



**IN THE INCOME TAX APPELLATE TRIBUNAL,  
CUTTACK BENCH, CUTTACK**

**BEFORE S/SHRI GEORGE MATHAN, JUDICIAL MEMBER  
AND ARUN KHODPIA, ACCOUNTANT MEMBER**

**ITA No.30/CTK/2022**

Assessment Year : 2016-17

|  |     |                           |
|--|-----|---------------------------|
| Abhimanyu Sahu, Buxipalli,<br>Gopalpur on Sea. | Vs. | Pr. CIT-1,<br>Bhubaneswar |
| PAN/GIR No.AOKPS 4011 H                        |     |                           |
| <b>(Appellant)</b>                             | ..  | <b>( Respondent)</b>      |

Assessee by : Shri P.N.Dave, CA  
Revenue by : Shri M.K.Gautam, Pr. CIT (OSD)

**Date of Hearing : 24 /03/2023**  
**Date of Pronouncement : 24 /03/2023**

**ORDER**

**Per Bench**

This is an appeal filed by the assessee against the order passed u/s 263 of the Act of the Id Pr. CIT, Bhubaneswar-1 dated 10.3.2021 in Appeal No. ITBA/Rev/F/Rev5/2020-21/1031385941(1) for the assessment year 2016-17.

2. Shri P.N.Dave, Id AR appeared for the assessee and Shri M.K.Gautam, Id Pr. CIT(OSD) appeared for the revenue.

3. The appeal is time barred by 296 days. The assessee has filed condonation petition 21.2.2022 stating that the appeal could not be filed before the Tribunal due to COVID 19 pandemics. It is submitted that the

Hon'ble Supreme Court under Article 142 read with Article 141 of the Constitution of India in M.A. No.21 of 2022 in M.A. No.665 of 20231 in SMW(c) No.3 of 2020 has directed to exclude the period from 15<sup>th</sup> March, 2020 till 28.2.2022 considering the appeal file belatedly. Ld AR at the time of hearing reiterated the submissions made in the petition and requested to condone the delay. Ld Pr. CIT(OSD) did not have any objection to the request of Id AR. In view of above, we condone the delay of 296 days in filing the appeal by the assessee and admit the appeal for adjudication.

4. It was submitted by Id AR that the original assessment came to be completed u/s.143(3) of the Act on 27.12.2018. The assessment was a 'Limited Scrutiny assessment' and in the assessment of 'limited scrutiny' the issue was whether contract receipts/fees have been correctly offered to tax. This has been examined by the Assessing Officer and the returned income had been accepted. It was the submission that the Pr. CIT has invoked his powers u/s.263 of the Act and has treated the said 'limited scrutiny assessment' order as erroneous and prejudicial to the interest of the revenue on two grounds that there was mismatch in the 26AS in respect of total receipts and the total receipts that has been disclosed in the return of income and the second issue was in respect of allegation of excess labour charges paid by the assessee. It was the submission that consequent to the order u/s.263 of the Act, assessment order u/s.143(3) r.w.s 263 came to be passed on 30.3.2022, wherein, the Assessing Officer after examining

the issue of mismatch of 26AS with the return of income found that there was no mismatch and consequently did not make any addition on the said ground. In respect of the issue of excess labour charges, the Assessing Officer made an addition of Rs.33,85,926/-. It was the submission that in respect of order u/s.263, as the assessment order which has been sought to be revised was a 'limited scrutiny assessment' in view of the principles laid down by the Co-ordinate bench of this Tribunal in the case of Shark Mines and Minerals Pvt Ltd in ITA No.128/CTK/2019 for assessment year 2014-15 order dated 18.8.2022, which has been upheld by the Hon'ble Jurisdictional High Court of Orissa by the dismissal of the appeal of the revenue in ITA No.1 of 2023 order dated 2.3.2023, the order passed u/s.263 is liable to be quashed as the issues raised by the Pr. CIT for revision was in no way connected with the issues considered in the 'limited scrutiny assessment'.

5. In reply, Id Pr. CIT (OSD) has filed written submission as follows:

"This is an assessee's appeal against the order of Pr.CIT-1, Bhubaneswar u/s.263 of the Act. The gist of the assessee's arguments is that the case was selected under limited scrutiny. The issues raised under limited scrutiny were verified by the A.O. But subsequently the Pr.CIT-1, Bhubaneswar has passed revision order on the issue which was part of limited scrutiny (difference in contract receipts) and other issue i.e. labour charges of Rs.22,52,944/- which was not the part of limited scrutiny.

i.) **It was held by the Hon'ble Cochin Tribunal in the case of Baby Memorial Hospital Ltd. vs. ACIT (111 [taxmann.com](http://taxmann.com) 189)** that even in a case of limited scrutiny assessment, the Assessing Officer is duty bound to make a prima facie enquiry as to whether there is any other item which requires examination and in assessment, potential escapement of income thereof exceeded Rs. 10 lakhs. In the cited case, the AR of the assessee had argued that this was a limited scrutiny assessment and the reasons for which the case was selected for scrutiny for furnishing of details

specific to the CASS reasons. It was submitted that the details were furnished in response to notice issued under section 142(1), dated 27-6-2016 and after verification the Asstt. Commissioner had accepted the explanation given by the assessee, so proper enquiry was made in the limited scrutiny case and, therefore, the Assessing Officer had applied his mind to the facts of the case and, therefore, his order was not erroneous or prejudicial to the interest of the revenue. Reliance was also placed on the Sanjeev Kr. Khemka vs. Pr.CIT (1361 of 2016, dated 02-06-2017) ITAT Kolkata Bench, Rakesh Kumar vs. CIT (IT Appeal 6187 of 2015, dated 20-12-2018) ITAT New Delhi Bench, Mrs. Sonali Hemant Bhavsar vs. Pr.CIT (IT Appeal 742/Mum/2019 dated 17-05-2019) ITAT Mumbai Bench. However this contention of the assessee was rejected by the Hon'ble Tribunal by holding as under:

"7. We have heard the rival submissions and perused the record and also gone through all the case laws cited by the parties. **Section 263 of the Income-tax Act seeks to remove the prejudice caused to the revenue by the erroneous order passed by the Assessing Officer. It empowers the Commissioner to initiate suo moto proceedings either where the Assessing Officer takes a wrong decision without considering the materials available on record or he takes a decision without making an enquiry into the matters, where such enquiry was prima facie warranted. The Commissioner is well within his powers to treat an order as erroneous on the ground that the Assessing Officer should have made further inquiries before accepting the wrong claims made by the assessee.** The Assessing Officer cannot remain passive in the face of a claim, which calls for further enquiry to know the genuineness of it. In other words, he must carry out investigation where the facts of the case so require and also decide **the** matter judiciously on the basis of materials collected by him as also those produced by the assessee before him. The Assessing Officer was statutorily required to make the assessment under Section 143(3) after scrutiny and not in a summary manner as contemplated by Sub-section (1) of Section 143. The Assessing Officer is therefore, required to act fairly while accepting or rejecting the claim of the assessee in cases of scrutiny assessments. **The Assessing Officer should protect the interests of the revenue and to see that no one dodged the revenue and escaped without paying the legitimate tax.** The Assessing Officer is not expected to put blinkers on his eyes and mechanically accept what the assessee claims before him. It is his duty to ascertain the truth of the facts stated and the genuineness of the claims made in the return. The order passed by the Assessing Officer becomes erroneous when an enquiry has not been made before accepting the genuineness of the claim which resulted in loss of revenue.

**7.1 In the present case, the first issue for our consideration is whether the Assessing Officer having failed to convert limited scrutiny into a complete scrutiny, the assessment order would be**

**rendered erroneous and prejudicial to the interests of the Revenue.**

7.2 The Pr. CIT invoked the provisions of section 263 of the **Act** for considering the following two issues:

"The assessee had claimed an amount of Rs. 2,08,09,140/- being foreign exchange loss was allowed in assessment. The foreign exchange loss on account of foreign currency loan taken for the construction of new and additional equipment. The loss was recognized translating the liabilities at exchange rate in effect at the balance sheet date. The loss on devaluation of rupees on account of loan utilized for fixed capital not deductible u/s. 37(1) of the Act, since the expenditure is capital in nature. Assessee debited an amount of Rs. 15,83,130/- in its P&L account towards provision for doubtful debts. This being provision for diminution in value of trade receivables in the balance sheet, had to be added to profit for computation of book profit. This has resulted in short assessment of income under MAT."

7.3 On the above two issues, the Pr. CIT observed as follows:

"The issue is that the AO has not considered or had applied his mind to the facts of the case and with relation to the provision of the Act in respect of the above issues. Therefore, the assessment for the AY 2014-15 is hereby set aside for the limited purpose of verifying whether the foreign exchange loss qualifies for being a revenue expenditure and secondly to rework MAT income after adding back the provision for doubtful debts, as necessary examination/verification has not been made during the assessment."

7.4 In this case, the assessment was based on limited scrutiny with reference to AR information and no addition was made by the Assessing Officer on that count. **In our opinion, even in a case of limited scrutiny assessment, the Assessing Officer is duty bound to make a prima facie enquiry as to whether there is any other item which requires examination and in the assessment, the potential escapement of income thereof exceeded Rs.10 lakhs. He ought to have sought the permission of CIT/DIT to convert the 'limited scrutiny assessment' into a 'complete scrutiny assessment'. If there is no escapement of income, which would have been more than Rs.10 lakhs, the Pr. CIT could not exercise jurisdiction u/s. 263 of the I.T. Act. In the present case, the assessee itself agreed that the Pr. CIT is justified in giving direction to rework MAT income after adding back the provision for doubtful debts. Now, the argument of the Ld. AR that in case of limited scrutiny assessment, the Pr. CIT could not exercise jurisdiction u/s. 263 of the Act, is devoid of merit. Accordingly, the ground relating to challenging of the exercise of jurisdiction by the Pr. CIT u/s. 263 is rejected", ii.) **The Hon'ble Cuttack ITAT in the case of Sushant****

**Kumar Chaudhry in ITA No.226/CTK/2019 has decided the issue in favour of the Revenue by holding in para-11 as under:**

**"11. In our opinion, the contention of Id. AR regarding revisionary power exercised by the Pr.CIT in case of limited scrutiny, is not accepted on the basis of recent decision of the coordinate bench of the Tribunal in case of Baby Memorial Hospital Ltd. (supra).** If there is an escapement of income or potentiality of income involved in the issues which has not been done by the AO while completing the limited scrutiny assessment the AO could have obtained the permission from the Id. Pr.CIT if he finds that there is a potentiality of the income. The case law relied on by the Id. DR is for the assessment year 2014-2015 and the assessee's case is also for the assessment year 2014-2015, therefore, the case is squarely covered by decision of the of coordinate bench of the Tribunal in case of Baby Memorial Hospital Ltd. (supra).

14. From the reading of all the above cited decisions, it is evident that the view taken in above decisions are unanimous that the Income-tax Officer is not only an adjudicator **but** also an investigator. It is his duty to ascertain the truth of the facts stated in the return. When the circumstances of the case are such so as to provoke an enquiry, it is his duty to make proper enquiry. First he should investigate the matters on the basis of which the assessee has prepared income tax return thereafter he should reach to a logical conclusion that the income shown is as per the Income Tax Act. Failure to make enquiry in such circumstances would make the assessment order erroneous and prejudicial to the interest of the revenue. We concur with the submissions of Ld. CIT-DR that it was a case of lack of inquiry and there was no application of mind by AO on the issues which formed subject matter of revisional jurisdiction u/s 263. Therefore, we do not find any illegality in the action of Ld. Pr. CIT in exercising the said jurisdiction. In the totality of facts and circumstances of the case, the case is squarely covered by the decision in the case of Baby Memorial Hospital Ltd. (supra) and in the case of Maa Tarini Industries Ltd. (supra). The Id. AR has referred to two decisions of the coordinate bench of the Tribunal in the case of Mrs. Sonali Hemant Bhavsar, ITA No.742/M/2019 and in the case of Sanjeev Kumar Khemka, 1361/Kol/2016. These two decisions have already been referred by the coordinate bench of the Tribunal in the case of Baby Memorial Hospital Ltd. (supra). Further the Id. AR has relied on the decision of Hon'ble Supreme Court in the case of Kiran Singh & Ors. [1995] 1 SCR 117 (SC). In the peculiar facts and circumstances of the present case, the case laws cited by the Id.AR of the assessee are not applicable.

15. From the provisions of Section 263 of the Act, it is clear that any order passed by the AO, the Pr.CIT/CIT can invoke his revisionary power, if he considers that the order passed by the AO is erroneous and prejudicial to the interest of Revenue within the Section 263 of the Act. **The CBDT has issued circular regarding limited scrutiny in which there is no any whisper regarding revisionary powers that the Pr.CIT/CIT cannot**

**exercise within the statutory limit as prescribed by the Income Tax Act, 1961. If the Pr.CIT/CIT cannot interfere with the limited scrutiny done by the AO, then there must be any clarification in the CBDT Circular in this regard, which is not found in the Circular.** Considering the above case laws and factual aspects, we are of the view that the Id. Pr.CIT has rightly exercised his powers and we do not find any reason to interfere with the same. Accordingly, we dismiss the appeal of the assessee". iii.) **Reliance is also placed on the decision of Hon'ble Cuttack ITAT in the case of Maa Tarini Industries Ltd., ITA No.292/CTK/2019, dated 17.03.2020, wherein the issue of limited scrutiny was involved which is similar to the present case.** The Hon'ble Cuttack ITAT held in paras-25,28, 29 to 32 as under: "25. On careful consideration of the rival submissions, we are of the view that admittedly and undisputedly, from the copy of the notice by the AO u/s. 142(1) of the Act dated 13.1.2015, it is ample clear that the case of the assessee for assessment year 2014-15 was selected for Limited Scrutiny only on two issues i.e. higher turnover report in service tax return compared to 1TR and mismatch in amount paid to related persons u/s.40A(2)(b) reported in audit report and ITR.

28. So far as sufficiency and adequacy of enquiry on the issues of Limited Scrutiny' are concerned, we observe that the AO issued notice u/s.143(2) and u/s.142(l) of the Act which were replied by the assessee and copies of these notices and replies have been placed on record at APB pages 42 to 113, which shows that the AO makes some inquiry on the issues picked up by him by way of issuing notices and taking on record replies, explanation and relevant documents submitted by the assessee in compliance to the said notice. However, we are unable to find any deliberation in the assessment order regarding these issues which could show and satisfy us that the AO not only made sufficient and adequate enquiries on the issues for which the case was selected for limited scrutiny but also made deliberation by application of mind and thereafter adjudicated the issues by way of inserting deliberation in the assessment order.

29. Ld A.R. has placed into service CBDT Circular/instruction No.5/2016 dated 14.7.2016 regarding scope of enquiry in cases under "Limited Scrutiny" selected through CASS 2015 and 2016 **but in the same instruction/circular, in paras 2 to 6, it has also been provided that in a case which was originally earmarked for ' Limited scrutiny', the AO shall be required to form a reasonable view that there is possibility of under assessment of income if the case is not examined under 'Complete scrutiny' and the case may be converted from limited scrutiny to complete scrutiny, which requires administrative approval from pr. CIT/CIT/Pr. DIT/DIT, as prescribed in para 3(d) of earlier instruction dated 29.12.2015.**

30. From a careful reading of the impugned order passed u/s.263 of the Act, we clearly observe that the assessee company had shown gross

turnover /revenue from operation of Rs.63,97,71,157/- for financial year 2013-14 but as per statement in 26AS, the assessee had shown Rs.16,91,82,966/- from works contract bit it had disclosed its gross receipts in the profit and loss account only Rs.15,69,31,397/- resulting that the gross receipts is understated by Rs.1,22,51,569/- which should have been verified by the AO during scrutiny proceedings. The AO by way of notice u/s.142(1) initiated enquiry on this issue but after filing reply of the assessee in compliance to the said notice, the AO as an adjudicator and investigator did not bother to deliberate this issue in the assessment order and in our humble opinion, until and unless inquiry started by the AO is terminated to a logical and plausible end, such kind of enquiry has to be held as inadequate and insufficient inquiry on the issues, which makes the assessment order as erroneous and prejudicial to the interest of the revenue.

31. From the material placed before us, we also observe that from the service tax return of the assessee, the assessee had shown Rs. Rs.8,45,95,617/- as gross value of service provided under the head 00440262 (transport of goods by road) and a sum of Rs.15,69,31,397/- as gross value of service provided under the head 00440402 (service provided in relation to mining of minerals, oil or gas) as is revealed from service tax return. However, the assessee had not accounted for the receipt of Rs.8,45,95,617/- in its income. Moreover, this amount of Rs.8,45,95,617/- had been grouped in "note 19" under the head "cost of materials consumed". Thus, the income credited to P&L account was understated to the tune of Rs.16,91,91,234/- which were not enquired by the AO.

32. We also observe that the issue of brought forward unabsorbed depreciation of Rs.1,34,85,465/- and MAT credit of Rs.26,33,135/- was not under Limited Scrutiny, hence, the AO has not enquired into the matter while passing the assessment order. Although both the issues were not under limited scrutiny but from the spirit and mandate of section 263 of the Act, which provides revisional powers to Pr. CIT/CIT in the cases where the assessment order or any other proceedings under this Act, passed by the AO is erroneous and prejudicial to the interests of the revenue. This section is itself a mini code wherein proceedings for revision has also been provided and as per this provision, the first and foremost requirement for invoking the revisional proceedings is that the Id. Pr. CIT/CIT shall call and examine the assessment records of any proceedings under this Act, which include scrutiny assessment records and if after applying his mind to such record or proceedings, he consider that any order passed by the AO is erroneous and prejudicial to the interest of the revenue, then, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such enquiry, he deems necessary, pass such order thereon, as the circumstances of the case justify, which includes an order of enhancement or modification assessment or cancelling the assessment with a direction to pass fresh assessment order. Since both the issues were not considered by the AO in the original

assessment order, Ld. Pr. CIT consider it necessary to direct the AO to enquire the matter and reframe the assessment accordingly".

iv.) In case, if the Tribunal does not follow, its earlier order on similar facts and circumstances, then the matter should be referred to larger Bench. **This proposition was laid down in the case of ACIT vs. Chandragiri Construction Co. (21 [taxmann.com](http://taxmann.com) 167)(TM). The Findings of Hon'ble Third Member are as under in para-8 of the order:**

"The Tribunal is to follow the decision of another Bench where facts are the same. This is a treaty law. The only other alternative is to refer the matter to the larger bench if the Members of this Bench are not willing to follow the earlier order. In this case, there is no dispute that the facts and circumstances are the same as appearing in the assessment year 2002-03 except change in figures and it is also true that the very same Members decided the issues for assessment year 2002-03 in favour of the assessee. **In such circumstances, the only course left to the Bench was to follow the earlier decision in order to gain confidence of public in the judicial system. In case the learned Accountant Member wanted to deviate from the earlier order, the only course left was to refer the matter to the larger bench with the concurrence of the learned Judicial Member which, in this case had not happened. Hence, I am of the view that the learned Accountant Member should have restrained from dissenting or he should have persuaded the learned Judicial Member for referring the matter to the larger Bench. For the sake of uniformity, at least, the very same Bench should have followed its own order. The Bench should not come to a conclusion contrary to the conclusion reached in the earlier order of the Tribunal. In this case, the Bench being the same, definitely contrary view should not have been taken.** In this view of the matter, I totally concur with the view of the Learned Judicial Member in respect of two issues viz. , accrual of retention money and bills receivable & work-in-progress. Thus, I decide the legal issue that the Bench should follow its earlier order, concurring with the learned Judicial Member", v.) The CBDT Instruction relevant for the period as regards the limited scrutiny assessment is Instruction No.7/2014 dated 26.09.2014. Instruction No.7/2014 reads as follow:

'Subject:- Scope of enquiry in cases selected for scrutiny during the Financial Year 2014- 2015 on basis of mismatch-regarding— It has come to the notice of the Board that during the scrutiny assessment proceedings some of the AOs are routinely calling for information which is not relevant, for enquiry into the issues to be considered. This has been causing undue harassment to the taxpayers and has also drawn adverse criticism from several quarters. Further, feedback and analysis of such orders indicates that many times the core issues, which formed the basis of selection of the case for scrutiny were not examined properly. Such instances primarily occurred in cases selected for scrutiny under Computer Aided Scrutiny

Selection ('CASS') **for** verification of specific information obtained from third party sources which apparently did not match with the details submitted by the tax payer in the return of income. 2. Therefore, for proper administration of the Income-tax Act, 1961 ('Act'), Central Board of Direct Taxes, by virtue of its powers under section 119 of the Act, in supersession of earlier instructions/ guidelines on this subject, hereby directs that the cases selected for scrutiny during the Financial Year 2014-2015 under CASS, on the basis of either AIR data or CIB information or for non re-conciliation with 26AS data, the scope of enquiry should be limited to verification these particular aspects only. Therefore, in such cases, an Assessing Officer shall confine the questionnaire and subsequent enquiry or verification only to the specific point(s) on the basis of which the particular return has been selected for scrutiny.

3. The reason(s) for selection of cases under CASS are displayed to the Assessing Officer in AST application and notice u/s 143(2), after generation from AST, is issued to the taxpayer with the remark "Selected under Computer Aided Scrutiny Selection (CASS)". The functionality in AST is being modified suitably to flag the reasons for scrutiny selection in cases. This functionality is expected to be operationalised by 15th October, 2014. Further, the Assessing Officer while issuing notice under section 142(1) of the Act which is enclosed with the first questionnaire would proceed to verify only the specific aspects requiring examination/verification. In such cases, all efforts would be made to ensure that assessment proceedings are completed expeditiously in minimum possible number of hearings without unnecessarily dragging the case till the time-barring date.

4. In case, during the course of assessment proceedings it is found that there is potential escapement of income exceeding Rs. 10 lakhs (for non-metro charges, the monetary limit shall be Rs. 5 lakhs) on any other issue(s) apart from the information based on which the case was selected under CASS requiring substantial verification, the case may be taken up for comprehensive scrutiny with the approval of the Pr.CIT/DIT concerned. However, such an approval shall be accorded by the Pr. CIT/DIT in writing after being satisfied about merits of the issue(s) necessitating wider and detailed scrutiny in the case. Cases so taken up for detailed scrutiny shall be monitored by the Jt. CIT/Addl. CIT concerned.

5. The contents of this Instruction should be immediately brought to the notice of all concerned for strict compliance.'

The above Instructions have been modified subsequently vide Instruction No.20/2015 dated 29.12.2015 and Instruction No.5/2016 dated 14.07.2016.

From para 4 of the above Instruction, it is clear that when potential escapement of income exceeds Rs.10 lakh on issues other than selected under CASS, the Assessing Officer has the power to take up the assessment

for comprehensive scrutiny with the approval of the Pr.CIT/DIT concerned. **In the present case, the potential escapement of income is far exceeding Rs.10 lakh prescribed under the above mentioned CBDT Instructions. Therefore, the Assessing Officer should have converted the limited scrutiny assessment in this case to a complete scrutiny assessment by taking approval/permission from the Pr.CIT/DIT concerned. This inaction on the part of the Assessing Officer has made the assessment order erroneous and prejudicial to the Interests of Revenue.**

In view of above facts, the order passed by the Pr.CIT-1, Bhubaneswar needs to be upheld.”

6. It was the submission that the order u/s.263 was right and the Pr. CIT did have the powers to go to the issues that are beyond the issues in the limited scrutiny assessment.

7. We have considered the rival submissions. Admittedly, in the present case, original assessment came to be passed u/s.143(3) of the Act on 27.12.2018 in the limited scrutiny. The issues raised by the Pr. CIT in his revisionary order u/s.263 admittedly have no relationship to the issues on which 'limited scrutiny' had been initiated. The Hon'ble Jurisdictional High Court of Orissa in the case of Shark Mines and Minerals Pvt Ltd. (supra) has categorically upheld the findings that unconnected issues to the assessment order which is the subject matter of limited scrutiny could not be used to treat the 'limited scrutiny assessment order' as erroneous and prejudicial to the interest of the revenue. The Hon'ble High Court in its order in ITA No.1/2023 dated 2.3.2023 has held as follows:

“9. Indeed, the Court finds that the Madras High Court has while affirming the decision of the ITAT in **Smt. Padmavathi** (supra) taken the view that while exercising *suo motu* revisional power under Section 263 of the Act,

the CIT cannot travel beyond the scope of the issues which form part of the 'limited scrutiny' in the original Assessment Order. This Court concurs with the above view.

10. What persuades this Court to reach this conclusion is the requirement in law that if the AO has to go beyond the scope of the issues for which 'limited scrutiny' has to be undertaken by him, he has to seek prior permission of the superior officer in terms of the CBDT Instruction No.7/14 dated 26<sup>h</sup> September, 2014 and Instruction No.20/15 dated 19<sup>th</sup> December, 2015. Consequently, it was not open to the Pr. CIT while exercising *suo motu* revisional power under Section 263 of the Act to find fault with the assessment order of the AO on the ground of its being erroneous on an issue not covered by the 'limited scrutiny' when the AO could not have possibly examined such issue. To reiterate, in the present case, the limited scrutiny was in respect of excess disallowance under Section 40A(3) of the Act whereas the SCN under Section 263 was regarding the FIFO method of valuation of closing stock adopted by the Assessee. These were, as rightly noted by the ITAT, unconnected issues and the assessment order could not have been held to be "erroneous and prejudicial to the interest of Revenue" when the AO could not have travelled beyond the issues forming subject matter of the 'limited scrutiny.'"

8. In these circumstances, respectfully following the principles laid down by the Hon'ble Jurisdictional High Court of Orissa in the case of Shark Mines and Minerals Pvt Ltd.,.(supra) and as the issues raised by the Pr. CIT in the revision order is unconnected to the issues in the 'limited scrutiny assessment' the revisionary order passed by the Pr. CIT is found to be unsustainable and consequently, same stands quashed.

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

Order dictated and pronounced in the open court on 24/03/2023.

Sd/-  
**(Arun Khodpia)**  
**ACCOUNTANT MEMBER**

sd/-  
**(George Mathan)**  
**JUDICIAL MEMBER**

Cuttack; Dated 24/03/2023

B.K.Parida, SPS (OS)

**Copy of the Order forwarded to :**

1. The Appellant : Abhimanyu Sahu, Buxipalli,  
Gopalpur on Sea
2. The Respondent:Pr. CIT, Bhubaneswar-1
3. The CIT(A)-1, Bhubaneswar
4. DR, ITAT, Cuttack
5. Guard file.  
//True Copy//

**By order**

Sr.Pvt.secretary  
**ITAT, Cuttack**