14A. Thereafter, vide letter dated 12.09.2022, the assessee furnished details of investment-wise exempt income along with monthly average working of opening and closing balances of investments on a without prejudice basis.

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24. The learned AR submitted that subsequently a show cause notice dated 14.09.2022 was issued by the Assessing Officer proposing application of Rule 8D and in response thereto the assessee filed detailed objections vide letter dated 21.09.2022, wherein it was explained that the disallowance under section 14A had been computed by disallowing direct salary cost and proportionate administrative expenditure and therefore represented a reasonable and scientific basis of allocation of expenditure relatable to exempt income and application of Rule 8D is not automatic and requires recording of proper satisfaction as to the correctness of the disallowance made by the assessee, for which reliance was placed on judicial precedents. It was also submitted that there was no nexus between the expenditure debited to the Profit and Loss account and the exempt income earned during the year.

25. The learned AR further clarified, in response to the contention of the learned DR that the learned CIT(A) had dealt only with the issue of availability of interest-free funds, that the observations of the learned CIT(A) regarding sufficiency of own funds were made in the context of the specific reasoning adopted by the Assessing Officer in para 5.8 of the assessment order. It was submitted that the Assessing Officer had rejected the assessee's suo motu disallowance of Rs. 10,73,211/- primarily on the ground that the assessee had invested interest-bearing funds in investments yielding exempt income and therefore the disallowance offered by the assessee was not acceptable. The

learned AR submitted that it was in rebuttal to this reasoning that the learned CIT(A) examined the financial position of the assessee and recorded a finding that the assessee possessed substantial own funds far in excess of the investments and therefore a presumption would arise that the investments were made out of interest-free funds. The learned AR submitted that the learned CIT(A) had thus directly addressed the basis on which the Assessing Officer rejected the assessee's disallowance and applied Rule 8D. It was contended that once the fundamental premise adopted by the Assessing Officer, namely utilization of interest-bearing funds for making investments, was found to be incorrect, the consequential application of Rule 8D could not be sustained.

26. We have carefully considered the rival submissions and perused the material available on record. The issue involved in the present ground relates to deletion of disallowance made by the Assessing Officer under section 14A read with Rule 8D amounting to Rs. 80,97,495/-, over and above the suo motu disallowance of Rs. 10,73,211/- made by the assessee.

27. It is observed that the assessee had made a suo motu disallowance under section 14A after examining the expenditure debited to the Profit and Loss account and identifying the expenditure relatable to earning of exempt income. The Assessing Officer rejected the working of the assessee primarily on the ground that the assessee had invested interest-bearing funds in investments capable of yielding exempt income and accordingly

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applied Rule 8D to compute disallowance at Rs. 91,70,706/-, resulting in further disallowance of Rs. 80,97,495/-.

28. The learned CIT(A), after examining the financial statements of the assessee, recorded a finding that the assessee had own funds in the form of share capital and reserves amounting to about Rs. 12,257 crore, whereas the investments in exempt income yielding securities amounted to about Rs. 3,041 crore. On these facts, the learned CIT(A) held that the investments were fully covered by interest-free funds and therefore no disallowance of interest expenditure was warranted. While arriving at this conclusion, the learned CIT(A) relied upon the decision of the Hon'ble Bombay High Court in CIT vs. Reliance Utilities and Power Ltd. (313 ITR 340).In the present case, the factual finding recorded by the learned CIT(A) that the assessee possessed substantial interest-free funds far in excess of the investments has not been controverted by the Revenue by bringing any contrary material on record. Once such factual position is accepted, the presumption laid down by the Hon'ble Bombay High Court squarely applies and the conclusion drawn by the learned CIT(A) that no disallowance of interest expenditure was warranted does not call for any interference.

29. We also find merit in the submission of the learned AR that the learned CIT(A)'s discussion regarding availability of own funds was in direct response to the reasoning adopted by the Assessing Officer in para 5.8 of the assessment order, wherein the Assessing Officer rejected the assessee's disallowance on the

premise that interest-bearing funds were utilized for making investments. The learned CIT(A) has thus correctly addressed the foundation of the Assessing Officer's reasoning.

30. The contention of the learned DR that the learned CIT(A) failed to adjudicate disallowance under Rule 8D(2)(iii) also does not merit acceptance in the facts of the present case. The assessee had already made a reasonable suo motu disallowance after analysing the expenditure debited to the Profit and Loss account and identifying the expenditure relatable to exempt income. The Assessing Officer has not recorded any cogent dissatisfaction with reference to the accounts of the assessee so as to justify mechanical application of Rule 8D. In the absence of proper satisfaction as contemplated under section 14A(2), invocation of Rule 8D cannot be sustained.

31. In view of the foregoing discussion, we find no infirmity in the order of the learned CIT(A) in deleting the disallowance made under section 14A read with Rule 8D. Accordingly, Ground No. 2 raised by the Revenue is dismissed.

Ground No. 4: Write-back of creditors

32. In respect of deletion of addition made by the Assessing Officer, the learned DR relied upon the findings of the Assessing Officer and submitted that the assessee had written back sundry creditors amounting to Rs. 12,43,28,110/- during the year under consideration but failed to offer the same to tax. It was submitted that the assessee claimed that the said amount had already been

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credited to the Profit and Loss account by way of adjustment against general expenses; however, the Assessing Officer found that no proper evidence was furnished to substantiate the claim that the write-back had actually been accounted for in the Profit and Loss account. The learned DR further submitted that the Form 3CD filed by the assessee did not disclose any amount chargeable to tax under section 41(1), which clearly indicated that the income arising on account of write-back of creditors was not offered to tax. It was also contended that the assessee ought to have specifically disclosed the amount in accordance with the provisions of the Act and then claimed adjustment in the computation, instead of merely reducing the expenditure in the books of account.

33. The learned AR relied upon the order of the learned CIT(A) and submitted that during the year under consideration the assessee had written back creditors amounting to Rs. 12,43,28,110/-, which had been duly recorded as income in the statement of Profit and Loss account by adjusting the same against the General Expenses account amounting to Rs. 116,46,62,339/-, thereby resulting in a corresponding reduction in expenditure and increase in profit.

34. It was submitted that the said accounting treatment had the effect of offering the write-back of creditors to tax by way of reduced expenditure and therefore no separate addition was warranted in the computation of total income.

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35. The learned AR further submitted that the tax auditor had also certified in Clause 25 of Form 3CD that no additional income on account of write-back of creditors was required to be offered to tax under section 41(1) of the Act. It was submitted that during the course of assessment proceedings, the assessee vide letter dated 02.09.2022 furnished details of creditors written back along with break-up of general expenses. Further submissions were made vide letter dated 12.09.2022 explaining that the write-back of creditors already formed part of the profit before tax and therefore could not be added again in the computation of income. It was contended that the Assessing Officer, without properly appreciating the submissions and evidences furnished by the assessee, added back the amount of Rs. 12,43,28,110/-, which resulted in double addition of the same income. The learned AR accordingly submitted that the learned CIT(A) was justified in deleting the addition.

