

आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ
**IN THE INCOME TAX APPELLATE TRIBUNAL,
RAJKOT BENCH, RAJKOT**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
And
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

आयकर अपील सं./ITA No. 191/Rjt/2019
निर्धारण वर्ष/Asstt. Years: 2015-2016

M/s. Perth Ceramic Pvt. Ltd., At. Unchi Mandal, Opp. 66 Kva Sub Station, Morbi-363641. PAN: AAHCP6296P	Vs.	The Principal Commissioner of Income Tax-3, Rajkot.
---	-----	---

(Applicant)		(Respondent)
--------------------	--	---------------------

Assessee by :	Shri Mehul Ranpura, A.R
Revenue by :	Shri Aarsi Prasad, CIT.D.R

सुनवाई की तारीख / **Date of Hearing** : **07/07/2022**
घोषणा की तारीख / **Date of Pronouncement**: **29/07/2022**

आदेश/ORDER

PER BENCH :

The captioned appeal has been filed at the instance of the Assessee against the order of the Learned Principal Commissioner of Income Tax-3, Rajkot, dated 24/06/2019 arising in the matter of assessment order passed under s. 263 of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2015-16.

2. The assessee has raised following grounds of appeal:-

"1. The order passed by Pr. CIT is bad and illegal and requires to be quashed.

2. The order passed by Pr. CIT is bad and illegal and requires to be quashed.

3. Ld. Pr. CIT erred in law and on facts in exercising revisional jurisdiction ignoring the fact that AO made full inquiry and satisfied with the reply/submission of the appellant and accordingly the order passed by Pr. CIT is required to be quashed and may kindly be quashed.

4. The learned Pr. CIT erred on facts as also in law in alleging that the order u/s. 143(3) is erroneous and prejudicial to the interest of revenue as the AO had not made inquiry & verification in terms of provision of section 68 of the Act in respect of share capital of Rs. 15,15,02,000/- out of total of Rs.19,99,00,000/- and thereby setting aside the order passed u/s. 143(3) of the Act dated 22.12.17. The order passed u/s 263 of the Act by the learned Pr. CIT is totally unjustified on facts as also in law therefore the same may kindly be quashed"

3. The relevant facts, in short, are that the assessee is a closely held company and engaged in manufacturing of ceramic tiles. The assessee has e-filed his return of income for the year under consideration declaring NIL income on 28/09/2015. The case was selected through "CASS" selection for Limited Scrutiny and a notice u/s 143(2) of the Act was issued on 02/08/2016. The company had issued 1,99,90,000 equity shares at Rs. 10 each. The Ld. Assessing Officer noted that cash is being deposited in the bank account of many share applicants/depositors immediately before issuing the Cheques/NEFT/RTGS in favor of the assessee company. During the course of assessment proceedings, the Ld. Assessing Officer requested the assessee to furnish the confirmations of the persons from whom credits for subscription of share capital were received along with copy of acknowledgment of return of income and copy of bank passbook of such creditors highlighting the transaction of loan/deposit. On verification of the details submitted, the assessee was further requested to show cause as to why the share application money amounting to Rs. 8,00,28,000/- (including the amount of Rs. 2,26,82,500/- of cash deposits) should not be treated as unexplained cash credit and added to the income of the company in view of the updated provisions of section 68 of the Income Tax Act w.e.f. 01/04/2013. The assessee filed a reply vide letter dated 14/12/2017 and also filed Balance Sheets in respect of several persons vide letter dated 22/12/2017 in order to produce the details as to the source of the money

received through cheques in the bank accounts of the share applicants. On appreciation of replies filed by the assessee and evidence placed on record, the AO concluded that the assessee was able to prove the credit worthiness of the share applicants except for the sum of Rs. 4,83,98,000/- (inclusive of the cash deposits of Rs. 2,24,57,500/-). Thus the Ld. Assessing Officer made an addition of a sum of Rs. 4,83,98,000/- (inclusive of the cash deposits of Rs. 2,24,57,500/-) by treating the same as unexplained cash credits under section 68 of the Act.

4. The Principal Commissioner of Income Tax-3, Rajkot initiated proceedings u/s 263 of the Act in respect of the captioned assessment year, in response to which the assessee filed written submissions on 05/02/2019. The Pr. CIT-3 after considering the written submissions of the assessee held that the twin conditions, firstly that the order of the Assessing Officer sought to be revised is erroneous and secondly, order passed is prejudicial to the interests of the Revenue are satisfied in the instant set of facts and accordingly Pr. CIT-3 set aside the assessment order passed u/s 143(3) for making proper enquiries/verification in terms of provisions of Section 68 of the Act in respect of share capital of Rs. 15,15,02,000/- out of total share capital introduced of Rs. 19,99,00,000/- and gave a direction to revise the income, after allowing an opportunity of hearing to the assessee. The Pr. CIT-3 made the following observations while passing the Order:-

"9. As noted above, the AO initially proposed addition in respect of such investments in share capital, wherein cash and/or cheque has been deposited on the same day or few days before, in their bank accounts before issuing cheque/RTGS towards share capital investment. However, the AO later appears to have changed mind, without making any inquiry or verification and surfacing of any new facts. On one hand the AO had doubted the transactions which happened through both the media i.e. immediate deposit of cash and/or cheque in the bank accounts of shareholders, but on the other hand restricted the addition to:

- 1. Immediate cash deposits where balance sheet of the share applicant was submitted; and*
- 2. Total amount where no balance sheet of the share applicant was submitted.*

No inquiry or verification was conducted where cheque was deposited in the bank account of the share applicant immediately before making share capital investment in the assessee company, and the assessee submitted the share applicant balance sheet. It appears that the AO changed conclusion arrived at earlier on the given set of facts, without making any further verification/enquiry.

.....
12. It is evident from the facts mentioned above that the AO has not made enquiries or verification which should have been made in respect of share capital introduced during the year under consideration. It is evident that the assessment order passed by the Assessing Officer in respect of A.Y.2015-16 is erroneous in so far as it is prejudicial to the interests of the Revenue as the AO has passed the assessment order without making inquiries or verification which should have been made during the assessment proceedings.

5. Being aggrieved by the order of the Id. CIT(A), the assessee is in appeal before us.

6. The Id. Authorized Representative before us filed two sets of paper book running from pages 1 to 118 and 1 to 930 and submitted that during the course of assessment proceedings, the Ld. Assessing Officer had raised specific queries with regard to the creditworthiness of share applicants, in response to which the assessee had filed details from time to time. The Id. Authorized Representative drew our attention to pages 87 to 233 of Paper Book Part-1(Chart showing details of credit worthiness of share applicants) which were duly submitted during the course of assessment proceedings. The Id. Authorized Representative submitted that since all details were filed with the Id. Assessing Officer and assessment order was passed after consideration of all the materials, it cannot be stated that the enquiries made were insufficient so as to justify initiation of the proceedings under section 263 of the Act. The Id. Authorized Representative drew attention to Pages 13 and 16 of Paper Book Part-1, wherein the Ld. Assessing Officer raised specific queries on the issue of substantial increase in share capital and reply filed by the assessee in response thereto, at pages 15 and 19 of the paper book Part -1. The Id. Authorized Representative submitted that the Ld. Assessing Officer after consideration of all evidences placed on record added a sum of Rs. 4.83 crores to the returned income. The Ld. AR submitted that the assessment order was passed after due application of mind and in support relied on the decision of Ahmedabad Tribunal in the case of **Torrent Pharmaceuticals v DCIT [2018] 97 taxmann.com 671 (Ahmedabad - Trib.)**. The Ld. AR submitted that since the Ld. AO has made enquiries during the course of assessment proceedings, it would not be open to the

Ld Pr. CIT to initiate proceedings u/s 263 of the Act. The said proceedings are thus liable to be set aside.

7. The Id. Departmental Representative argued that the case was picked up for limited scrutiny and during the course of assessment proceedings details of Income Tax Returns, Bank Statements, confirmations of the share applicants were sought for and filed. The Ld. AO noted that cash deposits and cheque deposits were made immediately before investment in shares, for which the assessee had no plausible explanation. The Ld. AO however closed the assessment without making proper enquiries and this fact came to be noted by the Pr. CIT necessitating initiation of proceedings u/s 263 of the Act. The Ld DR placed reliance on the observations of Pr. CIT at page 11 and 12 of the order which are being reproduced below:-

"18. Explanation 2 to section 263 of the IT Act, regarding the powers of Commissioner in assuming revisional jurisdictions reproduced hereunder, for ready reference:

"Revision of orders prejudicial to revenue:

263. (1) The Principal Commissioner or 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 afresh assessment.

Explanation 1.—....

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.

19. *It is the bounden duty of the Assessing Officer to collect proper facts, is make necessary enquiries, appreciate the facts so collected and make proper application of law while making the assessment. Assessment made without proper enquiry is held as erroneous and prejudicial to the interest of the revenue and the Commissioner of Income Tax is empowered to revise such assessment by invoking the provisions of section 263.*

The Ld DR argued before us that Ld AO has not applied his mind to certain important aspects while passing the assessment order. In view of the 2015 amendment to section 263 of the Act, an order is erroneous if passed without making enquiry is held as erroneous and prejudicial to the interests of the Revenue and the Commissioner of Income Tax is empowered to revise such assessment by invoking provisions of section 263."

8. We have heard the rival contentions of both the parties and perused the materials available on record. The issue for consideration before us is the scope of enquiry under Explanation 2(a) to section 263 and whether in the instant facts can it be said that the order is passed by Ld. AO is without making inquiries or verification which should have been made, and hence the assessment is erroneous and thus requiring revision by Pr. CIT u/s 263 of the Act.

9. An inquiry made by the Assessing Officer, considered inadequate by the Commissioner of Income Tax, cannot make the order of the Assessing Officer erroneous. In our view, the order can be erroneous if the Assessing Officer fails to apply the law rightly on the facts of the case. As far as adequacy of inquiry is considered, there is no law which provides the extent of inquiries to be made by the Assessing Officer. It is Assessing Officer's prerogative to make inquiry to the extent he feels proper. The Commissioner of Income Tax by invoking revisionary powers under section 263 of the Act cannot impose his own understanding of the extent of inquiry. There were a number of judgments by various High Courts in this regard.

10. Delhi High Court in the case of **CIT Vs. Sunbeam Auto 332 ITR 167 (Del.)**, made a distinction between lack of inquiry and inadequate inquiry. The Hon'ble court held that where the AO has made inquiry prior to the completion of assessment, the same cannot be set aside u/s 263 on the ground of inadequate inquiry.

"12. There are judgments galore laying down the principle that the Assessing Officer in the assessment order is not required to give detailed reason in respect of each and every item of deduction, etc. Therefore, one has to see from the record as to whether there was application of mind before allowing the expenditure in question as revenue expenditure. Learned counsel for the assessee is right in his submission that one has to keep in mind the distinction between "lack of inquiry" and "inadequate inquiry". If there was any inquiry, even inadequate, that would not by itself, give occasion to the Commissioner to pass orders under section 263 of the Act, merely because he has different opinion in the matter. It is only in cases of "lack of inquiry", that such a course of action would be open. ———

From the aforesaid definitions 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 visualise 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 visualised 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. 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.

15. Thus, even the Commissioner conceded the position that the Assessing Officer made the inquiries, elicited replies and thereafter passed the assessment order. The grievance of the Commissioner was that the Assessing Officer should have made further inquiries rather than accepting the explanation. Therefore, it cannot be said that it is a case of 'lack of inquiry'."

11. In **Gabriel India Ltd. [1993] 203 ITR 108 (Bom)**, law on this aspect was discussed in the following manner (page 113)

"The consideration of the Commissioner as to whether an order is erroneous in so far as it is prejudicial to the interests of the Revenue, must be based on materials on the record of the proceedings called for by him. If there are no materials on record on the basis of which it can be said that the Commissioner acting in a reasonable manner could have come to such a conclusion, the very initiation of proceedings by him will be illegal and without jurisdiction. 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.

12. The Mumbai ITAT in the case of **Sh. Narayan Tatu Rane Vs. ITO, I.T.A. No. 2690/2691/Mum/2016, dt. 06.05.2016** examined the scope of enquiry under Explanation 2(a) to section 263 in the following words:-

*"20. Further clause (a) of Explanation states that an order shall be deemed to be erroneous, if it has been passed without making enquiries or verification, which should have been made. In our considered view, this provision shall apply, if the order has been passed without making enquiries or verification which a reasonable and prudent officer shall have carried out in such cases, which means that the opinion formed by Ld Pr. CIT cannot be taken as final one, without scrutinising the nature of enquiry or verification carried out by the AO vis-à-vis its reasonableness in the facts and circumstances of the case. **Hence, in our considered view, what is relevant for clause (a) of Explanation 2 to sec. 263 is whether the AO has passed the order after carrying our enquiries or verification, which a reasonable and prudent officer would have carried out or not. It does not authorise or give unfettered powers to the Ld Pr. CIT to revise each and every order, if in his opinion, the same has been passed without making enquiries or verification which should have been made. In our view, it is the responsibility of the Ld Pr. CIT to show that the enquiries or verification conducted by the AO was not in accordance with the enquiries or verification that would have been carried out by a prudent officer.** Hence, in our view, the question as to whether the amendment brought in by way of Explanation 2(a) shall have retrospective or prospective application shall not be relevant."*

13. Before deciding the issue, it would be useful to refer to some Supreme Court decisions on this subject which would throw useful light on the scope of enquiry under Explanation (a) to section 263 of the Act.

14. Recently the Supreme Court of India in the case of **Principal Commissioner of Income-tax, Surat-2 v. Shreeji Prints (P.) Ltd.[2021] 130 taxmann.com 294 (SC)** dismissed SLP filed by the assessee against order passed by High Court holding that where assessee-company had received unsecured loans from two different companies and Assessing Officer had made inquiries in detail and accepted genuineness of same, such view of Assessing Officer being a plausible view could not be considered erroneous or prejudicial to interest of revenue. The facts of this case were that respondent assessee has filed its return of income showing total income of Rs. 62,55,900/- which was assessed under section 143(3) of the Act, 1961 by an assessment order dated 14th March 2016. The respondent company received unsecured loans from M/s. Georgett Tradecom Pvt Ltd and M/s. Purba Agro Food Pvt Ltd amounting to Rs. 2.49 Crore and the

Assessing Officer allowed these unsecured loans. The Principal Commissioner of Income-tax invoked section 263 of the Act, 1961 for revising the assessed income of the respondent assessee. It was noticed by the PCIT that the unsecured loans obtained by the respondent assessee are shown as investment in the name of the assessee in the share application as well as in the balance sheet of the respective companies. The PCIT passed an order under section 263 of the Act directing the Assessing Officer to pass fresh assessment order under section 143(3) of the Act, 1961 on the aspect of unsecured loans shown by the respondent assessee. The Hon'ble Supreme Court made the following observation while deciding in favour of the assessee:-

"Thus, the Tribunal has considered in detail the aspect of revisional power to be exercised by the PCIT in the facts of the case and has given a finding of facts that the Assessing Officer has made inquiries in detail and after applying mind, accepted the genuineness of loans received by the respondent assessee from the aforesaid two companies and such view of the Assessing Officer is a plausible view, and therefore, the same cannot be said to be erroneous or prejudicial to the interest of the Revenue."

15. The Supreme Court in another recent case of **Principal Commissioner of Income-tax 2 v. Shree Gayatri Associates*[2019] 106 taxmann.com 31 (SC)**, held that where Pr. CIT passed a revisional order making addition to assessee's income under section 69A in respect of on-money receipts, however, said order was set aside by Tribunal holding that AO had made detailed enquiries in respect of on-money receipts and said view was also confirmed by High Court, SLP filed against decision of High Court was liable to be dismissed. The facts of this case were that pursuant to search proceedings, assessee filed its return declaring certain unaccounted income. The Assessing Officer completed assessment by making addition of said amount to assessee's income. The Principal Commissioner passed a revisional order under section 263 on ground that Assessing Officer had failed to carry out proper inquiries with respect to assessee's on money receipt. In appeal, the Tribunal took a view that Assessing Officer had carried out detailed inquiries which included assessee's on-money transactions and Tribunal thus set aside revisional order passed by Commissioner. The Hon'ble High Court upheld Tribunal's

order. The Hon'ble Supreme Court while dismissing the SLP filed by the Department held as under:-

"We have heard learned counsel for the Revenue and perused the documents on record. In particular, the Tribunal has in the impugned judgment referred to the detailed correspondence between Assessing Officer and the assessee during the course of assessment proceedings to come to a conclusion that the Assessing Officer had carried out detailed inquiries which includes assessee's on-money transactions. It was on account of these findings that the Tribunal was prompted to reverse the order of revision. No question of law arises. Tax Appeal is dismissed"

16. The Supreme Court in the recent case of **Principal Commissioner of Income-tax-2, Meerut v. Canara Bank Securities Ltd[2020] 114 taxmann.com 545 (SC)**, dismissed the Revenue's SLP holding that 263 proceedings are invalid when AO had made enquiries and taken a plausible view in law, with the following observations:

"Having heard learned counsel for the parties and having perused the documents on record, we see no reason to interfere with the view of the Tribunal. The question whether the income should be taxed as business income or as arising from the other source was a debatable issue. The Assessing Officer has taken a plausible view. More importantly, if the Commissioner was of the opinion that on the available facts from record it could be conclusively held that income arose from other sources, he could and ought to have so held in the order of revision. There was simply no necessity to remand the proceedings to the Assessing Officer when no further inquiries were called for or directed"

17. The Supreme Court in the case of **Principal Commissioner of Income-tax- -8 Mumbai v. Sumatichand Tolamal Gouti [2019] 111 taxmann.com 287 (SC)** held that where High Court upheld Tribunal's order holding that AO had made detailed enquiries while allowing assessee's claim for deduction of business expenditure and, thus, revisional order passed by Commissioner was not sustainable, SLP filed against High Court's order was liable to be dismissed. The facts of this case were that in course of assessment, Assessing Officer allowed assessee's claim for deduction of certain expenditure on purchase of CDs on Jain Religion by expending an amount of Rs. 10.4 crores, after due examination. The Commissioner passed revisional order holding that Assessing Officer had not carried out any enquiries as to nature of expenditure being capital or not. The Tribunal, however, allowed assessee's appeal holding that Assessing Officer had carried out detailed enquiries and taken a view which was a plausible view. Accordingly,

Tribunal set aside revisional order passed by Commissioner. The Hon'ble High Court upheld the order passed by the Tribunal. The Hon'ble Supreme Court on consideration of above facts held that SLP filed against High Court's order was liable to be dismissed. The Supreme Court made the following observations, while passing the order:-

"It is by now well settled that, the Commissioner can exercise revisional powers under Section 263 of the Act only when it is found that the order passed by the Assessing Officer is erroneous and prejudicial to the interest of Revenue. In the present case, the Tribunal noted the observations of the Assessing Officer in the order of remand to the effect that Jain munis do not advocate spread of religion through use of computers, source of electronic media is usually shunned, very small section of the community uses computer technology for religious purposes as plenty of printed literature is available in the market. All these factors led to the market value of the CDs declining dramatically. It was on account of these reasons, that the assessee had incurred substantial loss arising out of reduction in the value of stock lying at the end of the year. The Tribunal, therefore noted that the Assessing Officer had carried out detailed enquiries and taken a plausible view."

18. The assessee placed reliance on the case of Ahmedabad Tribunal in the case of **Torrent Pharmaceuticals Ltd. v Deputy Commissioner of Income-tax, Circle-4(1)(2), Ahmedabad [2018] 97 taxmann.com 671 (Ahmedabad - Trib.)** during the course of arguments. In this case the Ahmedabad Tribunal held that where during scrutiny assessment, Assessing Officer disallowed a part of business advancement expenses after verifying bills and vouchers, notice for revision for further disallowance was unjustified. The facts of this case were that the Assessee, a pharmaceutical company, for assessment year 2014-15, claimed business advancement expenses incurred on gift articles distributed by it to various persons. During scrutiny, assessee provided detailed breakup of such expenditure to Assessing Officer in pursuance of specific query raised by him. Assessing Officer rejected substantial amount from claim of expenditure after verifying bills and vouchers. However, accounts of assessee were subjected to multiple audits by expert professionals. Further, in the context of a turnover and scale of operation of this magnitude, the expenditure incurred on business advancement of such amount do not indicate any visible abnormality. On consideration of these facts, the Tribunal held that since there was sufficient verification by Assessing Officer, revision under section 263 was unjustified. The Hon'ble ITAT made the following observations:

"The assessment is also carried out on year-to-year basis. In such a scenario, where the AO has rejected substantial amount from the claim of expenditure after reasonably verifying bills and vouchers, the allegation of the Pr.CIT appears misconceived. Ordinarily, it is only in a very gross case of inadequacy in inquiry and lack of application of mind that the order of AO is open to attack as erroneous. In the context of a turnover and scale of operation of this magnitude, the expenditure incurred on business advancement of such amount does not indicate any visible abnormality. This apart, the AO did take cognizance of the issue and made substantial disallowance. Thus, it cannot be outrightly alleged that the AO has omitted to apply its mind to the issue. The allegation thus appears unintelligible. The AO, in our view, has not committed any error in not chasing will of the wisp in the absence of any brazen circumstances. The action of the Pr.CIT on this issue of business advancement expenses appears to be guided by the considerations of Revenue alone and thus cannot be viewed with favour."

19. From an analysis of the above judicial precedents, the principle which emerges is 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 Assessing Officer adopts one of the course permissible in law and it has resulted in loss of revenue; or where two views are possible and the Assessing Officer has taken one view with which the Commissioner of Income-tax does not agree, it cannot be treated as an erroneous order prejudicial to the interests of the revenue unless the view taken by the Assessing Officer is unsustainable in law, or the AO has completely omitted to make any enquiry altogether or the order demonstrates non-application of mind.

20. Now in the facts before us the case of the assessee was selected through "CASS" selection for Limited Scrutiny, where the purpose of assessment was to scrutinize the substantial increase in share capital in the captioned year. During the course of assessment proceedings, the Ld. AO made detailed enquiries on this issue and after consideration of time-to-time written submissions filed by the assessee and documents / evidence placed on record, the Ld. AO made additions to the tune of Rs. 4,83,98,000/- (inclusive of the cash deposits of Rs. 2,24,57,500/-) by treating the same as unexplained cash credits. The Pr. CIT initiated 263 proceedings on the ground that the AO has not made enquiries or verification which should have been

made in respect of share capital introduced during the year under consideration. It is not the case of the Pr. CIT that the Ld. AO did not apply his mind to the issue on hand or he had omitted to make enquiries altogether. In the instant set of facts, the Ld. AO had made detailed enquiries and after consideration of material placed on record, made an addition to the tune of Rs. 4,83,98,000/-. We thus find no error in the order of Ld. AO so as to justify initiation of 263 proceedings by the Ld. Pr. CIT. The Ground of appeal raised by the assessee is thus allowed.

21. In the result, appeal filed by assessee is allowed.

Order pronounced in the Court on 29/07/2022 at Ahmedabad.

**Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER**

**Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER**

Ahmedabad; Dated **(True Copy)**
29/07/2022
Manish