

**IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, MUMBAI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER
ITA No. 9523/MUM/2025 (AY: 2017-18)**

(Physical hearing)

DCIT-3(1)(1), Mumbai 607, 6 th Floor, Aayakar Bhawan, M.K.Road, Mumbai, Maharashtra – 400020.	Vs	Riverside Industries Private Limited Off No. 1204, 12 th Floor, Aston Towers Sundervan Azad Nagar, S.O. Mumbai – 400053. [PAN: AABCR3234P]
Appellant / Revenue		Respondent / Assessee

Assessee by	Shri Rashmikant Modi, CA and Ms. KetkiRajshirke, CA
Revenue by	Shri AnnavaramKosuri, Sr. DR
Date of hearing	09.04.2026
Date of pronouncement	07.05.2026

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by revenue is directed against the order of Id. CIT(A) / NFAC dated 27.10.2025 for Assessment Year (A.Y.) 2017-18.

"1. Whether on fact and in the circumstances of the case in law the Ld. CIT(A) erred in deleting the disallowance of business development and business promotion expenses paid to shareholders/related parties without appreciating the absence of infrastructure, office establishment, independent clientele, and evidence of actual services rendered.

2. Whether on fact and in the circumstances of the case in law the Ld. CIT(A) failed to consider that the payees declared income under section 44AD @ 6%, to reduce tax liability, and erred in relying on irrelevant factors such as subsequent year turnover and acceptance of income in the hands of recipients.

3. Whether on fact and in the circumstances of the case in law the Ld. CIT(A) erred in allowing depreciation on a motor car not registered in the name of the assessee company.

4. Whether on fact and in the circumstances of the case in law the Ld. CIT(A) failed to appreciate that the assessee did not establish business use of the vehicle by any documentary evidence, and therefore the depreciation was rightly disallowed by the Assessing Officer.

5. The appellant craves leave to add, amend and/or vary grounds of Appeal before or during the course of hearing."

2. Brief facts of the case are that assessee company is engaged in the business of drugs and pharmaceuticals, filed its return of income for assessment year (A.Y.) 2018-19 declaring income Nil under normal provisions and book profit under the provisions of section 115JB of Rs. 54,13,154/-. The case was selected for scrutiny. During assessment, the assessing officer noted that assessee in its profit and loss account has debited business development expenses of Rs. 6.11 crore and business promotion expenses of Rs. 5.00 crore. Further in show cause, the assessee furnished the name of persons to whom the business development and promotion expenses were paid. The assessing officer in order to verify the claim issued notice under section 133(6) to all such persons. The specimen format of notice under section 133(6) is extracted in para 4.3 of assessment order. In the notice under section 133(6), the assessing officer required the nature of business activities, ITR details of business premises, address, number of staff with such parties' details of services, modus operandi and other details, who provided business promotion and business development services. The assessing officer issued notice to 9 persons. The AO asked the assessee to produce such individual or their Principal Officers on 18.12.2019. The

AO recorded that on the date fixed, Rajesh Mulchandani and and Vijay Mulchandani attended his office. Their statement was recorded under section 131 by AO. They furnished the reply of all the parties in response to notice under section 133(6). The AO recorded that all replies are similar. On the basis of details furnished, the AO again issued notice dated 19.12.2019. The content of show cause notice is recorded on page 4 to 6 of assessment order. In the show cause notice the AO mentioned that exact nature of services provided by related parties is not explained. None of the parties have their independent business establishment from where they operate no correspondence or any exchange of information to establish exact service against huge payment is not provided. The assessing officer also sought the details of educational qualification. The details of educational qualification along with shareholding pattern was provided. The assessing officer recorded the name of individuals / entities and the gist of their reply on page 8 of assessment order. On page 9 of assessment order, the AO recorded that all the persons are filing return of income under the provisions of section 44AD and offered 6% of total receipt as their net profit on providing such services. The assessing officer rejected the explanation and various evidences furnished by assessee by holding that all the documents furnished by assessee are bearing the date of October, 2019 which is the date subsequent to notices issued by AO. The assessee has paid Rs. 6.11 crore under business development expenses and Rs. 5.00 crore for

promotion expenses. The assessee was incorporated in January, 2014 and all of them are supported providing service together from F.Y. 2015-16 and F.Y. 2016-17. In absence of any correspondence, it is not established that there is any contract of providing such services. All the individuals are not having any office establishment from which they can carry out their professional activities. On the basis of such observation, the assessing officer disallowed the entire aggregate of business development expenses and business promotion expenses of Rs. 11.11 crore while passing assessment order on 30.12.2019.

3. The AO further noted that assessee has claimed that depreciation on two cars, which is not in the name of assessee company. On show cause notice, the assessee submitted that cars were purchased in the name of directors and were used for the purpose of business and as per order of Mumbai Tribunal in Edwise Consultants Pvt. Ltd. vs DCIT. In ITA No. 5376/Mum/2011, the assessee is eligible for depreciation. The reply of assessee was not accepted by assessing officer by holding that car is not registered in the name of company. The assessee has not been able to prove by documentary evidence that car has been used for the purpose of business. Only those expenses can be allowed which are directly relatable to the business of assessee company. The uses of car for business purpose are not proved by assessee company. Thus, the AO disallowed the claim of depreciation and thereby reduce the written down value (WDV) to that extent.

4. Aggrieved by the additions in the assessment order, the assessee filed appeal before Id. CIT(A). Before Id. CIT(A), the assessee filed detailed written submission on 05.02.2024. The submission of assessee is recorded on page 13 onwards. The assessee in its submission submitted that assessee is a domestic company engaged in the business of manufacturing of drugs and pharmaceuticals. During the assessment party-wise details as called for by AO in respect of business development expenses and business promotion expenses were furnished complete details. In response to notice under section 133(6), the assessee produced directors namely Vijay Mulchandani and Rajesh Mulchandani before assessing officer. The AO recorded their statement under section 131. The complete details in response to notice under section 133(6) were furnished. Copy of ITR of all the parties along with ledger account and qualification of service provider, nature of services rendered and modus operandi were furnished. The AO not accepted the details of expenses on the ground that parties have shown their income under presumptive taxation scheme under section 44AD on the amount so received. Their family members of directors having same address. On the objection of AO that replies were similar, the assessee explained that AO applied theory of preponderances without bringing any specific finding about non-genuine of such services. The AO has not pointed out any deficiency in the details. The AO rejected the contention on surmises. The AO without bringing any evidence on record rejected the claim of

assessee. The services rendered were not disputed. On the depreciation of car which is in the name of directors, the assessee submitted that AO disallowed depreciation on the ground that assessee has not provided any documentary evidence to substantiate that motor car has been used for the purpose of business of assessee company. He never called in documentary evidence that motor cars were not used for the purpose of business. The AO simply asked that motor cars are not in the name of directors and company is not having any ownership. The assessee reiterated that similar claim is allowed by Mumbai Tribunal in *Edwise Consultants Private Ltd. vs DCIT (supra)*.

5. The assessee submitted MOUs with the parties who rendered businessdevelopment services and business promotion services. The Id. CIT(A) noted that such evidence was not furnished before assessing officer. Such evidence was treated as additional evidence. The assessee also filed application under Rule 46A of Income Tax Rules-1962, for seeking permission for admission on additional evidence. The Id. CIT(A) obtained the remand report from assessing officer vide his direction dated 06.08.2024. The assessing officer furnished his remand report. The contents of remand report are recorded on page no. 18 onwards. In the remand report, the AO commented that MOUs for business promotion services and business development services are dated 01.04.2016. The assessee failed to demonstrate any justifiable reason for non-submission of such evidence before him during assessment. As per

Rule 46A, additional evidence is admissible only, if AO refused to admit or the assessee was prevented from by reasonable cause from producing and / or the evidences are relevant to the issue and will aid in complete decision. The AO commented that MOUs are internal documents and are covered by the findings given by the assessment order. Such evidence does not add in merits of the facts of the case and may not be admitted. The AO requested to Id. CIT(A) to decide the issue on merit. Copy of remand report was provided to assessee for their comment. The assessee filed its objection to the remand report which are recorded on page no. 20 onwards in the order of Id. CIT(A). The assessee filed its objection to the remand report and submitted that complete details of service rendered by related parties and their qualifications were furnished. The assessee submitted that AO has not refuted the authenticity of MOUs. He has not challenged the relevance and evidentiary value. In subsequent assessment, the assessing officer accepted such MOUs. MOUs are crucial for adjudication of issue. On similar issue, the case of assessee for A.Y. 2020-21 was reopened and after verifying the genuineness of expenses paid to shareholders and directors and on verifying same MOUs no disallowance of similar business expenses was made. Similarly, in A.Y. 2019-20 & 2022-23, the assessment was completed under section 143(3) and no disallowance was made.

6. The Id CIT(A) after considering the submission of assessee, remand report of AO and rejoinder of assessee and other material placed before him deleted the entire addition by holding that similar MOUs are consistently accepted by department on same issues. The Id. CIT(A) referred the order under section 148A(d) dated 29.06.2025 in A.Y. 2019-20 wherein similar expenses claim for payments made to directors of Rs. 9.97 crore was accepted. Further, similar claim for A.Y. 2020-21 in the assessment order passed under section 147 dated 18.03.2025 was accepted by revenue. The Id. CIT(A) also referred the assessment order for A.Y. 2018-19, 2020-21 & 2022-23 wherein similar expenses were accepted. The Id. CIT(A) also referred the return of income and assessment order of various shareholder directors in accepting their return of income. The Id. CIT(A) ultimately held that similar expenses is accepted in various years in assessee's own case as well as in cases of service provider. The existence of MOUs between the assessee and the service provider is not denied. Once similar expenses have been accepted in other year there is no need to disturb the trend and disallow the business development expenses and business promotion expenses in the current year as well. The educational and professional experience is sufficient with the shareholder and relatives. There is positive increase in the subsequent years. Disclosure of the amount received by the service provider has been accepted by their assessing officer. Thus, there is no

ground for disallowing the claim of business development expenses and business promotion expenses.

7. On the disallowance of depreciation on two cars the Id. CIT(A) held that assessing officer disallowed such depreciation that assessee failed to show that vehicles were used for the purpose of business. The vehicles have been disclosed in the scheduled in the fixed asset, in the audited books. The decision cited by assessee in Edwise Consultants Private Limited (supra) is squarely applicable on the fact of the present case and allowed depreciation on two motor cars to the assessee by deleting the disallowance.
8. Aggrieved by the order of Id. CIT(A), the revenue has filed present appeal before Tribunal.
9. We have heard the submissions of Id. Sr. DR for the revenue and the Id. Authorised Represent (Id. AR) of the assessee. The Id. Sr. DR for the revenue supported the order of AO on the disallowance business promotion expenses and business development expenses. The Id. Sr. DR submits that assessee has paid such expenses to the close relatives without proving the services rendered by them. The Id. CIT(A) allowed relief to the assessee on accepting on MOUs and on the basis of order of other years. Each year has to be considered separately. On the disallowance of depreciation of car, the Id. Sr. DR submits that such vehicles are not registered in the name of assessee company. The assessee has not proved by evidence that such vehicles was used for the

purpose of business. The Id. Sr. DR for the revenue prayed that order of Id. CIT(A) may be reversed by restoring the order of AO on both the additions / disallowances.

10. On the other hand, the AR of the assessee supported the order of Id. CIT(A). On the disallowance of business promotion expenses and business development expenses, the AR of the assessee submits that during assessment the assessing officer issued show cause notice raising the plea that assessee has made transaction with related parties and claimed expenses. The assessee was asked to furnish name, PAN details, amount paid relationship with directors of each of individual to whom the assessee has made such transaction to furnish service agreement / contract with each recipient along with payment during the details of actual services rendered. In response to show cause notice, the assessee filed its reply and submitted required details statement showing all payments to related parties including shareholder, directors and sister concern during the relevant financial year. The nature of expenditure and the head of business under which the assessee debited were also furnished. The assessee furnished name, PAN, amount and relationship and the invoices raised by each of the related parties with corresponding bank statement of parties with ledger accounts were furnished. The assessee submitted that TDS were made wherever applicable. The copies of Form 16A issued to the parties, copies of which were also furnished. The assessee submitted that the said parties were providing business

support services being family members. The assessee explained that the family members / related parties are provided such services so that family business of assessee company grows and the growth is important to their families. The assessee furnished complete details of their books of account along with tax audit report with all details and annexure. The assessee furnished the name and qualification of related parties and reiterated that all family members are working for family-owned company for its growth and development and providing business services from assessment year 2016-17. They have their skill through years of experience in working together for family old business over the years. They are giving 100% attention, efforts and commitment for the growth of their company. On the issue of business development activity, plant inspection, control checking factory inspection and supervisor work, the assessee explained that such business-related activities are carried out by related parties and their activities are not restricted to any particular scope of work. The assessing officer disallowed the expenses merely on the basis of surmises. In subsequent years similar expenses have been allowed by AO. The Id.CIT(A) appreciated the fact and allowed full relief to the assessee. On the depreciation of motor vehicle, the Id. AR of the assessee supported the order of Id. CIT(A). The Id. AR of the assessee submits that in fact such issue is covered by the decision of Tribunal which has been relied by Id. CIT(A).

11. We have considered the rival submissions of both the parties and have gone through the orders of lower authorities carefully. The basis of disallowance of business promotion and business development expenses is recorded by us in foregoing paragraphs. Similarly, the basis of allowance of relief by Id. CIT(A) is also recorded by us in preceding paras which is not repeated here for the sake of revenue. On our independent appreciation of fact, we find that assessing officer disallow business promotion expenses and business development expenses by taking view that no written agreement is furnished and all payments were made to related parties who have shown their income under presumptive section of 44AD.

12. We find that in the course of assessment proceedings, the AO called party-wise details in respect of business development expenses and business promotion expenses. The assessee furnished complete details. Further, in response to notice under section 133(6), the assessee produced its two directors namely Vijay Mulchandani and Rajesh Mulchandani before assessing officer. The AO recorded their statement under section 131. Further, copy of ITR of all the parties along with ledger account and qualification of service provider, nature of services rendered and modus operandi were furnished. The AO has not pointed out any deficiency in the details except doubting on assumption and surmises and without bringing any evidence on record. The services rendered by the related parties were not disputed.

13. We further find that before Id CIT(A), the assessee filed copies of MOUs with the parties who rendered business development services and business promotion services. The Id. CIT(A) recorded that such evidence was not furnished before assessing officer. The assessee also filed application under Rule 46A of Income Tax Rules-1962, for seeking permission for admission on additional evidence. The Id. CIT(A) directed the AO to furnish his remand report. Remand report was filed by AO. In the remand report, the AO commented that MOUs for business promotion services and business development services are dated 01.04.2016 and that the assessee failed to demonstrate any justifiable reason for non-submission of such evidence before him during assessment. The AO commented that MOUs are internal documents and are covered by the findings given by him in the assessment order and such evidence does not add in merits of the facts of the case and may not be admitted. The assessee in its objection submitted that AO has not refuted the authenticity of MOUs. He has not challenged the relevance and evidentiary value. We find that on similar issues, the case of assessee for A.Y. 2020-21 was reopened and after verifying the genuineness of expenses paid to shareholders and directors and on verifying same MOUs no disallowance of similar business expenses was made, copy of assessment order dated 18.03.2025, wherein similar expenses claim for payments made to directors of Rs. 9.97 crore was accepted, copy of assessment order is available on record. Similarly, in

A.Y. 2019-20 & 2022-23, the assessment was completed under section 143(3) and no disallowance was made on account of similar expenses incurred by assessee. Thus, we find that similar MOUs are accepted by AO in all subsequent assessment orders. Hence, the AO/ revenue cannot be allowed to take inconsistent view on similar set of facts in different assessment years. We further find that AO has not doubted the reasonableness of the expenses. No comparable instances are brought on record. It is an undisputed fact that assessee is engaged in the business of pharmaceuticals and drugs. The assessee is closely held company. All the directors are close family members and relatives. The turnover of the assessee has drastically increased from first year to subsequent assessment years. Hence, we affirm the order of Id CIT(A) with our additional findings. In the result, ground No. 1& 2 of the appeal are dismissed.

14. Ground No. 3 relates to deleting the disallowance of motor vehicles. We find that the AO disallowed depreciation on two motor cars by taking view that the vehicles re not registered in the name of assessee company and that the assessee failed to produce evidence that these vehicles are used for the business of the assessee. We find that the Id CIT(A) allowed relief to the assessee by taking view that vehicles have been disclosed in the scheduled in the fixed asset, in the audited books. It was further held that decision relied by assessee in Edwise Consultants Private Limited (supra) is squarely applicable on the fact of the present

case. We find that coordinate bench of Mumbai Tribunal in Edwise Consultants Private Limited (supra) held that if the car which is purchased in the name of directors of the company and is used for the purpose of business and as per order of Mumbai Tribunal in Edwise Consultants Private Ltd. vs DCIT (supra), the assessee is eligible for depreciation. Thus, in view of the above factual and legal position, we do not find any reason to interfere with the findings of Id CIT(A). in the result, ground No. 3 of the appeal is also dismissed.

15. In the result, the appeal of the Revenue is dismissed.

Order announced in open court on 07/05/2026.

Sd/-

MAKARAND VASANT MAHADEOKAR
ACCOUNTANT MEMBER

Sd/-

PAWAN SINGH
JUDICIAL MEMBER

MUMBAI, Dated: 07/05/2026
Biswajit

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

By Order

Assistant Registrar
ITAT, Mumbai