36. We have carefully considered the rival submissions and perused the material available on record. It is observed that during the year under consideration the assessee had written back creditors amounting to Rs. 12,43,28,110/-. The Assessing Officer treated the said amount as income not offered to tax on the ground that the assessee had reported Nil income under section 41(1) in Form 3CD and had not specifically offered the amount to tax in the computation of income. The Assessing Officer further held that the assessee failed to substantiate the claim that the write-back had already been accounted for in the

Profit and Loss account and accordingly added the said amount to the returned income. On appeal, the learned CIT(A), after verification of ledger accounts and financial records, recorded a categorical finding that the amount of creditors written back was reduced from the head "General Expenses" and consequently stood reflected in the Profit and Loss account. The learned CIT(A) observed that general expenses were reduced from about Rs. 116.47 crore to about Rs. 104.07 crore on account of adjustment of creditors written back amounting to Rs. 12,43,28,110/-, and therefore no separate addition was warranted.

37. The finding recorded by the learned CIT(A) is a clear finding of fact based on examination of the ledger accounts. The Revenue has not brought any material on record to controvert the said finding or to demonstrate that the amount of Rs. 12,43,28,110/- was not reflected in the Profit and Loss account.

38. From the material placed on record, it is evident that the write-back of creditors was accounted for by reducing the general expenses, which had the effect of increasing the profit before tax. The method of presentation in the accounts, whether by way of separate disclosure under the head income or by reduction of expenditure, does not alter the taxability once the income is already embedded in the profit offered to tax. The basis adopted by the Assessing Officer for making the addition, namely non-reporting under Clause 25 of Form 3CD, cannot by itself justify the addition when the income is otherwise found to have been duly reflected in the books of account and Profit and Loss

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account. The taxability of an item must be determined on the basis of the real income reflected in the accounts and not merely on the basis of reporting format in the tax audit report.

39. In the present case, once the write-back of creditors already forms part of the profit before tax, any further addition of the same amount would result in taxation of the same income twice, which is impermissible in law.

40. In view of the above factual position and the findings recorded by the learned CIT(A), we find no infirmity in the order of the learned CIT(A) in deleting the addition of Rs. 12,43,28,110/- made on account of write-back of creditors. Accordingly, this ground raised by the Revenue is dismissed.

Ground No. 3 – AJIO marketing expenditure (capital vs revenue)

41. During the year under consideration, the assessee claimed deduction of Rs. 105,90,92,717/- under the head "AJIO Revenue Expenditure" being marketing and promotional expenditure incurred in connection with the AJIO e-commerce platform. The Assessing Officer observed from the financial statements that under the head Non-Current Assets, the assessee had disclosed an amount of Rs. 1,788.99 crore as Intangible Assets under Development as against the opening balance of Rs. 2,138.58 crore. The assessee was stated to be developing an online e-commerce platform namely AJIO.com for sale of merchandise and for conducting associated activities such as supply chain

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management and payment processing. During the relevant previous year, an amount of Rs. 459,79,38,840/- had been incurred and capitalized under project development expenditure in accordance with the requirements of Ind AS 16 and Ind AS 38.

42. The assessee submitted before the Assessing Officer that the AJIO platform had not reached the stage necessary for it to be capable of operating in the manner intended by management as per the provisions of Ind AS 16 and Ind AS 38, and accordingly the expenditure incurred on development of the platform was capitalized as intangible assets under development in the books of account. The assessee also submitted that the accounts were prepared in accordance with the applicable Ind AS prescribed under the Companies Act, 2013.

43. It was further submitted that although certain expenditures were capitalized in the books of account, the marketing expenditure of Rs. 105.90 crore incurred during F.Y. 2018-19 was allowable as revenue expenditure under the Income-tax Act since the said expenditure was not directly related to development of the AJIO portal but was incurred for promotion and scaling up of website operations after the platform had been put to use. The assessee pointed out that the AJIO business had commenced during F.Y. 2016-17, when the first online sale was made on 03.04.2016, and therefore the business operations had already started. It was stated that approximately 4.5 lakh customers had purchased goods aggregating to Rs. 51.23 crore through the AJIO platform and during F.Y. 2018-19 the platform

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had recorded sales of approximately Rs. 454.62 crore, with about 7.18 lakh registered customers as on 31.03.2019. According to the assessee, the assets were therefore already put to use and the marketing expenditure was incurred in the normal course of business.

44. The assessee further contended that the marketing expenditure consisted of advertisement, business promotion, product samples and other marketing expenses, which were revenue in nature and allowable under the Income-tax Act. It was submitted that these expenses did not create any asset nor did they provide any enduring benefit so as to be treated as capital expenditure. The assessee emphasized that merely because the expenditure had been capitalized in the books due to Ind AS requirements, the same would not determine its tax treatment. It was also submitted that no depreciation had been claimed on the marketing expenditure of Rs. 105.90 crore, and depreciation was claimed only on amounts capitalized as intangible assets directly related to development of the AJIO platform. The assessee also submitted that the development work of the AJIO website had commenced during F.Y. 2015-16, and the expenditure incurred in connection with development of the website had been capitalized as intangible assets under development in accordance with accounting standards. However, the marketing expenditure incurred during the year was independent of the development cost and was incurred after commencement of business operations.

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45. The Assessing Officer did not accept the submissions of the assessee. The Assessing Officer observed that as per the accounting policies and applicable accounting standards, all expenses directly attributable to bringing an asset to the condition necessary for it to be capable of operating in the manner intended by management were required to be capitalized until the date the asset was put to use. The Assessing Officer referred to the provisions of AS-26 and observed that amortization of expenditure on intangible assets should commence from the date when the asset is available for use. According to the Assessing Officer, the assessee had itself admitted that the AJIO platform had not reached the stage necessary for full operational capability and therefore the related expenditure was required to be capitalised.

46. The Assessing Officer further observed that the assessee had capitalized expenditure attributable to development of the AJIO website under the head Intangible Assets under Development on the ground that the website had not reached the condition necessary for full utilisation. It was held that once the project itself was under development, the marketing expenditure incurred in connection with the AJIO portal could not be treated separately as revenue expenditure.

47. The Assessing Officer noted that the assessee was engaged in the business of retailing of merchandise and the AJIO portal had been developed as a digital commerce initiative for marketing merchandise and establishing delivery infrastructure. According

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to the Assessing Officer, the expenditure of Rs. 105.90 crore was incurred for popularizing the AJIO portal and for establishing the online platform, and therefore the same was incurred for enduring benefit and required to be capitalized along with development cost.

