

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "B" JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE: SHRI SANDEEP GOSAIN, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA. No. 265/JP/2020
निर्धारण वर्ष / Assessment Years : 2015-16

M/s Mahendra Singh Dhankhar HUF KH-7, Opp. Officer Club Mann Nagar, Jhunjhunu-333011.	बनाम Vs.	The ACIT, Circle, Jhunjhunu.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AADHM 9601 A		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Manu Dhankhar (Adv.)
राजस्व की ओर से / Revenue by : Shri B.K. Gupta (CIT)

सुनवाई की तारीख / Date of Hearing : 28/06/2021
उदघोषणा की तारीख / Date of Pronouncement : 30/06/2021

आदेश / ORDER

PER: VIKRAM SINGH YADAV, A.M.

This is an appeal filed by the assessee against the order of Id. PCIT(A)-3, Jaipur dated 25.02.2020 for the assessment year 2015-16 wherein the assessee has raised following grounds of appeal:-

"1. Under the facts and circumstances of the case, the learned Pr. CIT has no occasion to initiate proceedings under section 263 of the Act as the assessment order sought to be revised is neither erroneous nor prejudicial to the interest of the revenue.

2. That the Id Pr. CIT has legally erred in not passing a speaking order against the submissions of the appellant. As such, the order passed u/s 263 is void ab-initio. The action of the Ld. CIT was wholly unreasonable, uncalled for and bad in law.

3. That under the facts and Circumstances, the Pr. CIT has ignored the 'True and fair approach, the 'Principles of the natural justice' and the 'Tax neutrality.

4. That under the facts and circumstances, the assessee has rightly assessed the value of the WIP and has rightly assessed the Agriculture income."

2. At the outset, the Id AR submitted that there has been a delay in filing the present appeal. It was submitted that the due date of filing of the present appeal was 25/04/2020, however, due to 'Covid-19' pandemic, a national lockdown was declared by the Government w.e.f. 22/03/2020 as a result of which the appeal could not be filed within due date. It was submitted that the lockdown may be treated as sufficient cause as no postal services, offices and transport were allowed to operate by the Government and even the courts have held that the period of lockdown may be excluded for determining the limitation period and the delay in filing the appeal may be condoned and the appeal be heard on merits. The DR was heard who didn't raise any specific objection. After hearing both the parties and considering the facts of the case, we find that the assessee was prevented by sufficient cause in filing the appeal within stipulated time period due to national lockdown and in exercise of powers under section 253(5) of the Act, we hereby condone the said delay of 26 days in filing the present appeal and the appeal is hereby admitted for adjudication.

3. Now, coming to the merits of the case. During the course of hearing, the Id AR submitted that the assessee firm is a real estate firm engaged in colonizing and developing residential projects. The case of the assessee was selected for limited scrutiny through CASS on account of mismatch of AIR and CIB data, and mismatch in sale turnover reported in audit report and ITR. The A.O. issued the notice u/s 143(2) of the Act and enquired about the issues under consideration. All the sale deeds executed during the year were taken into consideration and matched with AIR and CIB data. An addition for wrong calculation of LTCG was made by the A.O. which was not challenged by the assessee. Subsequently, on the basis of certain audit objections, the Id. PCIT-3, Jaipur issued notice u/s 263 of the Act and raised the following issues:-

1. Taking the cost of complete project while calculating profit for the year under consideration instead of cost debited till the date of Balance sheet
2. Taking the agriculture income in the capital Account and not in the computation of income.

4. In response, the assessee submitted that it is a case outside the jurisdiction of the Commissioner of Income tax to raise objections outside scope of limited scrutiny. The Ld PCIT-3, Jaipur however ordered for 'Denovo' assessment without considering the reply filed by the assessee. It was submitted that such view of considering the issues not covered by 'Limited Scrutiny' is bad in law when all the issues of the scrutiny were duly considered by the A.O. and it is not a case of

order being erroneous and prejudicial to the Revenue and the same therefore be quashed.

5. It was further submitted that the case was selected for Limited Scrutiny through CASS wherein the following issues were identified for examination:-

(i) Sale Consideration of property in ITR is less than sale consideration reported in CIB

(ii) Mismatch in sale Turnover reported in Audit report and ITR

(iii) Value of Property transferred as reported in AIR is higher than the value of property transferred as reported in return of Income.

6. It was submitted that the issues under consideration were considered by the A.O vide the notice u/s 142(1) dated 08/06/2017 on point no. 6,7 and 8 of the notice and was duly replied by the assessee. The A.O. also provided AIR and CIB data during the course of hearing in order to let assessee know reasons of mismatch in AIR and CIB data. All the issues were relating to value of sale deeds executed and their mismatch with regard to the ITR, Audit report, CIB and AIR data. On perusal of all the sale deeds, the A.O. noticed certain wrong calculation of LTCG and made an addition of 3,83,990/-. As it was the case of the 'Limited Scrutiny' and all the reasons for the scrutiny were dealt by the A.O., the order passed by the A.O. is neither erroneous nor prejudicial to the revenue and hence notice u/s 263 of the Act cannot be issued and order so passed is bad in law.

7. Referring to CBDT instructions no. 7/2014 dated 26.09.2014 and subsequent instructions issued thereafter, it was submitted that point 3 and 4 of said instructions clearly states that A.O. jurisdiction is only confined to reasons mentioned in the AST. During the course of assessment proceedings i.e. expansion of the Limited scrutiny can only be done during the course of 'Scrutiny proceedings'. The said expansion cannot be done on the basis of section 263 of the Act. Such expansion can only be done by the A.O. during the assessment Proceedings, if he finds potential escapement. No such action was initiated by the A.O. during the assessment proceedings. It is outside the Jurisdiction of the Commissioner of Income tax to raise objections outside the scope of the 'Limited scrutiny '. So, the Order passed by the A.O. is not erroneous and A.O. has exercised her jurisdiction on the matters referred to her by the 'CASS'. Similar view has been taken by the various Courts on numerous occasions in case of 'Limited Scrutiny' and reliance was placed on the following decisions:-

- Suraj Diamonds Dealers (P) Ltd (ITA NO. 3098/MUM/2019)
- Gift Land Handicrafts vs CIT (2007) 108 TTJ Delhi 312
- Sanjeev Kumar Khemka vs. CIT (ITA No. 1361/Kol/2016)
- M/s Aakash Ganga Promoters vs. Pr. CIT (ITA No. 164/CTK/2019)
- Nayek Paper Converters vs. Asstt. CIT (2005) 93 ITD 144 Kol.

8. It was submitted that in all the cases discussed above, they were selected for Limited Scrutiny and the due verification was done by the A.O. The revision order passed by the PT.CIT was held as outside the jurisdiction of the Pr. CIT by the various Benches of the Tribunal. The

case of the assessee under consideration is identical to these cases and should be decided in the light of these judicial pronouncements.

9. It was submitted that the AO mentioned in the assessment order that the case was selected for limited scrutiny with reference to three items as discussed above. All the items as mentioned were duly verified by the A.O. during the assessment proceedings and hence the A.O. has satisfied the conditions of the Section 263(1) and conditions as mentioned in Explanation 2 sub clause (a). As per Sub clause (a) of the explanation 2, the A.O has made all inquiries and verification that should have been made i.e as directed by the CASS in case of Limited Scrutiny. It is clearly discernible that the AO has made enquiry and deliberation on all the points and as per CBDT Circulars (supra), he is not allowed to travel beyond the ambit of the points for which the case was selected for limited scrutiny So, as all the due compliances have been made by the A.O., the order passed u/s 143(3) is not erroneous and revision u/s 263(1) is totally uncalled for.

10. It was further submitted that the reasons that the valuation of the Closing WIP and ascertainment of Taxable income is part of the reasons listed for limited scrutiny as alleged by the Id PCIT is not correct. The 'Sales Turnover' in the case of real estate business is determined through the executed Sale Deeds and has nothing to do with the Closing Stock of WIP. In his order, the Id PCIT has not made any conclusive findings that how the ascertainment of correct taxable income and Closing stock of the WIP is one of the reasons mentioned in

the CASS and hence, the order so passed is a non-speaking order and must be quashed.

11. It was further submitted that during the year under consideration, the cost incurred till date was debited in the Books of Accounts. The Project was completed till 15th September, 2015. The assessee has adopted 'Percentage of Completion method'. As per the method, the Probable cost of the project is accounted while arriving at the profit. However, as the project was complete before finalizing the audit, the actual cost figures were available and such actual cost figures were used to arrive at 'Cost of units sold'. The proportionate value of cost of Goods sold is correct as per the 'POCM' method.

12. It was further submitted that the Income Tax Act and various Judicial pronouncements have held that the books of accounts must ascertain 'True and Fair view' of the profit. In case of the Real Estate Projects, some part of the inventory is completed and some part of inventory is still in progress. When the 'Revenue Recognition' is done, it is impossible to ascertain the cost of completed inventory and inventory in WIP. It is also unfair, if the cost of incomplete Project is taken into consideration and divided with 'saleable area of whole project'. This will result in 'low cost per square feet' on inventory sold and higher profits. Generally the 'POCM' method is used in which 'Probable cost of the Project' is taken. In our case, the actual cost of project was available on the date of audit, so we took that cost. It is also a view that completed part of inventory (on which revenue is recognized) has higher cost than

the 'Inventory in WIP'. The Apex Court has several times has held that 'True profit must be taken' irrespective of the technicalities of Law.

13. Without prejudice, it was further submitted that even if the submissions are not considered and 263 order for the year under consideration is sustained, than for the subsequent years, the assessee be allowed to carry forward the revised figure of WIP so that the assessee can claim deduction of cost of construction in all subsequent years and revise his profit. In any case, the said activity will have 'NIL tax impact' as the Assessee being an HUF falls in the Tax Bracket of 30% in all years and will only lead to increase in the 'Litigation cost' of the assessee and administrative cost of the department. The Tax Neutrality also makes the order not prejudicial to the Revenue and hence invocation of 263 is illegal and bad in law.

14. Regarding agriculture income shown in the Capital Account and not in the computation of income, it was submitted that the assessee has received agriculture income from the HUF of her mother Smt. Barji devi. The assessee has no agriculture land and all the land held by the assessee is held as 'Stock in trade'. The assessee has ancestral property held by Mother Smt. Barji Devi which generates yearly income of Rs. 2.5 to 3 lakhs. The assessee along with his brother receive a part of agriculture income from the HUF of her mother, which is exempt from tax as her mother has no other income and receives only agriculture income. So, the agricultural income is taken in the capital account and not in the computation of Income.

15. Per contra, the Id. CIT/DR submitted that in view of para 4 of the instruction issued by the CBDT, if there is potential escapement of income above Rs 5 Lac, the AO is required to convert the limited scrutiny case into a comprehensive scrutiny case after taking the prior approval of Id. PCIT and if the AO does not get the limited scrutiny case converted to comprehensive scrutiny case, the assessment order becomes erroneous as it is prejudicial to the interest of Revenue and provisions of section 263 of the Act are applicable. In support, reliance was placed on order dated 08.11.2019 of Cochin Benches of the Tribunal in the case of M/s Baby Memorial Hospital Ltd vs ACIT (in ITA No.420/Coch/2019). Further, Id CIT/DR relied on the finding of the Id PCIT and our reference was drawn to the findings of the Id. PCIT which are contained at para 5 to 8 of the impugned order which read as under:-

"5. I have considered the facts and circumstances of the case and also examined the case records along with written submission filed by the assessee before me.

Here it is also mentioned that u/s 263 of the Income Tax act the Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by the Assessing Officer is erroneous in so far as it is prejudicial to the interests of the revenue, he, may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment. Accordingly, the records of the assessee were called for and examined with all material available therein for forming an informed opinion in the case.

The case laws cited by the assessee were also examined and it is seen that they do not help the assessee as the case laws cited by the assessee are not directly related to the facts of the case. The facts related in the case laws cited in the afore-quoted reply are not similar to the assessee's case. Therefore they cannot be applied at all. As regards, assessee's alleged statement in his AR's written submission dated 18.02.2020 that the case had been selected for limited scrutiny and "it is outside the jurisdiction of the Commissioner of Income tax to raise objections outside the scope of the Limited Scrutiny" is not correct. The case was selected for limited scrutiny for the following reasons:-

'Sale consideration of property in ITR is less than sale consideration registered reported in CIT (CIB401); and ITR'
Both the reasons has a direct bearing on opening and closing cost of construction and WIP as the assessee-HUF is engaged in real estate along with building and construction business. Further, it is simple principle of taxation that AO is duty bound to examine the real taxable income of the assessee for the year which is under assessment. If any discrepancy is noticed, the AO was to examine discrepancy in the taxable income. In this case closing stock of WIP was shown less by Rs. 39,01,560/- which directly affect the net taxable income of the assessee. This crucial issue which is the basic issue for examination at the time of scrutiny assessment was not examined by the assessee. Books of accounts are produced for the verification by the AO. However, no examination of books of accounts was carried out during the assessment proceedings. One of the reasons of limited scrutiny was mismatch in sales turnover reported in audit report and ITR. Sales turnover is the only factor which determine the closing stock of WIP. This issue of closing stock of WIP was not examined and order was passed without application of mind. Since the issues of limited scrutiny were not examined during the assessment proceedings and order has been passed mechanically, the issues raised by the AR are not correct and hence not accepted.

6. While holding so, AO failed to take note of various facts which were available on record. Some of the relevant facts relating to the issue in hand are summarized as below.

1. The assessee sold 14 units comprising therein area of 19965.9 sq. ft.
2. Total salable area as per audit report is 90358.05 sq. ft.
3. Cost of construction and WIP as debited in Trading account is 9,77,74,808/-
4. Cost per sq. ft. works out to Rs. 1082.08
5. Closing stock of WIP Rs. 1082.08* 70392.15 sq.ft. is equal to Rs. 7,61,69,937/-
6. Closing WIP shown in Trading account as on 31.03.2015 is 7,22,68,377/-
7. Closing WIP shown short by Rs. 39,01,560/-.
8. The AO assessed income in scrutiny assessment short by Rs. 39,01,560/-
9. The AO has also not examined the issue of agricultural income amounting to Rs. 1,00,000/-.

7. This omission as made by the assessing officer resulted in an order which is erroneous as well as prejudicial to the interest of revenue. It has necessitated the initiation of proceedings under section 263 of the Income Tax Act. This order has been done in a very mechanical way. This action of the AO has resulted in an erroneous passing of assessment order u/s 143(3) of Income Tax Act, 1961 which required high level of care while finalizing an assessment order. The order dated 27.07.2017 u/s 143(3) passed by the AO is clearly prejudicial to the interest of revenue and clearly calls for invocation of section 263 of the Income Tax Act 1961.

8. Keeping the above discussion in view by the virtue of the powers conferred on the undersigned under the provisions of Section 263 of the IT Act 1961 I hold that the order under 143(3) dated 27/07/2017 for assessment year 2015-16 passed

by the assessing officer is erroneous insofar as it is prejudicial to the interest of revenue as the order has been passed by the assessing officer in a routine and perfunctory manner by without application of mind. It is therefore liable to revision under explanation (2) clause (a) & (b) of section 263 of the Income Tax Act. Therefore holding that the order dated 27.07.2017 being erroneous and prejudicial to the interest of revenue is set aside on both the issues with a direction to the assessing officer to pass the same in the case of the assessee denovo in accordance with law after making the necessary examination and verification regarding the issues under discussion. The AO is directed to finalize the penalty order keeping in view the facts of the case and correct application of law. However an opportunity to the assessee to state its case is to be allowed in the interest of natural justice."

16. We have heard the rival contentions and perused the material available on record. There is no dispute that the case of the assessee was selected for limited scrutiny under CASS on account of mismatch of sales turnover as reported in audit report, ITR, AIR and CIB data. The A.O. issued notice u/s 143(2) of the Act and enquired about the issues under consideration and in response, the assessee submitted copies of the sale deeds executed during the year under consideration and also submitted reconciliation of sales turnover with financials, ITR, AIR and CIB data which is also placed on record before us. Being satisfied, the AO completed the assessment u/s 143(3) without any adverse finding regarding the issues for which the matter was selected for limited scrutiny.

17. There is no dispute that scope of enquiry in case of limited scrutiny is only to the extent of the issues for which case was selected for scrutiny under CASS. The CBDT has issued instructions from time to time in this respect and has specifically instructed the taxing authorities that scope of enquiry should be limited to verification of all the particulars for which limited scrutiny was taken up under CASS. However, in case during the assessment proceeding if the AO is of the view that substantial verification of other issue is also required then the case may be taken up for comprehensive scrutiny with the approval of the Pr.CIT/DIT concerned. It is also instructed that such an approval shall be accorded by the Pr.CIT/DIT in writing after being satisfied about the merits of the issue(s) necessitating wider and detailed scrutiny in the case. In the latest Instruction No. 5/ 2016 dated 14-07-2016, CBDT has again instructed the taxing authorities in para 2 to 4 as under:-

"2. In order to ensure that maximum objectivity is maintained in converting a case falling under 'Limited Scrutiny' into a 'Complete Scrutiny' case, the matter has been further examined and in partial modification to Para 3(d) of the earlier order dated 29.12.2015, Board hereby lays down that while proposing to take up 'Complete Scrutiny' in a case which was originally earmarked for 'Limited Scrutiny', the Assessing Officer ('AO') shall be required to form a reasonable view that there is possibility of under assessment of income if the case is not examined under 'Complete Scrutiny'. In this regard, the monetary limits and requirement of administrative approval from Pr. CIT/CIT/Pr.

DIT/DIT, as prescribed in Para 3(d) of earlier Instruction dated 29.12.2015, shall continue to remain applicable.

3. Further, while forming the reasonable view, the Assessing Officer would ensure that:

a. there exists credible material or information available on record for forming such view;

b. this reasonable view should not be based on mere suspicion, conjecture or unreliable source; and

c. there must be a direct nexus between the available material and formation of such view.

4. It is further clarified that in cases under 'Limited Scrutiny', the scrutiny assessment proceedings would initially be confined only to issues under 'Limited Scrutiny' and questionnaires, enquiry, investigation etc. would be restricted to such issues. Only upon conversion of case to 'Complete Scrutiny' after following the procedure outlined above, the AO may examine the additional issues besides the issue(s) involved in 'Limited Scrutiny'. The AO shall also expeditiously concerned regarding conducting 'Complete Scrutiny' in such cases."

18. Thus the AO is duty bound to follow the instructions in case limited scrutiny assessment proceeding are proposed to be converted into complete scrutiny and without following said procedure and necessary approval of the competent authority conducting an enquiry on the issue which is outside the limited scrutiny would be beyond the jurisdiction of the AO. As a necessary corollary, the Pr. CIT u/s 263 cannot be permitted to traverse beyond the jurisdiction that was vested

with the A.O while framing the assessment as what cannot be done directly cannot be done indirectly. Therefore, where the matter was selected for limited scrutiny, revisional jurisdiction cannot be exercised for broadening the scope of jurisdiction that was originally vested with the A.O while framing the assessment as also held consistently by various Benches of the Tribunal as referred supra.

19. A contention which has been raised by the Id CIT/DR is that where there is a potential escapement of income, the AO is required to convert the limited scrutiny case into a comprehensive scrutiny case after taking the prior approval of Id. PCIT and if the AO does not get the limited scrutiny case converted to comprehensive scrutiny case even though there are material on record, the assessment order becomes erroneous as it is prejudicial to the interest of Revenue and provisions of section 263 of the Act are applicable. For the purposes of converting limited scrutiny to complete scrutiny, what is relevant is that there must be some credible material or information on face of the record and basis review thereof during the assessment proceedings, the AO is required to form a reasonable view that there is possibility of under assessment of income if the case is not examined under 'Complete Scrutiny' and after seeking approval from the competent authority, the case can be converted into complete scrutiny and that too, during the currency of assessment proceedings. Therefore, what is essential is the existence of credible material and basis examination thereof and formation of belief by the AO at first place during the course of assessment proceedings that there is a case of under assessment or escapement of income which is similar to provisions of section 147 of the Act. In the

