

IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH, MUMBAI

BEFORE SHRI ABY T. VARKEY, JM AND SHRI S. RIFAUR RAHMAN, AM

आयकर अपील सं/ I.T.A. No.955/Mum/2022

(निर्धारण वर्ष / Assessment Years: 2017-18)

Disha Construction 201, Square One, Gulmohar Road No.1, Vile Parle (W), Mumbai-400049.	बनाम/ Vs.	PCIT, Mumbai-17 R. No. 120, 1 st Floor, Kautilya Bhavan, C-41 to c-43, G Block, Bandra Kurla Complex, Bandra (E), Mumbai.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AADFD9171G		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Assessee by:	Shri Ashok Bansal/Ajay Daga
Revenue by:	Shri S. H. Usmani (DR)

सुनवाई की तारीख / Date of Hearing: 19/09/2022

घोषणा की तारीख /Date of Pronouncement: 31/10/2022

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Ld. Principal Commissioner of Income Tax-17, [hereinafter referred to as the "PCIT"], Mumbai dated 14.03.2022 for assessment year 2017-18 passed under section 263 of the Income Tax Act, 1961 (hereinafter referred to as "the Act").

2. The main ground of appeal raised by the assessee is against the action of the Ld. PCIT invoking Section 263 of the Act (revisional jurisdiction) against the assessment order passed by the Assessing Officer (AO) u/s 143(3) of the Act dated 02.12.2019 wherein he accepted the total income as per return of income to the tune of Rs.3,77,29,520/-.



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3. Brief facts of the case are that the AO notes that the assessee has filed return of income on 31.10.2017 for AY. 2017-18 declaring total income at Rs.3,77,29,520/-. The case was selected for scrutiny and the AO notes that he had issued notice u/s 143(2) and 142(1) of the Act calling upon the assessee various details and after going through the response and details filed by the assessee and after examination of the same, he accepted the return of income filed by the assessee. This action of the Assessing Officer has been interdicted by the Ld. PCIT by invoking his revisionary jurisdiction u/s 263 of the Act. According to the Ld. PCIT, the assessee had offered income from sales/receipt amounting to Rs.30,16,07,500/- after subtracting of Rs.1,29,85,00/- (pertaining to Jyotshan Mehta of Rs.56,00,000/- + Vinodrai Trivedi of Rs.73,85,000/-) by referring to the provision of Accounting Standard-7. However, the Ld. PCIT notes that as per the computation of income of ITR, assessee claimed TDS of Rs.1,29,850/- pertaining to the abovementioned sales. The Ld. PCIT has noted from the Annexure-1 submitted by the assessee dated 24.11.2019 that commencement certificate in respect of Sat Anupa project was not received until the last date of the previous year i.e. 31.03.2017. However, according to the Ld. PCIT, the AO has failed to make adequate inquiries before accepting this argument especially in the backdrop that the TDS on the transaction was claimed and the corresponding income was not offered. So according to the Ld. PCIT, the AO should have examined the possibility to either recognize the sales receipts of Rs.1,29,85,000/- as income for the AY. 2017-18 or the TDS claimed on these sales



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(which have not been offered to tax i.e. for Rs.1,29,850/-) or should have been disallowed as per Rule 37BA r.w.s. Section 199 of the Act. Further, the Ld. PCIT noted from the perusal to the Tax Audit Report for 3CD, that assessee has sold the following flats at below the Municipal/Market rate as under: -

Sr. No.	Premises Address	Municipal/Market sales value as per agreement deed	Actual sales agreement value.	Difference
1	Unit No.2, 2 nd floor, D-square building, Dadabhai Nowroji Marg, Vile Parle, Mumbai-56	1,24,47,000	91,00,000	33,47,000
2	Unit No.805, 8 th Floor, D square building, Dadabhai Nowroji Marg, Vile Parle, Mumbai-56	1,39,46,600	85,70,000	53,76,600
3	701, 7 th floor, At. Anupa building, Vile Parle, Mumbai-49.	1,32,75,500	73,85,000	58,90,500

4. According to the Ld. PCIT from a perusal of the chart, it is prima facie evident that the assessee has violated Section 43CA of the Act which has been inserted w.e.f. 1st Day of April, 2014. According to the Ld. PCIT, the AO did not call for the necessary details in this regard and not co-related or verified the sales receipts and market rate of these properties. Based on the aforesaid faults as mentioned by the Ld. PCIT, he proposed to invoke his jurisdiction u/s 263 of the Act and issued a show cause notice to the assessee vide letter dated 11.02.2022. Pursuant thereto, the assessee responded that the AO had made adequate inquiry into the issues raised by the Ld. PCIT in respect of



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declaring of its income. However, the Ld. PCIT being not satisfied with the reply of the assessee held that the adequate inquiry has not been carried out by the AO on the issues pointed out by him. And he repelled the reply filed by assessee by noting (relevant para only) as under: -

“6. I have considered the submission of assessee as well as other facts and circumstances of the case. The assessee in his reply has itself accepted that the sale on which TDS was claimed was not offered as income during the year. Moreover his reply on the issue of violation of section 43CA is not accompanied with any supporting evidences. However, in view of the detailed facts and discussion in para 2 and 3 above, it is very clear that the assessment proceedings in this case have been completed without verifying the issues/condition to satisfy the applicability of section 43CA in the assessee’s case, while finalizing the assessment proceedings u/s.143(3) of the Act. At the same time, the assessee was allowed of the TDS claim without verification of the fact as whether the amount on which TDS was deducted has been offered for income during the year. Thus, it is a clear case where the AO has failed to make due verification and inquiries which were required in facts and circumstances of the case in view of this, the provisions of the relevant provisions of Explanation 2(a) to Section 263 of the Act are squarely applicable in this case he same are reproduced as under for the sake of convenience.”

5. And thereafter, he was pleased to set aside the AO’s order dated 02.12.2019 u/s 143(3) of the Act and directed the AO to conduct denovo assessment proceedings and to frame the assessment after



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making due verification and enquiries in respect of claim of TDS and violation of provision of Section 43CA of the Act. Aggrieved by the aforesaid action of the Ld. PCIT, the assessee is challenging the jurisdiction of the PCIT to have invoked the revisional jurisdiction u/s 263 of the Act.

6. We have heard both the parties and perused the records. Since the assessee has challenged the jurisdiction of the Ld. PCIT to pass the impugned order, let us first examine the scope of revisional jurisdiction u/s. 263 of the Act. For that, let us take the guidance of judicial precedence laid down by the Hon'ble Apex Court in Malabar Industries Ltd. vs. CIT [2000] 243 ITR 83(SC) wherein their Lordship have held that twin conditions should be satisfied before jurisdiction u/s 263 of the Act is exercised by the ld. CIT. The twin conditions which need to be satisfied are that (i) the order of the Assessing Officer must be erroneous and(ii) as a consequence of passing an erroneous order, prejudice is caused to the interest of the Revenue. In the following circumstances, the order of the AO can be held to be erroneous i.e. (i) if the Assessing Officer's order was passed on assumption of incorrect facts; or assumption of incorrect law; (ii) Assessing Officer's order is in violation of the principles of natural justice; (iii) if the AO's order is passed by the without application of mind; or (iv) if the AO has not investigated the issue before him. In the circumstances enumerated above only the order passed by the Assessing Officer can be termed as erroneous for the purpose of S.263



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of the Act. It has to be borne in mind that even if the Ld. PCIT/CIT finds that the assessment order is erroneous, he cannot invoke the revisional jurisdiction u/s 263 of the Act without satisfying the requirement of second limb [i.e. the Ld. PCIT/CIT has to show that due to the erroneous assessment order, prejudice has been caused to the interest of revenue]. This essential requirement of law to be satisfied by Ld. PCIT/CIT before invoking revisional jurisdiction has been laid down by the Hon'ble Supreme Court in the case of Malabar Industries (supra) wherein their Lordship's held that this phrase i.e. "prejudicial to the interest of the revenue" has to be read in conjunction with an "erroneous" order passed by the Assessing Officer. The Hon'ble Supreme Court, held that for invoking powers conferred by S.263; the CIT should not only show that the AO's order is erroneous as a result of any of the situations enumerated above but CIT must also further show that as a result of an erroneous order, some loss is caused to the interest of the revenue. At this juncture, one has to understand what is prejudicial to the interest of revenue. Their Lordship explaining about this in the said judgment (Malabar supra) held that every loss of revenue as a consequence of an order of Assessing Officer cannot be treated as prejudicial to the interest of the revenue. It was further observed that when the Assessing Officer adopts one of the course permissible in law and it has resulted in loss to the revenue, or where two views are possible and the Assessing Officer has taken one view with which the Ld. CIT does not agree, it cannot be treated as an order



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prejudicial to the interest of the revenue unless the view taken by the Assessing Officer is unsustainable in law.

7. Keeping the aforesaid judicial precedent in mind, we should examine the facts of the case to see whether the Ld. PCIT could have successfully invoked revisional jurisdiction u/s 263 of the Act. In this regard, we note that the assessee is a partnership firm and is a builder and developer; and is mainly focused on re-development projects. Under the redevelopment agreement which the appellant enters into with the society, the appellant has to provide new flats in the area agreed upon in the redeveloped building free of cost to the existing occupants. If any member is interested in extra area over & above the area, they are entitled to, then the appellant allots the extra area at the then prevailing market rate. In such cases, when the agreement to sale of such flat is registered, the stamp duty is levied on the value comprising of the 'cost of construction of the area agreed to be given free of cost' and the 'cost of land building & the construction cost of the additional area purchased by the society member' while the consideration as per agreement to sale is only in respect of additional area bought by the society member resulting in stamp duty value being higher than the agreement value though the agreement value in respect of the additional area sold is generally higher than the stamp duty value of the additional area sold.



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8. We note that the appellant is following 'percentage of completion method' for revenue recognition as per the Guidance Note/Accounting Standard prescribed by the Institute of Chartered Accountants of India. As per the said Guidance Note, the sale consideration as per duly executed agreement to sell is recognised as revenue based on the percentage of actual project costs (including land cost) incurred thereon to total estimated project cost (including land cost), subject to all critical necessary approval for commencement of project being obtained and such actual cost (excluding land cost) incurred being 25 per cent or more of the total estimated project cost (excluding land cost) and total sold area under duly executed agreement to sell is more than 25% of total estimated saleable area and at least 10% of the total revenue as per the agreements of sale are realized at the reporting date in respect of each of the contracts.

9. During the relevant assessment year under consideration, it is noted the appellant was holding inventory of finished stock in respect of its completed projects namely (i) 'Centre Square', (ii) 'D Square', (iii) 'E Square' & (iv) 'Iris' and was also holding inventory of work-in-progress of its undergoing construction projects namely (i) 'Dattaramanand', (ii) 'Sat Anupa', (iii) 'Swastik Bungalow' & (iv) 'Tulip' which were all redevelopment projects (refer PB page 4).

10. During the relevant assessment year under consideration, eighteen (18) agreements to sales were registered. Out of the said



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eighteen (18) agreements, sixteen (16) were in respect of completed projects (comprising of one (1) unit of Centre Sq., eight (8) units of D-Sq., six (6) units of E-Sq. & one (1) unit of Iris) and two (2) were in respect of Sat Anupa project which was at nascent stage, and the Commencement Certificate (CC) whereof was received on 18.04.2017 i.e. after the close of the year i.e. 31.03.2017 (refer PB page 52). It was brought to our notice that the sale value aggregating to Rs.30,16,07,500/- in respect of sixteen (16) completed flats/units sold during the year were fully credited to the profit loss a/c & offered to tax (refer PB page 5). But the aggregate of agreement value of Rs.1,29,85,000/- in respect of additional area sold to two existing occupants of Sat Anupa project (under construction) was shown as liability in the balance sheet (refer PB page 17) as the Commencement Certificate (CC) of the said project was obtained on 18.04.2017 i.e. after the close of the year and, therefore, no revenue was recognizable based on the method of revenue recognition followed by the appellant.

11. Out of the said eighteen (18) agreements to sale registered during the year, the tax auditors vide item 17 of Form No. 3CD (refer PB page 25) has reported that in respect of seven (7) agreements to sale (two agreements in respect under-construction Sat Anupa project and five (5) agreements in respect of the completed D-Square project}, the stamp duty value was higher than the agreement value.



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12. In the course of assessment proceeding, the AO vide notice u/s 142(1) of the Act dt. 18.11.2019 (refer PB page 46 & 47) required the appellant to furnish inter-alia the copy of Index 2 of all the sale agreements registered during the year (Index 2 gives the nature of agreement, details of flat/unit sold, agreement value & the stamp duty value); copy of Occupancy Certificate (OC) & Commencement Certificate (CC) of all the projects appearing in the balance sheet; explanation as to how & where the addition was made u/s 43CA in respect of information provided by the tax auditors are discernable from perusal of Form No. 3 CD.

13. In response to AO's said notice, the appellant vide letter e-filed on 23.11.2019 furnished full details with supporting material (refer PB page 48 to 83). The appellant explained that in respect of the five (5) agreements to sale of the D-Square project reported by the tax auditors in clause 17 of Form No. 3CD which was a completed project, the Occupancy Certificate (OC) whereof was received on 21.05.2014, the appellant in the return of income filed has made addition of Rs. 16639600/- u/s 43CA in respect of four (4) agreements the deal whereof were initiated, finalized & executed and the consideration was also realized in the relevant assessment year under consideration only (refer PB page 25, 68, 70 & 71). In respect of the fifth agreement to sale being unit no. 805 of the said D-Square project registered during the year, the appellant submitted that the said unit was allotted on 20.04.2010 against advance received through account payee cheque



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and the same was allotted at the then prevailing market rate which was higher than the then prevailing ready reckoner rate and, therefore, no addition was required to be made u/s 43CA in respect of the said agreement. In respect of agreement to sale flat no. 601 & 701 of the under construction “Sat Anupa project” which was at the nascent stage the Commencement Certificate (CC) was received after the close of the year (i.e. 31.03.2017) and the agreements were in respect of additional area purchased by the members namely Jyotsna Mehta and Vinodrai Trivedi respectively of the said society in addition to the free area they were entitled to and that in such type of agreements the sub-registrar levies stamp duty on the construction cost of the free area and the cost of land, building and construction, cost of additional area purchased though the consideration amount as per the agreement is in respect of additional area purchased. The appellant also explained that the additional area was sold at a rate higher than the stamp duty value of the said additional area as evidenced from the ready reckoner rate. The AO verified & examined the details including the above details and on being satisfied passed the assessment order u/s 143(3) of the Act accepting the returned income.

14. However, the Pr. CIT after going through the assessment record issued show cause notice u/s 263 of the Act firstly on the ground that the appellant has claimed credit of TDS of Rs. 1,29,850/- on agreement to sale pertaining to (i) Jyotsna Mehta of Rs.56,00,000/- and (ii) Vinodrai Trivedi of Rs.73,85,000/- (note these flats were in respect



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of Sat Anupa Project which was under construction and commencement certificate (CC) received only next year i.e. 18.04.2017) without offering revenue in respect of the said sales and the AO had allowed credit of the said TDS overlooking the provisions of sec.199 of the Act; and secondly on the ground that in respect of the three agreements to sale out of the seven agreements reported by the tax auditors in clause 17 of Form No. 3CD (refer PB page 25) namely unit no. 205 in D-Square to Shri Kamal Mehta, unit no. 805 in D Square to Ms. Falguni Pathak, and unit no. 701 in Sat Anupa to Shri Vinodrai Trivedi, the AO has not examined the issue of sec. 43CA of the Act (refer PB page 86 to 90).

15. Pursuant to the show cause notice of Ld. PCIT, the appellant replied vide letter dt. 22.02.2022 (refer PB page 93 to 97) and submitted regarding the applicability of sec.43CA firstly in respect of agreement to sale unit no. 205 in D-Square to Shri Kamal Mehta, that it was part of the agreement to sale wherein the difference between the stamp duty value and the agreement value has already been offered and assessed to tax (refer PB page 68 & 71). Secondly in respect of agreement to sale unit no. 805 in D-Square to Ms. Falguni Pathak, it was submitted that the same was allotted to the buyer in terms of allotment letter dt. 20.04.2010 against booking amount of Rs.10 lacs received on the said date through banking channel and as the allotment was made at the then prevailing market rate which was more than the stamp duty value prevailing on that date, sec. 43CA has no



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applicability on the said transaction (refer PB page 74 to 79). And it was pointed out to Ld. PCIT that even otherwise, sec.43CA is not applicable since it has been brought in to the statute by the Finance Act, 2013 w.e.f. 01.04.2014, therefore, it has no applicability to the allotment made on 20.04.2010; and thirdly in respect of agreement to sale of unit No. 701 to Shri Vinodrai Trivedi it was brought to Ld. PCIT notice that it was in respect of the under-construction project Sat Anupa. And that the said agreement is in respect of sale of additional area to the said member of the society over and above the area to which he was entitled to. And that the Sub-registrar in respect of such type of agreement, levy stamp duty on the construction cost of the area given free of cost and the cost of land, building and construction cost of the additional area bought by the member while the consideration received as per the agreement to sale is only in respect of the additional area sold. Accordingly to Ld. AR of the assessee, though the agreement value of additional area sold is higher than the stamp duty value of additional area sold, because of the manner in which stamp duty is levied on such type of agreement, the same depicts that the stamp duty value is higher than the agreement value (PB page 69, 80 & 83) which is actually not the case. The appellant further submitted that in any event the Commencement Certificate (CC) of the said project was received on 18.04.2017 i.e. after the close of the year (PB page 57 to 58) and as none of the conditions for recognition of revenue was triggered, no revenue was recognizable in respect of the said



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agreement to sale and so not offered to tax in this relevant assessment year.

16. Regarding the credit of TDS of Rs.129850/- claimed by the appellant in respect of tax deducted at source by Jyotsna Mehta and by Vinodrai Trivedi in respect of agreement to sale registered during the year for the additional area purchased by them in “Sat Anupa project” (under development and commencement certificate obtained only next year) without recognizing the corresponding revenue in the return of income filed, the appellant submitted that in the subsequent years the revenue is fully recognized in respect of the said sales and offered to tax based on the policy of revenue recognition followed by the appellant and accepted by the Deptt. and as the rate of tax applicable to Firm in all those years is 30%, and that the TDS credit claimed in advance was very little and that miniscule impact (on account of interest u/s 234B & 234C) to the Exchequer. The said agreements with the parties were executed on 14th Feb, 2017 and the sale value aggregating to Rs. 1,29,85,000/- is shown as liability in the balance sheet (refer PB page 17). Against the sale value of Rs. 56,00,000/- of Jyotsna Mehta, the receivable as on 31.03.2017 was Rs. 30,43,624/- and against sale value of Rs.73,85,000/- of Vinodrai Trivedi, the receivable as on 31.03.2017 was Rs. 39,66,362/- (refer PB page 20). In respect of the said project, the full Occupancy Certificate (OC) was received on 12.01.2022 and revenue in respect of the said units was



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partly recognized in the F.Y. 2019-20, partly in F.Y. 2020-21 & the balance in F.Y. 2021-22 on completion of the project.

17. Thus, according to Ld. AR, the contention of the Pr. CIT that the AO has not verified the issues/condition to satisfy the applicability of sec. 43CA of the Act is contrary to the materials available on record. The AO has made enquiry in the matter and all the relevant details even in respect of the issues racked up by the Ld. PCIT were submitting before the AO and being satisfied, AO did not draw adverse inference against the assessee. With regard to the credit of TDS of Rs. 1,29,850/- claimed without offering the corresponding income, the Ld. AR submitted that the said income was offered to tax in the A.Y. 2020-21; A.Y. 2021-22 and the balance will be offered in the A.Y. 2022-23. The credit of the TDS of Rs. 129850/was to be thus allowed proportionately in A.Y. 2020-21; A.Y. 2021-22 & finally in A.Y. 2022-23 in accordance with sec. 199 of the Act, however, the credit of the same was claimed earlier i.e. in the assessment year under appeal and as such there is no loss to the Exchequer except miniscule loss on account of interest u/s 234B & u/s 234C for taking advance credit of the said TDS. For such a minor issue according to the Ld. AR the order passed u/s 143(3) of the Act can not be set aside. For this proposition, he relied on the decision of the Hon'ble Madras High Court in the case of Venkatakrisna Rice Company Vs. CIT in 163 ITR 129 (Mad) wherein the Hon'ble High Court held (relevant paras) of the said decision is reproduced hereunder:



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"15..... The order of the Income-tax officer in question must not only be erroneous but also the error in the Income-tax officer's order must be of such a kind that it can be said of it that it is prejudicial to the interests of the Revenue.

"18. In our judgment, the expression. "prejudicial to the interests of the Revenue" is not to be construed in a petty-fogging manner, but must be given a dignified construction. It may be noted that the use of the expression "Revenue", in our opinion, is significant. It denotes some kind of abstraction or symbol in the same sense in which the expression "crown" is used to distinguish it from any person enthroned. The interests of the Revenue is not to be equated to rupees and praise, merely. There is a biblical saying that we do not live by bread alone. Varying this saying, it may be said that the Revenue does not live by tax alone. In this sense, therefore, the interests of the Revenue are not tied up merely with realizing as much Revenue as possible, willy nilly, merely looking to the productivity aspect of taxation. The jurisdiction of the Commissioner under section 263 is undoubtedly a supervisory jurisdiction. It is intended for interference in special cases to counteract orders which are erroneous as well as prejudicial to the interests of the Revenue. In this context, therefore, the expression "prejudicial to the interests of the Revenue" must be regarded as involving a conception of acts or orders which are subversive of the administration of revenue. There must be some grievous error in the order passed by the Income-tax Officer, which might set a bad trend or pattern for similar assessments, which on a broad reckoning, the Commissioner might think to be prejudicial to the interests of Revenue administration.



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22.....It is also sui generis, in its nature, and in the occasion for its exercise, it is to be employed not as a jurisdictional corrective or as a review of a subordinate's order in exercise of supervisory power. It is, on the contrary, to one invoked and employed only for the purpose of setting right distortions and prejudices to the Revenue, which, as we have be endeavored to point out earlier, is a unique conception which has got to be understood in the context of and in the interests of revenue administration. The power, as we conceive it, is intended to maintain the tone of the revenue administration and the moral of the Officers manning it. -----.”

18. From the discussion (supra), we note that the AO during the assessment proceeding has called for the details of the sale of flats and even in respect of the applicability of Section 43CA of the Act (refer question (index 2 of all flats 2 (OC & CC of all projects) & details of 43CA and in respect to page 46 & 47 notice u/s 142(1) of the Act dated 18.11.2019 wherein the AO has asked the assessee to explain about the addition offered u/s 43CA as well as regarding the auditors at point 17 of Form 3CD in respect of flats sold; and details of flats (index-2) as well as to furnish the occupation certificate (OC) and commencement (CC) of all projects. And pursuant to the same, the assessee had furnish all details which were filed on 23.11.2019 (refer page 48 – 83 PB) where in the aforesaid discussed in details (supra) regarding the aforesaid question were furnished by the assessee. Therefore, the action of AO on the issue raised by the Ld. PCIT is a plausible action and so, the jurisdiction u/s 263 of the Act was without jurisdiction. And coming to TDS claimed to the tune of Rs.1,29,850/-



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we note that assessee is taxed at maximum rate of 30% this year as well as in other subsequent year wherein assessee has offered the tax i.e. AY. 2021, balance in AY. 2022-23. The loss even though incurred would be negligible/miniscule. So relying on the decision of the Hon'ble Madaras High Court in the case of Venkatakrishna Rice Company Vs. CIT (supra), we in the overall facts and circumstances of the case, is of the opinion the revisional jurisdictional was not warranted in this case.

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

Order pronounced in the open court on this 31/10/2022.

Sd/-

(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Sd/-

(ABY T. VARKEY)
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated : 31/10/2022.
Vijay Pal Singh, (Sr. PS)



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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai