आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER
AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.192/RPR/2022
निर्धारण वर्ष / Assessment Year : 2016-17

Anand Surana,
Nanesh Kripa, Civil Lines,
Raipur (C.G.)-492 001
PAN : AOSPS5275H

.....**अपीलार्थी /** Appellant

बनाम / V/s.

The Pr. Commissioner of Income Tax,
Raipur-1 (C.G.)

.....**प्रत्यर्थी** / Respondent

Assessee by : Shri S.R. Rao, Advocate
Revenue by : Shri S.K Meena, CIT-DR

सुनवाई की तारीख / Date of Hearing : 12.06.2023
घोषणा की तारीख / Date of Pronouncement : 04.07.2023

आदेश / ORDER

PER RAVISH SOOD, JM:

The present appeal filed by the assessee is directed against the order passed by the Pr. Commissioner of Income Tax, Raipur-1 (for short 'Pr. CIT'), dated 26.03.2021, which in turn arises from the order passed by the A.O. u/s.143(3) of the Income-tax Act, 1961 (for short 'Act'), dated 30.11.2018 for A.Y. 2016-17. The assessee has assailed the impugned order on the following grounds of appeal before us:

> "1) In the facts and circumstances of the case and in law, the ld. Principal Commissioner of Income-tax has erred in setting aside the assessment order passed on 26/03/2021 u/s. 143(3) of the Income-tax Act, 1961.
>
> 2) In the facts and circumstances of the case and in law, Id. Pr. Commissioner of Income-tax has erred in initiation revision proceedings u/s.263 of the Income-tax Act, 1961 without independent application of mind and solely on the basis of Revenue Audit Objection, which is bad in law and without jurisdiction.
>
> 3) The impugned order is bad in law and on facts.
>
> 4) The appellant reserves the right to addition, after or omit all or any of the grounds of appeal in the interest of justice."

2. Succinctly stated, the assessee had e-filed his return of income for A.Y.2016-17 on 03.09.2016, declaring an income of Rs.8,46,640/- a/w. agricultural income of Rs.6,30,349/-. Original assessment was, thereafter, framed by the A.O vide his order passed u/s.143(3) of the Act dated 30.11.2018 wherein his returned income was accepted as such.

3. The Pr. CIT after culmination of the assessment proceedings, called for the assessment records of the assessee. On a perusal of the records, it was observed by the Pr. CIT that the assessee during the year under consideration a/w. another person had sold agricultural land situated at Village: Baroda to NRDA in lieu of compensation of Rs.5,60,05,400/-. The Pr. CIT observed that it was the claim of the assessee that as the aforesaid agricultural land was situated beyond the municipal limits of Raipur and thus, was not a capital asset u/s.2(14) of the Act, therefore, the profit/surplus of Rs.2,59,93,950/- on transfer of the same was not exigible to tax in his hands.

4. On examining the file records, it was observed by the Pr. CIT that the claim of the assessee that the agricultural land sold by him was not a capital asset was not supported by any documentary evidence, viz. (i) that no certificate from the land records authority certifying that the agricultural land sold by the assessee was situated beyond the specified distance from the municipal limits as mentioned in Section 2(14)(iii) of the Act was available on record; (ii) that no documents were available on record which would corroborate that the lands in question were used for agricultural purposes for two years immediately preceding the date of transfer as per clause (ii) of Section 10(37) of the Act; and (iii) the lands were acquired not for any agriculture purposes as the same were acquired by NRDA.

5. The Pr. CIT on the basis of his aforesaid deliberations, was of the view that as the land sold by the assessee was a capital asset, therefore, his share of profit earned on the sale of the same was liable to be brought to tax in his hands under the head long term capital gain (LTCG). Accordingly, the Pr. CIT held a conviction that as the A.O had failed to apply his mind to the aforesaid issue which was one of the reason for selection of his case for scrutiny assessment, therefore, the same had rendered the assessment order passed by him as erroneous in so far it was prejudicial to the interest of the revenue u/s.263 of the Act. As the assessee had failed to come froth with any reply in support of his aforesaid claim in the course of proceedings before the Pr. CIT, therefore, the latter vide his order u/s.263 of the Act dated 26.03.2021 set-aside the assessment order with a direction to the A.O to make adequate enquiries with regard to the aforesaid issue and adjudicate the same afresh after affording an adequate opportunity to the assessee.

6. The assessee being aggrieved with the order passed by the Pr. CIT u/s.263 of the Act dated 26.03.2021 has carried the matter in appeal before us.

7. We have heard the Ld. Authorized Representatives of both the parties, perused the orders of the lower authorities and the material available on record, as well as considered the judicial pronouncements

that have been pressed into service by the Ld. AR to drive home his contentions.

8. At the very outset of the hearing of the appeal, Shri S.R. Rao, Ld. Authorized Representative (for short 'AR') for the assessee had assailed the validity of the jurisdiction that was assumed by the Pr. CIT u/s.263 of the Act. Elaborating on his aforesaid claim, it was submitted by the Ld. AR that as the Pr. CIT had assumed jurisdiction u/s.263 of the Act merely on the basis of an "audit objection" and had failed to independently apply his mind, therefore, the proceedings initiated by him were liable to be vacated on the said count itself. Carrying his contention further, the Ld. AR took us through the "Show cause" notice (SCN) dated 11.03.2021 that was issued by the Pr. CIT u/s.263 of the Act, Page 1-3 of APB. Reiterating his earlier contention, it was averred by the Ld. AR that as the Pr. CIT had merely on the basis of an "audit objection" dislodged the well-reasoned order of the A.O in exercise of his revisional jurisdiction u/s.263 of the Act, therefore, his order could not be sustained and was liable to be quashed. The Ld. AR in order to buttress his aforesaid claim that where the Pr. CIT/CIT had issued notice u/s.263 of the Act on the suggestion of the audit department, then, the same could not be sustained and was liable to be quashed had relied on certain judicial pronouncements, as under :

(i) Jeewanlal (1929) Ltd. Vs. Additional Commissioner of Income Tax and Others (1977) 108 ITR 407 (Cal. HC)

(ii) Arihant Jewellers Private Limited Vs. Pr. Commissioner of Income Tax, Raipur, ITA No.61/RPR/2021 dated 01.04.2022.

(iii) Akhilesh Jain Vs. Pr. Commissioner of Income Tax, Raipur, ITA No.60/RPR/2021 dated 01.04.2022

On the basis of his aforesaid contention, it was submitted by the Ld. AR that as the order u/s.263 of the Act had been passed by the Pr. CIT, Raipur merely on the suggestion of the audit party and not on the basis of any independent application of mind by him, therefore, the same was liable to be struck down on the said count itself for want of valid assumption of jurisdiction by him.

9. Per contra, Shri S.K Meena, Ld. Departmental Representative (for short 'DR') relied on the order passed by the Pr. CIT u/s.263 of the Act.

10. Having given a thoughtful consideration to the contentions advanced by the Ld. authorized representatives of both the parties in the backdrop of the orders of the lower authorities and material available on record, we are unable to concur with the contention advanced by the Ld. AR. As the Pr. CIT had embarked upon the proceedings u/s.263 of the Act on the basis of information that was gathered by him from audit party vide letter/memo dated 23.07.2019 i.e. after culmination of the assessment proceedings by the A.O vide his order passed u/s.143(3) dated 30.11.2018, therefore, it would be relevant to dispel all doubts as to whether or not the said

information so received by him would fall within the meaning of "record" as envisaged in "Explanation 1(b)" of Section 263 of the Act.

11. Before proceeding any further, we think it apt to cull out the provisions of Section 263, which at the relevant point of time read as under:

> "**263.** (1) The Principal Commissioner or Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by the Assessing Officer is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment.
>
> *Explanation 1*.—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section,—
>
> (*a*) an order passed on or before or after the 1st day of June, 1988 by the Assessing Officer shall include—
>
> (*i*) an order of assessment made by the Assistant Commissioner or Deputy Commissioner or the Income-tax Officer on the basis of the directions issued by the Joint Commissioner under section 144A;
>
> (*ii*) an order made by the Joint Commissioner in exercise of the powers or in the performance of the functions of an Assessing Officer conferred on, or assigned to, him under the orders or directions issued by the Board or by the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General or Principal Commissioner or Commissioner authorised by the Board in this behalf under section 120;
>
> (*b*) "record" shall include and shall be deemed always to have included all records relating to any proceeding under this Act available at the time of examination by the Principal Commissioner or Commissioner;
>
> (*c*) where any order referred to in this sub-section and passed by the Assessing Officer had been the subject matter of any appeal filed on or before or after the 1st day of June, 1988, the powers of the Principal Commissioner or Commissioner under this sub-section shall extend and shall be deemed always to have extended to such matters as had not been considered and decided in such appeal.
>
> *Explanation 2*.—For the purposes of this section, it is hereby declared that an order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is

prejudicial to the interests of the revenue, if, in the opinion of the Principal Commissioner or Commissioner,—

(*a*) the order is passed without making inquiries or verification which should have been made;

(*b*) the order is passed allowing any relief without inquiring into the claim;

(*c*) the order has not been made in accordance with any order, direction or instruction issued by the Board under section 119; or

(*d*) the order has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.

(2) No order shall be made under sub-section (1) after the expiry of two years from the end of the financial year in which the order sought to be revised was passed.

(3) Notwithstanding anything contained in sub-section (2), an order in revision under this section may be passed at any time in the case of an order which has been passed in consequence of, or to give effect to, any finding or direction contained in an order of the Appellate Tribunal, National Tax Tribunal, the High Court or the Supreme Court.

Explanation.—In computing the period of limitation for the purposes of sub-section (2), the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 129 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

Explanation 2.—For the purposes of this section, it is hereby declared that an order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Principal Commissioner or Commissioner,—

(*a*) the order is passed without making inquiries or verification which should have been made;

(*b*) the order is passed allowing any relief without inquiring into the claim;

(*c*) the order has not been made in accordance with any order, direction or instruction issued by the Board under section 119; or

(*d*) the order has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.

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> passed in consequence of, or to give effect to, any finding or direction contained in an order of the Appellate Tribunal, National Tax Tribunal, the High Court or the Supreme Court."

Further, on a careful perusal of the aforesaid statutory provision, we find that pursuant to the insertion of "Explanation 2" to Section 263 of the Act, i.e., vide Finance Act, 2015 w.e.f. 01.06.2015, an order shall, inter alia, be deemed to be erroneous in so far as it is prejudicial to the interest of the revenue, if in the opinion of the Pr. CIT the order is passed without making enquiry or verification which should have been made.

12. Apropos the scope of the term "record", the same can be traced in the "Explanation 1(b)" of Section 263 of the Act. The aforesaid meaning of the term "record" was substituted and made available on the statute vide the Finance Act, 1988 w.e.f 01.06.1988. For the sake of clarity the meaning of the term "record" as contemplated in "Explanation 1(b)" of Sec. 263 is culled out as under (relevant extract):

> "Explanation 1.—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section,—
>
> (a)……
>
> (b) "record" [shall include and shall be deemed always to have included] all records relating to any proceeding under this Act available at the time of examination by the [Principal [Chief Commissioner or Chief Commissioner or Principal] Commissioner or] Commissioner;
>
> (c) ……..."
>
> (emphasis supplied by us)

On a careful perusal of the aforesaid meaning of the term "record" as had been envisaged in the aforesaid statutory provision, it transpires that the

same shall include and shall be deemed always to have included all records relating to any proceeding under this Act available at the time of examination by the revisional authority. Ostensibly, the term "record" pursuant to the aforesaid amendment that was made available on the statute vide the Finance Act, 1988 w.e.f 01.06.1988 would include all records relating to any proceeding under this Act available at the time of examination by the revisional authority. We, thus, on the basis of our aforesaid deliberations are of the considered view that the meaning to be assigned to the term "record" is not to be confined to that as was available at the time of framing of the assessment by the A.O. Our aforesaid conviction is fortified by the judgment of the Hon'ble Supreme Court in the case of Commissioner of Income Tax, Bangalore Vs. Shree Man Junathesware, Packing Products & Camphor Works, dated 02.12.1997. The Hon'ble Apex Court in the said case was seized of the following question of law:

> "Whether, on the facts and in the circumstances of the case, the Appellate Tribunal is right in law in holding that the word 'record' used in Sec. 263 (1) of the Act would not mean the record as it stands at the time of examination by the Commissioner, but it means the record as it stands at the time the order in question was passed by the ITO?"

After exhaustive deliberation on the scope of the term "record" as was contemplated in Section 263 of the Act, it was held by the Hon'ble Apex Court that it was open to the Commissioner to take into consideration all the records available at the time of examination by him. For the sake of

clarity the relevant observations of the Hon'ble Apex Court are culled out as under:

> "It, therefore, cannot be said, as contended by the learned counsel for the respondent, that the correct and settled legal position, with respect to the meaning of the word "record" till 1st June, 1988, was that it meant the record which was available to the income Tax Officer at the time of passing of the assessment order. Further, we do not think that such a narrow interpretation of the word "record' was justified, in view of the object of the provision and the nature and scope of the power conferred upon the Commissioner. The revisional power conferred on the commissioner under Section 263 is of wide amplitude. It enables the Commissioner to call for and examine the record of any proceeding under the Act. It empowers the commissioner to make or cause to be made such enquiry as he deems necessary in order to find out if any order passed by the assessing officer is erroneous insofar as it is prejudicial to the interests of the revenue. After examining the record and after making or causing to be made an enquiry if he considers the order to be erroneous then he can pass the order thereon as the circumstances of the case justify. Obviously, as a result of the enquiry he may come in possession of new material and he would be entitled to take that new material into account. If the material, which was not available to the Income-Tax Officer when he made the assessment could thus be taken into consideration by the Commissioner after holding an enquiry, there is no reason why the material which had already come on record though subsequently to the making of the assessment cannot be taken into consideration by him. Moreover, in view of the clear words used in clause (b) of the explanation to Section 263(1), it has to he held that while calling for and examining the record of any proceeding under Section 263(1) it is and it was open to the Commissioner not only consider the record of that proceeding but also the record relating to that proceeding available to him at the time of examination.
>
> The view that we are taking receives support from the two decisions of this Court, though the point which is raised before us was not specifically raised in those tow cases. In Tax Reference Case No. 11 of 1983 (The Commissioner of Income-Tax, Gujarat-I vs. Shri Arbuda Mills Ltd.) this Court after considering the effect of the amendment made in Section 263(1) of the Act by the Finance Act. 1989 whereby lause (c) of the explanation was also amended with retrospective effect from 1st June, 1988, held that "the consequence of the said amendment made with retrospective effect is that the powers under Section 263 of the Commissioner shall extend and shall be deemed always to have extended to such matters as had not been considered and decided in an appeal. Accordingly, even in respect of the aforesaid three items, the powers of the Commissioner under Section 263 shall extend and shall be deemed always to have extended to them because those items had not been considered and decided in the appeal filed by the assessee." In that case the assessment was completed o 31.3.1978 and the Income Tax Officer while computing loss and income of the assessee had accepted the claim of the assessee in respect of those three items. Obviously in the appeals filed by the assessee those items were not the subject-matter of the appeals as the decision in respect thereof

was in its favour. In respect of those three items the Commissioner had exercised his power under Section 263 of he income-Tax Act and , therefore, the question which had arisen for consideration was "whether on the facts and in the circumstances of the case, the order of assessment passed by the ITO u/s 143(3) read with section 144B on 31.7.1978 had merged with that of the Commissioner (appeals) dated 15.10.1979 in respect of the three items in dispute so as to exclude the jurisdiction of the Commissioner of Income-Tax under sec 263?" Thus the amendment made in clause @ was held applicable to the orders passed before 1st June, 1988.

In South India Steel Rolling Mills, Madras vs. Commissioner of Income Tax, Madras [1997 (9) SCC 728], the Commissioner in exercise of his power under Section 263 had withdrawn the development rebate granted for the years 1962- 63, 1963-64, 1967-68 and 1968-69 on the ground that since the partnership stood dissolved on 3.3.1968 on the death of one of the two partners, before the expiry of eight years the assessee firm was not entitled to the benefit of the development rebate under Section 33(1) (a) of the Act. The said order passed by the Commissioner was challenged before the Tribunal but the assessee's appeal had failed. At its instance the following question was referred to the Madras High Court:-

"Whether on the facts and circumstances of the case the revision of assessment under section 263 by the Commissioner for withdrawing the development rebate granted for Assessment years 1962-63, 1963-64, 1967-68 and 1968-69 is proper and justified."

The High Court also decided against the assessee. In the appeal filed by the assessee the order of Commissioner was challenged inter alia on the ground that the power under Section 263 could have been invoked on the basis of the record as it stood when the order was passed by the Income Tax Officer and that it was not open to the Commissioner to take into account dissolution of the assessee firm, which took place after passing of the assessment order because that circumstance was not disclosed by the record which was before the Income Tax Officer. Rejecting this contention this Court held "As regards his taking into consideration an event which had occurred subsequent to the passing of the order by the Income-Tax Officer, it may be stated that in Explanation (b) in Section 263 there is an express provision wherein it is prescribed that "record shall include and shall be deemed always to have included all records relating to any proceeding under this Act available at time of examination by the Commissioner". The death of one of the two partners resulting in the dissolution of the assessee firm on account of such death took place prior to the passing of the order by the commissioner and it could, therefore, be taken into consideration by him for the purpose of exercising his powers under Section 263 of the Act." In that case also the amendment was held applicable to an order passed before 1st June, 1988.

We, therefore, hold that it was open to the Commissioner to take into consideration all the records available at the time of examination by him and thus to consider the Valuation Report submitted by the Departmental Valuation Cell

> subsequent to the passing of the assessment order and, so the order passed by him was legal. The High Court was wrong in taking a contrary view. We, therefore, allow this appeal, set aside the judgment and order passed by the High Court and answer the question referred to the High Court in the negative i.e. in favour of the Revenue and against the assessee. In view of the facts and circumstances of the case, there shall be no order as to costs."

Also support is drawn from the memorandum explaining the provisions of the Finance Bill, 1988, vide which an amendment was made available on the statute as regards the meaning of the term "record" in the "Explanation" to Section 263 of the Act, as under (relevant extract) :

> "48. x xxxxxxxx
>
> (a) On the interpretation of the term 'record'. It has been held in some cases that the word 'record' in section 263 (1) could not mean the record as it stood at the time of examination by the Commissioner but it meant the record as it stood at the time of examination by the Commissioner but it meant the record as it stood at the time when the order was passed by the Assessing Officer. Such an interpretation is against the legislative intent and defeats the very objective sought to be achieved by such provisions, since the purpose is to revise the order on the basis of the record as is available to the Commissioner at the time of examination.
>
> xxxxxxxxx
>
> To eliminate litigation and to clarify the legislative intent in respect of the provisions in the three Direct tax Acts, it is proposed to clarify the legal position in this regard the Explanation to the relevant Sections. The proposed amendments are intended to make it clear that 'record' would include all records relating to any proceedings under the concerned direct tax laws available at the time of examination by the commissioner."
>
> The relevant part of the explanation after its substitution read as follows:
>
> "Explanation.- For the removal of doubts, it is hereby declared that, for the purposes of this sub- section,-
>
> (a) .....
>
> (b) "record" includes all records relating to any proceeding under this Act available at the time of examination by the Commissioner;
>
> (b) ..... "

As certain doubts regarding the meaning of the term “record” still persisted, therefore, a further amendment was carried out by the Legislature while enacting the Finance Act, 1989. The memorandum explaining the provisions of the Finance Bill 1989 at Para 28, explained that though a definition of the term “record” for the purpose of Section 263 was made available on the statute vide the Finance Act, 1988 w.e.f. 01.06.1988, i.e, for making it clear that the term “record” includes all records relating to any proceeding under the concerned direct tax laws available at the time of examination by the Commissioner, however, the same was only to clarify the legal position which shall be deemed to have always been in existence, and thus, was not to be confined by giving a prospective applicability to the same, i.e., only to those orders which were passed by the Commissioner after 01.06.1988. The relevant extract of the memorandum explaining the provisions of the Finance Bill, 1989, i.e Para 28 is culled out as under:

> "28. Under the existing provisions of Section 263 of the Income-tax Act and corresponding provisions of the Wealth-tax Act and the Gift-tax Act, the Commissioner of Income-tax is empowered to call for and examine the record of any proceeding and if he considers that the order passed by the Assessing Officer is erroneous in so far as it is prejudicial to the interests of Revenue,, he may pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the same or directing a fresh assessment. By the Finance Act, 1988, an Explanation was substituted with effect from 1st June, 1988, to the relevant sections of the Income-tax Act, Wealth-tax Act and Gift-tax Act to clarify that the term "record" would include all records relating to any proceeding available at the time of examination by the Commissioner. Further, it was also clarified that the Commissioner is competent to revise an order of assessment passed by the Assessing Officer on all matters except those which have been considered and decided in an appeal. The above Explanation was incorporated in the Finance Act, 1988, to clarify this legal position to have

> always been in existence. Some Appellate Authorities have, however, decided that the Explanation will apply only prospectively, i.e., only to those orders which are passed by the Commissioner after 1.6.1988.
>
> Such an interpretation is against the legislative intent and it is, therefore, proposed to amend section 263 of the income tax Act, so as to clarify that the provisions of the explanation shall be deemed to have always been in existence.
>
> Amendments on the above lines have been proposed in section 25 of the Wealth-tax Act and section 24 of the Gift-tax Act also.""

We, thus, in terms of our aforesaid observations are of the considered view, that the information/objection gathered by the Pr. CIT from the audit party vide its memo/letter dated 23.07.2019 squarely falls within the scope and ken of the term "records" as used in Section 263 of the Act.

13. As observed by us hereinabove, the Pr. CIT after consulting the assessment records of the assessee, had observed that though the latter's case was, inter alia, selected for scrutiny assessment under CASS in order to verify as to whether or not his claim that his share of substantial profit of Rs.2.59 crore (approx.) on sale of agricultural land at Village : Baroda was exempt from tax, but the A.O had failed to apply his mind on the said issue. The Pr. CIT in order to fortify his aforesaid conviction had categorically observed that the claim of the assessee that the land under consideration was not a capital asset was not supported by any documentary evidence, viz. (i) that no certificate from the land records authority certifying that the agricultural land sold by the assessee was situated beyond the specified distance from the municipal limits as

mentioned in Section 2(14)(iii) of the Act was available on record ; (ii) that there were no documents available on record which would corroborate that the lands in question were used for agricultural purposes for two years immediately preceding the date of transfer as was a pre-condition per clause (ii) of Section 10(37) of the Act; and (iii) the lands were acquired not for any agriculture purposes as the same were acquired by NRDA. We are unable to concur with the Ld. AR that the Pr. CIT had merely acted upon the suggestion of the audit party and had failed to independently apply his mind while assuming jurisdiction u/s.263 of the Act.

14. Considering the facts that as per "Explanation 2(a)" to Section 263 of the Act, in case Pr. CIT is of the opinion that the order has been passed by the A.O without making any enquiry or verification which should have been made, then the order so passed shall be deemed to be erroneous in so far it is prejudicial to the interest of the revenue u/s.263 of the Act. As observed by the Pr. CIT, and, rightly so, as the A.O had failed to verify the maintainability of the assessee's claim that the transaction of sale of land at Village: Baroda to NRDA was exempt from tax and in absence of any supporting material had summarily accepted his claim, therefore, it was clearly a case where the order on the said aspect had been passed without making any enquiry or verification which should have been made.

15. We, thus, in terms of our aforesaid observations finding no reason to dislodge the well-reasoned order of the Pr. CIT, who by specifically referring to "Explanation 2" to Section 263 of the Act had held the order passed by the A.O u/s.143(3) dated 30.11.2018 as erroneous in so far it was prejudicial to the interest of the revenue u/s.263 of the Act, uphold the same. Accordingly, finding no merit in the appeal filed by the assessee, we dismiss the same.

16. In the result, the appeal filed by the assessee is dismissed in terms of our aforesaid observations.

Order pronounced in open court on 04th day of July, 2023.

Sd/-	Sd/-
ARUN KHODPIA	**RAVISH SOOD**
(ACCOUNTANT MEMBER)	**(JUDICIAL MEMBER)**

रायपुर/ RAIPUR ; **दिनांक** / Dated : 04th July, 2023
SB

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

1. **अपीलार्थी** / The Appellant.
2. **प्रत्यर्थी** / The Respondent.
3. The Pr. CIT, Raipur-1 (C.G)
4. **विभागीय प्रतिनिधि**, **आयकर अपीलीय अधिकरण**, **रायपुर बेंच**, **रायपुर** / DR, ITAT, Raipur Bench, Raipur.
5. **गार्ड फ़ाइल** / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

निजी सचिव / Private Secretary
आयकर अपीलीय अधिकरण, **रायपुर** / ITAT, Raipur.