instant case, we find that the assessee, being in business of real estate development has followed percentage completion method of accounting and has accounted for actual costs incurred though after the end of the financial year as the project was substantially completed and revenues have been recognized. Therefore, we find that there is no infirmity in assessee following the accepted method of accounting and basis thereof, determination of income which is offered to tax and thus, we find that there was no tangible material or information available during the course of assessment proceedings basis which reasonable belief can be formed of escapement or under assessment of income and which could have led the AO to seek permission to convert limited scrutiny into complete scrutiny. Therefore, the AO not seeking permission to convert limited scrutiny to complete scrutiny is not borne out of facts on record. Even for sake of arguments, if we were to assume that there is material on record pointing towards potential escapement of income and which has escaped the attention of the AO during limited scrutiny assessment proceedings and no action has been taken by him, it is not that the Revenue doesn't have any recourse and correct course of action would have been for AO to record his satisfaction though after completion of current assessment proceedings and invoke jurisdiction u/s 147 of the Act subject of course to satisfaction of conditions specified therein rather than the Id. PCIT invoking jurisdiction u/s 263 of the Act. As we have discussed earlier, the revisional jurisdiction u/s 263 cannot be exercised for broadening the scope of jurisdiction that was originally vested with the A.O for limited scrutiny while framing the assessment and enlarging his scope of limited enquiry.

20. The decision in case of Baby Memorial Hospital (supra) is distinguishable as in that case, the assessee itself had agreed that PCIT is justified in giving direction to work MAT income after adding back the provision for doubtful debts and basis such concession on part of the assessee, the Tribunal has held that the argument of the assessee that in case of limited scrutiny, the PCIT could not exercise jurisdiction u/s 263 is devoid of merit. Therefore, the said decision doesn't support the case of the Revenue.

21. Now, coming back to reasoning adopted by the Id PCIT to invoke his jurisdiction u/s 263 in the instant case. As per Id PCIT, the reason for which the matter was selected for limited scrutiny i.e, mis-match of the sales turnover vis-à-vis ITR, CIB & AIR has a direct bearing on opening and closing stock of cost of construction and W.I.P and in turn, on taxable income, therefore, the AO was duty bound to examine these issues and the AO having failed to examine these issues, the AO has effectively failed to examine the issues for which matter was selected for limited scrutiny. In our view, the transactions reflected in the financial statements are sum total of various independent transactions undertaken during the year, and the balance sheet represent a consolidated picture of the financial position of the assessee at the end of the year and similarly, the profit/loss account represent the consolidated position of revenues and costs and net profit during the financial year. It is likely that some of the transactions are directed connected and some are indirectly connected, however, they all have a common thread in terms of impacting the financial position of the assessee and for tax purposes, in determination of net taxable income.

Therefore, the reasoning adopted by the Id PCIT that transactions of cost of construction will have an effect on closing work in progress and taking sales turnover and closing WIP into account, all these transactions taken together will effect the determination of net taxable income is no doubt correct but as far as determination of correct sales turnover is concerned for which the matter was selected for limited scrutiny, the same can be determined on a standalone basis on examination of sale deeds and related documents for sale of flats and is not connected with determination and examination of cost of construction and work in progress.

22. As we have discussed above, in case of limited scrutiny, the AO is duty bound to restrict himself to examine the matters for which matter was selected for limited scrutiny and where the AO takes a view and forms a reasonable belief that some other matters are required to be examined, the same will in effect be traversing beyond the scope of limited scrutiny which is not permissible unless the matter is converted into complete scrutiny and which has not happened during the course of present assessment proceedings. Therefore, the issue of valuation of closing work-in-progress as well as matter relating to agriculture income, which are held by the Id PCIT as matters not been examined by the AO, are matters which are not part of the reasons for which the case was selected for limited scrutiny and are not even remotely connected, therefore, no fault lie on the part of the AO resulting in order being held as erroneous and prejudicial to the interest of revenue. As far as matters for which case was selected for limited scrutiny in terms of mis-match of sales turnover, the same has been duly examined

by the AO and even the Id PCIT has not recorded any adverse findings in terms of lack of enquiry or inadequate enquiry on part of the AO. In light of aforesaid discussions, we hereby set-aside the order passed by the Id PCIT u/s 263 and the order of the AO is sustained.

In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on 30/06/2021.

Sd/-

(संदीप गोसाई)

(Sandeep Gosain)

न्यायिक सदस्य / Judicial Member

Sd/-

(विक्रम सिंह यादव)

(Vikram Singh Yadav)

लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 30/06/2021.

*Santosh

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

1. अपीलार्थी / The Appellant- M/s Mahendra Singh Dhankhar HUF, Jhunjhunu.
2. प्रत्यर्थी / The Respondent-ACIT, Circle, Jhunjhunu.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File { ITA No. 265/JP/2020 }

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar