FIT FOR PUBLICATION
Sd/- Sd/-
(JM) (AM)

IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'F': NEW DELHI)

BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER

ITA No:- 2895/Del/2019
(Assessment Year: 2014-15)

Rissala Décor Pvt. Ltd., Gurgaon.	Vs.	Pr. CIT, Gurgaon.
PAN No: AAECR7761C		
APPELLANT		**RESPONDENT**

Assessee By : Shri M.R. Sahu, CA
Revenue By : Shri Sulekha Vema, CIT(DR)

Per Anadee Nath Misshra, AM

(A) This appeal by Assessee is filed against the impugned revisionary order dated 05.03.2019 of Learned Principal Commissioner of Income Tax, Gurgaon, ["Ld. Pr. CIT", for short], for Assessment Year 2014-15. Grounds taken in this appeal of Assessee are as under:

1. *That the learned Pr.CIT erred in law and on facts in invoking the provisions of Section 263 of the Income Tax Act 1961 and passing the order dated 05:03.2019. The order-passed and the various directions given are bad in law, arbitrary, erroneous and uncalled for in view of the facts and circumstances of the case and the material on record. The order there fore deserves to be quashed.*

2. ***MAINTAINABILITY / VALIDITY OF REVISIONARY PROCEEDINGS U/S 263 TOWARDS* JUSTIFICATION *OF SHARE PREMIUM WITH REGARD TO FMV OF EQUITY SHARES COMPUTED UNDER "DCF" METHOD:***

   2.1 *That in view of the written replies dated 21st January ,2019 and 11th* February*,2019 to the notice U/s 263 with all the enclosures* filed including *affidavits from investors in the equity shares and the*

oral arguments advanced before him during the hearings^ the learned Pr.CIT erred in law and in facts in still holding that the order passed by the AO was erroneous and prejudicial to the interest of revenue without contracting the various claims, through any cogent material or on any proper basis. The order U/s. 263 therefore, deserves to-be-quashed.

2.2 That on facts and circumstances of the case and in law, the Pr.CIT had erred in invoking provisions of section 263 without appreciating the fact that the FMV of Equity Shares Issued determined by the assessee under "DCF" method prepared by Chartered Accountant was based on the projections (estimations) only could not be compared with the actuals and AO had no authority to change valuation method adopted by the assessee. The AO had passed the assessment order accepting the FMV of equity Shares determined under "DCF" method after detailed examination of facts in the Appellants' case and position of law had followed one of the course permissible in law and accordingly order dated 5th March 2019 passed by the Pr.CIT under section 263(1) of the I.T. Act, 1961 is without jurisdiction, void an initio and deserves to be quashed.

2.3 That without prejudice to the above, the learned Pr.CIT erred in law and on facts without appreciating the fact that provisions of Sec 56(2)(viib) cannot be invoked in the case of the assesses company -because by virtue of cash being brought in to the assessee company by close relatives for allotment of equity shares with premium the benefit has only passed to the close relative directors and there is no scope in the Act to tax when cash or asset is transferred by a -close-relative to other close relatives.

2.4 That on facts and circumstances of the case and in law, the Pr.CIT *order under section 263 setting aside the assessment be cancelled and AO's order -under section 143(3) dated 12.05.2016 be restored.*

3. MAINTAINABILITY / VALIDITY OF REVISIONARY PROCEEDINGS TOWARDS VERIFICATION OF IDENTITY,GENUINENESS AND CREDITWORTHINESS OF THE PERSONS FROM WHOM SHARE PREMIM WAS RECEIVED:

3.1 That in view of the documents submitted before the AO during course of scrutiny assessment vide letter dated 4th May 2016,9th May 2016 including written replies dated 21st January 2019 to the notice dated 29.11.2018 issued under section 263 with ail enclosures submitted before Pr.CIT, he has not brought on record and cogent and conclusive material which would prove or show that the course followed by the AO was unsustainable in law. The order passed by Pr.CIT therefore, deserves to be quashed.

3.2 That on facts and circumstances of the case and in law, when the AO *after conducting necessary enquiries, which the circumstances demanded, had accepted the documents submitted before him and*

had followed one of the possible course permissible in law, then it was not open to the Pr.CIT to treat the assessment order erroneous and prejudicial to the interest of revenue within meaning of section 263 of the Act. There fore the the Pr.CIT order under-section 263 setting aside-the assessment be cancelled and AO's order under section 143(3) dated 12.05.2016 be restored.

4. *That the assessee craves the right to amend, add, delete, replace, all or any of the grounds of appeal either during the course of hearing or at any time before hearing of this appeal."*

(B) Assessment Order dated 12.05.2016 under Section 143(3) of Income Tax Act, 1961 ("I.T. Act", for short) was passed by the Assessing Officer ("AO", for short), wherein the returned loss of Rs. 1,17,84,680/- was accepted by the AO. The Assessment Order is reproduced below for ready reference:

Government of India
Ministry of Finance
INCOME TAX DEPARTMENT
Office of the Deputy Commissioner of Income Tax, Circle-3
(3rd Floor, Vanijya Nikunj, HSIIDC Building, Udyog Vihar, Ph-V, Nr. Shankar Chowk, N.H.-8, Gurgaon Ph. 0124-2451055)

1.	Name and address of the assessee	::	M/s Rissala Products Pvt. Ltd. 301, 3rd Floor, Apna Bazar Gurgaon
2.	Assessment Year	::	2014-15
3.	Status	::	Company
3.	PAN	::	AAECR7761C
4.	Date of Order	::	12.05.2016
5.	Section under which the assessment is made	::	143(3) of I.T. Act 1961

Assessment Order

1. Return of loss declaring total loss of Rs.1,17,84,680/- was filed on 05.11.2014. The case was selected for scrutiny assessment through CASS. Notices under section 143(2) were issued on 18.09.2015 which was duly served upon the assessee. Further, statutory notice u/s 142(1) along with questionnaire was issued on 02.05.2016 fixing the case for 09.05.2016.

2. In response to the notices, Sh. Pradeep Lakhani, CA and Authorized Representatives of the assessee company attended the assessments proceedings time to time and filed necessary documents/reply. The written submissions filed along with necessary documents and explanations were examined and placed on record. The case was discussed at length with the authorized representative of the assessee.

3. After going through the submissions made by the assessee, the returned loss is accepted & assessed at return of Loss. Tax and Interest u/s 234B and 234C has been charged as per tax calculation sheet which forms part of this order. Demand notice, and necessary forms are being issued along with copy of this Assessment Order.

Sd/-
(Harpal Singh Kharb)
Dy. Commissioner of Income Tax,
Circle-3, Gurgaon

Copy to "A"
DCIT.

(B.1) Vide show caused notice dated 29.11.2018, the Learned Principal Commissioner of Income Tax, Gurgaon ("Ld. PCIT", for short), initiated revision proceedings under Section 263 of the I.T. Act. The aforesaid notice is reproduced below for ready reference:

GOVERNMENT OF INDIA
MINISTRY OF FINANCE, DEPARTMENT OF REVENUE,
OFFICE OF THE PR. COMMISSIONER OF INCOME TAX,HSIIDC BUILDING, VANIJYA NIKUNJ, UDYOG VIHAR, PHASE-V, GURGAON

F. No. PCIT/GGN/TECH/263/75/2018-19/ 5387 Dated: 29.11.2018

To,

The Principal Officer
M/s Rissala Products Pvt. Ltd.
301, 3rd Floor, Apna Bazar, Gurgaon.

Sir/ Madam

Subject: Notice u/s 263 of the IT Act, 1961 in the case of M/s Rissala Products Pvt. Ltd. (PAN-AAECR7761C) in respect of order passed u/s 143(3) on 12.05.2016 for A.Y. 2014-15 – Reg. –

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In this case, the assessee company had furnished its return of income for the A.Y. 2014-15 on 05.11.2014 declaring an income/loss of Rs. (1,17,84,680/-). Assessment was completed accepting returned income under section 143(3) of the I.T. Act, 1961 vide order dated 12.05.2016.

2. The assessment records of the aforesaid assessee company for the A.Y. 2014-15 were examined. On perusal of the assessment records, it was noticed that the case was selected under scrutiny through CASS with the reasons " Large Share premium received during the year". During the year under consideration, the assessee company has issued total 5,08,614 share @ Rs.100/- per share to various parties against the face value of Rs. 10/- each and received share premium to the tune of Rs. 4,57,75,260/-. During the course of assessment proceedings, the AO was required to examine the justification of share premium with regard to the FMV and the creditworthiness of the subscriber to whom the said shares have been allotted at a huge premium. It is observed that the AO failed to examine the same but completed the assessment, accepting the FMV of share as per rule 11UA, as submitted by the counsel of the assessee. The FMV adopted by the assessee at premium of Rs. 90/- is apparently on a higher side in view of the financial statement of the assessee.

3. Failure of the AO to examine the genuineness of the transactions, creditworthiness of the persons from which share premium has allegedly received and their identity rendered the assessment erroneous and prejudicial to the interest of the revenue.

4. You are, therefore, provided an opportunity to show cause as to why the assessment order passed by the DCIT, Circle- 3(1) Gurgaon, dated 12.05.2016 for the A.Y.2014-15 in your case should not be revised u/s 263 of the Act. You are requested to attended my office on 17.12.2018 at 11:55 AM either in person or by representative duly authorized in writing on your behalf or produce or cause to

be produced at the said time, any documents or any other evidence on which your rely in your support.