48. The Assessing Officer also observed that the assessee had failed to furnish complete details of sales made through the AJIO platform and had not demonstrated that the marketing expenditure was not directly attributable to the development of the portal. It was further observed that the assessee had not amortised the capitalized expenditure from the date the asset was put to use and the judicial precedents relied upon by the assessee were not applicable to the facts of the case.

49. Accordingly, the Assessing Officer concluded that the marketing expenditure of Rs. 105,90,92,717/- incurred towards AJIO was capital in nature and disallowed the same. However, treating the expenditure as part of intangible assets, the Assessing Officer allowed depreciation at the rate of 25% amounting to Rs. 26,47,73,179/-.Thus, the net addition on account of disallowance of AJIO marketing expenditure amounted to Rs. 79,43,19,538/- after allowing depreciation.

50. During the proceedings before CIT(A), the assessee made detailed submissions explaining the nature and allowability of marketing expenditure incurred in relation to the AJIO e-commerce platform.

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51. The assessee submitted that the learned NFAC had already adjudicated the identical issue for A.Y. 2018–19, wherein it was held that the marketing expenditure incurred for promotion of business on the AJIO platform was entirely operational in nature and did not result in creation of any new asset. It was submitted that by following the decision of the Hon'ble Supreme Court in ***Taparia Tools Ltd. [2015] 55 taxmann.com 361***, it was held that an assessee is entitled to claim deduction in the year in which the expenditure is incurred and that accounting treatment in the books cannot determine allowability under the Act. The assessee submitted that the facts for the year under consideration were identical and therefore the issue was fully covered by the earlier order.

52. The assessee further submitted that it was engaged in the business of trading and merchandising of goods and providing services through retail formats such as Reliance Fresh, Reliance Smart, Reliance Market and Reliance Digital stores across India. It was submitted that during F.Y. 2015–16, the assessee developed and launched an online retail platform under the name AJIO, which became operational in F.Y. 2016–17, when the first online sale was made on 03 April 2016. The assessee submitted that approximately 4.5 lakh customers purchased goods aggregating to about Rs. 51.23 crores through the AJIO platform during the initial phase and that the platform had been operational since that date. The assessee furnished year-wise

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details of sales and marketing expenditure incurred on the AJIO platform as under:

Financial Year	Sales (Rs. in crores)	Revenue marketing expenditure (Rs. in crores)
2017–18	250.36	351.20
2018–19	454.62	105.90
2019–20	857.49	226.13

53. The assessee submitted that the aforesaid expenditure represented routine marketing and advertisement expenses incurred on media platforms such as Facebook, YouTube, print and television and also included promotional campaigns offering discounts on products sold through the AJIO portal. It was submitted that these expenses were incurred to solicit customers and increase sales and were recurring in nature. According to the assessee, the expenditure did not represent any one-time outlay for development of the AJIO platform and did not result in creation of any asset or enduring benefit in the capital field. It was further submitted that the assessee was already engaged in the business of retail trading of fashion and lifestyle products through physical stores across India and that the launch of AJIO represented only an extension of the existing business through an additional distribution channel. It was contended that the launch of AJIO was akin to opening a new retail outlet at a different location and therefore the expenditure incurred was revenue in nature.

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54. The assessee also explained the accounting treatment adopted in the books. It was submitted that since the AJIO platform had not reached the condition necessary for it to operate in the manner intended by management as required under Ind AS 16 and Ind AS 38, certain marketing expenditure was classified in the books under the head “Intangible assets under development”. Relevant extracts from Ind AS 38 and Ind AS 16 were reproduced to support the accounting treatment. The assessee submitted that although certain marketing expenditure was capitalized in the books, the same was claimed as revenue expenditure under section 37(1) while computing taxable income. It was further submitted that other development costs relating to AJIO had already been capitalized in earlier years and depreciation had been claimed under section 32 from A.Y. 2017–18 onwards.

55. The assessee further submitted that even the Assessing Officer in para 7.7 of the assessment order had accepted that marketing expenditure in connection with merchandise would ordinarily be revenue in nature and that the expenditure was incurred for popularising merchandise on the online portal. The assessee submitted that it was not engaged in the business of software development or IT services but in the business of retailing and therefore marketing expenditure could not be regarded as capital expenditure. The assessee contended that the expenditure was incurred wholly and exclusively for the purposes of business and did not result in acquisition of any capital asset.

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Reliance was placed on the decision of the Hon'ble Supreme Court in ***Empire Jute Co. Ltd. v. CIT (124 ITR 1)*** for the proposition that expenditure incurred for facilitating business operations without creating a capital asset is allowable as revenue expenditure.

56. Further reliance was placed on the following decisions:

- **CIT v. Bhor Industries Ltd. (264 ITR 180) (Bom.)**
- **CIT v. Salgaocar Mining Industries Pvt. Ltd. (108 taxmann.com 116) (Bom.)**
- **Kellogg India Pvt. Ltd. v. ACIT (121 taxmann.com 303) (Mum Trib.)**

57. The assessee submitted that the marketing expenditure was incurred for sale of merchandise on the AJIO platform and not for development of the platform itself. According to the assessee, marketing expenditure incurred for selling products on AJIO could not be equated with expenditure for developing the platform or establishing a delivery chain as alleged by the Assessing Officer.

58. The assessee also relied on the decision of the Mumbai Tribunal in **Reliance Footprint Ltd. v. ACIT (41 taxmann.com 553)** wherein project development expenditure incurred after setting up of business was held to be revenue in nature. It was submitted that the said decision was affirmed by the Hon'ble

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Bombay High Court in **CIT v. Reliance Footprint Ltd., ITA No. 948 of 2014**.

59. Reliance was also placed on:

- **Reliance Fresh Ltd. v. ACIT (72 taxmann.com 170) (Mum Trib.)**, affirmed by the Hon'ble Bombay High Court in **PCIT v. Reliance Fresh Ltd., ITA No. 985 of 2017**, wherein expansion-related expenditure was held allowable as revenue expenditure.

- **Olive Bar & Kitchen Pvt. Ltd. v. DCIT (175 ITD 72) (Mum Trib.)**, wherein expenditure incurred for expansion of existing business was held allowable as revenue expenditure.

60. The assessee further submitted that accounting entries are not determinative of taxability and reliance was placed on the decision of the Hon'ble Supreme Court in **Taparia Tools Ltd. v. JCIT (55 taxmann.com 361)** wherein it was held that deduction allowable under the Act cannot be denied merely because a different treatment was given in the books of account.

