

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH
(VIRTUAL COURT)

श्री एन.के.सैनी, उपाध्यक्ष एवं श्री आर.एल. नेगी, न्यायिक सदस्य
BEFORE: SHRI. N.K.SAINI, VP & SHRI , R.L. NEGI, JM

आयकर अपील सं./ ITA NO. 21/Chd/2021
निर्धारण वर्ष / Assessment Year : 2011-12

Aditi Aggarwal # 938, Sector-7 Ambala City 134003 Haryana, India	बनाम	Pr. CIT Panchkula
स्थायी लेखा सं./PAN NO: ADUPA1849E		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारित की ओर से/Assessee by : Shri Rohit Goel, C.A.
राजस्व की ओर से/ Revenue by : Smt. C. Chandrakanta, CIT

सुनवाई की तारीख/Date of Hearing : 12/08/2021
उद्घोषणा की तारीख/Date of Pronouncement : 20/09/2021

आदेश/Order

PER N.K. SAINI, VICE PRESIDENT

This is an appeal by the assessee against the order dt. 19/03/2021 of the Ld. Pr. CIT, Panchkula.

2. Following grounds have been raised in this appeal:

1. That the learned PCIT has erred on facts and in law in exercising revisionary powers u/s 263 of the Act while passing the order dated 19-03-2021.
2. That the learned PCIT has grossly violated the principles of natural justice while passing the order u/s 263 dated 19-03-2021.
3. That Appellant craves leave to add, alter, amend or to substitute the above grounds of appeal either before or at the time of hearing of case.

3. The only grievance of the assessee relates to the revisionary power of the Ld. Pr. CIT exercised under section 263 of the Income Tax Act, 1961 (hereinafter referred to Act.)

4. Facts of the case in brief are that the case of the assessee was reopened under section 147 of the Act, for the reasons that the assessee has failed to furnish the source of investment in purchase of immovable property amounting to Rs. 60,00,000/- during the F.Y. 2010-11 relevant to the A.Y. under consideration i.e; A.Y. 2011-12. The A.O. issued notice under section 148 of the Act. In response to the said notice the assessee submitted that the return already filed on 29/09/2011 declaring the income of Rs. 6,74,620/- may be treated in response to the notice under section 148 of the Act. The A.O. issued the notice under section 143(2) and 142(1) of the Act alongwith questionnaire on 22/11/2018, in response to which the assessee filed written replies on 30/11/2018 and 18/12/2018. The A.O. observed that the necessary informations /details as called for from time to time had been filed and placed on record and that the case was discussed with the counsel of the assessee in detail, he framed the assessment at the same income which was declared by the assessee by making the following observation:

- (i) During the year assessee earned commission income besides having other sources income.
- (ii) All the replies, information and documents submitted by the assessee have been considered with reference to the facts of the case and returned income of the assessee is accepted as such.

4.1 Thereafter the Ld. Pr. CIT, Panchkula exercised his revisionary power under section 263 of the Act any observed that the A.O. had completed the assessment in undue haste and without carrying out necessary and proper enquiries which he ought to have carried out, therefore, the order passed under section 143(3) r.w.s 147 of the Act appears to be erroneous and thus was prejudicial to the interest of the Revenue. The Ld. Pr. CIT issued the notice under section 263 of the Act and asked the assessee to show cause as to why the assessment for the A.Y. 2011-12 vide order dt. 28/12/2018 under section 143(3) r.w.s 147 of the Act should not be cancelled. The relevant portion of the notice under section 263 issued on 11/03/2021 read as under:

"Your case was reopened u/s 147 for verification of source of investment for purchase of immovable property to the tune of Rs. 1,17,42,437/- as per agreement to sell whereas as per sale deed dated 23.12.2010, the amount of investment was Rs. 61,98,800/-only. In this regard notice was issued u/s 148 of the IT. Act, 1961 on 31.03.2018. In response to notice u/s 148 of the IT. Act, 1961, vide your letter dated 26.04.2018, you had stated that the return filed u/s 139 may be treated return filed in response to notice u/s 148 of the I.T. Act, 1961. You have filed return u/s 139 declaring income of Rs. 6,74,620/- on 29.09.2011. Accordingly, the assessment u/s 143(3) r.w.s 147 was completed on 28.12.2018 at returned income.

On perusal of assessment records, it has been noticed that there was a difference in the registered value and the value of agreement to sell at Rs. 57,42,437 (1,17,42,437-60,00,000/-) Thus, source of investment in immovable property amounting to Rs. 57,42,437/- remained unexplained. The AO has not conducted any inquiries regarding the above difference and has completed the assessment in a casual manner."

4.2 The Ld. Pr. CIT observed that the assessee had not furnished any explanation, he therefore concluded that the assessee had nothing to say in her defense. He further observed that the A.O. failed to make any independent enquiry to verify the facts of the case regarding the fact that during the year under consideration the assessee had purchased the immovable property to the tune of Rs. 1,17,42,437/- as per agreement to sell whereas as per sale deed dt. 23/12/2010, the amount of investment was Rs 61,98,800/- only. He further observed that there was a difference in the registered value and the value of agreement to sell of Rs. 57,42,437/- (1,17,42,437 – 60,00,000). He therefore was of the view that source of investment in immovable property amounting to Rs. 57,42,437/- remained unexplained and that the A.O. simply accepted the paper which were placed on record without application of mind which made the assessment order erroneous in so far as prejudicial to the interest of the Revenue. The Ld. Pr. CIT held that the A.O. should have conducted detailed enquiry on the above issue and the source of investment amounting to Rs. 57,42,437/- should have examined in detail by conducting enquiry and calling for documentary evidences. According to the Ld. Pr. CIT, the assessee and also the person from whom the property was purchased should have been examined so that the fact regarding the amount and source of investment in property might

have been determined and brought to tax. The reliance was placed on the decision of the Hon'ble Apex Court in the following case laws:

- Malabar Industrial Co. Ltd. Vs. CIT reported in 243 ITR 83 (SC)
- Rampyari Devi Sarogi Vs. CIT reported in 67 ITR 84 (SC)
- Smt. Tara Devi Aggarwal Vs. CIT reported in 88 ITR 323 (SC)

4.3 Accordingly the assessment order passed by the A.O. on 28/12/2018 under section 143(3) r.w.s 147 of the Act for the A.Y. 2011-12 was cancelled with the direction to the A.O. to pass an order afresh in accordance with law after affording due and reasonable opportunity of being heard to the assessee.

5. Being aggrieved the assessee is in appeal.

6. The Ld. Counsel for the assessee submitted that the assessee had purchased an agriculture land measuring 44 Kanal 11 Marla for Rs. 60,00,000/- on 23/12/2010 and all the payments were made through cheques, reference was made to page no. 18 to 22 of the assessee's compilation which is the copy of sale deed. It was further submitted that the A.O. came in possession of an alleged agreement to sell dt. 10/09/2010 for agriculture land measuring 133 Kanal 11 Marla which was alleged to be entered between assessee, Smt. Monika and Smt. Swati, copy of which is placed at page no. 13 to 17 of the assessee's compilation. It was contended that the said alleged agreement to sell was photocopy of plain paper and as per the said alleged agreement to sell total sale value comes to Rs. 3,52,27,311/- against which Rs. 50,00,000/- was stated to be paid comprising Rs. 48,00,000/- through cheque and Rs. 2,00,000/- in cash. And that there is no details about payment of alleged balance consideration of Rs. 2,92,27,311/-.

6.1 It was further stated that on the basis of said alleged agreement to sell, cases of Assessee, Smt. Monika and Smt. Swati were reopened being 3 co-

owners as per this agreement to sell and assessment were completed by their respective assessing officers, reference was made to page nos. 45 to 46 and 47 to 48 which are the copies of assessment orders of Smt. Monica and Smt. Swati respectively.

6.2 It was further stated that subsequent to the assessment, audit objections were raised by the Ld. CIT (Audit) who finally declined to accept the reply of the A.O. and sent a proposal to the Ld. PCIT, Panchkula for initiation of proceedings under section 263 of the Act in the case of the assessee, a reference was made to page no. 111 and 112 of the assessee's paper book which is the copy of the said proposal under section 263 of the act. It was submitted that the Ld. Pr. CIT at page no. 2 of the impugned order in para 3 has stated that the A.O. had not conducted inquiries regarding the difference of Rs. 57,42,437/- (Rs. 1,17,42,437/- (-) Rs. 60,000/-) i.e; difference in the value of immovable property as per agreement to sell and the value shown in the sale deed. It was stated that the assumption of the Ld. Pr. CIT was wrong as the A.O. issued show cause notice dt. 22/11/2018, conducted inquiries from the other co-owners as well as witnesses of the alleged agreement. The assessee filed a detailed reply, copy of which is placed at page no. 23 to 27, the A.O. after considering the reply of the assessee and by making other inquiries which are placed at page no. 28 to 40 of the assessee's compilation, had taken a possible view as per law, therefore, the Ld. Pr. CIT was not justified in holding that the A.O. had not conducted inquiries and completed assessment in casual manner and that the assessee had not submitted any reply during the assessment proceedings, contrary to the facts on record that the assessee furnished detailed reply to the A.O.

6.3 It was further submitted that although the Ld. Pr. CIT observed that the A.O. should have conducted detailed inquiries, however, he himself had not conducted any inquiry before passing the order under section 263 of the Act which is contrary to the settled judicial precedent on the issue. Moreover it is a case where the Ld. CIT (Audit) has raised audit objections which were replied by

the A.O. objecting the objection and when CIT (Audit) did not settle the objection the same resulted in action under section 263 of the Act. Therefore the action of the Ld. Pr. CIT was not justified in directing the A.O. to make further inquiry and to frame the assessment again. The reliance was placed on the following case laws:

- Vision Promoters And Builders (P) Ltd. Vs. CIT(Central) Gurgaon and DCIT Vs. Vision Promoters and Builders (P) Ltd. in ITA No. 401/Chd/2012 and ITA No. 483/Chd/2013 dt. 28/09/2017 (Chd Trib)
- Westlife Development Ltd. (Successor to Wespoint Leisureparks Ltd.) Vs. Pr. CIT in ITA No. 688/Mum/2016 dt. 24/06/2016 (Mum Trib)
- Smt. Shardaben B. Patel Vs. Pr. CIT-5, Ahmedabad in ITA No. 1026/Ahd/2018 dt. 25/09/2019 (Ahd Trib).
- CIT Vs. Smt. K.C. Agnes And Others [2003] 262 ITR 354 (Kerala)
- *M/s Colors Textiles Limited Vs. ITO in ITA No. 1514/Chd/2017 (Chd Trib) order dt. 05/12/2018*
- *CIT vs. Sunbeam Auto reported in 332 ITR 167 (Del)*
- *ITO Vs. D.G. Housing Project Ltd. (2012) 343 ITR 329 (Del)*
- *City Beautiful Hotels and Resorts Pvt. Ltd. in ITA No. 554/Chd/2017 (Chd Trib) order dt. 04/10/2018*
- *PCIT Vs. Delhi Airport Metro Express Pvt. Ltd. [2017](9) TMI 529 (Del)*
- *CIT Vs. Anil Kumar reported in 335 ITR 83 (Del)*
- *CIT Vs. Atlas Cycle Industries reported in 180 ITR 319 (P&H)*
- *CIT Vs. Sohana Woollen Mills [2008] 296 ITR 238 (P&H)*

6.4 The Ld. Counsel for the assessee submitted that the proceedings for reopening of the assessment under section 148 of the Act were initiated in respect of three co-owners i.e; the assessee, Smt. Monica and Smt. Swati but the proceedings under section 263 of the Act were initiated only in the case of the assessee on the basis of difference in the value mentioned in the alleged agreement to sell and the sale deed, however, the transaction value had been accepted in the case of two other co-owners without any order under section 263 of the Act. Therefore the valuation of the same property cannot be valued

differently amongst the co-owners. Reliance was placed on the judgment of the Hon'ble Jurisdictional High Court in the case of Jaswant Rai Vs. CWT Patiala reported at 107 ITR 477.

6.5 It was further submitted that the order has been passed by the Ld. Pr. CIT in haste which is the violation of principles of natural justice. It was pointed out that the first notice appearing in e-portal was dt. 17/03/2021 fixing the case for 18/03/2021 and the order under section 263 was passed on 19/03/2021. As such the inadequate time allowed by the Ld.Pr. CIT was contrary to the principles of natural justice, and therefore the consequential action of setting aside the assessment order was nullity. The reliance was placed on the decision of the ITAT Ahmedabad Bench in the case of Smt. Shardaben B. Patel Vs. Pr. CIT-5 reported at 2019(9) TMI 1178.

6.6 It was also submitted that the Ld. Pr. CIT only asked the A.O. to conduct inquiries which had already been done by the A.O and there were three co-owners, the value of the property in the hands of two co-owners had been accepted and no action was taken under section 263 of the Act while in assessee's case the Ld. Pr. CIT did not accept the value of the property which is against the principle of natural justice.

7. In his rival submissions the Ld. DR strongly supported the impugned order passed by the Ld. Pr. CIT and reiterated the observations made therein.

8. We have considered the submissions of both the parties and carefully gone through the material available on the record. In the present case it is noticed that the assessment in the assessee's case was reopened on the basis of passing the information that the assessee purchased immovable property for Rs. 61,98,800/- as per registered deed while the same was valued at Rs. 1,17,42,437/- as per the agreement. The A.O. accepted the value while framing the assessment under section 143(3) r.w.s 147 of the Act after proper verification and the contention of the assessee that the agreement was only a photocopy

and not an evidence. The Ld. Pr. CIT on the basis of the objections raised by the internal audit party invoked the provisions of Section 263 of the Act and held that the assessment order passed by the A.O. appeared to be erroneous and prejudicial to the interest of the Revenue. According to him the A.O. had not made the proper inquiry. In the instant case, it is noticed that the A.O. reopened the assessment by recording the reasons under section 147 of the Act, which read as under:

"2. As per the information available with this office, during the Financial year 2010-11 relevant to the Assessment Year 2011-12, the assessee, along with two other persons, has executed a purchase deed for purchase of immovable property for Rs. 60,00,000/- and an Ikrarnama dated 10.09.2010 framed for the same land before the execution of above instrument for Rs. 1,17,42,437/-. This shows that the amount actually invested by the assessee in purchase of property is Rs. 1,17,42,437/-. Further, as per record, the assessee has filed her return of Income for the AY 2011-12 declaring gross total income of Rs. 7,72,203/- under the head 'income from other sources'. The income declared in return of income is much below the amount of money invested in purchase of the property. As such, the source of purchase of immovable property remains unexplained and the amount of Rs. 1,17,42,437/- is considered the income of the assessee from unexplained sources which exceeds the maximum amount not chargeable to tax for the assessment year 2011-12."

8.1 Before the A.O the assessee objected to the initiation of proceeding under section 148 r.w.s 147 of the Act and submitted as under:

" 1. The learned A.O. has not recorded his subjective satisfaction regarding escapement of income i.e. Rs. 11742437/- or Rs. 6000000/-.

2. That the reasons recorded are very much vague and are based simply on borrowed information.

3. That the very basis of forming the brief is contradictory and the A.O. is not sure to the extent of income escaped.

4. That without applying mind to the information received, recorded that the discussion made above give sufficient basis for forming reason to believe that the income of Rs. 11742437/- has escaped assessment which clearly shows that the A.O. proceeded to initiate assessment proceeding and reopening of assessment without having any valid satisfaction on the basis of information received as there was no independent application of mind to the tangible material on record. He has nowhere concluded that he has reason to believe that a particular income has escaped assessment. And moreover it is also placed on record that the assessment could only be reopened on the basis of any concealed income which has escaped assessment and not for any other income which may subsequently comes to the notice of the A.O.

5. That the reasons recorded are not specific and the A.O. has failed to identify the other two persons with whom the assessee has purchased the property.

6. That the approval accorded by the Approving Authority is also without application of mind and the approval has been accorded in a mechanical way.

7. That the copy of ikramama may be supplied.

In the light of above facts it is requested that the proceedings initiated u/s 147/148 may be dropped as the proceedings are ab initio void, illegal and bad in law.

8.2 Thereafter the A.O. issued the notice under section 142(1) of the Act dt. 22/11/2018 which read asunder:

Notice under Sub-Section (1) of Section 142 of the Income Tax Act, 1961

Sir/Madam/M/s,

In connection with the assessment for the assessment year 2011-12 you are required to:

a) Furnish or cause to be furnished on or before 30.11.2018 at 11:30 A.M. the accounts and documents specified below or at-email id ambala.lto5@incometax.gov.in

b) Furnish and verified in the prescribed manner-under Rule 14 of IT. Rules 1962 the information called for and on the points or matters specified therein on or before 30.11.2018 at 11:30 A.M.

c) The above mentioned evidence/information is to be furnished online electronically in 'E-Proceeding' facility through your account in 'e-filing' website of Income Tax Department.

d) Para(s) (a) to (c) are applicable if you have an account in e-filing website of Income Tax Department. Till such an account is created by you, assessment proceedings shall be carried out either through your e-mail, account or manually (if e-mail is not available).

e) In cases where order has to be passed -under section. 153A/153C of the Income Tax Act, 19.61 read with section 143(3), assessment proceedings would be conducted manually.

भवदीय

Sd/-

अन्जू

आयकर अधिकारी

वार्ड-5, अम्बाला

8.3 The A.O. during the course of assessment proceedings again made following inquiries vide letter dt. 22/11/2018 and asked the assessee to furnish identity, capacity and genuineness of unsecured loans which read as under:

From the perusal of your reply, it is noticed that the assessee has purchased immovable property measuring 5 Acres 4 Kanal 13 Marla for Rs. 60,00,000/- on 23.12.2010 from Sh. Nirmal Singh S/o Sh. Pritam Singh, R/o Village Landi, Tehsil Shahabad Markanda, Distt Kurukshetra, whereas as per agreement executed on 10.09.2010, the assessee has purchased the above mentioned immovable property measuring 5 Acres 4 Kanal 13 Marla for Rs. 1,17,82,000/- (@ Rs.21,11,000/- per Acre) from Sh. Nirmal Singh S/o Sh. Pritam Singh, R/o Village Landi, Tehsil Shahabad Markanda, Distt Kurukshetra and given Rs. 16,00,000/- as Biana/ Advance money through Bank Draft No. 405541 dated 10.09.2010. From the perusal of copy of Biana executed on 10.09.2010 between Sh. Nirmal Singh, Des Raj sons of Sh. Pritam Singh and Sh. Randeep Singh & Sh. Hardeep Singh(1st Party) and Smt..Monika W/o Sh. Manish Kumar Aggarwal S/o Sh. Rajinder Kumar Aggarwal, Smt. Aditi W/o Sh. Sachin Kumar Aggarwal S/o Sh. Rajinder Kumar Aggarwal and Smt. Swati W/o Sh. Anish Kumar Aggarwal S/o Sh. Rajinder Kumar Aggarwal, R/o H.No. 938, Sector-7, U.E, Ambala City, it is found that the assessee alongwith others has made an agreement for purchase of immovable property @ Rs.21,11,000/- per Acre and paid advance money through bank drafts. This agreement is duly signed by all the purchasers and sellers. Copy of Biana dated 10.09.2010 is enclosed herewith. The assessee has paid/given out the amount of Rs. 57,82,000/- (11782000-6000000) over and above sale consideration as per sale deed, dated 23.12.2010. In this connection, the assessee is show caused as to why an addition of Rs. 57,82,000/-- may not be made to the taxable income of the assessee.

3. Further, from the perusal of your reply, it is noticed that for purchase of immovable properties during the relevant year, you have raised/taken unsecured loans from the following persons:-

S.No.	Name of the person	Amount of loan	Dated
1	M/s S.S.Scripts Pvt. Limited	Rs. 46,00,000/-	20.12.2010
2	M/s S.S. Scripts Pvt. Limited	Rs. 17,00,000/-	10.09.2010

In this regard, you are requested to furnish identity, capacity and genuineness of unsecured loans taken from the above-mentioned person.

8.4 In response to the above, the assessee furnished the written submission dt. 29/11/2018 to the A.O. copy of which is placed at page no. 23 to 27 of the assessee's paper book and an affidavit was also furnished, copy of which is placed at page no. 28 to 30 of the assessee's paper book which revealed that

the property in question was purchased by the assessee alongwith two co-owners, they also furnished there affidavits. The A.O. made the inquiries from the witnesses of the transactions they also furnished there affidavits, copies of which are placed at page no. 37 to 38 from Shri Sushil Kumar and 39 to 40 from Shri Dharampal which were the witnesses of the sale deed. The A.O. also summoned the seller of the land in question namely Shri Nirmal Singh & Shri Deshraj Singh S/o Shri Pritam Singh, Shri Randip Singh and Shri Hardeep Singh S/o Shri Ajaib Singh S/o Shri Pritam Singh from whom the assessee purchased the land for Rs. 60,00,000/-. All the transactions were through banking channels, copy of the sale deed is also placed at page no. 18 to 21. So it cannot be said that the A.O. did not make inquiries from the assessee and the co-owners, witnesses of the sale deed Shri Sushil Kumar S/o Shri Ved Prakash and Shri Rajinder Kumar S/o Shri Tajinder Kumar. The A.O. also made the inquiries from the sellers of the property, so it cannot be said that the A.O. did not make the proper inquiries while accepting the version of the assessee.

8.5 The Ld. Pr. CIT while taking the action under section 263 of the Act stated that the A.O. failed to make any independent inquiry to verify the fact relating to the purchase of immovable property by the assessee. On the contrary the documents placed on record clearly shows that the A.O. made the inquiries in depth and accepted the explanation given by the assessee as well as the co-owner. The assessment framed in the hands of the co-owners namely Smt. Monica Aggarwal W/o Shri Manish Kumar and Smt. Swati Aggarwal W/o Shri Avnish Aggarwal in whose cases also the assessments were reopened under section 147 of the Act and were framed under section 143(3) of the Act vide separate orders dt. 28/12/2018 and 27/12/2018 respectively. Those assessment framed under section 143(3) of the Act in the hands of the co-owners had been accepted. The only objection was taken to the assessment famed in the hands of the assessee under section 263 of the Act which is against the principle of consistency.

8.6 Moreover the A.O. after making the proper inquiry relating to the property in question accepted the explanation. Therefore, it cannot be said that the A.O. failed to make the proper inquiries while accepting the explanation given by the assessee.

8.7 On a similar issue the Hon'ble Kerala High Court in the case of CIT Vs. Smt. K.C. Agnes And Others (supra) held as under:

"When a document shows a fixed price, there will be a presumption that that is the correct price agreed upon by the parties. It is not necessary that the price stated in the agreement will be the price shown in the sale deed. Sometimes, it may be higher and sometimes it may be lower. Sometimes intentionally a lesser value may be shown in the sale deed. Even if it is assumed to be so, unless it is proved that the agreement was acted upon and unless the amount stated in the agreement was paid for the sale, the court cannot come to the conclusion that the price mentioned in the sale deed is not correct."

In the present case also the Ld. Pr. CIT considered the value mentioned in the agreement to sell which was not acted upon and nothing was brought on record that the amount stated in the agreement was paid for the sale. On the contrary the amount mentioned in the sale deed was paid through Demand Draft and was accepted as correct in the case of another co-owners also by the A.O. while framing the assessment under section 143(3) r.w.s 147 of the Act.

8.8 On a similar issue the Hon'ble Jurisdictional High Court in the case of CIT Vs. Suhana Woollen Mills (supra) held as under:

" A reference to the provisions of section 263 of the Income-tax Act, 1961, shows that jurisdiction thereunder can be exercised if the Commissioner finds that the order of the Assessing Officer was erroneous and prejudicial to the interests of the Revenue. A mere audit objection and the fact that a different view could be taken, are not enough to say that the order of the Assessing Officer was erroneous or prejudicial to the interests of the Revenue."

In the present case also the Ld. Pr. CIT has taken the action merely on the basis of the audit objection while the A.O. made the proper inquiries in depth at the time of framing the assessment under section 143(3) r.w.s 147 of the Act. Therefore the impugned order passed by the Ld. Pr. CIT is not maintainable, accordingly the same deserves to be quashed.

8.9 Similarly the Hon'ble Jurisdictional High Court in the case of Jaswant Rai Vs. CWT, Patiala (supra) held as under:

“ that it was not open to the Wealth-tax Officer to disregard the order passed by another Wealth-tax Officer, in which the value of 1/3rd share of the same property belonging to the co-sharer was determined”

In the present case also the Department has accepted the value of the property in the cases of two co-owners while the value of the same property in the hands of the 3rd co-owner i.e; the assessee was doubted. Therefore in view of the principle of consistency also the action taken by the Ld. Pr. CIT was not justified.

8.10 We therefore considering the totality of the facts and keeping in view the ratio laid down in various aforesaid referred to judicial pronouncements, are of the view that the Ld. Pr. CIT was not justified in holding that the assessment order dt. 28/12/2018 passed by the A.O. was erroneous and prejudicial to the interest of the Revenue. Accordingly, the impugned order passed by the Ld. Pr. CIT is quashed.

9. In the result, appeal of the Assessee is allowed.

(Order pronounced in the open Court on 20/09/2021)

Sd/-
आर.एल. नेगी
(R.L. NEGI)
न्यायिक सदस्य/ Judicial Member
AG
Date: 20/09/2021

Sd/-
एन.के.सैनी,
(N.K. SAINI)
उपाध्यक्ष / VICE PRESIDENT

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File