In case of no reply/non-attendance as per above, it shall be assumed that your do not wish to say anything in the matter and the matter would be decided as per material available on record without any further notice/intimation to you.

Yours faithfully,

(KrinwantSahay)
Pr. Commissioner of Income Tax
Gurugram

(B.3) Subsequently, order under Section 263 of I.T. Act dated 05.03.2019 was passed by the Ld. PCIT is reproduced below for ready reference:

GOVERNMENT OF INDIA
MINISTRY OF FINANCE, DEPARTMENT OF REVENUE,
OFFICE OF THE PR. COMMISSIONER OF INCOME TAX,
HSIIDC BUILDING, VANIJYA NIKUNJ, UDYOG VIHAR, PHASE-V, GURGAON

1	Name & Address of the Company	M/s Rissala Products Pvt. Ltd., 301, 3rd Floor, Apna Bazar, Gurgaon
2	Assessment Year	2014-15
3	Status	Company
4	PAN	AAECR7761C
5	Date of Order	05.03.2019

ORDER UNDER SECTION 263 OF THE INCOME TAX ACT, 1961

In this case, the assessee furnished its return for the A.Y. 2014-15, declaring loss of Rs. 1,17,84,680/-. The case was selected for scrutiny through CASS. Assessment in this case was completed under section 143(3) of the I.T. Act, 1961 vide order dated 12.05.2016.

The assessment records of the aforesaid assessee for the A.Y. 2014-15 were examined. On perusal the order made by the A.O. u/s 143(3) dated 12.05.2016, it was found that the assessment order passed by the assessing office is erroneous and pre-judicial to the interest of Revenue due to the following reasons :-

During the year under consideration, the assessee company has issued total 5,08,614 shares @ Rs. 100/- per share to various parties against the face value of Rs. 10/- each and received share premium to the tune of Rs. 4,57,75,260/-. During the course of assessment proceedings, the AO was required to examine and verify the justification of share premium with regard to the FMV and the creditworthiness of the subscriber to whom the said shares have been allotted at a huge premium. But the AO simply placed the submissions on record without verifying the ITR of subscribers from concerned AO or issued any notice 133(6) to cross verify the genuineness of transactions, and hence, the A O failedto examine the same but completed the assessment after accepting the FMV as submitted, without verification. The A O did not apply his mind to verify basic reason of selection of scrutiny case in CASS.

Accordingly, the assessee was issued with a notice u/s 263 of the IT Act, 1961 dated 29.11.2018 as to why the assessment order of the assessing officer should not be set aside due to its being erroneous and prejudicial to revenue. The counsel of the assesse submitted an application dated 24.12.2018 for adjournment against the opportunity of being heard given for 17.12.2018 at 11:55 AM. On considering the request, the case was adjourned to 28.12.2018.

The Ld. AR, Sh M R Sahu attended the proceedings and submitted reply dated 21.01.2019 wherein it is accepted that 5,08,614 shares were issued at Rs. 100/- whose face value was Rs. 10/- each. The reply contains various case laws and requests not to consider the case u/s 263 of the IT Act, 1961. In another reply dated 11 Feb 2019, the Ld AR submitted the details to whom the share was issued. The reply of the Ld. AR has been considered with due care. The case laws of Hon'ble court have also been considered very carefully. On considering these case laws, and on comparing the facts of the instant case, it is found that the facts of these cases are not exactly the same.

Hence, having considered the case laws; reply of the assessee and having gone through the record of the assessee regarding the legal and factual contentions on the validity of taking action u/s 263 of the Income Tax Act, 1961. In this regard, it is pertinent to keep in view the following issues and observation on the basis of which findings are being made.

On going through the provisions of section 263(1) of the Income Tax Act, 1961, it is clear that "any order" passed by the Assessing Officer can be revised if it is found to be erroneous in so far as it is prejudicial to the interest of revenue." It is, therefore, clear that the provisions of the Income Tax Act, 1961gives authority u/s 263 of the Income Tax Act, 1961 to revise any order passed by the Assessing Officer.

With regard to the issue of examining of records, on the basis of which the revision can be undertaken by u/s 263 of the Income Tax Act, 1961, as Para explanation-1(b), the following provisions have been made :

"record[shall include and shall be deemed always to have included] all records relating to any proceeding under this Act available at the time of examination by the [Principal Commissioner or] Commissioner;". It is, therefore, clear that the revision can take place on the basis of all records available at the time of examination by the Pr. Commissioner or Commissioner.

In the present case, it is found that the case was selected under scrutiny for the following reasons :

(a) Large share premium received during the year

The counsel/Authorised representative filed the reply wherein it was stated that the assessee company had furnished all necessary details & documents in respect of the share capital raised by it such as name, address, PAN of the share applicants and as per settled law, there was no need of further enquiry. The Ld AR submitted that in the light of his discussion, normally CIT can not apply provisions of section 263 when requisite documents are categorically asked by AO, view was taken by AO after verifying necessary documents, hence show cause notice issued by CIT under section 263 to investigate premium value of equity shares is in-valid and not sustainable in the eyes of law.

I have considered the matter. Perusal of the assessment records shows that the A.O. has not made any independent inquiries regarding the confirmations. No notices u/s 133(6) were sent to the shareholders. On perusal of records, it is found that the AO has not verified any of the returns of the subscribers from the concerned assessing officer of the person to whom shares have been assessed. Analysis of this statement does not throw any light whatsoever on the source of the funds of the subscriber companies. The A.O. should have called for the bank statement duly signed by concerned authority for proper analysis & verification. Further, the replies were just placed on record and no independent inquiries were carried out regarding the fact whether the subscribing companies were available at the given address, whether they had the financial capability to invest such substantial amounts and whether they were genuine corporate entities.

The A.O. did not examine a single Director of the assessee company or of the subscribing companies. Further, the A.O. also did not cross verify the Income Tax acknowledgement, balance sheet etc. from the A.Os of the subscribing companies/individuals.

The A O is required to verify the genuineness of the transactions and whether the assesse has tried to give colour to his income. The Apex Court in the case of Sumati Dayal -vs.- CIT [214 ITR 801] held that the true nature of a transaction has to be ascertained in the light of surrounding circumstances. Thus, it is now well settled that tax authorities are entitled to look into surrounding circumstances to find out the reality of a transaction by applying the test of human probability. Reliance is also placed on the **Hon'ble Punjab & Haryana High Court in the case of Sh. Harjit Kaur vs. ACIT in ITA 280 of 2013.** Relying upon the case of M/s Chandigarh Theatres Pvt. Ltd. In ITA No. 715/Chandi/2007

and CIT Vs. Nova Promoters & Finlease (P.) Ltd., the A O is to check whetherthe transaction is merely accommodation entries and whether it is non-genuine.

In this regard, it may also be noted that the Hon'ble Delhi High Court in ***Gee Vee Enterprises v. Addl. CIT [1975] 99 ITR 375 (Delhi)*** has observed as under:-

> *"The reason is obvious. The position and function of the Income-tax Officer is very different from that of a civil court. The statements made in a pleading proved by the minimum amount of evidence may be accepted by a civil court in the absence of any rebuttal. The civil court is neutral. It simply gives decision on the basis of the pleading and evidence which comes before it.* ***The Income-tax Officer is not only an adjudicator but also an investigator.*** *He cannot remain passive in the face of a return which is apparently in order but calls for further inquiry. It is his duty to ascertain the truth of the facts stated in the return when the circumstances of the case are such as to provoke an inquiry. The meaning to be given to the word "erroneous" in section 263 emerges out of this context. It is because it is incumbent on the Income-tax Officer to further investigate the facts stated in the return when circumstances would make such an inquiry prudent that the word "erroneous" in section 263 includes the failure to make such an inquiry. The order becomes erroneous because such an inquiry has not been made and not because there is anything wrong with the order if all the facts stated therein are assumed to be correct."*

In the said judgment, Delhi High Court had referred to earlier decisions of the Supreme Court in *Rampyari Devi Saraogi* v. *CIT* [1968] 67 ITR 84 (SC) and *Smt. Tara Devi Aggarwal* v. *CIT* [1973] 88 ITR 323 (SC), wherein it has been held that where Assessing Officer has accepted a particular contention/issue without any enquiry or evidence whatsoever, the order is erroneous and prejudicial to the

terest of the Revenue. After reference to these two decisions, the Delhi High Court observed:-

> *"These two decisions show that it is not necessary for the Commissioner to make further inquiries before cancelling the assessment order of the Income-tax Officer. The Commissioner can regard the order as erroneous on the ground that in the circumstances of the case the Income-tax Officer should have made further inquiries before accepting the statements made by the assessee in his return."*

In view of the above facts and circumstances of the case, I am of the confirmed view that the A.O. by not pursued the inquiries to their logical end has made the order erroneous and prejudicial to the interest of revenue. Hence the same deserves to be revised u/s 263 of I.T. Act, 1961. Therefore, the said order passed by the Assessing Officer is set aside. The assessing officer is directed to pass fresh assessment order after making thorough and detailed inquiries on this particular issue only. The assessing officer should pass a speaking order after providing adequate opportunity to the assessee.

/ "

(C) The present appeal has been filed by the Assessee against the aforesaid order dated 05.03.2019 passed by Ld. PCIT under Section 263 of I.T. Act. In the course of appellate proceedings in Income Tax Appellate Tribunal ("ITAT", for short) a Paper Book containing 138 pages was filed from the assessee's side, having the following particulars:

1. *Auditor's report report for the FY 2013-14 relevant to AY 2014-15*
2. *Equity Share Valuation report under Rule 11UA (2)(b) under 'DFCF' Method*
3. *Return filed on 05/11/2014 vide E Filing Act. No: 401465931051114*
4. *Notice issued u/s 142(1) dated 02/05/2016 issued by AO*
5. *Reply dated 04th May 2016 in response to notice issued u/s 142(1)*
6. *Reply dated 04th 09th May 2016 in response a notice issued u/s 142(1)*
7. *Assessment Order dated 12/05/2016 passed u/s 143(3)*
8. *Show cause notice dated 29/11/2018 issued u/s 263 by Pr. CIT, Gurgaon*
9. *Written submission dated 21/01/2019 with Paper Book submitted before Pr. CIT*
10. *Written submission dated 11/02/2019 with Affidavits submitted before Pr. CIT Affidavits of Share Applicants.*

1. *By Smt. Chitra Kataria- Allotted Equity Shares- 35,000 Nos*
2. *By Sh. Jagat Singh Kataria- Allotted Equity Shares- 15,999 Nos*
3. *By Sh. Kamaljeet Kataria - Allotted Equity Shares- 87,400 Nos*
4. *By Smt. Sangeeta Ahlawat - Allotted Equity Shares- 1,43,450 Nos*
5. *By Smt. Sulekha Kataria - Allotted Equity Shares- 22,200 Nos*
6. *By Smt. Suman Kataria - Allotted Equity Shares- 14,500 Nos*
7. *By Sh. Vijay Jeet Kataria - Allotted Equity Shares- 1,05,065 Nos*
8. *By Sh. Ajay Ahlawat - Allotted Equity Shares- 85,000 Nos*

11. *Order dated 05/03/2019 passed u/s 263 setting aside order dated 12/05/2016*

12. *Grounds of Appeal raised before Tribunal in ITA No: 2895/Del/2019*

13. *Assessee Co. determined FMV under 'DFCF' Method in accordance with Rule 11UA(2)(b) read with Sect 56(2)(viib) and valuation report was prepared by CA as per Guidelines of ICAI and no fault was find by AO same shall be accepted and cannot be rejected.*
    Rameshwarem Strong Glass (P.) Ltd Vs. ITO (2018) 172 ITD 571 (JP. Trib)
14. *Basis adopted by assessee can not be changed by AO*
    Vodafone M-Pesa Ltd Vs. Pr. CIT (2018) 92 taxmann.com (Bom. HC)
15. *Provisions of Sec 56(2) (viib) can not be invoked where Share Applicants are close relatives of the Directors.*
    Vanni Estates (P.) Ltd. Vs. ITO (2018) 172 ITD 629 (Chennai Trib.)
16. *Submissions of the Assessee was rejected and matter was merely to AO for fresh assessment –No Enquiry was done by Pr. CIT – No revision order u/s 263. Amendment to Sect 263 w.e.f. 1st 2015 – Applies Prospectively.*
    M/s Arun Kumar Garg HUF Vs. Pr. CIT ITA No.: 3391/Del/2019, AY 2014-15 Order dated 08/01/2019. (Del. Trib)
17. *Order of Assessment passed by AO should not be interfered with only because another view is possible.*
    State Bank of India Vs. Pr. CIT (2019) 111 taxmann.com 252 (Mum. Trib.)"

(C.1) In addition the following documents were also filed from the assessee's side:

"1. During the FY 2014-15 relevant to AY 2015-16, Equity Shares 1,35,366 Nos were issued to 7 Share holders except to Sh. Ajay Ahlawat as per list enclosed.

2. Audited Financials showing issued of Equirty Shares of Rs. 10/- each at premium Rs. 90 per Share is enclosed,

3. Assessment Order passed dated 30/12/2017- addition of Rs. 15,21,900/- relating to 15,219 Equity Shares issued to Sh. Vijay Kataria was made u/s 68. Assessment order copy is enclosed.

4. CIT(A) in appeal No. 419/17-18 vide order dated 29/06/2018 deleted the addition. Appeal order copy is enclosed.

(C.2) Moreover, synopsis was also filed from the assessee's side which is reproduced below for ready reference:

"

General:

The appellant is engaged in the business of manufacturing plywood for home furnishing . A return declaring total income(loss) of (Rs.1,17,84,680/-) was e-filled by the assessee on 05/11/2014.The case was selected for scrutiny under CASS. Assessee furnished details and case was heard from time to time. Ld.AO passed assessment order dated 12/05/2016 under section 143(3) accepting the returned income (loss) .

Subsequently Pr.CIT, Gurgaon applying his revision power u/s 263 set aside the assessment order and pass order dated 05/03/2019 under section 263.

Against revision order of Pr. CIT assessee is in appeal before the Hon'ble Tribunal with following grounds of appeal.

Ground Nos 1: General- Not pressed for.

Ground Nos 2: This Ground is relating to objections towards revision order of Pr.CIT against ' FMV' of the Equity Shares computed under ' DCF' method which was accepted by the AO after due verification . Share Applicants are close relatives of the Directors and there is no scope in the Act to tax the cash or asset transferred by a close relative to other close relative.

Submission for consideration:

During the FY 2013-14 relevant to AY 2014-15 , the appellant company for expansion purpose had issued 5,08,614 Nos of Equity Shares having face value of Rs10/- each at a premium of Rs.90/- each thus total issue price was Rs100/- per Equity Share.

Details of share applicants and the relationship with the present directors of the appellant company are as under:

Sl No	Name of the Share Applicants	Nos. of Shares Allotted	Relationship with Director Sh.Kamaljeet Kataria	Relationship with Director Smt. Sangeeta Ahlawat	Audited Financials	Affidavit
1	Smt. Chitra Kataria	35,000	Wife	Sister in law	PB Pg Nos.5	PB Pg.Nos. 68 to 69.

2	Jageeet Singh Kataria	15,999	Father	Father		PB Pg.Nos. 70 to 71.
3	Sh.Kamaljeet Kataria	87,400	Director	Brother	PB Pg Nos.5	PB Pg.Nos. 72 to 73 .
4	Smt. Sangeeta Ahlawat	1,43,450	Director	Sister	PB Pg Nos.5	PB Pg.Nos. 74 to 75.
5	Smt.Sulekshna Kataria	22,200	Mother	Mother	PB Pg Nos.5	PB Pg.Nos. 76 to 77.
6	Smt.Suman Kataria	14,500	Sister in law	Sister in law	PB Pg Nos.5	PB Pg.Nos. 78 to 79 .
7	Sh.Vijay Jeet Kataria	1,05,065	Brother	Brother	PB Pg Nos.5	PB Pg.Nos. 80 to 81.
8	Sh. Ajay Ahlawat	85,000	Brother in law	Husband	PB Pg Nos.5	PB Pg.Nos. 82 to 83.
	Total	5,08,614				

Above relation ship with the Directors of the appellant company are covered under **Explanation ('e) of the section 56(2)(vii) of the Act 'Relative'** so that any transfer of money/ assets by the transferor(share applicants) for the benefit of the Directors (Transferee) can not be brought to tax u/s 56 (2).

Justification towards Share Premium with regard to ' FMV' computed under ' DCM' method under Rule 11UA(2) read with section 56(2)(viib) and one possible view had adopted by AO.

Return was filed through electronically on 05/11/2015. **(PB. Pg Nos.38).**

Return was selected through ' CASS ' with the reasons 'Large Share Premium Received during the year' for scrutiny and AO issued notice dated 02/05/2016 u/s 142(1) for various documents . **(PB. Pg Nos.39).**

Documents are submitted before AO on 04/05/2016 and on 09/05/2016. **(PB. Pg Nos.40 to 41).**

Copy of Audited B/S and P&L A/C . **(PB. Pg Nos.1 to 18).**

Copy of Share valuation report . **(PB. Pg Nos.19 to 37).**

The case was heard before AO from to time and after examining the documents and explanations , AO accepted the retuned loss and pass assessment order dated 12/05/2016 . **(PB. Pg Nos.42).**

Subsequently Pr.CIT , Gurgaon applying his revisionary power issued show notice dated 29/11/2018 u/s 263 for setting aside the assessment order dated 12/05/2016. **(PB. Pg Nos.43 to 44).**

Against show cause notice written submissions including oral arguments are presented and advanced before Pr.CIT on various dates as under

(i)On 21/01/2019 with Paper Book consisting of Pg.Nos 1 to 59. **(PB. Pg Nos.45 to 65).**

(ii) On 11/02/2019 with Affidavits from each share applicants. **(PB. Pg Nos.66 to 82).**

Pr.CIT without contradicting the various claims through any proper basis simply discarded the written submissions , affidavits including the judicial precedents , set aside the assessment order an pass revision order dated 05/03/2019 u/s 263 to make further inquiries by.AO.

It is submitted that when unquoted equity shares are issued by a closely holding company at premium sec 56(2)(viib) permits an assessee to compute the ' FMV ' of the shares under Rule 11UA.

Rule 11UA (2) is a specific provision for the valuation of ' unquoted' equity shares. It gives the optio to the assessee either to choose option (a) that is ' NAV' method or option (b) that is 'DCM' method

In the appellant's case ' FMV' value of equity shares are determined under rule 11UA(2)(b) by ' DCM method by the CA.

Before Pr.CIT detailed written submission regarding the method that is ' DCM' adopted by the appellant for finding the 'FMV' of the unquoted equity shares under 11UA(2)(b) r.w.s 56(2)(viib) was submitted on 21/01/2019 **(PB Pg.Nos 47 to 50)** having regard to the observations of the **Hon'ble Jaipur Tribunal** in the case of **' Rameshwaram Strong Glass (P.) Ltd Vs. ITO' reported in (2018) 172 ITD 571 (PB Pg.Nos 91 to 107).**

It is well settled in law that CIT can apply his jurisdictional power u/s 263 to revise order of the ITO only when twin conditions are satisfied.

(i)Assessment order is erroneous ; and

(ii)It is prejudicial to the interests of revenue.

Erroneous: An order passed by ITO is said to be erroneous only when it is established by CIT with tangible material that assessment order is passed due to incorrect application of law, mistake in interpretation of the statues or incorrect assumption of facts.

Prejudicial: An order passed by ITO is said to be prejudicial to the interest of revenue only when it is established by CIT with some tangible material that due to such erroneous order , revenue is losing certain tax which is lawfully payable by the assessee.

In the appellant's case computation of 'FMV' of the unquoted equity shares are computed under the ' DCM' method under rule 11UA(2)(b) r.w.s 56(2)(viib) by CA , hence assessment order dated 12/05/2016 passed u/s 143(3) by AO can not be held as 'erroneous' and more over AO has no power to change the method of valuation that is ' DCM' method adopted by the appellant having regard to the ratio of the decision of the **Hon'ble Bombay High Court** in the case of **' Vodafone M-Pesa Ltd Vr PR.CIT (2018) 92 taxmann.com 73. (PB Pg.Nos. 106).**

Reliance is placed upon the following judicial precedents where it was held that ' in given facts and circumstances of the case when two views are possible and one view has been adopted by the AO , that view alone would not be sufficient to exercise powers u/s 263 by the Pr.CIT.

Sl Nos	Case Laws	Citation	Forum	Remarks
1	CIT Vs. Max India Ltd	(2008) 295 ITR 282	SC	PB.Pg.Nos-137
2	Malabar Industrial Co. Ltd Vs.	(2000) 295 ITR 282	SC	PB.Pg.Nos-137

	CIT			
3	CIT Vs. Green Wood Corporation	(2009) 314 ITR 81	SC	PB.Pg.Nos-138
4	CIT Vs. Gokuldas Exports	(2011) 333 ITR 214	Kar.HC	PB.Pg.Nos-138

It is also submitted that provisions of section 56(2)(viib) can not be invoked in the case of the appellant company because by virtue of cash being brought in to the appellant company by close relatives covered under Explanation ('e) of the section 56(2)(vii) of the Act for allotment of equity shares with premium as the benefit has only pass to the directors who are closely related with the share applicants having regard to the ratio of the decision of the **Hon'ble Chennai Tribunal** in the case of '**Vani Estates Pvt Ltd ' reported in (2018) 172 ITD 629. (PB Pg.Nos. 108 to 115).**

Same view was taken by the Hon'ble **Visakhapatnam Tribunal** in the case of '**Kumar Pappu Singh Vs. DCIT' (2019) 101 taxmann.com 122** in deleting the addition u/s 56(2)(viic). **(PB Pg.Nos. 57 to 59).**

Reliance also placed upon the judicial precedents placed before the Pr.CIT vide written submission dated 21/01/2019.

Sl Nos	Case Laws	Citation	Forum	Remarks
1	CIT Vs.Indo German Fabs	IT Appeal No. 248 of 2012 , Order dated 24/12/2014.	P&H HC	PB.Pg.Nos-52
2	CIT Vs. Sohana Woollen Mills	(2008) 296 ITR 238	P&H HC	PB.Pg.Nos-53
3	CIT Vs. J.L Morrison (India) Ltd	(2014) 366 ITR 593	Cal. HC	PB.Pg.Nos-53 to 54.
4	CIT Vs. Vikas Polymers	(2012) 341 ITR 537	Del. HC	PB.Pg.Nos-54.
5	CIT Vs.Gabriel India Ltd	(1993) 203 ITR 108	Bom. HC	PB.Pg.Nos-55.

PRAYER BEFORE HON'BLE MEMBERS:

Considering the above facts including that of judicial precedents it is prayed to allow Ground No.2 the appeal in favour of the appellant.

Ground Nos 3: This Ground is relating to objections towards maintainability of revision order towards verification of Identity, Genuineness and creditworthiness of the share applicants:

It is submitted in response to notice dated 4th May 2016 issued u/s 142(1) particulars of share applicants , PAN NO, bank statements are submitted before the AO vide letter dated 04/05/2016 and letter dated 09/05/2016. **(PB. Pg Nos.39 to 41).**

After verification of all such documents including the explanations offered during assessment proceedings before the AO , he was duly satisfied regarding the Identity, Genuineness and Credit Worthiness of the Share Applicants.

Appellant had made detailed submission to the notice issued u/s 263 of the Act stating the fact that all the issues raised by the Pr.CIT had been duly examined by the AO during the course of assessment .

More over full particulars that is Name, Address, PAN No and declarations of the share applicants in the form of affidavits were submitted before Pr.CIT vide letter dated 11/02/2019. **(PB. Pg Nos.66 to 83).**

Pr.CIT has simply ignored the replies of the assessee and he has not discussed as to why he does not agree with the contentions of the assessee. Pr.CIT has merely remitted the matter back to the AO without making any enquiry at his end and without any tangible material in his possession to hold that assessment order is erroneous and prejudicial to the interest of the revenue.

Reliance is placed upon the **Hon'ble Delhi Tribunal in the case of ' M/s Arun Kumar Garg HUF Vs. Pr.CIT , ITA No. 3391/Del/2018 , AY 2014-15, Order dated 08/01/2019 (PB Pg Nos.116 to 126)** where it was held as under:

Relying upon the judgement of the **Hon'ble Delhi HC in the case of ' Pr.CIT Vs. Delhi Airport Metro Express Pvt Ltd ' ITA No. 705/2017 it** was held that for exercising power u/s 263 due to lack of enquiry by AO , Pr.CIT has to make some minimal enquiry .**(Para 5.2).**

Further relying upon the judgment of the **Hon'ble Delhi HC in the case of ' Pr.CIT Vs. Modi Care Ltd ' ITA . 759/2017** it has been held that the exercise of jurisdiction can not be outsourced by the Pr.CIT to the AO and therefore, the Pr.CIT can not direct the AO to provide details of the facts on the basis of which proceedings u/s 263 could have been initiated. **(Para 5.3).**

Also Further relying upon the judgment of the **Hon'ble Delhi HC in the case of ' CIT Vs. Sunbeam Auto Ltd Vs. CIT (2011) 332 ITR 167 it was held that where there is some enquiry even inadequate** revision proceeding u/s 263 can not exercised. **(Para 5.5).**

Regarding applicability of amendment brought in by the Finance Act,2015 **w.e.f 01/06/2015 it is prospective in nature. (Para 5.6).**

Reliance is also placed upon the **Hon'ble Delhi Tribunal in the case of ' Sandeep Kumar Agarwal Vs. ITO , ITA No. 2321/Del/2014 , AY 2009-10, Order dated 13/12/2017** , relying upon the **Hon'ble Delhi HC in the case of ' Pr.CIT Vs. Delhi Airport Metro Express Pvt Ltd ' ITA No. 705/2017 dated 05.09.2017** it was held that 'no enquiry has not carried out by Pr.CIT to show that order passed by AO is erroneous revision u/s 263 is bad in law."

Hon'ble Rajasthan High Court in the case of **CIT Vs. The Green Triveni Developer. ITA No.114/2015** held as under:

"It is no longer res integra that the revisional jurisdiction available to a Commissioner under section 263 of the Act is essentially circumscribed by the determinant that the order of the Assessing Officer is erroneous so much so that it is prejudicial to the interests of the Revenue. This statutory enjoinment carves out an extremely constricted ambit of such

Continuation Sheet

discretionary jurisdiction. The word "considers" applied in the statutory provision involved, signifies a genuine satisfaction of that authority that the order of the Assessing Officer is erroneous and that the interests of the Revenue is prejudicing thereby. Any exercise of the revisional jurisdiction, bereft of such satisfaction and/or finding that the order of the Assessing Officer is erroneous and that it is prejudicial to the interests of the Revenue and that too, based on tangible materials on record, is impermissible rendering the resultant order void.

Judged on the above touchstone, we are of the unhesitant opinion having regard to the materials on record, that no interference with the impugned order of the learned Tribunal warranted, in the facts and circumstances of the case . No substantial question of law , as contemplated by section 260A of the Act, exits to be examined." **(Para 9 & 10).** Followed in the case of CAE INDIA P. Ltd VS. CIT [2013] (177 ITD 780) - BANG. ITAT.

Reliance also placed upon the judicial precedents placed before the Pr.CIT vide written submission dated 21/01/2019.

Sl Nos	Case Laws	Citation	Forum	Remarks
1	CIT Vs. R.K.Constructing Co	(2012) 313 ITR 65	Guj.HC	PB.Pg.Nos.60
2	CIT Vs. Mulchand Bagri	(1993) 68 Taxman 215	Cal. HC	PB.Pg.Nos.60
3	CIT Vs. Ganpat Ram Bishnoi	(2008) 296 ITR 292	Raj. HC	PB.Pg.Nos. 61 to 62.
4	CIT Vs. Leisure Wear Exports Ltd	(2012) 341 ITR 166	Del. HC	PB.Pg.Nos.62.
5	CIT Vs. Jyoti Foundation Ltd	(2013) 357 ITR 388	Del. HC	PB.Pg.Nos. 62 to 63.

Also it is submitted that during the FY 2014-15 relevant to AY 2015-16 ,Equity Shares 1,35,366 Nos was issued to same share holders except to Sh. Ajay Ahlawat. Vide assessment order dated 30/12/2017 passed u/s 143(3) addition of Rs.15,21,900 was made u/s 68 which was deleted by CIT (A) in Appeal No: 419/17-18, order dated 29/06/2018. **(PB Pg.Nos 63).**

This also shows the **Identity, Genuineness and Creditworthiness** of the Share Applicants.

PRAYER BEFORE HON'BLE MEMBERS:

Considering the above facts including that of judicial precedents it is prayed to allow Ground No.3 of the appeal in favour of the appellant.

"

(C.3) In addition a further write-up, vide letter dated 19.12.2019 was also submitted from the assessee's side which is reproduced below for ready reference:

"

Dated 19/12/2019

To

Hon'ble Members
ITAT, Delhi Bench
'F' Bench
New Delhi.

Sub: Case Laws - Facts and Observation of Courts.

Ref: **ITA NO: 2895/DEL/2019** . M/s Rissala Décor Pvt Ltd Vs. Pr.CIT – Matter Scheduled for hearing on 18/12/2019.

Dear Sir,

It is humbly prayed before your good self the following case laws may kindly be considered for deciding the above matter:

1.Where assessee had provided **permanent account numbers, bank statements and affidavits from share applicants**, no addition could be made under **section 68** on account of share application money merely because of failure of share applicants to physically present themselves before Assessing Officer.

Pr.CIT Vs. Softline Creations Pvt. Ltd (2016) 387 ITR 636 (Del.HC):

Facts of the case:

The short facts are that the assessee was subjected to re-assessment for Assessment Year (AY) 2003-04. The re-assessment was based upon a statement made by one Mahesh Garg, who is said to have alleged that some of the companies which he dealt with were bogus. Taking aid of that statement, the Assessing Officer (AO) proceeded to question the assessee with regard to the application money in respect of issue of shares and premium thereon for the relevant AY. In the course of re-assessment proceedings, the AO, based upon the materials furnished, concluded that the assessee had not discharged the initial burden placed upon it under Section 68 of the Act and **had not established the genuineness of identity, of the transaction or the credibilities of parties who had invested.** He, therefore, directed addition of Rs.78 lakhs. The AO's conclusions were based upon his deduction that the share applicants were bogus entities, which he arrived at because of **assessee's omission to produce the Directors of such share applicants/companies despite being called upon to do so. The CIT(A) reversed this addition; that order was confirmed by the ITAT.**

Hon'ble Delhi High Court held as under:

"Where the assessee had provided **sufficient information** by way of **permanent account numbers,** to highlight the **identity** of the share applicants, as well as produced the **affidavits** of the directors and furthermore the **bank details** of the share applicants too had been provided, it was held that the assessee had **established** the **identity** of the **share applicants,** the **genuineness of transactions** and their **creditworthiness** and, therefore, **addition** made by the Assessing Officer under **section 68** merely because of the **failure** of the **directors** to **physically present** themselves **before him** was **not justified.**"

CIT Vs. Orchid Industries Pvt Ltd ((2017) 397 ITR 136 (Bom.HC):

Facts of the case:

The Assessing Officer added certain amount as income under **section 68** only on the ground that the parties to whom the share certificates were issued and who had paid the share money **had not appeared** before the **Assessing Officer** and the **summons** could not be served on the addresses given as they were not traced and in respect of some of the parties who had appeared, it was observed that just before **issuance of cheques**, the amount was **deposited in their account.**

Hon'ble Bombay High Court held as under:

"Held that the assessee had produced on record the documents to establish the **genuineness** of the party such as **PAN** of all the creditors along with the **confirmation,** their **bank statements** showing payment of share **application money**. The assessee had also produced the entire record regarding **issuance of shares,** *i.e.,* allotment of shares to these parties, their share application forms, allotment letters and share certificates, so also the books of account.In view of these voluminous documentary evidence, only because those persons had not appeared before the Assessing Officer would not negate the case of the assessee. Therefore, the addition **was liable to be deleted.**"

2.No tangible material in possession of CIT – No Revision u/s 263.

Hon'ble Rajasthan High Court in the case of **CIT Vs. The Green Triveni Developer. ITA No.114/2015** held as under:

"It is no longer res integra that the revisional jurisdiction available to a Commissioner under section 263 of the Act is essentially circumscribed by the determinant that the order of the Assessing Officer is erroneous so much so that it is prejudicial to the interests of the Revenue. This statutory enjoinment carves out an extremely constricted ambit of such discretionary jurisdiction. The word "considers" applied in the statutory provision involved, signifies a genuine satisfaction of that authority that the order of the Assessing Officer is erroneous and that the interests of the Revenue is prejudicing thereby. Any exercise of the revisional jurisdiction, bereft of such satisfaction and/or finding that the order of the Assessing Officer is erroneous and that it is prejudicial to the interests of the Revenue and that too, **based on tangible materials on record, is impermissible rendering the resultant order void.**

Judged on the above touchstone, we are of the unhesitant opinion having regard to the materials on record, that no interference with the impugned order of the learned Tribunal warranted, in the facts and circumstances of the case . No substantial question of law , as contemplated by section 260A of the Act, exits to be examined." **(Para 9 & 10). [Followed by Bangalore Tribunal in the case of 'CAE India (P) Ltd Vs. CIT (2019) 177 ITD 780].**

The same was also drawn your good self's attention in the **'Written Synopsis'** produced during course of hearing.

3.M/s Arun Kunar Garg HUF Vs. Pr.CIT . ITA NO: 3391/DEL/2019. AY 2014-15. Order Dated 08/01/2019. (PB Pg Nos: 116 to 126).

Para 5.2: No minimal enquiry by CIT – No revision u/ 263.

Case Law: Pr.CIT Vs. Delhi Metro Express Pvt Ltd . ITA No.705/2017. (Del.HC). (2017) 398 ITR 8 (Del.HC). Copy enclosed . **(Para 9 to 13).**

Para 5.3: Exercise of jurisdiction u/s 263 can not be outsourced.

Case Law: Pr.CIT Vs. Modicare Ltd . ITA No.759/2017. (Del.HC)

Para 5.5: Inadequate Enquiry -Jurisdiction u/s 263 can not be outsourced.

Case Law: CIT Vs. Sunbeam Auto Ltd. (2010) 332 ITR 167 (Del.HC)

Para 5.6: Explanation 2 inserted in Sec 263 **w.e.f 01/06/2015 is applicable prospectively.**

4.Sandeep Kumar Agarwal Vs. ITO . ITA NO: 2321/DEL/2014. AY 2009-10. Order Dated 13/12/2017.

Relying upon the Hon'ble Delhi HC order in the case of **Pr.CIT Vs. Delhi Metro Express Pvt Ltd . ITA No.705/2017 , Order dated 05.09.2017** it was held that **' no enquiry'** has not carried out by **Pr.CIT to show** that order passed by AO is **erroneous revision u/s 263 is bad in law.**

The same was also drawn your good self's attention in the **'Written Synopsis'** produced during course of hearing.

PRAYER BEFORE HON'BLE MEMBERS:

Considering the facts of the case including that of judicial precedents it is prayed to allow Ground No.3 of the appeal in favour of the appellant. "

(D) On the other hand, written submissions were filed by the Learned Commissioner of Income Tax (Departmental Representative) ["Ld. CIT(DR)", for short] which is reproduced below:

"

Sub: Written Submission in the above case– reg.

In addition to the finding of facts given by CIT in the 263 order, the revenue wants to rely on the following judicial decisions and provisions of the Act:

Explanation 2 has been inserted in Section 263 of I.T. Act by Finance Act 2015 w.e.f. 01.06.2015 which is reproduced below:

Explanation 2. — For the purposes of this section, it is hereby declared that an order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Principal Commissioner or Commissioner—

(a) the order is passed without making inquiries or verification which should have been made;

(b) the order is passed allowing any relief without inquiring into the claim;

(c) the order has not been made in accordance with any order, direction or instruction issued by the Board under section 119; or

(d) the order has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.

In the above case, it is humbly submitted that the following decision may kindly be considered with regard to validity of proceedings u/s 263 of I.T.Act:

1. **Hon'ble Supreme Court in the case of Deniel Merchants Pvt. Ltd. vs. ITO (Appeal No. 2396/2017)** dated 29.11.2017. (copy enclosed). The relevant judgement of Hon'ble Calcutta High Court in this case is also enclosed. In this group of cases, Hon'ble Supreme Court has dismissed SLPs in cases where AO did not make any proper inquiry while making the assessment and accepting the explanation of the assessee(s) insofar as receipt of share sapplication money is concerned. On that basis the Commissioner of Income Tax had, after setting aside

the order of the Assessing Officer, simply directed the Assessing Officer to carry thorough and detailed inquiry.

2. **Malabar Industrial Co. Ltd. Vs CIT [2000] 109 Taxman 66 (SC)/[2000] 243 ITR 83 (SC)/[2000] 159 CTR 1 (SC) (Copy Enclosed)**

   where Hon'ble Supreme Court held that where Assessing Officer had accepted entry in statement of account filed by assessee, in absence of any supporting material without making any enquiry, exercise of jurisdiction by Commissioner under section 263(1) was justified

3. **Rajmandir Estates (P.) Ltd. Vs PCIT [70 taxmann.com 124 (Calcutta)/[2016] 240 Taxman 306 (Calcutta)/[2016] 386 ITR 162 (Calcutta)/[2016] 287 CTR 512] (Copy enclosed)**

   Where Hon'ble Calcutta High Court held that where assessee with a small amount of authorised share capital, raised a huge sum on account of premium and chose not to go in for increase of authorised share capital merely to avoid payment of statutory fees and Assessing Officer passed assessment order without carrying out requisite enquiry into increase of share capital including premium received by assessee, Commissioner was justified in treating assessment order as erroneous and prejudicial to interest of revenue

4. **Rajmandir Estates (P.) Ltd. Vs PCIT [2017] 77 taxmann.com 285 (SC)/[2017] 245 Taxman 127 (SC)**

   Hon'ble Supreme Court has dismissed SLP against High Court's ruling that where assessee with a small amount of authorised share capital, raised huge sum on account of premium, exercise of revisionary powers by Commissioner opining that this could be a case of money laundering was justified

5. **Shree Manjunathesware Packing Products & Camphor Works Vs CIT [1998] 96 Taxman 1 (SC)/[1998] 231 ITR 53 (SC)/[1997] 143 CTR 406 (SC)**

   Hon'ble Supreme Court held that word 'record' used in section 263(1) would mean records as it stands at time of examination by Commissioner but not as it stands at time of order passed by Assessing Officer. Material which had already come on record though subsequently to making of assessment could be taken into consideration by Commissioner. Commissioner was justified in invoking section 263 on basis of valuation report submitted by DVO subsequent to assessment order.

6. **Order of Hon'ble SUPREME COURT OF INDIA in the case of CIT *v.* Amitabh Bachchan 384 ITR 200 dated MAY 11, 2016**

   Section 263 does not require any specific show cause notice detailing specific grounds on which revision of assessment order is tentatively being proposed

affecting initiation of exercise in absence thereof or to require commissioner to confine himself to terms of notice and foreclosing consideration of any other issue or question of fact; Commissioner is free to exercise his jurisdiction on consideration of all relevant facts, provided an opportunity of hearing is afforded to assessee to contest facts on basis of which he had exercised revisional jurisdiction

7. **Order of Hon'ble ITAT F-Bench in the case of PTC Impex (India) Pvt. Ltd. Vs CIT, ITA No. 2860/Del/2010 dated 03.04.2018**

Hon'ble ITAT Delhi F- Bench has held as under:

"21. We have carefully considered the rival contention and also gone through the order of the Ld. CIT u/s 263 and the order of the assessing officer passed u/s 143 (3) of the act which was subject to revision by the CIT. We have also perused the various case laws cited before us by the parties. According to section 263 of the Act, Commissioner of Income tax can resort to corrective measures by revising the assessment order passed by the Assessing Officer, if after examining records such assessment order passed by the Assessing Officer, he (the Commissioner of Income-tax) found that such an order passed by the Assessing Officer is erroneous and prejudicial to the interest of revenue. In Malabar industrial Co Ltd versus CIT 243 ITR 83 (SC) Hon"ble Supreme Court held the Commissioner has satisfied of twin conditions namely (i) that the order is erroneous, (ii) that it is prejudicial to the interest of revenue. As held in several judicial precedents that Commissioner does not have power to revise the order of the Ld. assessing officer where there are two views possible and the Ld. assessing officer has taken one of the possible view. Further, where the Ld. assessing officer has made some enquiry and has reached at a conclusion. Therefore on debatable issues and where there is absence of" Lack of Inquiry" the powers of the CIT cannot be exercised under section 263 of the act. There exists a difference between „Lack of Inquiry" and „inadequate Inquiry". In the present case on all the four issues raised by the Ld. CIT, in the paper book submitted by the assessee or in the arguments raised by the Ld. authorised representative we did not find that Ld. AO has made any enquiry on all ITA No. 2860/Del/2010 A Y 2005-06 PTC Impex (India) pvt Ltd Vs.The Commissioner Of Income tax the 4 issues. Therefore, according to us there is no Inquiry made by the Ld. assessing officer on the issues raised by CIT in proceedings under section 263 of the act. The arguments of Ld. Authorized representative on the issue with respect to cash deposited in the bank account, loan repaid, bank interest on fixed deposit receipt and absence of narration in the bank statements were more on the aspect that no such addition can be made in the hands of the assessee. However nothing is lead before us that makes us to ascertain that Ld. AO during the course of assessment proceedings have inquired about all those things at all. Merely because there are disallowances under section 10 B of the act and addition on account of undisclosed sales which is precisely made on the basis of the information available with the Ld. assessing officer in tax audit report only, it cannot be said that on these 4 issues the Ld. AO has made any

enquiry. The Ld. assessing officer notes in the assessment order that despite request the assessee has not produced the complete books of accounts along with the bills and vouchers before him. The Ld. authorised representative vehemently referred to page No. 19 of the order of the Ld. CIT (appeals) dated 15/3/2010 wherein it is stated that books of accounts and vouchers were produced before the assessing officer on 26/12/2007 and 29/12/2007 (Saturday) but not taken on record by the AO. The assessment in the present case was framed under section 143 (3) of the act on 31/12/2007. This itself shows that assessing officer has not looked at the books of accounts which are allegedly produced before AO as per version of the assessee on 26/12/2007. This too is the submission of the assessee before CIT (A) which has not been adjudicated by CIT (A). Even otherwise, mere production of books of accounts does not make the issues before us fall in to the category of „inadequate inquiry". If we agree to such an argument then, in all cases where the books of accounts were produced before the ld AO, then the case would fall outside the purview ITA No. 2860/Del/2010 A Y 2005-06 PTC Impex (India) pvt Ltd Vs.The Commissioner Of Income tax of section 263 of the act. Further No records of communication by the AO to assessee and reply by assessee to ld AO was shown to us to show on these four issues that the Assessing Officer had applied his mind on any of them. According to us case before us is of „lack of inquiry" and not absence of any inquiry. All judicial precedents relied up on before us related to „ absence of adequate inquiry but none of them dealt with the issues of complete lack of inquiry as in case before us. Hence, we do not have any hesitation in upholding action of ld CIT in invoking his jurisdiction u/s 263 of the act. Hence, order passed u/s 263 of the act by the ld CIT is upheld and appeal of the assessee is dismissed."

8. **Order of Hon'ble HIGH COURT OF KARNATAKA in the case of CIT vs. Infosys Technologies Ltd. 341 ITR 293 dated 04.01.2012**

"Section 263 is a section which enables the Commissioner to have a look at the orders or proceedings of the lower authorities and to effect a correction, if so needed, particularly if the order or proceeding is erroneous and prejudicial to the interest of the revenue. This provision occurs in a taxing statute, the object of which is to raise revenue for the State, and section 263 is an enabling provision conferring jurisdiction on the Commissioner to revise the order of the authorities below in certain circumstances particularly when it is erroneous and prejudicial. One can at once realize that the provision is intended to plug leakage to the revenue by an erroneous order passed by the lower authorities, whether by mistake or in ignorance or even by design. It makes little difference as to for what reasons the order is passed by the lower authority, so long as it becomes erroneous and prejudicial to the interest of the revenue. Ultimately, the object is to ensure that leakage of the revenue is plugged and some tax due to the State not reaching the coffers of the State is prevented by exercise of revisional jurisdiction of the Commissioner. [Para 18]

9. Order of Hon'ble Delhi High Court in the case of Gee Vee Enterprises vs Addl. CIT, 99 ITR 375

Where it is held that the Commissioner can regard the order as erroneous on the ground that in the circumstances of the case, ITO should have made further inquiries before accepting the statements made by the assessee in his return and it was observed that reason is obvious. The position and functions of the ITO are very different from that of civil court.

10. Order of Hon'ble Delhi Bench in the case of Perfetti Van Melle India Pvt. Ltd., ITA No. 3046/Del/2016 for A.Y. 2009-10 order dated 11.01.2019.

"11. We have heard both the parties and perused all the records. It is pertinent to note that the assessee is engaged in manufacturing of a variety of confectionary productions which includes Big Babool, Alpenlibe, Centre Fresh, Center Fruit, Center Shok, Chater Pater, Chlor-mint, Choco-tella, Cofitos, Happydent White, Protex Happydent, Marbels, Mentos etc. From these products it can be seen that all products are not that of pharma, chlor-mint, ayurved based products. There are confectionary products as well. The Pr. CIT after perusal of the quarterly statement furnished by the assessee company with the Commissioner, Central Excise, Meerut for F.Y. 2008-09, noticed that the assessee company had also manufactured other products such as 'chewing gum', 'toffee' and 'bubble gum' in addition to manufacturing of Pharma Products for which the assessee company is not entitled for deduction u/s 80IC of the Act as these article or things are not specified in the Fourteenth Schedule. But the Assessing Officer has not made any enquiries or verification which should have been made before allowing any relief u/s 80IC of the Act to the assessee company. The decision of the Hon'ble Supreme Court in Malabar Industrial Company Ltd. vs. CIT (243 ITR 83) (SC) held that the Commissioner has to satisfy himself of both the conditions, firstly order being erroneous and 8 ITA No. 3046/Del/2016 secondly order being prejudicial to the interest of revenue. Both these tests have been seen by the Principal Commissioner of Income Tax in the present case and aptly applied in the present case. It is also held by the Hon'ble Apex Court that the provisions cannot be invoked to correct each and every type of mistake or error committed by the Assessing Officer, it is only when an order is erroneous that the section will be attracted. Thus, the Pr. CIT has looked into the aspect of the Assessment Order in the present case to the extent of erroneous and thus, Section 263 of the Act is attracted in the present case. Section 263 of the Act is not invoked simply for correcting mistake or error committed by the Assessing Officer in the present case. It can be observed that the Pr. CIT has considered all the contentions of the assessee and thereafter rightly come to the conclusion that the Assessing Officer failed to consider the fact that whether the assessee is entitled for claim under Section 80IC or not in respect of the products which do not come under the ambit of Fourteenth Schedule. It can be seen that the Pr. CIT has properly invoked the provisions of Section 263 and there is no procedural lapse on the part of the Pr.

CIT. In fact, the Assessing Officer did not made any inquiry and there is no mention of the same in the Assessment Order itself which proves that the order is passed without making inquiries or verification which should have been done by the Assessing Officer before allowing the claim u/s 80IC of the Act. Thus, it is prejudicial to the interest of the Revenue and there is loss of revenue. The Pr. CIT after issuing the Show Cause Notice u/s 263 of the Act given ample opportunity to the Assessee for explanation and dealt with the reply/details filed by the assessee in proper manner. Thus, proper opportunity was given by the Pr. CIT to the assessee during the proceeding's u/s 263 of the Act. The present case is covered by the decision of the Hon'ble Apex Court in case of Deniel Merchants Private Limited & Anr. Vs. Income Tax Officer (Appeal No. 2396/2017 order dated 29.11.2017). The Hon'ble Supreme Court held as under: "In all these cases, we find that the Commissioner of Income Tax had passed 9 ITA No. 3046/Del/2016 an order under Section 263 of the Income Tax Act, 1961 with the observations that the Assessing Officer did not make any proper inquiry while making the assessment and accepting the explanation of the assessee(s) insofar as receipt of share application money is concerned. On that basis the Commissioner of Income Tax had, after setting aside the order of the Assessing Officer, simply directed the Assessing Officer to carry thorough and detailed inquiry. It is this order which is upheld by the High Court. We see no reason to interfere with the order of the High Court. The Special Leave Petitions are dismissed." Thus, in the present case the Assessing Officer has not properly adjudicated the issue of claim u/s 80IC before allowing the same to the assessee company, therefore, the Pr. CIT has rightly invoked Section 263 of the Act and passed the order. Therefore, the Order under Section 263 of the Income Tax Act, 1961 passed by the Principal Commissioner of Income Tax is just and proper. There is no need to interfere with the same. The appeal of the assessee is dismissed."

11. Order of Hon'ble Delhi Bench in the case of Ramesh Kumar., ITA No. 1982/Del/2018 for A.Y. 2014-15 order dated 25.01.2019.

"16. We have heard the arguments of both the parties and gone through the facts on record. All the arguments, facts, decisions, case laws cited by the Ld. AR and the Ld. DR have been perused and duly considered for adjudication . To the notice issued by the Assessing Officer pertaining to the Long Term Capital Gains the assessee has replied that he had purchased the shares on 16/03/2012 and sold in July 2013 and received sale proceedings of Rs. 11,29,599/-. It was replied that the original shares purchased were of M/s Panchshul Marketing Ltd. which stands merged with M/s Kailash Automobile and the shares of Kailash Automobiles were allotted in the ratio of 1:1. Beyond this information there were no enquiries conducted by the Assessing Officer. The reliance of the Ld. AR on the case of Gabriel India Ltd. is of no help to the assessee as it enunciated two principles namely i.) the order is erroneous ii) by the virtue of the order being erroneous prejudice is caused to the interest of the Revenue. In the instant case there has

been an information with the department which has been passed on to the Assessing Officer for verification and failure of the Assessing Officer to verify the transactions in the light of the information available makes the order erroneous and also prejudicial to the interest of the Revenue. The Assessing Officer has mentioned about inputs from investigation wing in assessment order but has not examined absolutely anything regarding the genuinity of the transactions. The Ld.PCIT had enough material in his custody to prima facie to show that the tax which was lawfully 14 exigible has not been imposed. Similarly in the case of Sunbeam Auto the courts have held that in the case of lack of enquiry course of action under section 263 is valid. In this case on the facts of the record it can be observed that the Assessing Officer has not applied his mind regarding the allowability of the exemption of the Long Term Capital Gain. This is not the case of inadequate enquiry but is a clear case of lack of enquiry which makes it different from the case of Nirav Modi (supra). Obtaining of the information about the transaction cannot be taken as akin to enquiring about the information. This is a clear case of no enquiry for which the Ld.PCIT has rightly invoked the provisions of Section 263. We also find that the Ld. PCIT has clearly brought about the error in the assessment order and has also directed the Assessing Officer to take remedial action to take action as per the law after providing due opportunity to the assessee. Thus, it can be said that the Ld. PCIT has not exceeded his jurisdiction nor directed the Assessing Officer to pass the assessment order in any particular way thus not interfering in the judicial function of the Assessing Officer.

17. Ongoing through the facts, it can be observed that the Assessing Officer has not conducted any enquiry and this is a clear case of lack of enquiry not a case inadequate enquiry. Further non application of mind by the Assessing Officer can be easily gauzed from the fact that the information available with the Assessing Officer has not been utilised during the assessment proceedings which makes the case fit for applying the provisions of explanation 2 (a) of section 263. Thus based on the facts on record the contention of the assesee cannot be held to be valid in which are detailed as under :-

(a) The order passed by the Assessing Officer is neither erroneous nor prejudicial to the interests of the revenue : The order passed has been found to be erroneous and prejudicial to the interest of the revenue as per the case law cited and on facts of the case.

(b) The assessee is not covered in any of the conditions mentioned in 15 Explanation 2 of Section 263(1) : The assessee has found to be squarely covered by the provisions of section 263 91) explanation 2 as no enquiries or verification has been conducted which should have been made by the Assessing Officer.

(c) Merely because the CIT may not agree to the order of the Assessing Officer just due to change of opinion, the said orders cannot be treated as an erroneous order prejudicial to the interest of Revenue : This is not a case of the Principal CIT

not agreeing to the order of the Assessing Officer and nor a case of change of opinion. In fact the Assessing Officer has nor formed any opinion in allowing the long term capital gains and practically has not examined the issue at all.

(d) There is a distinction between "lack of inquiry" and "inadequate inquiry". If there was any inquiry, even if it was inadequate, it does not give right to the Commissioner to pass orders under section 263 merely because of a different opinion :- From the assessment order questionnaire it can be unequivocally held that this is a clear case of lack of enquiry.

(e) The Commissioner cannot initiate proceedings with a view to starting fishing and roving enquiries in matters or orders which are already concluded :- There are no fishing or ruin enquiries conducted by the Ld. Principal CIT nor directed the Assessing Officer to conduct such enquiries.

(f) The assessee has already furnished all the documentary evidences which proves that transactions related to sale and purchase of shares are genuine :- There is absolute difference between enquiry calling of information, investigation and examination. From the action of the Assessing Officer it can be said that no enquiry has been conducted in this case.

(g) Merely because the stock price moved sharply, the assessee is not to be 16 blamed for bogus transactions where he has purchased and sold the stocks through registered brokers and confirmed by valid contract notes as per law :- The order u/s 263 has not been based on the stock price but it was based on the information and extensive investigation and the conclusion drawn thereof by the revenue extensive investigation by the department.

(h) The transactions cannot be brushed aside on suspicion and surmises where the transactions of the shares are genuine :- The Ld. Principal CIT has invoked the provisions of section 263 based on the valid tangible information which has been extensively investigated by the department as the Assessing Officer has failed to discharge his statutory duties in accordance with the Income Tax Act which led to the order being erroneous and prejudicial to the interest of the revenue.

18. Hence keeping in view the entire facts of the case, the judgment of the Apex Court in the case of Malabar Industrial Co. Ltd. 243 ITR 83 wherein the action under section 263 is upheld when the Assessing Officer has accepted the statement of account filed by the Assessee without making any enquiry, the judgment of Hon'ble Supreme Court in the case of Daniel Merchants Pvt. Ltd. which held that in the case where Assessing Officer did not make any proper enquiry, the Ld. PCIT is correct in directing the Assessing Officer to carry thorough and detailed enquiry.

19. Ongoing through the questionnaire, assessment order, we have no hesitation to say that the Assessing Officer has not applied his mind to the issue of share transactions for which the detailed information is available regarding the suspicious

nature of the transactions. Accordingly, to us, based on the facts and circumstances, the case before us is a case of absolute lack of enquiry but not a case of inadequate enquiry by him. Hence, order passed u/s 263 of the act by the ld CIT is upheld and appeal of the assessee is dismissed."

12. Order of Hon'ble Delhi ITAT in the case of CIT vs. Apollo Tyres Ltd., 65 ITD 263

"A plain reading of section 263 clearly indicates that the Commissioner may call for and examine the records of any proceedings under the Act. For this purpose, he is not required to show as to what reasons prompted him to call for and examine the record. The provisions also do not prescribe any limitation that the Commissioner should suo motu *call for and examine the record and he cannot take into consideration or rely upon any report or information which may be supplied to him by the other officers of the department or on the basis of any information which he may obtain from any other source. The authority of the Commissioner to call for and examine the record on the basis of any information from any source or* suo motu *is purely an administrative matter. If after calling for and examining the records, the Commissioner considers that the order of the Assessing Officer is erroneous insofar as it is prejudicial to the interests of the revenue, then subsequent proceeding acquires quasi-judicial character. On comparison of sections 263 and 264 it would be seen that in section 264 the Commissioner may, either of his own motion or on an application by the assessee, call for the records of any proceeding under the Act. However, in section 263 the expression 'on his own motion' is absent. In the absence of such an expression and also in view of the fact that there is no restriction or limitation on the power of the Commissioner to call for and examine the record of any proceeding pursuant to the report given by the Assessing Officer or by other Departmental Officer, the Commissioner could validly call for and examine the record of the assessee in the instant case for the relevant year pursuant to a letter of the Assessing Officer containing a proposal under section 263. Therefore, there was no merit in the contention of the assessee in this regard."*

"

(E) Although, the assessee has taken numerous grounds of appeal, the core issue in the present appeal is whether the aforesaid impugned revisionary order dated 05.03.2019 passed by Ld. Pr. CIT under Section 263 of I.T. Act is in accordance with law. At the time of hearing before us, the Learned Authorized Representative ("AR",

for short) of the assessee took us through the various materials filed from the assessee's side, in the course of appellate proceedings in ITAT, already mentioned in the foregoing paragraphs **(C) (C.1), (C.2)** and **(C.3)** of this order. He drew our particular attention to the fact that the AO had considered the Discounted Cash Flow Method ("DCF", for short) for determining the share premium in the respect of equity share issued by the assessee. However, he fairly admitted that no enquiries were conducted at the end of the AO, and further that no materials were placed from assessee's side before the AO during assessment proceedings, to establish the genuineness of cash credit within the meaning of Section 68 of I.T. Act, in respect of issue of equity share at premium.

(E.1) On the other hand, the Ld. CIT(DR) drew our attention to the facts that the assessee's case was selected for scrutiny through CASS for the purpose of verification of large share premium received during the year. She further submitted that the verification of large share premium involved two aspects: firstly, the AO was required to verify the genuineness within the meaning of Section 68 of I.T. Act in respect of the entire amount of share capital received by the assessee during the year. Secondly, the Ld. CIT(DR) contended that the AO was required to verify whether the amount of share premium paid for each equity share was not excessive, having regard to provisions of law. In the present case, the Ld. CIT(DR) submitted, the AO had completely failed in carrying out the aforesaid first aspect of verification; although, she fairly accepted that verification in regard to quantum of share premium paid (as per DCF method) was carried out by the AO. The Ld. CIT(DR) contended that having

regard to the complete failure on the part of the AO to carry out the aforesaid first aspect of verification; it was a fit case for exercise of revisional powers of the Ld. Pr. CIT under Section 263 of I.T. Act. She further submitted that the judicial precedents in the cases of *Gee Vee Enterprises v. Addl. CIT [1975] 99 ITR 375 (Delhi), Rampyari Devi Saraogi v. CIT [1968] 67 ITR 84 (SC) and Smt. Tara Devi Aggarwal v. CIT [1973] 88 ITR 323 (SC),* referred to by the Ld. Pr. CIT in his impugned revisionary order dated 05.03.2019 passed under Section 263 of I.T. Act, were squarely applicable to the facts of the case. She further placed reliance on the written submissions filed during appellate proceedings in ITAT, which have already been reproduced by us in foregoing paragraph **(D)** of this order. The Ld. CIT(DR) further submitted that although numerous case laws and judicial precedents have been cited from assessee's side in the various materials [mentioned already in foregoing paragraphs **(C), (C.1), (C.2)** and **(C.3)** of this order]; the facts were distinguishable and were of no help to the assessee having regard to the facts and circumstances of the present case. In his rejoinder, the Ld. AR of the assessee once again reiterated the submissions and contentions raised in various materials [mentioned already in foregoing paragraphs **(C), (C.1), (C.2)** and **(C.3)** of this order]. However, he failed to explain how any of the judicial precedents and case laws cited from the assessee's side will advance the case of the assessee in the facts and circumstances of the present case.

(F) We have heard both sides patiently. We have perused the materials available on record carefully. We have also considered the various judicial precedents and case laws mentioned in the records which were brought to our attention in the course of

appellate proceedings in ITAT. Limitation Period for passing Assessment Order under Section 143(3) of I.T. Act is prescribed under Section 153(1) of I.T. Act. According to these provisions, the deadline for passing Assessment Order under Section 143(3) of I.T. Act, was 31.12.2016. However, we find that the aforesaid order has been passed on 12.05.2016; which is several months ahead of deadline prescribed under I.T. Act for passing Assessment Order under Section 143(3) of I.T. Act read with Section 153(1) of I.T. Act. Further, it is not in dispute that the case was selected for scrutiny with the main reason of verification of large share premium received during the year. Moreover, it is also not in dispute that the AO had completely failed in carrying out any verification in respect of the share capital issued during the year for the purpose of ascertain the genuineness of these cash credits within the meaning of Section 68 of I.T. Act. It is well settled that it is the initial burden of the assessee to prove identity of the person, genuineness of the transaction and financial capacity of the person; as far as transactions covered by Section 68 of I.T. Act are concerned. From perusal of various materials filed from the assessee's side during the appellate proceedings in ITAT, already mentioned in the foregoing paragraphs **(C), (C.1), (C.2)** and **(C.3)** of this order, it is evident that although some materials were placed from assessee's side before the Ld. Pr. CIT in the course of revision proceedings under Section 263 of I.T. Act in an attempt to prove the genuineness of cash credit within the meaning of Section 68 of I.T. Act in respect of share capital issued at premium, no such materials were placed from the assessee's side before the AO during the assessment proceedings; and further, that no effort was made by the AO to ascertain the genuineness of cash credits within the meaning of Section 68 of I.T. Act. Thus, we

conclude that the aforesaid Assessment Order dated 12.05.2016 was passed without making inquiries or verifications which should have been made for ascertaining the genuineness of the cash credits within the meaning of Section 68 of I.T. Act. **We also note that by virtue of Explanation 2 to Section 263 of I.T. Act, w.e.f 1-6-2015, an order passed, in the opinion of the Principal Commissioner or Commissioner of Income Tax, without making inquiries or verifications which should have been made, shall be deemed to be erroneous in so far as it is prejudicial to the interests of Revenue.** Having regard to amended provisions of Section 263 of I.T. Act w.e.f. 1-6-2015 and having regard to undisputed facts, the aforesaid judicial precedents and case laws relied upon by the assessee, have no application to present appeal before us and fail to advance the case of the assessee. The Ld. AR of the assessee had also failed to explain how, in the specific facts and circumstances of this case, the judicial precedents cited from the assessee's side, advance the case of the assessee. It can be readily inferred, considering the undisputed facts, that the Assessment Order was passed by the AO without making inquiries and verifications which should have been made for ascertaining the genuineness of cash credits within the meaning of Section 68 of I.T. Act. This, by itself, is sufficient for us, to uphold the impugned revisionary order dated 05.03.2019 of learned of Pr. CIT, passed under Section 263 of I.T. Act. Coupled with that, is the fact, as we have already noted earlier, that the Assessment Order has been passed several months ahead of the deadline prescribed under I.T. Act. **When an Assessment Order is passed several months ahead of prescribed deadline without making enquiries and verifications which should have been made;**

it can be said that the order was passed without due application of mind, and in avoidable haste; and that makes a stronger case for exercise of jurisdiction under Section 263 of I.T. Act. Further, the judicial precedents in the cases of *Gee Vee Enterprises v. Addl. CIT (supra), Rampyari Devi Saraogi v. CIT (supra) and Smt. Tara Devi Aggarwal v. CIT (supra);* cited in the impugned revisionary order dated 05.03.2019 of the Pr. CIT passed under Section 263 of I.T. Act are squarely applicable to the facts of the case especially having regard to amended provisions of Section 263 of I.T. Act w.e.f. 1-6-2015. Furthermore, the judicial precedents and case laws mentioned by the Ld. CIT(DR), already reproduced in foregoing paragraph **(D)** of this order, also strengthen the case of Revenue. In view of the foregoing, we are of the view that the impugned revisionary order dated 05.03.2019 passed by Ld. Pr. CIT under Section 263 of I.T. Act is in accordance with law, having regard to specific facts and circumstances of the present appeal before us. Therefore, we decline to interfere with the aforesaid impugned revisionary order dated 05.03.2019 of Ld. Pr. CIT passed under Section 263 of I.T. Act. Accordingly, the aforesaid impugned revisionary order dated 05.03.2019 of Ld. Pr. CIT passed under Section 263 of I.T. Act, is upheld and the appeal is dismissed.

Order is pronounced in Open Court on 03/01/20.

Sd/-	Sd/-
(AMIT SHUKLA)	**(ANADEE NATH MISSHRA)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Dated: 03/01/20.
Pooja/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	