

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

*(Conducted Through Virtual Court)*

**BEFORE SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER  
AND  
T.R. SENTHIL KUMAR, JUDICIAL MEMBER**

**ITA No.115/RJT/2022  
Asstt.Year :2017-18**

S.S. White Technologies P.Ltd. Survey No.2788/3 Nr.Krishna Petrol Pump Wadhwan-Ahmedabad-Highway Wadhwan, Surendranagar. PAN : AAHCS 2396 B	Vs	Pr.CIT-3 Ahmedabad.
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<b>(Applicant)</b>		<b>(Responent)</b>
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Assessee by :	Shri D.M. Rindani, Id.AR
Revenue by :	Shri Shramdeep Sinha, Id.CIT-DR

सुनवाई की तारीख/Date of Hearing : 16/11/2022  
घोषणा की तारीख /Date of Pronouncement: 08/02/2023

**आदेश/ORDER**

**PER ANNAPURNA GUPTA, ACCOUNTANT MEMBER**

The present appeal has been filed by the assessee against the order passed by the Id.Pr.Commissioner of Income-3, Ahmedabad [hereinafter referred to as "Pr.CIT"] dated 19.2.2022 by exercising revisionary power under section 263 of the Income Tax Act, 1961 ("the Act" for short) pertained to the Asst.Year 2017-18.

2. The grounds raised in the appeal read as under:

1. *The learned Principal Commissioner of Income-tax- 3, Ahmedabad erred in holding that the assessment order was erroneous and prejudicial to the interest of revenue and thus erred in assuming jurisdiction u/s 263 of the Act, in the light of show cause notice and the order passed u/s 263 of the Act and hence the impugned order is bad in law.*
  2. *The learned Principal Commissioner of Income-tax - 3, Ahmedabad erred in setting aside the assessment order framed u/s 143(3) of the Act by holding that the A.O. failed to make proper inquiries in respect of issues mentioned in the show cause notice u/s 263 of the Act.*
  3. *The learned Principal Commissioner of Income-tax - 3, Ahmedabad failed to appreciate that the very issues raised by the Commissioner u/s 263 were duly examined by the assessing officer by way of specific inquiries/notices and replies thereto, while finalizing assessment proceedings u/s.*
3. The ld.counsel for the assessee began by pointing out that the ld.PCIT issued show cause notice to the assessee assuming jurisdiction to revise the assessment order passed by the AO finding it to be erroneous so as to cause prejudice to the Revenue on account of AO not having duly verified the following:
- i) The assessee's claim of "foreign exchange loss on notional entries" of Rs.68,11,120/- in the computation of its income returned for taxation, despite no expense of foreign exchange loss being debited in its Books of accounts. That it was an artificial loss not allowable otherwise.
  - ii) The issue of purchase shown in the income-tax return being less than the invoice value of import shown in the export/import data in the CBEC data compiled by the Central Excise & Custom Department, and the AO seeking no clarification and failing to make any inquiries on certain errors and omissions which the assessee had pointed out in the CBEC data.
4. In this regard, the ld.counsel for the assessee drew our attention to the show cause issued by the ld.PCIT dated

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20.1.2021, placed before us at PB Page No.1 to 7, more particularly page no.2, pointing out the above error noted by him in the order of the AO as under:

*“3. On verification of the case records, it is observed that you have debited Nil expenses under the head Foreign Exchange Rate Fluctuation, debited under the head "Other Expenses". However, in the statement of total income, deduction of Rs.68,11,120/- has been claimed through a journal entry passed in the books for the following items:*

*Foreign gain on notional entries Rs.3,29,29,838/-  
Foreign loss on notional entries Rs.3,97.40,959/-  
Net forex loss on notional entries Rs. 68,11,121/-*

*The foreign exchange loss was an artificial loss created through journal entries in the books of accounts and it was not the actual loss. Such a notional loss was falling under the head 'expenses' through the P & L Account and also at par with the expenses claimed to be deducted from the business profit which was arrived at after claiming such deduction. The Assessing Officer has failed to verify the above issue in depth and hence the order appears to be erroneous and prejudicial to the interest of revenue.*

*4. Further, on the second issue of scrutiny i.e. purchases shown in the Income-tax return is less than the invoice value of imports shown in the export-import data, it is observed that during the course of assessment proceedings, you had admitted that there were certain errors and omissions in the CBEC data compiled by the Central Excise & Customs Department. No further clarifications have been submitted by you in regard to the errors and omissions. The Assessing Officer has failed to examine the reasons for the discrepancies in the purchases.”*

5. The ld.counsel for the assessee contended that both the issues had been duly explained to the ld.Pr.CIT. He pointed out that with respect to the claim of notional entries of net foreign exchange loss of Rs.68,11,121/- it had been pointed out that this issue had been examined by the AO during the assessment proceedings in depth and entries passed by way of journal entries were duly explained. Ld. Counsel for the assessee contended that there was no error in the order of AO and also there was no prejudice caused to the Revenue also. Our attention was drawn

to the reply filed to the ld.PCIT vide letter of the assessee dated 9.3.2021, copy of which placed before us in PB Page No.8 to 11, more particularly para 3.1, Page No.9 as under:

**“3.1 Foreign exchange rate fluctuation of Rs. 68,11,121/-**

*The Ld. AO vide Annexure to notice dated 28.09.2019 at Question - 7 required bifurcation of deduction of Rs. 3,01,19,909/- and same replied dated 21.10.2019 at Annexure F and Annexure H.*

*Again vide notice in Annexure 2 dated 09.12.2019 at Question-1 and specifically at Question-2, specific inquiries made for foreign exchange fluctuation. The assessee vide letter 11.12.2019 at Para 2, explained completely the foreign exchange fluctuation entries in books of accounts together with complete explanation at Annexure-J of the same reply.*

*Thus issue of Rs.68,11,121/- was fully verified in depth during course of assessment proceedings by Ld. AO and there seems no errors and also interest of revenue not at all affected prejudicially by the said assessment order.”*

6. With regard to the issue of discrepancies in purchases booked by the assessee as compared to that reflected in the CBEC data, the ld.counsel for the assessee pointed out that reconciliation of the total import purchase in both the cases was filed by the assessee to the Ld.PCIT vide letter dated 18.1.2022, pointing out from therein that difference arose on account of purchase of a capital item, which the assessee had reflected in his books of accounts as capital work-in-progress. He pointed out that all evidences, including bills of the concerned parties from whom said items had been purchased, ledger account of the said party, ledger account of the WIP fixed assets ledger in the books of the assessee and complete audit report including balance sheet, profit & loss account, bank statements etc. were placed before the ld.Pr.CIT. Our attention as drawn to the said letter and placed before us in PB Page No.21 as under:

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“S.S. White technologies India Pvt Ltd  
 Survey No.2788/3,  
 Near Krishna Petrol Pump,  
 Wadhwan - Ahemdabad Highway,  
 Wadhwan, Surendranagar-363030.  
 PAN: AAHCS2396B  
 Date : 18/01/2022

Mobile no.: 98252 29278

To,  
 Income tax department,  
 Ahmedabad.

Subject : Revision proceedings u/s 263 of the income tax Act 1961,  
 for A.Y.

2017-18

Ref no. : Pr.CIT-3/HQ/263/SSWTIPL/2021-22, of your  
 notice dated

05/01/2022, DIN - Not available

Respected Sir,

W.r.t. your above said letter, without prejudice to our presentation that  
 proceedings u/s 263 are void -ab- initio, we submit as under,

2&3. Reconciliation of import purchase is as under:

i)Total import purchase as per list provided by CBEC	6,03,81,215/-
ii)Total import purchase as per P & L account Add Import purchase from Lillbacka power co. dated 28/01/2017 of capital goods shown in fixed assets work in progress schedule of balance sheet.	5,66,52,472/- 37,28,743/-
Total	6,03,81,215/-
Difference	Nil

Thus, there remains no difference and complete end to end reconciliation is made. Complete details were already placed on record during the course of assessment proceedings.

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*All above purchase details are already presented before your honor online on 21/10/2019.*

*We hereby present copy of transaction record with Lillbacka power co. please consider.*

- i) Bill of Lillbacka power co.( Bill of lending, Bill of exchange and invoice) attached herewith in annexure 1.*
- ii) Ledger of Lillbacka power co. in annexure 2.*
- iii) WIP Fixed assets ledger annexure 3.*
- iv) Complete audit report including Balance sheet, p &l ,bank statements etc. are already placed on record*

*4) Other Required details for F.Y. 2016-17 are as under :*

- i) Import purchase ledger - annexure 4*
- ii) Import purchase bills -it is very bulky data, we can submit it in few days if required again.*
- iii) Reconciliation explained in para 2&3 above*

*5) Looking to covid situation we had not made personal appearance but we believe that we have explained properly. In case of any adverse decision by your honor we would like to present personally for any further information and explanations if required.*

*Your honor is requested to accept the details and oblige.*

*Thanking you,*

*Yours sincerely,*

*For, S.S.white technologies India Pvt Ltd  
—SD—*

7. Our attention was also drawn to all the evidences mentioned in the letter placed before in PB Page No.21 to 37.

8. With regard to the issue of claim of notional foreign change fluctuation loss amounting to Rs.68,11,121/- having been examined by the AO during the assessment proceedings, the ld.counsel for the assessee drew our attention to copy of the notice issued by the AO during assessment proceedings under section 142(1) of the Act dated 28.9.2019 directing the assessee to file breakup of “*any other amount allowable as deduction*” claimed

by the assessee amounting to Rs.3,01,19,909/-. Copy of the said notice was placed before us in PB Page No.41 to 43. He thereafter drew our attention to the reply filed by the assessee to the said notice giving break up of the said deduction, a copy of which was placed before us in PB page no.44-45, more particularly, page no.45, containing the said break-up. Referring to the said documents, the ld.counsel for the assessee pointed out that this claim of the assessee included the foreign exchange fluctuation of Rs.68,11,121/-. He thereafter drew our attention to another notice issued under section 142(1) of the Act by the AO specifically asking the assessee to explain the reconciliation of foreign exchange fluctuation of Rs.68,11,121/-. The said notice was placed before in PB Page no.52-53. The ld.counsel for the assessee thereafter drawn our attention to a reply filed by it in response to the notice, dated 11.12.2019, (placed in PB Page no.55 to 57 and more particularly to page no.56 as under:

<i>Sr. No.</i>	<i>Particulars of ledger</i>	<i>Amount(Rs)</i>	<i>Remark</i>
1.	<i>Excise duty on export</i>	<i>1,87,97,053</i>	<i>Attached</i>
2.	<i>Foreign exchange fluctuation</i>	<i>68,11,120</i>	<i>Attached</i>
3.	<i>Prior period income</i>	<i>97,860</i>	<i>Attached</i>
4.	<i>Excise duty on sale of scrape (inclusive method]</i>	<i>128524</i>	<i>To be submitted in due course as chief accountant the company is out station.</i>
5.	<i>Vat on sale of scrape</i>	<i>57,835</i>	
6.	<i>Vat receivable on purchase (inclusive method</i>	<i>12,08,726</i>	
7.	<i>Excise receivable on purchase (inclusive method)</i>	<i>30,18,235</i>	
8.	<i>Excise duty on closing stock of scrape (inclusive method)"</i>	<i>397</i>	
9.	<i>Vat on closing stock of scrape (inclusive method)</i>	<i>159</i>	

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1.3 As explained all 9 items are added first and thereafter deducted for proper reporting purpose only. The calculation of each and every items is reconciled at the end of ledger of 9 items as above.

(2) Foreign exchange fluctuation incorporates realization as well as notional gain/loss on foreign currency transactions. Looking to the international requirement the gain/loss are calculated as on 30th September and 31st March every year and the same is being reversed on 1st April and 1st October every year. We hereby attach ledger of following accounts, (i) Foreign exchange fluctuation SSW (USA) - Rs. 95,35,344/-. (ii) Foreign exchange fluctuation SSW tech. inc.- Rs. 31,49,611/-(iii) Foreign exchange fluctuation on sales SSW (UK)- Rs.33,714.

We have already submitted Foreign exchange fluctuation A/c under annexure- H of our previous submission. We hereby forward detailed analysis of the said Foreign exchange fluctuation A/c (as per annexure-J) in which each and every entries are explained fully and notional entry portion is highlighted. The net notional entry loss is Rs.68,11,121/- as calculated in the said sheet.”

9. He thereafter drew our attention to the copy of ledger account of foreign exchange fluctuation filed to the AO containing the calculation of net foreign exchange loss on notional entry of Rs.68,11,121/- claimed by the assessee, which was placed before us in PB Page No.69-70. Referring to the same, the ld.counsel for the assessee contended that in the said reply filed to the AO, the assessee had explained that the calculation of net foreign exchange fluctuation on notional entries of Rs.68,11,121/-, had been made by netting off notional entries of foreign exchange loss as shown in the ledger account of foreign exchange fluctuation.

The ld.counsel for the assessee stated that considering the above, where the assessee had clearly pointed out that on both the issue raised by the ld.Pr.CIT, there was no error as such in the order of the AO having accepted the assessee's claim of net foreign exchange fluctuation loss of Rs.68,11,121/- and also having made no adjustment on account of difference in imported

purchase as reflected in the books of assessee and as reflected in the CBEC data, the order of the Id.Pr.CIT, holding the assessment order to be erroneous on account of no inquiry conducted by the AO on these two accounts, was bad in law and needed to be set aside.

10. The Id.DR on the other hand heavily relied on the finding of the Id.Pr.CIT on both these issues, pointing out that with regard to the issue of foreign exchange fluctuation loss notionally claimed by the assessee, the explanation furnished by the assessee to the AO was not clear as to how the assessee had claimed notional loss of Rs.68,11,121/- when the ledger account itself showed net gain of Rs.35 lakhs which had been reflected in the books of assessee as income. He contended that the Id.Pr.CIT had rightly found that there was no clear explanation of what the assessee had actually done by claiming this notional loss. In this regard, he drew our attention to 5.3 of the order of the Pr.CIT as under:

*“5. Submissions filed by the assessee along with material brought on record have been duly considered but the same is not found acceptable. On each issue raised in the Show Cause Notices dated 12.03.2021 & 05.01.2022, the assessee has been specifically asked to submit clarification along with supporting documents but the assessee failed to submit any cogent reply in this regard. Issue-wise findings are as under-*

*(a) Claim of deduction towards Foreign Exchange Fluctuation Loss (notional):-*

*In the Statement of Income furnished with Return, the assessee has claimed deduction of Ra.68,11,121/- towards Foreign Exchange Fluctuation Loss. The appellant has vehemently contended that during assessment proceedings, the then AO vide notice dtd. 28.09.2019 (Vide Q.No.7) asked for submission of break up/bifurcation of "any other amount allowable as deduction" of Rs.3,01,19,909/- and same was replied vide letter dtd. 21.10.2019 at Annexure-F & Annexure-H.*

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assessee further contended that vide notice dtd. 09.12.2019(Q.No.1) and specifically vide Q.No.2, specific query was made regarding foreign exchange fluctuation. In response, assessee vide letter dtd. 11.12.2019 at Para-2 explained foreign exchange fluctuation entries in books of accounts together with explanation as Annexure-J of the same reply. So, as per assessee there was no error in the assessment order, Assessee has also provided summary of calculation of Foreign Exchange Loss/Gain as shown in Annexure-J as under-

Foreign Exchange gain on notional entries	Rs. 3,29,29,838/-
Foreign Exchange loss on notional entries	Rs. (-)3 ,97,40,959
/-	
Net Forex loss on notional entries	Rs.(-) 68.11.121/-

As per assessee because (-) sig is ignored, this confusion has arose because actually it is notional gain and hence it was reduced from income.

Details/ submissions filed before Assessing Officer as well as contentions raised by the assessee has been thoroughly examined. On verification, the same are not found true and acceptable. It is true that at the time of assessment proceedings, then AO vide 142(1) notice dtd. 28.09.2019 (Q.No.7) asked the assessee to furnish break up of "any other amount allowable as deduction" shown at Rs.3,01,19,909/- and also asked for justification of allowability of the same. In response, the assessee vide letter dtd. 21.10.2019 simply provided break up of this amount which is inclusive of Rs.68,11,121 /-(impugned amount) but no explanation or justification for claiming this amount as deduction, was ever submitted. Assessee was once again vide notice u/s.142(l) of the Act dtd. 09.12.2019 asked by the then AO to submit the justification for claiming deduction towards Foreign Exchange Fluctuation Loss of Rs.68,11,121/-. In response, the assessee vide letter dtd. 11.12.2019 (vide Para-2) tried to explain that Foreign Exchange Fluctuation incorporates both realization and notional gain/loss on foreign currency transaction which is calculated as per international norms on 30th September and 31st March every year and same is being reversed on 1st October and 1st April every year. As per assessee net notional loss entry is Rs.68,11,121/- as calculated in the sheet provided (Annexure H) and shown in Foreign Exchange Fluctuation Account (copy filed), but in the same breath, it has claimed that no notional loss/ profit is calculated for income tax purpose. Here lies the catch in the story. Although, the AO has raised query and called for the justification but the assessee failed to provide cogent explanation for claiming deduction towards notional foreign exchange fluctuation loss. On one side the assessee has admitted that it is a notional loss but on other hand it has claimed it as deduction while computing the taxable total income. Neither assessee has provided any explanation for claiming deduction for a 'notional loss' not AO has disallowed this item while assessing the total income. Onus is obviously on the assessee to provide cogent justification. There is no

*provision in Income Tax Act to allow deduction claimed in respect of "notional loss". Assessee has advance a puerile argument that because of minus sign (- 68,11,121), this confusion has arisen in the minds of authorities which is found very absurd and laughable. In view of above discussion, it is manifestly clear that the then Assessing Officer erred in disallowing the claim of deduction of Rs.(-)68,11,121/- representing notional loss towards foreign exchange fluctuation and thereby total income was under assessed to this extent."*

11. With regard to the import purchase the ld.DR relied on the order of the ld.Pr.CT at para 5(b) as under:

*"(b) With regard to difference in respect of purchase figures shown in ITR visa-vis import data shown by CBEC (Central Excise Department), the assessee admitted during assessment proceedings that there were certain errors and omissions but failed to reconcile the same. The Assessing Officer also failed to examine the reasons for the discrepancies in the purchases figures. The assessee has contended that errors in CBEC data are not within assessee's control but claimed that entries in its books of accounts are correct. Although, during assessment proceedings, the then AO collected information about Export/Import from O/o. the Superintendent, Range-2, Central Excise & Customs, Surendranagar but did not confront the assessee due to Covid-19 Pandemic. As per this information, import /export data as per Income Tax Return and CBEC were as under:-*

	Export Invoice Value (Rs.)	Import Invoice Value (Rs.)
CBEC	26,06,43,566/-	6,03,81,215/-
Income Tax	25,85,85,267/-	5,66,52,472/-
Difference	20,58,299/-	37,28,743/-

*During assessment proceedings vide letter dtd. 11.12.2019 (vide para 3,2) assessee gave a generic reply that there may be some duplicate entries made by CBEC and hence difference. During revisionary proceedings also, no specific explanation was submitted by the assessee in respect of difference in sales/export figures. As far as difference of Rs.37,28,743/- in respect of Import/Purchase is concerned, the assessee vide its Written Submission dtd. 18.01.2022 filed before me has attributed to Import purchase from Lillbacka Power Co. This purchase is shown in Fixed Assets as work-in-progress. In support it has filed copy of Bill from Lillbacka Power Co., Ledger Account, WIP Fixed Assets Ledger etc. Although prima-facie, contention of the*

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*assessee \ seems acceptable, but matter needs to be verified by the Assessing Officer from P original documents/bills/records, etc. With regard to difference in Export I Invoice Value of Rs.20,58,299/-, the assessee has neither submitted any explanation nor submitted any reconciliation, hence difference remained unexplained.*

*Thus, in respect of difference in Import/Export, both issue need examination by the Assessing Officer in fresh assessment proceedings because omission to examination has led to escapement of income to this extent.”*

12. We have heard the rival contentions, gone through the order of the Ld.PCIT and carefully gone through the documents which have been referred to before us. As is evident from the facts narrated before us, the ld.Pr.CIT has found the assessment order to be erroneous on two counts. At the cost of repetition, they are as under:

- i) That despite the assessee not debiting any expenses in its books under the head “foreign exchange fluctuation loss” yet a claim of Rs.68,11,120/- had been made by the assessee in the computation of its income returned for taxation by way of journal entry passed;
- ii) That on the issue of purchase shown in the income-tax return being less than the invoice value of import shown in the export/import data in the CBEC data compiled by the Central Excise & Custom Department, the AO had sought no clarification on certain errors and omissions which the assessee had pointed out in the CBEC data and had failed to make inquiries with regard to the same.

13. With regard to the issue of notional foreign exchange loss claimed by the assessee, we have carefully considered the contentions of the ld.counsel for the assessee that the same was duly explained to the AO during the assessment proceedings. We find that except for stating that the claim related to net notional

foreign exchange gain or loss , which was claimed by the assessee in the ledger of foreign exchange fluctuation loss, and was substantiated with the copy of ledger account, no other explanation was furnished by the assessee. We agree with the Ld.Pr.CIT that no cogent explanation for claiming this notional loss of foreign exchange fluctuation was given by the assessee. As rightly noted by the Ld/PCIT the assessee's explanation of this claim of notional loss of Rs.68,11,120/- was only to the effect that foreign exchange fluctuation includes both actual and notional gain/loss , that this gain or loss is calculated half yearly and subsequently reversed and that the component of notional loss entry in the foreign exchange fluctuation account was Rs.68,11,120/- . This is the only explanation offered by the assessee alongwith relevant copies of ledger account of foreign exchange fluctuation. How this explains the assessee's claim of notional loss while computing its income for the year is not clear. The Ld.Counsel for the assessee was asked to explain the same to us, but even he was unable to give any plausible explanation. There is clearly no clarity as to how this claim is allowable to the assessee considering it is a notional loss which ,as pointed out ,by the Ld.PCIT is otherwise not allowable in law.

14. From what we have gathered from contents of the ledger account of foreign exchange fluctuation, which were produced before us, we find that what the assessee was probably attempting to state was that it was following the practice of claiming only actual gain or loss on foreign exchange fluctuation, but in the ledger account it had debited both actual and notional gain or loss on foreign exchange following probably the Accounting

Standards prescribed by the Institute of Chartered Accountants of India, AS-11, as per which it was mandatorily required to maintain its books of accounts. In the return of income, since the assessee wanted to restrict its claim only on the actual amount gain or loss on foreign exchange, it had netted off the notional gain or loss so booked in the account which amounted to Rs.68,11,121/- which accordingly was claimed in the return of income. But we find that this explanation was not clearly given by the assessee to the AO nor to the Ld.Pr.CIT, and even before us. The ld.counsel for the assessee did not explain likewise and did not come out in clear terms even before us.

Therefore, we do not find any infirmity in the order of the ld.Pr.CIT holding that vis-à-vis the issue of claim of notional foreign exchange fluctuation loss amounting to Rs.68,11,120/-, the claim apparently relating to notional loss which otherwise is not allowable under the Act and the issue being not examined by the AO, therefore there was an error in the order of the AO causing prejudice to the Revenue by allowing such claim to the assessee. The order of the ld.Pr.CIT is accordingly upheld on this count.

15. On the other hand, the issue of discrepancy in the claim of imported purchases as per the books and as per the CBEC data, , we find that though no proper explanation was made by the assessee to the AO. But before the ld.Pr.CIT he did give a reconciliation pointing out that the difference arose on account of item of capital purchase imported by the assessee which was duly reflected in the books of accounts as capital work-in-progress.

This explanation was duly substantiated with all necessary documents including the bills from parties from whom these items had been purchased, copy of ledger accounts, i.e purchase account, WIP account and even bank statements. The Id.Pr.CIT also, we have noted, has found this explanation to be *prima facie* correct. But despite the same, he has directed the AO to verify the documents filed by the assessee. Revisionary power cannot be exercised for verification purposes. There has to be a finding of error in the order of the AO for the PCIT to exercise his revisionary powers ,as also the error causing prejudice to the Revenue. On the impugned issue of mismatch in purchase as per CBEC data and that booked by the assessee, the Ld.PCIT finding the assessee's explanation for the same to be *prima facie* correct he was largely satisfied with the explanation of the assessee, and therefore clearly there is no error in the order of the AO as per the Ld.PCIT also. When all facts and evidences were there before the Ld.PCIT ,he was required to go through the same and thereafter arrive at his finding of error. Subject to the verification of the evidences by the AO, clearly as per the Ld.PCIT there was no error in the order of the AO. In view of the same, on the issue of discrepancy in the claim of import purchases, we find there is no error in the claim of the assessee, and therefore, the assessment order cannot be said to be erroneous for not having examined the said claim of the assessee. To this extent, the order of the Id.Pr.CIT is set aside.

16. We have also noted that the Ld.PCIT has stated that the issue of mismatch in CBEC data of export sales and that booked by the assessee has also remained unexplained to the AO and even to him. But we find that this issue was never confronted to

the assessee during revisionary proceedings. All notices issued during revisionary proceedings including the show cause notice, placed before us at P.B 1-7 &12-20, were perused by us and we find that the assessee was only put to notice about the mismatch in import purchases. The issue of mismatch in export sales never being confronted to the assessee, the Ld.PCIT's order holding the assessment order erroneous on this count is against all principles of natural justice and accordingly is set aside on this count.

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

**Order pronounced in the Court on 8<sup>th</sup> February, 2023 at Ahmedabad.**

**Sd/-  
(T.R. SENTHIL KUMAR)  
JUDICIAL MEMBER**

**Sd/-  
(ANNAPURNA GUPTA)  
ACCOUNTANT MEMBER**

Ahmedabad, dated 08/02/2023