61. Further reliance was placed on the following decisions:

- *Kedarnath Jute Mfg. Co. Ltd. v. CIT (82 ITR 363) (SC)*
- *CIT v. India Discount Co. Ltd. (75 ITR 191) (SC)*
- *Tuticorin Alkali Chemicals & Fertilizers Ltd. v. CIT (227 ITR 172) (SC)*
- *CIT v. Berger Paints (India) Ltd. (126 Taxman 435) (Cal HC)*

- *CIT v. Sakthi Soyas Ltd. (283 ITR 94) (Mad HC)*
- *DCIT v. Axis Asset Management Co. Ltd. (130 taxmann.com 223) (Mum Trib.)*

62. It was also submitted that in the scrutiny assessment for A.Y. 2017–18, the Assessing Officer had examined the claim relating to AJIO and had accepted the allowability of revenue expenditure and depreciation relating to the platform.

63. Finally, the assessee submitted that the tax treatment adopted was consistent across years and in the absence of any change in facts or law, the principle of consistency should be followed.

64. During the appellate proceedings, the assessee furnished detailed head-wise break-up of marketing and advertisement expenditure along with vendor-wise details and supporting evidences. The expenditure mainly consisted of advertisement, digital marketing and sales promotion activities such as:

- Online advertising campaigns on platforms such as Facebook and YouTube
- Television and print media advertisements
- Production cost of advertising commercials
- Ideation, concept creation and script writing
- Marketing campaigns and promotions
- Digital banners and catalogue shoots
- Mass mail and SMS campaigns
- Cashback schemes and product samples

Illustrative vendor-wise details included:

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- Vibrant Advertising House Private Ltd. – Rs. 142,75,92,279/- towards advertising and marketing campaigns on digital platforms and TV channels
- Purple Thoughts India Pvt. Ltd. – Rs. 1,63,90,968/- towards production cost of commercials and advertisements
- Phantom Ideas Pvt. Ltd. – Rs. 12,50,000/- towards ideation and creative services
- Various other vendors – Rs. 1,01,17,489/- towards marketing and advertisement activities

65. The learned CIT(A) recorded that the total expenditure of Rs. 153,42,90,717/- was incurred mainly towards advertisement, marketing and sales promotion and after reducing gross margins and discounts, the net marketing expenditure worked out to Rs. 105,90,92,717/-.

66. On examination of sample invoices and supporting documents, the learned CIT(A) observed that the advertisements were run as marketing campaigns across various media platforms including Facebook, YouTube, print media and television and were intended to attract prospective customers to purchase products through the Ajio platform. It was further observed that such campaigns were routine in nature and related to sales promotion activities undertaken on a year-to-year basis. The learned CIT(A) recorded a finding that the marketing expenditure was incurred for promotion of business operations on the Ajio platform and was wholly connected with operational activities and did not result in creation of any capital asset or intangible

asset. It was further observed that although such expenditure was capitalized in the books in accordance with Ind AS requirements, the same was claimed as revenue expenditure for tax purposes.

67. The learned CIT(A) reproduced the findings of the Hon'ble Bombay High Court in the case of Reliance Footprint Ltd., wherein it was held that the treatment in books of account is not conclusive and that expenditure directly relatable to operation and maintenance of existing business is allowable as revenue expenditure. The learned CIT(A) recorded a finding that the assessee maintained a single set of accounts for its business activities and the Ajio platform represented expansion of the existing business rather than setting up of a new independent business.

68. After examining the nature of expenditure and the judicial precedents, the learned CIT(A) concluded that the marketing and advertisement expenditure incurred for expansion of the Ajio e-commerce platform constituted revenue expenditure and did not result in any enduring benefit in the capital field. The addition made by the Assessing Officer by treating the expenditure as capital in nature was accordingly deleted. The learned CIT(A) further directed the Assessing Officer to rework depreciation while giving appeal effect since the expenditure had been treated as revenue in nature.

69. Before us, the learned DR reiterated the observations and reasoning recorded by the Assessing Officer in the assessment

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order and supported the treatment of AJIO marketing expenditure as capital in nature.

70. It was submitted that the expenditure in question was incurred in connection with development and promotion of the AJIO e-commerce platform which, according to the Assessing Officer, had not reached full operational stage. The learned DR contended that the expenditure resulted in enduring benefit to the assessee in the capital field and therefore was rightly treated as capital expenditure.

71. The learned DR further submitted that the assessee itself had capitalised such expenditure in its books of account as part of intangible assets under development and had not amortized the same from the date of put to use. It was pointed out that despite such capitalisation in the books, the Assessing Officer had allowed depreciation at the rate of 25 percent while treating the expenditure as capital in nature, which itself indicated that the expenditure pertained to acquisition or development of an intangible asset.

72. The learned DR also pointed out that the assessee had continued to capitalise similar expenditure in subsequent assessment years, which according to him demonstrated that the expenditure was not routine in nature but related to development and strengthening of the AJIO platform.

73. It was further submitted that the expenditure was not in the nature of routine day-to-day selling expenses but was incurred

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for promotion and expansion of the AJIO platform itself. According to the learned DR, the nature of expenditure showed that it was intended to create and strengthen the platform and brand and therefore such expenditure was correctly treated as capital in nature by the Assessing Officer.

74. In rejoinder, the learned AR submitted that the contentions raised by the learned DR stand fully addressed by the decision of the co-ordinate Bench in the assessee's own case in **ITA No. 4251/Mum/2024**, wherein identical issue relating to the allowability of marketing expenditure incurred in connection with the AJIO platform was examined in detail. The learned AR invited our attention to paras 7.4 to 7.9 of the said order, wherein the co-ordinate Bench considered the very same objections raised by the Assessing Officer and rejected them after analysing the nature of expenditure and the factual position.

75. The learned AR submitted that the co-ordinate Bench recorded a categorical finding that the marketing campaigns conducted through platforms such as Facebook, YouTube, print media and television were undertaken for sales promotion of merchandise listed on the AJIO platform and for attracting prospective customers to purchase products through the online portal. The Co-ordinate Bench observed that such campaigns merely constituted routine marketing and advertisement activities relating to sales promotion and were incurred on a year-to-year basis.

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76. The learned AR further submitted that the Co-ordinate Bench in the said decision also noted that the assessee had placed factual data on record demonstrating that approximately 4.5 lakh customers purchased goods aggregating to Rs. 51.23 crores through the AJIO platform during the initial phase and that approximately 15.15 lakh customers purchased goods of Rs. 250.36 crores on the platform during the subsequent year. The assessee had also furnished month-wise and party-wise details of sales made on the AJIO platform along with details of customer count during the relevant assessment years.

77. It was submitted that the Co-ordinate Bench in the said decision specifically rejected the reasoning of the Assessing Officer that the expenditure was capital in nature merely because it was reflected as "Intangible Assets under Development" in the books of account in compliance with Ind AS 16 and Ind AS 38. The Tribunal held that such accounting treatment was mandated under the Companies Act and the Indian Accounting Standards and therefore could not determine the allowability of expenditure under the provisions of the Income-tax Act. The learned AR submitted that the co-ordinate Bench had categorically held that the manner of accounting cannot determine the taxability of income or the allowability of expenditure, and that the allowability must be determined strictly in accordance with the provisions of the Income-tax Act.

78. The learned AR further pointed out that the Co-ordinate Bench also took note of the fact that the Assessing Officer himself

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had admitted in the assessment order that marketing expenditure incurred in connection with merchandise would ordinarily be revenue in nature and that the assessee was not engaged in the business of software development or IT-enabled services but was primarily engaged in the business of retailing.

79. It was further submitted that the Tribunal also considered the explanation given by the assessee regarding capitalization of expenditure in the books in compliance with **Ind AS 16 and Ind AS 38**, which require that costs relating to internally generated intangible assets be capitalized until the asset reaches the stage where it is capable of operating in the manner intended by management. The Co-ordinate Bench noted that such accounting treatment was adopted solely for the purpose of compliance with accounting standards and did not alter the character of expenditure for the purpose of the Income-tax Act.

80. The learned AR submitted that the Co-ordinate Bench in the aforesaid decision also relied upon the judgments of the jurisdictional High Court in the following cases:

- ***CIT v. Reliance Footprint Ltd., ITA No. 948 of 2014***
- ***PCIT v. Reliance Fresh Ltd., ITA No. 985 of 2017***

wherein it was held that expenditure incurred for expansion of an already existing business would be allowable as revenue expenditure even if the same was capitalized in the books of account.

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81. It was accordingly submitted that the co-ordinate Bench, after examining the entire factual matrix and the judicial precedents, had upheld the order of the learned CIT(A) and held that the marketing expenditure incurred in connection with the AJIO platform constituted revenue expenditure allowable under section 37(1) of the Act.

82. We have carefully considered the rival submissions and perused the material available on record. The controversy in the present ground is whether the expenditure of Rs. 105,90,92,717/- incurred on advertisement, business promotion, product samples and marketing in relation to AJIO is to be treated as capital expenditure, as held by the Assessing Officer, or as revenue expenditure, as held by the learned CIT(A).

83. At the outset, we find that the factual foundation of the present year is materially similar to that considered by the co-ordinate Bench in the assessee's own case for ***A.Y. 2018-19 in ITA No. 4251/Mum/2024***. In that year also, the assessee was already engaged in the business of trading and merchandising of goods and had launched AJIO as an online channel for sale of merchandise. The Co-ordinate Bench noted that AJIO became operational when the first online sale was made on 03.04.2016 and that the marketing expenditure, though capitalised in the books under "Intangible Assets under Development" in compliance with Ind AS, was claimed as revenue expenditure in the computation of income on the ground that it was incurred for promotion and marketing.

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84. In the year before us also, the Assessing Officer proceeded on the same core reasoning, namely, that:

(i) the assessee itself had capitalized the expenditure in the books as part of intangible assets under development,

(ii) the platform had not reached the condition necessary for operating in the manner intended by management,

(iii) the expenditure was incurred for popularizing the AJIO online portal and hence conferred enduring benefit, and

(iv) therefore the expenditure was liable to be capitalized along with development cost, subject to depreciation at 25 percent.

85. We further note that the assessee's stand in the present year is also on the same factual pattern as in the earlier year. The assessee explained that though the expenditure was capitalized in the books in view of mandatory Ind AS requirements, the same was not directly related to development of the online portal but was incurred for promotion and scale up of website operations after the AJIO business had commenced in F.Y. 2016-17. The assessee specifically stated that the expenditure consisted of advertisement, business promotion, product samples and marketing expenses, did not create any asset, and did not provide enduring benefit in the capital field. It was also specifically asserted that no depreciation was claimed on the impugned marketing expenditure, and depreciation was claimed only on amounts directly related to development of the e-commerce platform.

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86. The CIT(A), while deleting the addition, recorded that the assessee had already been carrying on retail business and that AJIO was merely an extension of the existing business through an online platform. The CIT(A) also noted the year-wise sales and marketing data, namely, sales of Rs. 250.36 crore in F.Y. 2017-18, Rs. 454.62 crore in F.Y. 2018-19 and Rs. 857.49 crore in F.Y. 2019-20, along with corresponding marketing expenditure, and further found that the impugned expenditure consisted of routine marketing and advertisement campaigns on platforms such as Facebook, YouTube, print and TV, undertaken to solicit prospective customers to buy products listed on AJIO. The CIT(A) thus concluded that the expenditure was operational in nature, related to sales promotion, did not create any new asset, and was allowable as revenue expenditure notwithstanding its capitalization in the books, relying inter alia on *Taparia Tools Ltd.* and the decisions in the assessee group's own cases such as ***Reliance Footprint Ltd.*** and ***Reliance Fresh Ltd.***

87. The co-ordinate Bench in ***ITA No. 4251/Mum/2024***considered the very same objections of the Assessing Officer and rejected them. It specifically recorded that the marketing campaigns on various media platforms were undertaken to solicit prospective customers to buy products on AJIO, that such expenditure was routine marketing and advertisement of products displayed on the platform, generally incurred on a year-to-year basis, and that it did not give any enduring benefit in the capital field nor create any asset or

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intangible. The Co-ordinate Bench also noted that the assessee had furnished month-wise and party-wise details of sales and customer data, thereby meeting the objection that sales details had not been provided.

88. In our considered view, the similarities between the earlier year decided by the co-ordinate Bench and the present year are direct and substantial.

89. We now deal with the specific contentions advanced by the learned DR.

90. First, as regards the contention that the platform was not fully operational and therefore all expenditure connected with it must be capitalized, we find that this very position formed part of the assessee's accounting explanation under Ind AS. However, both the CIT(A) in the present year and the co-ordinate Bench in the earlier year have correctly appreciated that accounting treatment mandated by Ind AS for purposes of financial statements does not determine allowability under the Income-tax Act. The co-ordinate Bench has expressly held that the manner of accounting shall not determine taxability of income or allowability of expenditure and that the claim must be examined on the touchstone of the Act. This principle also stands reflected in the present year's record, where the assessee itself had submitted that treatment in books due to mandatory Ind AS would not alter the legal position for tax purposes.

91. Second, on the contention that the expenditure gave enduring benefit and was for promotion of the platform rather than day-to-day sale, we are unable to accept the same. The record shows that the expenditure was on advertisement, business promotion, product samples and marketing, and that the campaigns were run to solicit prospective customers to buy products listed on AJIO. The co-ordinate Bench has already held on identical material that such expenditure is routine sales and marketing expenditure and does not create any capital asset or intangible. The mere fact that expenditure may strengthen market visibility or expand customer reach does not, in the facts of this case, convert recurring sales-promotion expenditure into capital outlay.

92. Third, as regards the contention that the assessee continued to capitalize such expenditure in subsequent years, that again is only a reiteration of the accounting treatment argument. Once it is accepted that capitalization in the books is driven by compliance with accounting standards and not by the decisive legal character of the expenditure under the Act, continuation of such accounting treatment in later years does not advance the Revenue's case. The co-ordinate Bench has already accepted this distinction in the assessee's own case.

93. Fourth, on the contention relating to non-amortisation from the date of put to use and the allowance of depreciation by the Assessing Officer, we find that this line of reasoning also proceeds on the assumption that the impugned expenditure is part of a

capital asset. That is precisely the assumption which does not hold once the real nature of the expenditure is found to be routine marketing and sales promotion. The allowance of depreciation by the Assessing Officer cannot, by itself, determine the true character of the expenditure. On the contrary, the assessee has specifically stated that no depreciation was claimed on the impugned marketing expenditure and that depreciation was claimed only on the component directly capitalized in relation to development of the platform.

94. We also note that even in the assessment order for the present year, the Assessing Officer substantially proceeded on the same objections as were tabulated and considered by the co-ordinate Bench for A.Y. 2018-19, including the objections that sales details were not furnished, that marketing expenses could not be split from project cost, that the portal was for enduring benefit, and that capitalization in books required similar treatment for tax purposes. The co-ordinate Bench has already examined these very objections and upheld the finding that the expenditure was revenue in nature.

95. In view of the aforesaid discussion, we are satisfied that the facts of the year under consideration are materially identical to those considered by the co-ordinate Bench in the assessee's own case in ***ITA No. 4251/Mum/2024***, and no distinguishing feature has been pointed out by the Revenue. Respectfully following the said decision, and for the reasons independently discussed hereinabove, we uphold the order of the learned CIT(A) in treating

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the impugned AJIO marketing expenditure as revenue expenditure. Consequently, the disallowance made by the Assessing Officer cannot be sustained. Accordingly, Ground No. 3 raised by the Revenue is dismissed.

96. We shall now take up the grounds raised in the assessee's appeal (***ITA No.3510/MUM/2025)***, which arise out of the same assessment order passed under section 143(3) of the Act for the impugned assessment year. The assessee has raised the following substantive issues in its appeal:

i. Disallowance of deduction under section 80G in respect of CSR donations amounting to Rs. 10,53,00,000/- (being 50 percent of donation of Rs. 21,06,00,000/-); and
ii. Non-grant of additional Foreign Tax Credit (FTC) amounting to Rs. 78,67,620/- on the ground that Form No. 67 was not filed before the due date of filing the return of income.

97. We shall deal with the issues seriatim.

Ground No. 4 – Deduction under section 80G on CSR contribution-Rs. 10,53,00,000/-

98. During the assessment proceedings, the Assessing Officer noticed that the assessee had made donation of Rs. 21,06,00,000/- to Reliance Foundation. The assessee treated the said payment as expenditure incurred towards Corporate Social Responsibility (CSR) under section 135 of the Companies Act, 2013 and, while disallowing the entire amount in the computation of business income, claimed deduction of Rs.

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10,53,00,000/-, being 50 percent thereof, under section 80G of the Act.

99. The assessee submitted before the Assessing Officer that although CSR expenditure is not allowable under section 37(1) in view of Explanation 2, the deduction in the present case was claimed not under section 37(1) but under section 80G, which is an independent provision dealing with donations to eligible institutions. It was contended that Explanation 2 to section 37(1) bars only business deduction and does not prohibit deduction under other provisions of the Act. The assessee further submitted that the Memorandum to the Finance (No. 2) Bill, 2014 itself indicates that CSR expenditure falling within the scope of other provisions would continue to be governed by those provisions. The assessee also argued that section 80G itself contains specific exclusions in respect of CSR-related contributions to Swachh Bharat Kosh and Clean Ganga Fund, which shows that there is no blanket statutory prohibition against all CSR-linked donations. According to the assessee, if Parliament intended to bar all such donations, it would have said so expressly.

100. The Assessing Officer, however, did not accept the assessee's explanation. He held that deduction under section 80G is available only for sums paid as donation, which, according to him, presupposes a voluntary contribution. Since the assessee's payment was made in discharge of the statutory obligation under section 135 of the Companies Act, the Assessing Officer held that the payment lacked the necessary voluntary character. He further

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observed that Explanation 2 to section 37(1), read with the CBDT Circular No. 01/2015 dated 21.01.2015, makes it clear that CSR expenditure is an application of income and cannot be allowed as deduction, and that permitting deduction under section 80G would indirectly defeat that legislative intent. He also referred to Schedule VII of the Companies Act and took the view that CSR funds cannot be given as donation to a trust or society in the manner claimed by the assessee. Relying additionally on McDowell & Co. Ltd. v. CTO (154 ITR 148) and Apex Laboratories Pvt. Ltd. v. DCIT (135 taxmann.com 286), the Assessing Officer concluded that the assessee was attempting to obtain, indirectly, a deduction which the legislature intended to deny. He accordingly disallowed the deduction of Rs. 10,53,00,000/- claimed under section 80G.

101. In appeal, the assessee reiterated that the disallowance under section 37(1) and the deduction under section 80G operate in different fields. It was submitted that section 80G falls in Chapter VI-A and applies at the stage of computing total income, whereas CSR expenditure is first disallowed while computing business income. Therefore, denial of deduction under section 80G would result in double disallowance, which was never intended by the legislature. The assessee further argued that the Assessing Officer had travelled beyond his jurisdiction in examining whether CSR funds could be donated under the Companies Act, whereas his proper enquiry under the Income-tax Act ought to have been confined to whether the conditions of

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section 80G were fulfilled. The assessee also submitted that Schedule VII of the Companies Act is only illustrative and inclusive in nature, and that the MCA Circular dated 12.01.2016 clarifies that the Government does not approve or implement CSR projects and that the company retains discretion in choosing the mode and recipient of CSR spending. It was also contended that the mandatory nature of CSR expenditure does not rob the payment of its philanthropic character, especially when no reciprocal benefit is received from the donee. In support of these propositions, the assessee relied upon several judicial precedents including Naik Seafoods Pvt. Ltd., National Seeds Corporation Ltd., Goldman Sachs Services Pvt. Ltd., FNF India Pvt. Ltd., Sling Media Pvt. Ltd., Infinera India Pvt. Ltd., Peerless General Finance & Investment Co. Ltd., First American (India) Pvt. Ltd., Allegis Services (India) Pvt. Ltd., and Interglobe Technology Quotient Pvt. Ltd.

102. The learned CIT(A), however, concurred with the Assessing Officer. He observed that the assessee had incurred CSR expenditure of Rs. 21,06,00,000/- and had made donation of the same amount to Reliance Foundation, while claiming 50 percent thereof as deduction under section 80G. According to the learned CIT(A), the payment lacked voluntariness, which he considered to be an essential attribute of a donation under section 80G, since the payment was made in discharge of the statutory obligation under section 135(5) of the Companies Act. The learned CIT(A) further held that Explanation 2 to section 37(1) makes it clear

that CSR expenditure is not incurred for the purposes of business or profession and that the explanatory notes to the Finance Act also characterize such expenditure as application of income. On that basis, the learned CIT(A) concluded that allowing deduction under section 80G would indirectly defeat the legislative intent underlying the statutory disallowance of CSR expenditure. He therefore upheld the action of the Assessing Officer and confirmed the disallowance of Rs. 10,53,00,000/-.

103. Before us, the learned Authorised Representative reiterated the submissions made before the lower authorities and submitted that the donation was made to an institution duly registered under section 80G and the assessee had satisfied all the conditions prescribed under the provision.

104. The learned AR invited our attention to Paper Book pages 137 to 139, wherein copies of the donation receipts issued by Reliance Foundation acknowledging receipt of the contribution were placed on record. The learned AR submitted that the genuineness of the donation and the eligibility of the donee institution under section 80G were never disputed by the Assessing Officer.

105. The learned DR relied upon the findings recorded by the Assessing Officer as well as the reasoning adopted by the learned CIT(A).

106. We have carefully considered the rival submissions of the parties, perused the orders of the lower authorities and examined the material placed on record.

107. After examining the statutory provisions and the contentions of both the parties, we are unable to concur with the view taken by the lower authorities. At the outset, it is necessary to note that Explanation 2 to section 37(1) merely clarifies that expenditure incurred on CSR activities shall not be deemed to be expenditure incurred for the purposes of business or profession and therefore cannot be allowed as deduction while computing income under the head "Profits and gains of business or profession." The said Explanation does not impose any restriction on deductions allowable under other provisions of the Act. Section 80G, on the other hand, falls under Chapter VI-A and provides for deduction in respect of sums paid as donations to specified funds and institutions while computing total income. Therefore, the two provisions operate in distinct fields.

108. In the present case, the assessee has admittedly disallowed the entire CSR expenditure while computing business income, and the claim under section 80G has been made only while computing total income under Chapter VI-A. In such circumstances, denial of deduction under section 80G would effectively result in double disallowance, which does not appear to be the legislative intent.

109. A careful reading of section 80G further shows that the legislature has expressly excluded only certain CSR contributions

from the ambit of deduction. Specifically, section 80G(2)(a)(iiihk) and 80G(2)(a)(iiihl) provide that contributions made to Swachh Bharat Kosh and Clean Ganga Fund shall not qualify for deduction if such payments are made in pursuance of CSR obligations. The presence of such specific exclusions indicates that the legislature was conscious of CSR-related contributions and deliberately chose to restrict deduction only in respect of the aforesaid funds. If the intention of Parliament was to deny deduction under section 80G for all CSR-related payments, it would have enacted a general prohibition. The absence of such a restriction clearly supports the assessee's contention.

110. We also find merit in the submission of the assessee that the mandatory nature of CSR expenditure does not alter the intrinsic character of the payment as a donation, particularly when the payment is made to an eligible charitable institution and no reciprocal benefit is received from the donee. The concept of voluntariness, in the context of donations under section 80G, must be understood with reference to the absence of quid pro quo and not merely with reference to the statutory framework governing CSR obligations.

111. This view finds support from several judicial precedents relied upon by the assessee. In ***Interglobe Technology Quotient Pvt. Ltd. v. ACIT (ITA No. 95/Del/2024)***, the Delhi Tribunal held that the mandatory nature of CSR spending does not disentitle an assessee from claiming deduction under section 80G where the other statutory conditions are fulfilled. Similarly, in ***First***

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American (India) Pvt. Ltd. v. ACIT (ITA No. 1762/Bang/2019) *and* ***Allegis Services (India) Pvt. Ltd. v. ACIT (ITA No. 1693/Bang/2019)***, the Bangalore Bench of the Tribunal held that denial of deduction under Chapter VI-A merely because the payment forms part of CSR expenditure would lead to double disallowance, which is not contemplated by the Act.

112. Further support is derived from decisions such as ***FNF India Pvt. Ltd. v. ACIT [133 taxmann.com 251] (Bangalore ITAT)***, ***Sling Media Pvt. Ltd. v. DCIT [194 ITD 1] (Bangalore ITAT)***, ***Infinera India Pvt. Ltd. v. JCIT [194 ITD 463] (Bangalore ITAT)***, ***National Seeds Corporation Ltd. v. ACIT (Delhi ITAT)***, *and* ***DCIT v. Peerless General Finance & Investment Co. Ltd. (Kolkata ITAT)***, wherein the Tribunal has consistently taken the view that deductions allowable under Chapter VI-A cannot be denied merely because the expenditure was disallowed while computing business income.

113. The decision of the Co-ordinate Bench in ***M/s. Naik Seafoods Pvt. Ltd. v. Pr. CIT (ITA No. 490/Mum/2021)*** also supports the principle that deductions under Chapter VI-A must be considered independently of the computation of income under other heads, subject to fulfilment of statutory conditions.

114. In the present case, the learned AR has also invited our attention to Paper Book pages 137 to 139, wherein the donation receipts issued by Reliance Foundation have been placed on record. These documents establish that the payment was actually made to an institution duly registered under section 80G.

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Importantly, the genuineness of the donation and the eligibility of the donee institution under section 80G have not been disputed by the Assessing Officer.

115. In view of the above factual and legal position, we are of the considered opinion that the deduction claimed by the assessee under section 80G cannot be denied merely on the ground that the payment also formed part of CSR expenditure under the Companies Act.

116. Accordingly, we hold that the disallowance of Rs. 10,53,00,000/- made by the Assessing Officer and confirmed by the learned CIT(A) is not sustainable in law. The addition is therefore deleted and Ground No. 4 raised by the assessee is allowed.

Ground No. 5 – Additional Ground: Claim of Foreign Tax Credit of Rs. 78,67,620/-

117. During the appellate proceedings, the assessee raised an additional ground of appeal seeking allowance of Foreign Tax Credit (FTC) of Rs. 78,67,620/- in respect of taxes paid in China by its liaison offices. The assessee also filed an application for admission of additional evidence. The assessee submitted that it maintains three liaison offices in China, namely at Shenzhen, Guangzhou and Keqiao, which primarily function as communication channels for the principal place of business of the assessee in India and facilitate procurement of electronics, footwear and garments for import into India. These liaison offices

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do not undertake any commercial or trading activity in China. However, under the domestic tax laws of China, certain percentage of the expenditure incurred by liaison offices is deemed as gross income and a deemed profit rate of 15 percent is applied on such amount for the purpose of computing taxable income.

118. The assessee furnished the details of enterprise income-tax paid in China by these liaison offices during the relevant year and submitted that the aggregate tax paid amounted to Rs. 78,67,620/-. It was further submitted that the income and expenditure of these liaison offices were duly consolidated in the books of the assessee while computing its taxable income in India. The assessee relied upon Article 23 of the India–China Double Taxation Avoidance Agreement, which provides that where a resident of India derives income which may be taxed in China, India shall allow as deduction from the tax payable in India an amount equal to the income-tax paid in China, subject to the limitation that such deduction shall not exceed the tax attributable to the income taxed in China. The assessee submitted that although the taxes paid in China had been accounted for in its books and the corresponding amount of Rs. 96,15,784/- had been claimed as business expenditure in the return of income, the relief under section 90 of the Act in the nature of foreign tax credit was not claimed during the assessment proceedings as the analysis of eligibility for such relief was undertaken subsequently. The assessee therefore

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requested that the taxes paid in China be disallowed as business expenditure and that foreign tax credit of Rs. 78,67,620/- be granted instead. The assessee also submitted that Form 67, containing the statement of income from a country outside India and the foreign tax credit claim, had been filed on 21.12.2022 on the income-tax e-filing portal along with supporting documents.

119. The learned CIT(A), however, did not accept the claim of the assessee. The learned CIT(A) observed that under Rule 128 of the Income-tax Rules, an assessee claiming foreign tax credit is required to furnish Form 67 on or before the due date prescribed under section 139(1) for filing the return of income. In the present case, the assessee had filed Form 67 on 21.12.2022, which was admittedly after the due date for filing the return of income.The learned CIT(A) therefore held that the assessee had failed to comply with the procedural requirement prescribed under Rule 128 of the Income-tax Rules. According to the learned CIT(A), since Form 67 was not filed within the prescribed time, the assessee was not eligible to claim foreign tax credit in India in respect of the taxes paid in China.

120. On this reasoning, the learned CIT(A) dismissed the additional ground of appeal and declined to grant foreign tax credit of Rs. 78,67,620/-.

121. Before us, the learned AR submitted that the issue is squarely covered in favour of the assessee by the decision of the co-ordinate bench of the Tribunal in the assessee’s own case for A.Y. 2018–19 in ***ITA No. 4251/Mum/2024***. The learned AR

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invited our attention to the relevant findings of the Tribunal wherein on identical facts the Co-ordinate Bench had held that delay in filing Form 67 cannot be a ground for denying a legitimate claim of foreign tax credit when the form had been filed before completion of the assessment proceedings.

122. The relevant observation of the Co-ordinate Bench, as pointed out by the learned AR reads as under:

> *12.1 Claim of the assessee is that merely on account of procedural reasons of delay in filing of Form 67, the legitimate claim cannot be denied. It is an undisputed fact that Form 67 is on record. We find that this issue is no longer res integra as held in favour of the assessee by the Hon'ble High Court of Madras in the case of Duraiswamy Kumaraswamy v. PCIT [2024] 460 ITR 615 (Mad) wherein it held that where assessee claimed foreign tax credit (FTC) and filed Form-67 after due date specified for furnishing return under section 139(1) but before completion of assessment proceedings, rejection of assessee's FTC claim was not proper.*

123. Relying on the aforesaid decision, the learned AR submitted that the assessee had already filed Form 67 on 21.12.2022 along with the requisite details of income earned and taxes paid in China and therefore the claim cannot be denied merely on account of procedural delay.

124. The learned DR, on the other hand, relied upon the reasoning given by the learned CIT(A).

125. After considering the rival submissions, we find merit in the contention of the assessee. It is not in dispute that the assessee has actually paid taxes in China and has placed the relevant details on record. It is also an admitted position that Form No. 67

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has been filed by the assessee, though after the due date prescribed under section 139(1) but before completion of the appellate proceedings. The denial of the foreign tax credit by the learned CIT(A) is therefore solely on the ground of delay in filing Form 67.

126. We find that the co-ordinate in the assessee's own case for A.Y. 2018–19 has already examined an identical issue and, following the judgment of the Hon'ble Madras High Court in Duraiswamy Kumaraswamy v. PCIT (460 ITR 615), held that delay in filing Form 67 is a procedural lapse and cannot be a ground for rejecting a legitimate claim of foreign tax credit where the form has been filed before completion of the assessment proceedings.

127. The relevant principle laid down by the Hon'ble High Court is that the requirement of furnishing Form 67 is procedural in nature and the substantive relief available under section 90 read with the applicable DTAA cannot be denied merely for a procedural delay, particularly when the necessary details are already available on record.

128. Respectfully following the decision of the co-ordinate bench in the assessee's own case and the judgment of the Hon'ble Madras High Court referred to above, we are of the considered view that the claim of the assessee cannot be rejected solely on the ground that Form 67 was not filed within the due date prescribed under section 139(1).

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129. However, since the claim of foreign tax credit requires verification of the details of taxes paid in China and the corresponding income offered to tax in India, we deem it appropriate to restore the matter to the file of the Jurisdictional Assessing Officer for the limited purpose of verification of the documents placed on record and to grant the foreign tax credit of Rs. 78,67,620/- in accordance with law. Accordingly, Ground No. 5 raised by the assessee is allowed for statistical purposes.

Ground Nos. 1 to 3 – Validity of assessment order dated 27.09.2022 passed under section 143(3) r.w.s. 144B of the Act

130. By way of these grounds, the assessee has challenged the validity of the assessment order dated 27.09.2022 passed under section 143(3) read with section 144B of the Act. The assessee has contended that the notice issued under section 142(1) and the consequential assessment order were passed beyond the limitation period prescribed under section 153(1) read with section 153(4) of the Act. It was further contended that the due date for completion of the assessment proceedings for A.Y. 2019–20 was 31.03.2022 and therefore the assessment order passed thereafter is bad in law and liable to be quashed. The assessee has also raised a contention that the Transfer Pricing Officer passed the order under section 92CA on 27.01.2022 after considering the limitation period prescribed under section 92CA(3A) read with section 153.

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131. The learned AR advanced detailed arguments in support of the aforesaid grounds and contended that the impugned assessment order suffers from limitation defects and therefore deserves to be quashed.

132. However, these grounds have been raised without prejudice to the substantive grounds on merits. Since while adjudicating the other grounds we have already granted relief to the assessee on merits, the adjudication of the present legal grounds challenging the validity of the assessment order would become purely academic.

133. It is well settled that the Tribunal is not required to adjudicate academic issues when the dispute can be effectively resolved on other grounds. In these circumstances, although the learned AR has advanced arguments on the issue, we consider it appropriate not to adjudicate these grounds at this stage. Accordingly, Ground Nos. 1 to 3 are kept open and not adjudicated.

134. In the result, the appeal filed by the Revenue is dismissed, whereas the appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 10.03.2026.

Sd/-	**Sd/-**
(SAKTIJIT DEY)	**(MAKARAND VASANT MAHADEOKAR)**
VICE PRESIDENT	**ACCOUNTANT MEMBER**

Mumbai, Dated 10/03/2026
Dhananjay, Sr.PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai