

आयकरअपीलीय अधिकरण, जयपुरन्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL,
JAIPUR BENCHES, "B" JAIPUR

डा० एस. सीतालक्ष्मी, न्यायिक सदस्य एवं श्री राठोड कमलेश जयन्तभाई, लेखा सदस्य के समक्ष
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकरअपील सं./ITA No.865 /JP/2019
निर्धारणवर्ष/Assessment Years :2008-09

M/s Hanuman Tube Well Co. 10, Station Road, Jaipur.	बनाम Vs.	DCIT, Circle-3, Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AABFH 5769 C		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assesseeby : Shri S.L. Jain (Adv.) &
Shri Ashok Kumar Gupta (Adv.)
राजस्व की ओरसे / Revenue by: Shri Sanjay Dhariwal (CIT)

सुनवाई की तारीख / Date of Hearing : 15/11/2022
उदघोषणा की तारीख / Date of Pronouncement: 13 /02/2023

आदेश / ORDER

PER: DR. S. SEETHALAKSHMI, J.M.

The assessee has filed an appeal against the order of the ld. CIT(A), Kota dated 15-03-2019 for the assessment year 2008-09 raising therein following grounds of appeal.

"1. Illegal re-assessment u/s 147:-

That on the facts and in the circumstances of the case Ld. CIT(A), Kota has grossly erred in law and facts in confirming the actions of the ld. AO in reopening the assessment u/s 147 of the IT Act, 1961. The action of the Ld. CIT(A) is illegal, unjustified, arbitrary and

against the facts of the case. Relief may please be granted by quashing the re-assessment proceedings being illegal and without any basis.

2. Re-computing book profit for the purpose of remuneration:-

That on the facts and in the circumstances of the case Ld. CIT(A), Kota has grossly erred in law and facts in confirming the actions of the ld. AO in re-computing book profit for the purpose of section 40(b) in relation to remuneration to partners.

3. That the AO has no power to reopen the completed assessments merely for a change of opinion:-

Where the primary facts necessary for assessment, are fully and truly disclosed, that ITO will not be entitled to commence proceedings for reassessment merely on change of opinion

-CIT vs. Dinesh Chandra 82 ITR 367 (SC)

4. Double Taxation not permissible:-

That on the facts and in the circumstances of the case Ld. CIT(A), Kota has grossly erred in law and facts in confirming remuneration to partners Rs. 33,07,274/- u/s 40(b) whereas all partners have already paid tax on remuneration Rs. 45,65,344/-. Thus and therefore it amounts to double taxation which is not permissible under tax laws.’’

2.1 Apropos Ground No. 1 to 4, the facts as emerges from the order of the ld.

CIT(A) are as under:-

6. Discussion and the Appellate Decisions on Ground Nos. 1 to 4

1. In this case notice u/s 148 of the I.T. Act, 1961 was issued on 11/10/2013 after recording the reasons of reopening with the prior approval of the competent authority. In response to notice u/s 148, Shri S.L. Jain, Advocate/ A/R of the assessee vide letter dated /12/11/2013 requested that the original return, which was filed on 29/09/2008 vide acknowledgement No. 2301000469 declaring income of Rs.67,37,590/-,

may be treated as return in response to the notice u/s 148. The A/R of the assessee has also requested to provide copy of reasons recorded for reopening of assessment. The same were provided to the A/R vide letter no.1635 dated 20/01/2014. Notices u/s 143(2) & 142(1) were issued and served upon the assessee.

In compliance to these notices, Shri S.L.. Jain, Advocate/AR of the assessee attended from time to time and filed required details, which are placed on file. The reasons for reopening the proceedings ws 148, assessee's reply and inference drawn by the office are para wise as under:

2.1 निर्धारिती के निर्धारण आदेश का अवलोकन करने पर पाया गया कि निर्धारिती ने धारा 40 (बी) के प्रावधानों के अनुसार पार्टनरों को दिये जाने वाले पारिश्रमिक की गणना कर योग्य अन्य साधनों की आय पर भी ले रखा है। निर्धारण आदेश में अन्य साधनों की आय रु. 34,98,148/- बता रखी है इस पर 40 प्रतिशत की दर से पारिश्रमिक अमान्य किया जाना चाहिये जो रु.13,99,259/- बनता है जिसे करदाता की कर योग्य आय से जोड़ा जाना चाहिये था ।

इस प्रकार रु. 13,99,259/- की राशि कुल आय कम निर्धारित की गई है जिस पर कर गणना निम्न प्रकार है:-

आयकर	रु.419777/-
शिक्षाकर	रु.12393
कुल राजस्व प्रभाव	रु. 432370/-

पूर्ववर्ती वर्षों में निर्धारिती फर्म ने धारा 40बी के तहत भागीदारों को पारिश्रमिक खर्च का दावा अधिक राशि का दर्शाया है।

2.2 In this regard, the AR of the assessee filed reply on 14/05/2014 which is as under:- "

“In reference to your above reassessment proceedings where in it has been noticed that the reassessment in the above case has been completed at Rs. 70,46,690/- as against returned income of Rs. 67,37,590/- on dated 06/10/2010 for A.Y. 2008-09 In the reassessment some reasons were recorded w/s 148(2) on the ground that the assessee has also given remuneration to the partners u/s 40(b) on the income of other sources of Rs. 34,98,148/- hence remuneration of 40% of this income (Rs.3498148)

should be disallowed which comes 13,99,259/- and to be added in the total income of the assessee.

1. In this regard firstly we would like to draw your attention on the decision of Jaipur ITAT in the case of S.P. Equipment & Services Vis ACIT 128 TTJ 68 (JP) (2010) wherein it has been held that net profit shown by a firm in its P&L account is not to be classified into different heads income u/s 14 for the purpose of s. 40(b) and, therefore, Interest income is not to be excluded from the net profit declared by the assessee for computing books profit for the payable to the partners u/s 40 (b). Hence the remuneration has rightly been paid to the partners.

Further, we have to submit that there was no loss incurred to the revenue for paying the remuneration u/s 40(b) to the partners on the Income from other sources in the hand of assessee firm.

Because the same remuneration Income had admittedly declared and taxed on the same rate in the hand of partners of assessee firm as business firm as business income. For this there was no loss to the revenue i.e. there is no difference in the tax rate of the firm and partner and in calculation there comes no any difference and it was also not the case of the A.O that the tax had not paid on such proposed disallowable remuneration.

Now, disallowance of such remuneration and taxed in the hands of firm shall be tantamount of double/twice tax of the same income one in the hand of firm and another in the hand of partners. And in law there is nowhere provided that one income can be taxed twice. If the A.O. wanted to tax the proposed disallowance remuneration in the hands of the firm, he should not have taxed that part of income in the hands of the partners.

It is fundamental rule of taxation that unless provided, same income cannot be taxed twice, kindly refer Laxmipat Singhania Vis CIT 72 ITR 291 (SC), CIT w/s MP. Jaya Ram 100 Taxman 544 (Kar). Gyan Chand Jain Vis ITO 73 TTJ 889 (JD) Gem Palace Vis CIT 168 ITR 543 (Raj.) Ramanlal Madan Lal V/s CIT 116 ITR 657 (Cal), Jain Brothers Vis UOI 77 ITR 107 (SC), Further, the Hon'ble ITAT, Jodhpur in the case of M/s Gowadla Jewellers in ITA No.776/Jw/05 at page-8 para 15 dated 30/09/2008 deleted certain additions, mainly on the reasoning that such income was already disclosed in the hands of the working partner and as such same income cannot be brought to tax as undisclosed income of the firm.

Further it is also settled that in protective and substantive assessment income is to be taxed only one in hand.”

2.3 I have gone through the submission and details filed by the assessee carefully and I found that the submission of the assessee is not tenable. It is found

that as per explanation 3 of section 40(b) "book profit" means the net profit as show in profit and loss account for the relevant previous year, computed in the manner laid down in chapter-IV-D. increasingly aggregate amount of remuneration paid or payable to all the partners if the same was deducted while computing gross profit.

I have gone through assessee's submission and AO's findings.

As regards Ground no 1, it is seen that the A.O did bifurcate the other sources income in the original assessment but it was not known if the remuneration was also included on these items. Further, the same is not a change of opinion as the disclosure before the A.O in the original proceedings was neither true not full. The Assessing Officer had formed an opinion that the assessee had wrongly claimed deduction under section 40(b) in excess of what was permissible under the statute. Under Explanation to section 147, if the Assessing Officer is of the opinion that excess deduction is allowed to the assessee, he is entitled to reopen the assessment. Though the assessment had been made under section 143(3) earlier, yet the Assessing Officer had not expressed any opinion about the impugned issue. It was also an admitted fact that the Assessing Officer had not made any enquiry in regard to the issue at hand. Therefore, the proceedings had validly been initiated under section 147, read with section 148, in my view as well.

The Apex Court in the case of Calcutta Discount Co. Ltd. (1961) 41 ITR 191 (SC) analysed the Phrase "reason to believe" and observed that It is for him to decide what inferences of facts can be reasonably drawn and what legal inferences have ultimately to be drawn." It is not for somebody else to tell the assessing authority what inferences, whether of facts or law, should be drawn.

In determining whether commencement of reassessment proceedings was valid it has only to be seen whether there was prima facie some material on the basis of which the department could reopen the case. The sufficiency or correctness of the material is not a thing to be considered at this stage. Raymond Woollen Mills Ltd. Vs. Income Tax Officer And Others (1999) 236 ITR 34 (S.C.)

In fact under similar circumstances, THE ITAT MUMBAI BENCH 'B' in Assistant Commissioner of Income-tax, 11(2), Mumbai v. Bilwala & Co. 32 SOT 486 (Mumbai) has held-

Section 147, read with section 40(b), of the Income-tax Act, 1961 Income escaping assessment General Assessment years 2002-03 to 2004-05- Assessee was a partnership firm of Advocates and Solicitors - While scrutinizing accounts of assessee, it was found by Assessing Officer that interest earned by assessee on bank deposits was included in book profits for purpose of computation of deduction on account of partners remuneration under section 40(b) - He, therefore, made reassessment restricting allowance of deduction under section 40(b) by excluding interest earned on bank deposits from book profits for

respective assessment years Assessee challenged validity of reopening of assessments for all three years - Whether, in view of decision of Supreme Court in Asstt. CIT v. Rajesh Jhaveri Stock Brokers (P) Ltd. (2007) 291 ITR 500/161 Taxman 316, reopening of assessments for assessment years 2002-03 and 2003-04 was valid as Assessing Officer had not expressed any opinion on issue in dispute while processing return under section 143(1) Held, yes Whether for assessment year 2004-05, even though assessment had been made under section 143(3) earlier, yet Assessing Officer had neither expressed any opinion about impugned issue involved nor he had made any enquiry in regard to issue at hand and, therefore, proceedings had validly been initiated under section 147, read with section 148, in respect of that assessment year as well - Held, yes

Thus on the facts and legal precedents discussed, I uphold the reopening in this case as valid.

This Ground of appeal is dismissed.

As regards Grounds of appeal no 2 & 3, the incomes from other sources were not relatable to business activities and the primary object of the firm was not even earning incomes through these sources.

HIGH COURT OF RAJASTHAN in Commissioner of Income-tax, Kota v. Allen Career Institute⁹⁴ taxmann.com 157 (Rajasthan) held.

Section 40(ba) of the Income-tax Act, 1961 Business disallowance Interest, salary, etc. paid by firm to partner (Interest from FDR)- Assessing Officer found that FDRS made by assessee were not made as a business necessity meaning that without such deposits, business of assessee could be run; and that these FDRs were made out of surplus fund available with assessee. In this background, he held that income from bank FDRs etc. could not said to be business income and same was to be treated as income from other sources - Whether since it was investment of surplus funds of assessee which was not part of business income, in computing eligible remuneration payable to partners of firm, same could not be a part of book profit and, accordingly disallowance of salary was to be made - Held, yes

In view of the facts and case laws referred in the order, I uphold the reworked remuneration as done by the AO to the extent of Rs.33,07,274/- instead of earlier claimed Rs. 45,65,344/-.

These grounds of appeal are treated as dismissed.’’

2.2 During the course of hearing, the Id. AR of the assessee prayed that the Id.

CIT(A) has erred in dismissing the appeal of the assessee but the main thrust of the

ld. AR of the assessee was wrong invocation of Section 147 of the Act as to opening of the assessment by the AO which has been confirmed by the ld. CIT(A).

The written submission filed by the ld. AR of the assessee is reproduced as under:-

“Assesse is a Partnership Firm and regular Income tax payee from last 30 years, dealing in Government Civil Contract Works relating to Drilling and Bore well work. For the year under consideration i.e. AY 2008-09, he filed his ITR by declaring Net Profit of Rs. 67,37,586.47 after getting Tax Audit from Chartered Accountant, on dated 27/09/2008, which was Scrutinized under regular Scrutiny U/s 143(3) on dated 06/12/2010. Through the Assessment order the Net Profit has been increased from 67,37,586.47 to Rs. 70,46,690.00.

Later on, Notice U/s 148 of the Act, issued on dated 11/10/2013 backed by the reasons that Remuneration to Partners should be disallowed to the extent of Other Source Income as already mentioned in Financial Statement as in possession with the Ld. AO as Assessment record, which was sufficiently objected by the assessee but assessment order has been passed by taking the view that proportionate Remuneration to Partners (S. 40b of the Act,) should be disallowed to the extent of Interest on CDR and Interest on Income Tax Refund treating these Interests as Income from other sources in place of Business Receipts and Rejected the concept of Book Profit for the purpose of calculating Remuneration to Partners.

The order challenged before Ld. CIT(A) which was dismissed through their order dated 05/03/2019.

Therefore the order of Ld. CIT (A) dated 05/03/2019 as well as order of Ld. ITO dated 30/10/2014 are under challenged before this Honorable ITAT on following grounds;

1. Illegal re-assessment u/s 147:-

That on the facts and in the circumstances of the case Ld. CIT(A), Kota has grossly erred in law and facts in confirming the actions of the Ld. AO in reopening the assessment u/s 147 of IT Act 1961.

The action of the Ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the re-assessment proceedings being illegal and without any basis;

(i) Re-opening is not authorized by law;

Re-opening was initiated only to calculate Book Profit rather pointing of income escaped chargeable to tax.

(ii) Re-opening is time barred in view of proviso to section 147 of the Act.

(a) Banswarasyntex Ltd. Vs. ACIT, CWP No. 6962 of 2003 (16.03.2004) (2004) 138 taxmann 275 (Raj)

(b) ITO I ward, Dist. VI Calcutta and Ors. Vs. Lakhmanimewal Das (SC) dated 30.03.1976, 1976 AIR 1753, 1976 SCR (3) 956.

(c) CIT Vs. Indian Farmers Fertilizer Co-op. Ltd., IT Appeal No. 884 of 2007 dated 17.09.2007, (2008) 171 Taxmann 379 (Delhi)

(iii) Re-opening is based on merely change of opinion, Al though in Original Assessment Order dated 06/12/2010 the Ld. AO had already applied his mind and allowed the same Remuneration to partners as per claimed in ITR.

(a) CIT vs. Kelvinator of India Ltd. ITC No. 4 of 2000 April 19, 2002 (Del. Full Bench) (2002) 123 Taxmann 433 (Del.)

(b) CIT-II Vs. Jet Speed Audio (p.) Ltd. IT Appeal No. 285 of 2013 January, 28, 2015 (2015) 55 taxmann.com 531 (Bombay.)

(iv) Assessment order passed without disposing of Objection as filed in response of Reasons as recorded before issuing Notice U/s 148 of the act, violation of principle of natural justice, restricted to the assessee for further raising any objection in this regards.

(a) Manoj Debey vs. ITO Ward 5(5), jaipur ITA 332-334/JP/2019 dated 28.02.2020 (Jaipur-Trib.)

2. Re-computing book profit for the purpose of remuneration:-

That on the facts and in the circumstances of the case Ld. CIT(A), Kota has grossly erred in law and facts in confirming the actions of the Ld. AO in re-computing book profit for the purpose of section 40(b) in relation to remuneration to partners.

(a) SP Equipment and Services vs. ACIT, ITA No. 464/JP/2007, 30.09.2009 (Jaipur-Trib.)

Net Profit shown by a firm in its P&L a/c is not to be classified into different heads of income under S.14 for the purpose of S. 40(b) and, therefore, interest income is not to be excluded from the net profit declared by the assessee for computing book profit for the purpose of determining the allowable deduction of remuneration payable to the partners under s. 40(b).

3. That the AO has no power to reopen the completed assessments merely for change of opinion:-

Where the primary facts necessary for assessment, are fully and truly disclosed, the ITO will not be entitled to commence proceedings for reassessment merely on change of opinion.

- CIT Vs Dinesh Chandra 82 ITR 367(SC)

4. double taxation not permissible:-

That on the facts and in the circumstances of the case Ld. CIT(A), Kota has grossly erred in law and facts in confirming remuneration to partners Rs. 33,07,274/- u/s 40(b) whereas all partners have already paid tax on remuneration Rs. 45,65,344/-. Thus and therefore it amounts to double taxation which is not permissible under tax laws.

Datewise instances

S.N.	Particulars	Date of instances	Annexure
1.	ITR in original filed for the A.Y. 2008-09	29-07-2008	8-44
2.	Original assessment completed u/s 143(3) of the Act	6-12-2010	107-110
3.	Notice u/s 148 issued	11-10-2013	Referred in assessment order Page No. 1 (para 2)
4.	Reply of notice u/s 148 submitted with the compliance of ITR filed in response of notice u/s 148 and reasons asked	12-11-2013	Referred in Assessment order at page 1 (para 2)
5.	Reasons recorded provided	20-01-2014	Referred in Assessment Order at page (para 2.2)
6.	Notice u/s 148 challenged by the assessee filing objection	14-05-2014	Referred in Assessment Order at page (para 2.2)
7.	Objection rejected through assessment order	30-10-2014	Referred in assessment order at page-3 (Para 2.3)
8.	Assessment Order passed	30-10-2014	Already filed with the appeal

5. That the appellant reserves his right to add, amend or alter the ground of appeal on or before the date of appeal hearing.”

2.3 Per contra, the ld. DR supported the order of the ld. CIT(A) and submitted that plea of the assessee regarding validity of the notice u/s 148 dated 11-10-2013 i.e. the notice is time barred as the same was issued after lapse of 4 years from the

relevant assessment year is not correct as the AO has rightly issued notice u/s 148 dated 11-10-2013 as the reassessment proceedings can be initiated till 6 years from the end of the relevant assessment year after obtaining necessary approval from the competent authority i.e. the Commissioner of Income Tax-1, Jaipur. In this case, the Commissioner of Income Tax-1, Jaipur has accorded approval u/s 151 of the I.T. Act, 1948. After obtaining the necessary approval, the AO issued the notice u/s 148 on 11-10-2013. In view of the above, the ground regarding validity of the notice is not correct. Further, on perusal of assessment record, it is observed that the assessee has only requested to provide the copy of reasons recorded which have duly been provided to it. There are no documents on the assessment record which establishes that the assessee has ever filed any objection regarding the objection against the initiation of the reassessment proceedings.

2.4 We have heard both the parties and perused the materials available on record. In this case, it is noticed that the assessee firm is engaged in the business of tubewells and sale of pumps. The assessee has filed its return of income for the Assessment Year 2008-09 on 29-09-2008 declaring total income at Rs.67,37,590/-. The case of the assessee was taken up for scrutiny by issuing notice u/s 148 on 11-10-2013 and the assessment was completed on 30-10-2014 u/s 143(3)/ 148 of the Act and thus the AO made assessment in the hands of the assessee at

Rs.76,58,150/-. In first appeal, the ld. CIT(A) dismissed the appeal of the assessee holding as under:-

“1. Thus on the facts and legal precedents discussed, I uphold the reopening in this case as valid.

2. In view of the facts and case laws referred in the order, I uphold the reworked remuneration as done by the AO to the extent of Rs.33,07,274/- instead of earlier claimed Rs. 45,65,344/-.

In this case, the ld. AR of the assessee prayed vide submission as reproduced in para 2.2 that the assessment order is passed by the AO without disposing off the objection raised by the assessee vide submission dated 30-10-2014 as filed in response to reasons recorded before issuance of notice u/s 148 of the Act which is violation of principles of natural justice. The Bench has also noted that after the submission as filed by the assessee the AO has not attended to the objection of the assessee separately. Therefore, the Bench has taken into consideration entire conspectus of the case and found that the case of the assessee as to reopening of the assessment is illegal u/s 147 of the Act in view of the decision of ITAT Jaipur Bench case in the case of Manoj Dubey vs ITO, Ward 5(5), Jaipur (ITA No. 332 to 334/JP/2019 for the assessment year 2010-11 to 2012-13 dated 28-02-2020) and this issue is squarely covered by ITAT Order (supra) wherein the Bench has held as under:-

“10. We find that in the aforesaid decision, the Hon'ble High Court has considered the decision of Hon'ble Madras High Court in case of

Home Finders Housing limited vs ITO(supra) as relied upon by the Id DR and has followed the decision of the Hon'ble Supreme Court in case of KSS Petron Private Ltd. vs. ACIT (supra). In light of above and respectfully following the decision of the Hon'ble Jurisdictional High Court which is binding on this Tribunal, the reassessment proceedings completed without disposing off the objection raised by the assessee cannot be sustained and consequent reassessment order u/s 147 r/w 143(3) is hereby quashed and set aside."

It is also noteworthy to mention that Hon'ble Supreme Court in the case of GKN Drivershafts (India) Ltd. vs ITO and Ors (2003) 259 ITR 19 while declining to interfere with order passed by the Delhi High Court dismissing as premature the writ petition filed by the notice challenging the notice issued to it u/s 148 and 143(1) of the Act without filing reply thereto, held as under:-

"We see no justifiable reason to interfere with the order under challenge. However, we clarify that when a notice under [Section 148](#) of the IT Act is issued, the proper course of action for the noticee is to file a return and if he so desires, to seek reasons for issuing notices. The AO is bound to furnish reasons within a reasonable time. On receipt of reasons, the noticee is entitled to file objections to issuance of notice and the AO is bound to dispose of the same by passing a speaking order. In the instant case, as the reasons have been disclosed in these proceedings, the AO has to dispose of the objections, if filed, by passing a speaking order, before proceeding with the assessment in respect of the above said five assessment years."

The assessee has also relied upon mainly the following decisions.

(1) Banswara Syntex Ltd. vs ACIT, (2004) 138 Taxmann. 275 (Raj) wherein it has been held as under:-

'10. *In the present case, the petitioner is not challenging the sufficiency or adequacy of material, on the basis of which, belief has been found but his case is on the basis of reasons recorded by the Assessing Officer himself. He has no jurisdiction to initiate proceedings on the date on which he issued notices which were clearly beyond Four Years from the end of relevant assessment year, which, in the present case, comes to end on 31st March 2001. It is apparent from the reasons that Assessing Officer did not hold any belief that escapement of income chargeable to tax from the assessee was on account of any failure on the part of the assessee to disclose truly and fully all material facts necessary for his assessment for assessment year 1996-97. Thus, it was clearly a case falling within the ambit of provision to Section 147 and notices after 31st Jan. 2001 were clearly barred by time. Thus, the Assessing Officer had no jurisdiction to issue the notices.'*

(2)ITO vs Lakhmani Mewal Das 1976 SCR (3) 956 (dated 30-03-1976)

wherein it has been held as under:

Page 11.....The live link or close nexus which should be there between the material before the income-tax officer in the present case and the belief which he was to form regarding the escapement of the income of the assessee from assessment because of the latter's failure or omission to disclose fully and truly all material facts was missing in this case. In any event, the link was too tenuous to provide a legally sound basis for reporting the assessment. The majority of the learned Judges in the High Court, in our opinion, were not in error in holding that the said material could not have led to the formation of the belief that the income of the assessee respondent had escaped assessment because of his failure or omission to disclose fully and truly all material facts. We would, therefore, uphold the view of the majority and dismiss the appeal with costs.'

Thus the Bench in this case noted that the AO has not disposed off the objections filed by the assessee which indicates that the assessee is deprived off getting justice. In this view of the matter, action of the AO as to invocation of provision of Section 147 for reopening assessment is illegal. Since the Bench has annulled the reassessment u/s 147 of the Act made by the AO, therefore, the other grounds raised by the assessee are infructuous. Hence, the appeal of the assessee is allowed as indicated hereinabove.

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

Order pronounced in the open court on 13 /02/2023.

Sd/-

(राठोड कमलेश जयन्तभाई)
(RATHOD KAMLESH JAYANTBHAI)
लेखा सदस्य / Accountant Member

Sd/-

(डॉ.एस.सीतालक्ष्मी)
(Dr. S. Seethalakshmi)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 13 /02/2023

*Santosh

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- Smt. M/s Hanuman Tube Well Co., Jaipur.
2. प्रत्यर्थी / The Respondent- ACIT, Circle-3, Jaipur.
3. आयकरआयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्डफाईल / Guard File (ITA No. 865/JP/2019)

आदेशानुसार / By order,

सहायकपंजीकार / Asst. Registrar