आयकर अपीलीय अधिकरण "जी" न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
"G" BENCH, MUMBAI

माननीय श्री सी. एन. प्रसाद,न्यायिक सदस्य **एवं**
माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI C.N. PRASAD, JM AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आ□करअपील सं./ I.T.A. No.3327/Mum/2019
(**निर्धारण वर्ष** / Assessment Year: 2014-15)

M/s. Sleek International 501, K.L. Mehrise, Gujar Lane Off S.V. Road, Santacruz(W) Mumbai-400 054.	**बनाम**/ Vs.	**ACIT-32(3)** Kautilya Bhavan 7th Floor, Room No.723 G-Block BKC, Bandra Kurla Complex, Bandra (East) Mumbai-400 051.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. **AAOFS-7553-E**		
(□ पीलार्थी/**Appellant**)	:	(प्रत्यर्थी / **Respondent**)

Assessee by	:	S/Shri Vijay Mehta & Govind Jhaveri-Ld.ARs
Revenue by	:	Shri Sushil Kumar Poddar - Ld.CIT-DR

सुनवाई की तारीख/ **Date of Hearing**	:	06/12/2019
घोषणा की तारीख / **Date of Pronouncement**	:	25/02/2020

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1.1 As per the provisions of Section 263 of Income Tax Act, 1961, specific revenue authorities namely Pr. Commissioner of Income Tax / Commissioner of Income Tax is vested with the supervisory powers of suo-moto revision of any order passed by the Assessing Officer [AO].

For the said purpose, the appropriate authority may call for and examine the record of any proceedings under the Act and may proceed to revise the same provided two conditions are satisfied-(i) the order of the assessing officer sought to be revised is erroneous; and (ii) it is prejudicial to the interest of the revenue. If one of the condition is absent i.e. if the order of the Income-tax Officer is erroneous but is not prejudicial to the revenue or if it is not erroneous but it is prejudicial to the revenue - recourse cannot be had to Section 263 of the Act as held by Hon'ble Supreme Court in **Malabar Industrial Co. Ltd. V/s CIT [243 ITR 83 10/02/2000]** & noted by Hon'ble Delhi High Court in **CIT V/s Vikas Polymers [194 Taxman 57 16/08/2010].** The Hon'ble Supreme Court in **Malabar Industrial Co. Ltd. V/s CIT (supra)** has held that the phrase 'prejudicial to the interests of the revenue' has to be read in conjunction with an erroneous order passed by the Assessing Officer. Every loss of revenue as a consequence of an order of the Assessing Officer cannot be treated as prejudicial to the interests of the revenue. For example, when an Income-tax Officer adopted one of the courses permissible in law and it has resulted in loss of revenue; or where two views are possible and the Income-tax Officer has taken one view with which the Commissioner does not agree, it cannot be treated as an erroneous order prejudicial to the interests of the revenue, unless the view taken by the Income-tax Officer is unsustainable in law. The said principal has been reiterated by Hon'ble Court in its subsequent judgement titled as **CIT V/s Max India Ltd. (295 ITR 282).** Similar principal has been followed by jurisdictional High Court in **Grasim Industries Ltd. V/s CIT (321 ITR 92).**

1.2 The Hon'ble Delhi High Court, **CIT V/s Vikas Polymers (supra),** further observed that as regards the scope and ambit of the expression "erroneous", Hon'ble Bombay High Court in **CIT vs. Gabriel India Ltd. [1993 203 ITR 108 (Bombay)]**, held with reference to Black's Law Dictionary that an "erroneous judgment" means "one rendered according to course and practice of Court, but contrary to law, upon mistaken view of law; or upon erroneous application of legal principles" and thus it is clear that an order cannot be termed as "erroneous" unless it is not in accordance with law. If an Income-tax Officer acting in accordance with law makes a certain assessment, the same cannot be branded as "erroneous" by the Commissioner simply because, according to him, the order should have been written differently or more elaborately. The Section does not visualize the substitution of the judgment of the Commissioner for that of the Income-tax Officer, who passed the order unless the decision is not in accordance with law.

1.3 Further, any and every erroneous order cannot be the subject matter of revision because the second requirement also must be fulfilled. There must be material on record to show that tax which was lawfully exigible has not been imposed as held in **Gabriel India Ltd.** However, the expression "prejudicial to the interest of the revenue", as held by the Supreme Court in the **Malabar Industrial Co. Ltd.'s** case, is not an expression of art and is not defined in the Act and, therefore, must be understood in its ordinary meaning. It is of wide import and is not confined to the loss of tax as held in various judicial pronouncements. At the same time, the words "prejudicial to the interest of the revenue", as observed in Dawjee Dadabhoy and Co. vs. S.P. Jain, (1957) 311 ITR

872 (Calcutta), can only mean that "the orders of assessment challenged are such as are not in accordance with law, in consequence whereof the lawful revenue due to the State has not been realized or cannot be realized." Thus, the Commissioner's exercise of revisional jurisdiction under the provisions of Section 263 cannot be based on whims or caprice. It is trite law that it is a quasi-judicial power hedged in with limitation and not an unbridled and unchartered arbitrary power. The exercise of the power is limited to cases where the Commissioner on examining the records comes to the conclusion that the earlier finding of the Income-tax Officer was erroneous and prejudicial to the interest of the revenue and that fresh determination of the case is warranted. There must be material to justify the Commissioner's finding that the order of the assessment was erroneous insofar as it was prejudicial to the interest of the revenue.

1.4 The Hon'ble Delhi Court, in the cited decision, further observed that there is a fine though subtle distinction between "lack of inquiry" and "inadequate inquiry". It is only in cases of "lack of inquiry" that the Commissioner is empowered to exercise his revisional powers by calling for and examining the records of any proceedings under the Act and passing orders thereon. In Gabriel India Ltd. (supra), it was expressly observed: -

> "The Commissioner cannot initiate proceedings with a view to starting fishing and roving enquiries in matters or orders which are already concluded. Such action will be against the well-accepted policy of law that there must be a point of finality in all legal proceedings, that stale issues should not be reactivated beyond a particular stage and that lapse of time must induce repose in and set at rest judicial and quasi-judicial controversies as it must in other spheres of human activity [Parashuram Pottery Works Co. Ltd. vs. ITO, (1977) 106 ITR 1 (SC)].

It was further observed as under: -

> "From the aforesaid definitions as it is clear that an order cannot be termed as erroneous unless it is not in accordance with law. If an Income-tax Officer acting in accordance with law makes a certain assessment, the same cannot be branded as erroneous by the Commissioner simply because, according to him, the order should have been written more elaborately. This section does not visualize a case of substitution of the judgment of the Commissioner for that of the Income-tax Officer, who passed the order unless the decision is held to be erroneous. Cases may be visualized where the Income-tax Officer while making an assessment examines the accounts, makes enquiries, applies his mind to the facts and circumstances of the case and determines the income either by accepting the accounts or by making some estimate himself. The Commissioner, on perusal of the records, may be of the opinion that the estimate made by the officer concerned was on the lower side and left to the commissioner he would have estimated the income at a figure higher than the one determined by the Income-tax Officer. That would not vest the Commissioner with power to re-examine the accounts and determine the income himself at a higher figure. It is because the Income-tax Officer has exercised the quasi-judicial power vested in him in accordance with law and arrived at conclusion and such a conclusion cannot be termed to be erroneous simply because the Commissioner does not feel satisfied with the conclusion.
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> There must be some prima facie material on record to show that tax which was lawfully exigible has not been imposed or that by the application of the relevant statute on an incorrect or incomplete interpretation a lesser tax than what was just has been imposed.

1.5 The Hon'ble Supreme Court in **CIT V/s Amitabh Bachchan (69 Taxmann.com 170 11/05/2016)** held that the power of appeal and revision is contained in Chapter XX of the Act which includes section 263 that confers *suo motu* power of revision in the Commissioner. The different shades of power conferred on different authorities under the Act has to be exercised within the areas specifically delineated by the Act and the exercise of power under one provision cannot trench upon the powers available under another provision of the Act. In this regard, it must be specifically noticed that against an order of assessment, so far as the revenue is concerned, the power conferred under the Act is to reopen the concluded assessment under section 147 and/or to revise the

assessment order under section 263. The scope of the power/jurisdiction under the different provisions of the Act would naturally be different. The power and jurisdiction of the revenue to deal with a concluded assessment, therefore, must be understood in the context of the provisions of the relevant sections. While doing so, it must also be borne in mind that the legislature had not vested in the revenue any specific power to question an order of assessment by means of an appeal. Regarding applicability of Section 263, what has to be seen is that a satisfaction that an order passed by the Authority under the Act is erroneous and prejudicial to the interest of the revenue is the basic pre-condition for exercise of jurisdiction under section 263. Both are twin conditions that have to be conjointly present. Once such satisfaction is reached, jurisdiction to exercise the power would be available subject to observance of the principles of natural justice which is implicit in the requirement cast by the section to give the assessee an opportunity of being heard. Further, there could be no doubt that so long as the view taken by the Assessing Officer is a possible view, the same ought not to be interfered with by the Commissioner under Section 263 merely on the ground that there is another possible view of the matter. Permitting exercise of revisional power in a situation where two views are possible would really amount to conferring some kind of an appellate power in the revisional authority. This is a course of action that must be desisted from.

1.6 The Hon'ble Bombay High Court **Moil Ltd. Vs. CIT [81 Taxmann.com 420]** observed that if a query is raised during the assessment proceedings and if the query is responded by the assessee, the mere fact that the query was not dealt with in the assessment order

then it would not lead to a conclusion that no mind has been applied to it and the Assessing Officer is not expected to raise more queries, if he was satisfied about the admissibility of claim on the basis of the material and the details supplied.

1.7 As an extension of the principle that there must be material to justify the Commissioner's finding that the order of the assessment was erroneous insofar as it was prejudicial to the interest of the revenue. The Hon'ble Delhi High Court in **Pr.CIT V/s Delhi Airport Metro Express Pvt. Ltd. (398 ITR 8 05/09/2017)** has held that for the purposes of exercising jurisdiction u/s 263, the conclusion that the order of the Assessing Officer is erroneous and prejudicial to the interests of the Revenue, has to be preceded by some minimal inquiry. In fact, if the Principal Commissioner of Income-tax is of the view that the Assessing Officer did not undertake any inquiry, it becomes incumbent on the Principal Commissioner of Income-tax to conduct such inquiry. By the same logic, exercise of revisional jurisdiction merely at the instance of Ld. AO, without due application of mind by revisional authority, would not fulfil the jurisdictional requirement of Sec. 263 since it was clearly to be brought on record that the twin conditions i.e. erroneous and prejudicial to the interest of the revenue, were conjointly present in the given factual matrix.

1.8 An Explanation-2 has been inserted by Finance Act 2015 in Section 263 with effect from 01/06/2015 to declare that order shall be deemed to be erroneous in so far as it is prejudicial to the interest of the revenue, if in the opinion of appropriate authority-(1) the order was passed without making inquiries or verifications which should have been

made; (ii) the order is passed allowing any relief without inquiring into the claim; (iii) the order is not in accordance with any direction or instructions etc. issued by the Board u/s 119; or (iv) the order was not in accordance with binding judicial precedent. However, the insertion of aforesaid explanation would not alter the position that twin conditions as envisaged by Sec.263 must conjointly be present before the power of revision could be exercised by revisional authority.

2.1 Keeping in mind aforesaid principle, we find that the assessee, before us, is under appeal challenging the validity of revisional jurisdiction exercised by Ld. Pr. Commissioner of Income Tax-32, Mumbai (Pr.CIT-32) for Assessment Year 2014-15 vide order dated 29/03/2019. The grounds raised by the assessee read as under: -

1. The Assessment Order passed u/s 143(3) by the learned Jt. Commissioner of Income tax (AO)-32(3) is not an erroneous Order in anyway. The action of learned Pr. CIT u/s 263 is wholly unreasonable and bad in law, which may kindly be quashed.
2. The Learned Pr. Commissioner of Income tax - 32, Mumbai, erred in setting aside the Order of Jt. Commissioner of Income tax (AO)-32(3) with respect to repayment of Loan/Deposit amounting to Rs. 3,51,63,562/- otherwise than by an account payee cheque/draft and considering this as contravention of sec. 269T leading to levy of Penalty u/s 271E of the IT Act as the assessee has not produced loan confirmation from Lenders. Bifurcation of Borrowings deducted from value of assets and Audited Balance Sheet of Sleek International Private limited, with Business Transfer Agreement has been undertaken which shows the Unsecured lenders have been transferred individually in the New Company, were not placed on record.
   The same deserves to be deleted as the aforesaid information were not asked to furnish during the proceedings and the appellant have repaid the Loan/Deposit amounting to Rs.3,51,63,562 by virtue of Business Transfer Agreement dated 02.08.2013 between Sleek International PAN AAOKS7553E and Sleek International Private Limited PAN AECS1836K wherein it have been agreed to sell, sign and transfer the Target business as a Going concern along with all Assets & liabilities by way of Slump Sale at Lump sum Consideration of Rs. 61,17,00,000 without values being assigned to the individual assets and liabilities in accordance with the provisions of applicable law including but not limited to the provisions of Income Tax Act,.1961
3. The Learned Pr. Commissioner of Income tax - 32, erred in setting aside the Order of Jt. Commissioner of Income tax (AO)-32(3) with respect to disallowing the interest

on late payment of TDS Rs.2,73,425/- and Custom Interest Penalty Rs.83,860/- and the same deserves to be deleted as the expenditure are related to Business purpose.

4. The Learned Pr. Commissioner of Income tax - 32, erred in setting aside the Order of Jt. Commissioner of Income tax (AO)-32(3) with respect to Dividend Income of Rs.40,63,486/- not reckon with holding any such Investments through which such huge dividend income which could have been earned.
   Further the Learned Pr. Commissioner of Income tax - 32, also erred in setting aside the Order of Jt. Commissioner of Income tax (AO)-32(3) with respect to Short term Capital loss on sale of Sundaram units amounting to Rs.2,41,37,225/- on the presumption that said units might have been traded and issue of Dividend stripping as per Sec. 94(7) of the IT Act and Bonus Stripping as per Sec. 94(8) would have attracted.
   The same deserves to be deleted as:-
   (i)The appellant have received the Dividend Income from Mutual funds, other than the units of Sundaram Mutual fund, held during the year and hence Sec.94(7) is not applicable.
   (ii) The Sundaram Mutual Fund units 2408303.832 worth of Rs. 5,00,00,000 was purchased on 05/09/2013 and on the record date i.e. 23/12/2013 the bonus units 2408303.832 were allotted on the basis of 1:1 ratio. The Appellant has sold the Original units 2408303.832 for Rs.2,58.62,775/- on 07/01/2014 thereby incurring short term capital loss of Rs.2,41,37,525/- (i.e.Rs.5,00,00,000-Rs.2,58,62,775).Section 94(7) and 94(8) of the IT Act is not applicable as the Appellant has purchased original units prior to period of three months from the record date and therefore short term capital loss on sale of Sundaram Units amounting to Rs. 2,41,37,525 to be allowed.
5. The Learned Pr. Commissioner of Income tax - 32, erred in setting aside the Order of Jt. Commissioner of Income tax (AO)-32(3) with respect to correctness of the Long term capital gain due to slump sale amounting to Rs.56,66,00,226/- as Form No. 3CEA as required u/s 50B have not been furnished the same deserves to be deleted as the appellant have furnished Form no. 3CEA as required u/s 50B during the Proceedings for computing Net worth.

2.2 The original assessment for year under consideration was framed by Ld. AO u/s 143(3) on 26/12/2016, accepting the revised returned income of Rs.53 Crores filed by the assessee on 30/11/2014. The assessee being resident firm was stated to be engaged in wholesale business of *kitchen appliances, stainless steel articles etc.* The assessment order is a short order and take note of the fact that details filed by the assessee were verified on test-check basis. It also takes note of the fact that the business of the assessee was transferred to another

entity vide *Business Transfer Agreement* dated 02/08/2013 on *slump sale basis* for aggregate consideration of Rs.61.17 Crores without values being assigned to the individual assets & liabilities.

2.3 Subsequently, Ld. Pr.CIT-32, Mumbai, after receipt of proposal sent by Ld. ACIT, issued show-cause notice (SCN) u/s 263 to the assessee on 05/11/2018 which was later on revised on 18/03/2019 & 27/03/2019. The first notice issued on 05/11/2018 is merely the repetition of earlier notice issued on 12/09/2018. In the notice, it was stated that during the year, the assessee repaid loan/deposit amounting to Rs.3,51,63,562/- otherwise than by an account payee cheque/draft in contravention of Section 269T and therefore, the penalty should have been imposed u/s 271E. Hence, by invoking Explanation-2 to Sec. 263, the quantum order was proposed to be revised u/s 263. In the said notice, the amount of penalty imposable was erroneously referred to as Rs.5.50 Lacs which was sought to be rectified in similar notice issued on 18/03/2019.

2.4 Thereafter, a revised SCN was issued on 27/03/2019 in which more points were raised and revision u/s 263 was proposed on account of the fact that i) interest on late payment of TDS for Rs.2.73 Lacs was not allowable; ii) Custom interest penalty of Rs.0.83 Lacs not allowable; iii) Issue of Dividend Stripping u/s 94(7) and bonus stripping u/s 94(8) on Sale of Sundaram Units not examined; iv) Form No. 3CEA not filed / examined to ascertain the net worth of the undertaking as slump sale and therefore, the correctness of Long-Term Capital gains could not be ascertained.

2.5 In response, the assessee, vide replies dated 25/09/2018, 21/02/2019, 26/03/2019 & 29/03/2019, submitted that assessee's business was transferred to another entity i.e. *M/s Sleek International Private Limited* as a going concern on slump sale basis for consideration of Rs.61.71 Crores. As per the arrangement, the loans & deposits standing in assessee's book were also transferred to the said entity. This transaction was reflected by the Tax Auditor as repayment of loan u/s 269T otherwise than by an account payee cheque. However, considering the facts, penalty would not be leviable since there would be no contravention of Sec.269T.

It was also submitted that Sundaram units were purchased before 3 months from record date and therefore, the provisions of Sec. 94(7) & 94(8) were not applicable to the factual matrix. The copy of Form 3CEA as required u/s 50B was also filed along with reply.

2.6 However, after perusing the valuation report of *Business Transfer Agreement* as submitted by the assessee, it was seen that the cumulative valued was done in respect of assets and liabilities. But the assessee was unable to produce the confirmation of the unsecured lenders confirming the amount to be paid to them. Further, the borrowings were deducted from gross value of assets, but bifurcation of the borrowings was not filed. Further, the assessee did not file the Balance Sheet of transferee entity to show that unsecured loans were transferred individually in the new company. Therefore, the justification made by assessee regarding transfer as well as borrowing was not supported with sufficient documentary evidence leading to contravention of the provisions of the Act on which Ld. AO failed to make enquiries

leading to non-levy of penalty u/s 271E of the Act. In the above background, an opinion was formed that Ld.AO failed to make proper enquiries regarding penalty u/s 271E.

Another observation was that interest on late payment of TDS and custom interest penalty aggregating to Rs.3.57 Lacs was wrongly allowed and therefore, the order was erroneous and prejudicial to revenue to that extent.

Regarding issue of Dividend Stripping u/s 94(7) and bonus stripping u/s 94(8), it was observed that relevant details / documents were not produced during the course of assessment proceedings and therefore, detailed investigation and proper appreciation of facts was not carried out at the time of scrutiny assessment.

In the backdrop of aforesaid observations, the quantum assessment order, on the stated issues, was set aside and Ld.AO was directed to redo the assessment after providing opportunity of hearing to the assessee. Aggrieved as aforesaid, the assessee is under appeal before us.

3. We have carefully heard the rival submissions, perused relevant material on record including submissions made by the assessee before lower authorities during assessment proceedings as well as during revisional proceedings. We have also deliberated on the judicial pronouncements as cited by both the representatives.

4. The prime arguments of Ld. AR are multi-folds viz. i) the revision could not be triggered merely at the behest of Assessing Officer; ii) The revisional authority was under an obligation to carry out minimal inquiry so as to form an opinion that the order was erroneous as well as

prejudicial to the interest of the revenue; iii) Revision could not be resorted to in case of failure on the part of Ld. AO to initiate penalty proceedings against the assessee.

Au Contraire, Ld. CIT-DR asserted that non-application of mind by Ld. AO to the relevant issues would make the order erroneous and prejudicial to the interest of the revenue. The Ld. CIT-DR also submitted that wrong assumption of facts or incorrect application of law would certainly make order liable for revision u/s 263. It was further submitted that firstly, the assessee was expected to submit the details to Ld. AO, who, with due application of mind, should have considered the issues raised by revisional authority. Since there was failure on the part of Ld. AO to apply his mind to the issues, the revisional jurisdiction was validly invoked by Ld. Pr.CIT-32.

5. We have duly considered the same. So far as the argument that revisional authority could not invoke jurisdictional merely at the instance of Ld. AO, is concerned, we are of the considered opinion that so long as the twin conditions as envisaged by Sec.263 are fulfilled by conducting minimal enquiry, the jurisdiction would certainly be valid notwithstanding the fact that the same were triggered at the behest of Ld.AO. Therefore, the revisional jurisdiction could not be termed as bad in law simply because the same was triggered at the instance of another officer. We do not find any substance in the same and reject the said plea.

6. Proceeding further, it is quite evident that the fact that the business of the assessee was transferred to another entity vide *Business Transfer Agreement* dated 02/08/2013 on *slump sale basis* for a sum of Rs.61.17 without individual values being assigned to the assets and liabilities, was

well appreciated by Ld. AO since the body of assessment order passed u/s 143(3) record this fact. Therefore, to say that the said fact was omitted to be considered by Ld. AO, would not be correct. In fact, the assessee had duly disclosed the facts of transfer of business in *Schedule-N* of its financial statements. The computation of capital gain on slump sale was placed on record. The assessee had bifurcated the Balance Sheet reflecting financial position before transfer of business and subsequent to transfer of business. The copy of *Business Transfer Agreement* was also submitted to Ld. AO vide submissions dated 21/12/2016. Upon perusal of the same, we find that all the issues connected with transfer of business were under due consideration of Ld.AO during regular assessment proceedings. Another aspect to be noted is that as per the provisions of Sec. 271E, no satisfaction is required to be recorded in the quantum assessment order before levying penalty u/s 271E. Therefore, we are unable to accept the validity of revisional jurisdiction on this point.

7. The second issue raised in the impugned order is with respect to assessee's claim of interest on TDS and customs penalty. The Ld. AR asserted that the case of the assessee was selected under *limited scrutiny* which was never converted into full scrutiny. The issue of TDS and custom penalty were none of the reasons for which the case was selected for limited scrutiny assessment. The Ld. AR drew attention to the CBDT Instruction No.7/2014 dated 26/09/2014 which provide that in case of scrutiny cases selected under CASS, the scope of inquiry should be limited to verification of particular aspects only. We have duly considered the same. The perusal of documents on record would reveal

that this issue was never raised by Ld.AO and therefore, there could be no occasion for the assessee to make any submissions in this regard. This being the case, *prima facie,* this issue was raised by Ld. revisional authority without conducting any minimal inquiry that the said expenditure was not admissible under law. The conclusion was drawn on mere allegation that the said expenditure was inadmissible expenditure. It is settled legal position that the revision jurisdiction could not be exercised to make fishing or roving inquiry without establishing the fact that the order was erroneous as well as prejudicial to the interest of the revenue. Therefore, we are not convinced with exercise of revision jurisdictions on this issue.

8. Similar is the situation with respect to third issue i.e. applicability of Sec. 94(7) / 94(8) to the case of the assessee. It is quite evident that the assessee, vide submissions dated 29/03/2019, had submitted that the dividend was not earned on the units of *Sundaram Mutual Fund* and in support of the same, ledger extract of dividend income as well as statement of respective mutual funds which gave rise to dividend income was furnished which clearly established that no dividend was earned on *Sundaram Mutual Fund*. In the said background, it was submitted that the provisions of Sec. 94(7) were not applicable. Similarly, the units of *Sundaram Mutual Fund* were stated to be purchased on 05/09/2013 whereas record dated was 23/12/2013 when the bonus units were allotted to the assessee. Therefore, there was a gap of more than 3 months between the purchase of units and record date and therefore, the provisions of Sec. 94(8) were stated to be not applicable. The supporting documents, to substantiate the said fact, were also furnished.

However, we find the Ld. Pr.CIT-32 did not consider assessee's submissions and termed the order as erroneous and prejudicial without conducting any minimal inquiry. Therefore, the action, on this issue, could not be upheld.

No directions have been issued with respect to last issue i.e. non-filing of Form 3CEA and therefore, the same need not be delved into.

9. To summarize, the revisional jurisdiction as exercised by Ld. Pr. CIT-32 could not be upheld in the eyes of law. Therefore, by quashing the same, we allow the appeal.

10. The appeal stands allowed in terms of our above order.

Order pronounced in the open court on 25th February, 2020.

Sd/-	**Sd/-**
(C.N. Prasad)	**(Manoj Kumar Aggarwal)**
न्यायिक सदस्य / **Judicial Member**	लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 25/02/2020
Sr.PS, Jaisy Varghese

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / **ITAT, Mumbai.**