आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES,"B" JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य एवं श्री राठौड़ कमलेश जयंतभाई, लेखा सदस्य के समक्ष
BEFORE: HON'BLE SHRI SANDEEP GOSAIN, JM &
HON'BLE SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA No. 260/JP/2022
निर्धारण वर्ष/Assessment Year : 2018-19.

M/s. Shriram General Insurance Company Limited, E-8, EPIP RIICO Industrial Area, Sitapura, Jaipur.	बनाम Vs.	The PCIT Jaipur-2 Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No. AAKCS 2509 K		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/ Assessee by : Shri P.C. Parwal, CA

राजस्व की ओर से/ Revenue by : Shri Ajey Malik, CIT

सुनवाई की तारीख/ Date of Hearing : 08/06/2023
उदघोषणा की तारीख/Date of Pronouncement: 28/06/2023

आदेश/ ORDER

PER: SANDEEP GOSAIN, J.M.

This appeal by the assessee is directed against the order dated 30.03.2023 of ld. PCIT, Jaipur-2 passed under section 263 of the Income Tax Act, 1961 for the assessment year 2018-19. The assessee has raised the following grounds :-

1. The order passed by Ld. PCIT u/s 263 of the Act holding that assessment order passed u/s 143(3) dt. 01.03.2021 is erroneous and prejudicial to the interest of revenue in as much as disallowance u/s 14A r.w.r8D(2) of the Act has not been considered by AO ignoring that this issue has been raised by the AO in notice u/s 142(1) dt. 23.11.2020 and replied by the assessee vide letter dt. 07.12.2020 and thus the order so passed is illegal & bad in law.

2. The Ld. PCIT has erred on facts and in law in holding that section 14A is applicable on assessee by not appreciating that income of assessee is required to be computed u/s 44 read with first schedule of the Act and Hon'ble Delhi High Court in case of PCIT Vs. Oriental Insurance Co. Ltd. 273 Taxman 427 has held that section 14A is not applicable in the assessment of insurance companies.

3. The appellant craves to alter, amend and modify any ground of appeal.

4. Necessary cost be awarded to the assessee.

2. The brief facts of the case are that the assessee company is engaged in general insurance business mainly fire and motor vehicle insurance. The assessee filed its return of income on 28.09.2018 declaring total income of Rs. 5,33,11,66,150/-. The case of the assessee was selected for complete scrutiny proceedings. In the original assessment proceedings, the AO vide notice dated 23.09.2019 issued u/s 143(2) of IT Act required the assessee to explain the issue of expenses incurred for earning exempt income. Thereafter vide notice dated 23.11.2020 issued u/s 142(1) of IT Act, the AO at Question No.7 required the assessee to furnish the details of investment, details of exempt income earned during the year under consideration, details of expenses incurred for earning exempt income, computation as per Rule 8D read with section 14A of IT Act. In response to above two notices assessee vide reply dated 07.12.2020 at Point No. (iii), submitted that section 14A is not applicable on assessee as it is a general insurance company. Section 44 creates a special provision in the cases of assessment of insurance companies and it was not permissible to the AO to travel beyond section 44 read with First Schedule to the Act. Thus provision of section 14A is not applicable. For

this purpose assessee relied on various case laws. Thereafter, at Point No.7, assessee filed the details of investment, exempt income earned during the year and expenses incurred relating to investment activities. The AO after considering the reply of the assessee completed the assessment u/s 143(3) at declared income.

2.1 The ld. PCIT called for the assessment record in case of the assessee company for the assessment year 2018-19 and examined. On perusal of the assessment order, the Ld. PCIT issued show cause notice u/s 263 dated 15.02.2022 stating that the AO has accepted the version of assessee at its face value without going into correct interpretation of section 44 of the Act and also without going through the judgment cited by the assessee. In absence of clear evidences and basis of allocation, the expenses disallowable u/s 14A of the Act should have been computed under Rule 8D. Hence, the order passed by the AO is erroneous in so far as it is prejudicial to the interests of the revenue. In response to same assessee file detailed reply vide letter dated 23.02.2023 dated 08.03.2023 and 22.03.2023. The Ld. PCIT, however, held that section 44 does not exclude application of section 14A. As per Rule 5(a) of First Schedule, any expenditure or allowance which is not admissible under the provisions of section 30 to 43B shall be added back in the computation of profits and gains of insurance businesses. Thus, the expenditures or allowances claimed under the provisions of section 30 to 43B are subject to the test of admissibility. The provisions of section 14A relate to one of the tests prescribed for determining admissibility of expenditure claimed by the assessee. If such expenditure has been claimed under any section falling within sections 30 to 43B, then it will first have to pass the test of admissibility in order to be allowed as per the First Schedule. The expenditure in relation to exempt income form part of

business expenditure u/s 37 and therefore, disallowance u/s 14A is applicable in the insurance businesses by virtue of Rule 5(a) of the First Schedule read with section 14A. In the financial statement assessee has disclosed the details of expenses in relation to investments earning both taxable and exempt income under note 17 of schedule 16. Therefore, having regards to the accounts of the assessee, its claim that expenses are not disallowable by virtue of section 44 is not satisfactory. Further against the decision of Hon'ble Delhi High Court in case of Oriental Insurance Co. Ltd., SLP has been filed. Thus the AO has failed to enquire in detail or apply his mind to this issue. Accordingly, the order of AO is liable to revision under the clause (a), (b) & (c) of Explanation (2) to section 263 of the Income Tax Act and the AO is directed to examine the issue and pass suitable order. Aggrieved by the said order of ld. PCIT, the assessee preferred appeal before the Tribunal.

3. Before us, the ld. A/R of the assessee has submitted his written submissions as under :-

> "At the outset it is submitted that clause (a), (b) & (c) of Explanation 2 to section 263 applies when the order is passed without making enquiries or verification which should have been made or order is passed allowing any relief without enquiring into the claim or the order has not been made in accordance with any order, direction or instruction issued by the Board. It may be noted that case of the assessee was selected for scrutiny to examine the issue of expenses incurred for earning exempt income **(PB 17-18)**.To verify the same AO vide notice dt. 23.11.2020 issued u/s 142(1) of IT Act **(PB 19-22)**, at Q. No.7 required the assessee to furnish the details of investment, details of exempt income earned during the year under consideration, details of expenses incurred for earning exempt income,

computation as per Rule 8D r.w.s. 14A of IT Act.In response to same assessee vide reply dt. 07.12.2020 **(PB 23-28)** at Point No. (iii) submitted that section 14A is not applicable on assessee as it is a general insurance company. Section 44 creates a special provision in the cases of assessment of insurance companies and it was not permissible to the AO to travel beyond section 44 read with First Schedule to the Act. Thus provision of section 14A is not applicable. For this purpose assessee relied on various case laws. Thereafter at Point No.7 assessee filed the details of investment, exempt income earned during the year and expenses incurred relating to investment activities. The AO after considering the reply of assessee completed the assessment u/s 143(3) at declared income. Thus, the AO has made necessary enquiries and verification and passed the order accepting the claim of assessee. Further there is no order, direction or instruction issued by Board u/s 119 of the Act to provide for disallowance of expenditure u/s 14A in case of insurance company. As against this the assessee has specifically relied on the decision of ITAT, Pune Bench in case of Bajaj Allianz General Insurance Co. Ltd. Vs. Addl. CIT 38 DTR 282, Delhi ITAT in case of DCIT Vs. Oriental General Insurance Co. Ltd. 92 TTJ 300 and decision of Supreme Court in case of General Insurance Corporation of India Ltd. Vs. CIT 240 ITR 139**(PB 23-24)**considering which the AO has not made any disallowance u/s 14A.Thus none of the condition ofclause (a), (b) & (c) of Explanation 2 to section 263 is applicable. Hence the order passed by AO cannot be held to be erroneous so far as prejudicial to the interest of revenue. In this connection reliance is placed on the following cases:-

CIT Vs. Kwality Steel Suppliers Complex (2017) 395 ITR 1 (SC)

Where two views are possible and the AO has taken one view, the assessment order cannot be treated as erroneous or prejudicial to the interest of revenue. This is for the reason that while exercising the revisionary jurisdiction, the CIT is not sitting in appeal. In the instant case, the assessee firm was constituted with two partners viz., mother and son. It stood dissolved by the operation of law in view of the death of one of the partners, i.e. the mother but the business did not come to an end as the other partners, viz., son who inherited the share of the mother continued with the

business. In this situation, there was no question of selling the assets of the firm including stock-in-trade and therefore, it was not necessary to value stock-in-trade at market price. Thus, the view taken by AO in accepting the book value of the stock-in-trade was a plausible and permissible view and therefore, the CIT could not exercise his powers u/s 263.

CIT Vs. Max India 295 ITR 282 (SC)

Where two views are possible and the ITO has taken one view with which the CIT does not agree, it cannot be treated as an erroneous order prejudicial to the interest of the Revenue, unless the view taken by the ITO is unsustainable in law. When the CIT passed the impugned order under sec. 263, two views were inherently possible on the word "profits" occurring in the proviso to s. 80HHC(3). Subsequent amendment of sec.80HHC(3) made in the year 2005, though retrospective, did not render the order of the AO erroneous and prejudicial to the interest of the Revenue and CIT could not exercise powers under sec. 263.

Malabar Industrial Co. Ltd. Vs. CIT 243 ITR 83 (SC)

A bare reading of section 263 of the Income-tax Act, 1961, makes it clear that the prerequisite for the exercise of jurisdiction by the Commissioner suomotu under it, is that the order of the Income-tax Officer is erroneous in so far as it is prejudicial to the interests of the Revenue. The Commissioner has to be satisfied of twin conditions, namely, (i) the order of the Assessing Officer sought to be revised is erroneous; and (ii) it is prejudicial to the interests of the Revenue. If one of them is absent i.e. if the order of the Income-tax Officer is erroneous but is not prejudicial to the Revenue or if it is not erroneous but is prejudicial to the Revenue, recourse cannot be had to section 263(1) of the Act. The provision cannot be invoked to correct each and every type of mistake or error committed by the Assessing Officer. It is only when an order is erroneous that the section will be attracted. An incorrect assumption of facts or an incorrect application of law will satisfy the requirement of the order being erroneous. In the same category fall orders passed without applying the principles of natural justice or without application of mind. The phrase "prejudicial to the interests of the Revenue" has to be read in conjunction with an erroneous order passed by the Assessing Officer. Every loss of revenue as a consequence of an order of the Assessing Officer cannot be treated as prejudicial to the interests of the Revenue. For example, when an Income-tax Officer adopted one of the courses permissible in law and it has resulted in loss of revenue, or where two views are possible and the Income-tax Officer has taken one view with which the Commissioner does not agree, it cannot be treated as an erroneous order prejudicial to the interests of the Revenue unless the view taken by the Income-tax Officer is unsustainable in law.

Sir Dorabji Tata Trust Vs. DCIT(E) 188 ITD 38 dt.28.12.2020 (Mum.)(Trib.)

The Hon'ble ITAT Mumbai Bench in Para 19-21 held as under:-

"19. The question that we also need to address is as to what is the nature of scope of the provisions of Expln. 2(a) to s. 263 to the effect that an order is deemed to be "erroneous and prejudicial to the interests of the Revenue" when CIT is of the view that "the order is passed without making inquiries or verification which should have been made".

20. Undoubtedly, the expression used in Expln. 2 to s. 263 is "when CIT is of the view," but that does not mean that the view so formed by the CIT is not subject to any judicial scrutiny or that such a view being formed is at the unfettered discretion of the CIT. The formation of his view has to be in a reasonable manner, it must stand the test of judicial scrutiny, and it must have, at its foundation, the inquiries, and verifications expected, in the ordinary course of performance of duties, of a prudent, judicious and responsible public servant-that an AO is expected to be. If we are to proceed on the basis, as is being urged by the learned Departmental Representative and as is canvassed in the impugned order, that once CIT records his view that the order is passed without making inquiries or verifications which should have been made, we cannot question such a view and we must uphold the validity of revision order, for the recording of that view alone, it would result in a situation that the CIT can de facto exercise unfettered powers to subject any order to revision proceedings. To exercise such a revision power, if that proposition is to be upheld, will mean that virtually any order can be subjected to revision proceedings; all that will be necessary is the recording of the CIT's view that "the order is passed without making inquiries or verification which should have been made". Such an approach will be clearly incongruous. The legal position is fairly well settled that when a public authority has the power to do something in aid of enforcement of a right of a citizen, it is imperative upon him to exercise such powers when circumstances so justify or warrant. Even if the words used in the statute are prima facie enabling, the Courts will readily infer a duty to exercise a power which is invested in aid of enforcement of a right—public or private—of a citizen. [L Hirday Naran vs. ITO (1970) 78 ITR 26 (SC)]. As a corollary to this legal position, when a public authority has the powers to do something against any person, such an authority cannot exercise that power unless it is demonstrated that the circumstances so justify or warrant. In a democratic welfare state, all the powers vested in the public authorities are for the good of society. A fortiorari, neither can a public authority decline to exercise the powers, to help anyone, when circumstances so justify or warrant, nor can a public authority exercise the powers, to the detriment of anyone, unless circumstances so justify or warrant. What essentially follows is that unless the AO does not conduct, at the stage of passing the order which is subjected to revision proceedings, inquiries and verifications expected, in the ordinary

course of performance of duties, of a prudent, judicious and responsible public servant–that an AO is expected to be, CIT cannot legitimately form the view that "the order is passed without making inquiries or verification which should have been made". The true test for finding out whether Expln. 2(a) has been rightly invoked or not is, therefore, not simply existence of the view, as professed by the CIT, about the lack of necessary inquiries and verifications, but an objective finding that the AO has not conducted, at the stage of passing the order which is subjected to revision proceedings, inquiries and verifications expected, in the ordinary course of performance of duties, of a prudent, judicious and responsible public servant that the AO is expected to be.

21. That brings us to our next question, and that is what a prudent, judicious, and responsible AO is to do in the course of his assessment proceedings. Is he to doubt or test every proposition put forward by the assessee and investigate all the claims made in the IT return as deep as he can ? The answer has to be emphatically in negative because, if he is to do so, the line of demarcation between scrutiny and investigation will get blurred, and, on a more practical note, it will be practically impossible to complete all the assessments allotted to him within no matter how liberal a time-limit is framed. In scrutiny assessment proceedings, all that is required to be done is to examine the IT return and claims made therein as to whether these are prima facie in accordance with the law and where one has any reasons to doubt the correctness of a claim made in the IT return, probe into the matter deeper in detail. He need not look at everything with suspicion and investigate each and every claim made in the IT return; a reasonable prima facie scrutiny of all the claims will be in order, and then take a call, in the light of his expert knowledge and experience, which areas, if at all any, required to be critically examined by a thorough probe. While it is true that an AO is not only an adjudicator but also an investigator and he cannot remain passive in the face of a return which is apparently in order but calls for further inquiry but, as observed by Hon'ble Delhi High Court in the case of Gee Vee Enterprises vs. Addl. CIT &Ors. 1975 CTR (Del) 61 : (1995) 99 ITR 375 (Del) , "it is his duty to ascertain the truth of the facts stated in the return when the circumstances of the case are such as to provoke an inquiry. (Emphasis, by underlining, italicised in print, supplied by us). It is, therefore, obvious that when the circumstances are not such as to provoke an inquiry, he need not put every proposition to the test and probe everything stated in the IT return. In a way, his role in the scrutiny assessment proceedings is somewhat akin to a conventional statutory auditor in real-life situations. What Justice Lopes said, in the case of Re Kingston Cotton Mills (1896) 2 Ch.D 279, 288), in respect of the role of an auditor, would equally apply in respect of the role of the AO as well. His lordship had said that an auditor (read AO in the present context)" is not bound to be a detective, or, as was said, to approach his work with suspicion or with a foregone conclusion that there is something wrong. He is a watch-dog, but not a bloodhound". Of course, an AO cannot remain passive on the facts which, in his fair opinion, need to be

probed further, but then an AO, unless he has specific reasons to do so after a look at the details, is not required to prove to the hilt everything coming to his notice in the course of the assessment proceedings. When the facts as emerging out of the scrutiny are apparently in order, and no further inquiry is warranted in his bona fide opinion, he need not conduct further inquiries just because it is lawful to make further inquiries in the matter. A degree of reasonable faith in the assessee and not doubting everything coming to the AO's notice in the assessment proceedings cannot be said to be lacking bona fide, and as long as the path adopted by the AO is taken bona fide and he has adopted a course permissible in law, he cannot be faulted-which is a sine qua non for invoking the powers under s. 263. In the case of Malabar Industrial Co. Ltd. vs. CIT (2000) 159 CTR (SC) 1 : (2000) 243 ITR 83 (SC) , Hon'ble Supreme Court has held that "Every loss of revenue as a consequence of an order of the AO cannot be treated as prejudicial to the interests of the Revenue, for example, when an ITO adopted one of the courses permissible in law and it has resulted in loss of revenue; or where two views are possible and the ITO has taken one view with which the CIT does not agree, it cannot be treated as an erroneous order prejudicial to the interests of the Revenue unless the view taken by the ITO is unsustainable in law." The test for what is the least expected of a prudent, judicious and responsible AO in the normal course of his assessment work, or what constitutes a permissible course of action for the AO, is not what he should have done in the ideal circumstances, but what an AO, in the course of his performance of his duties as an AO should, as a prudent, judicious or reasonable public servant, reasonably do bona fide in a real-life situation. It is also important to bear in mind the fact that lack of bona fides or unreasonableness in conduct cannot be inferred on mere suspicion; there have to be some strong indicators in direction, or there has to be a specific failure in doing what a prudent, judicious and responsible officer would have done in the normal course of his work in the similar circumstances. On a similar note, a Co-ordinate Bench of the Tribunal, in the case of Narayan T. Rane vs. ITO (2016) 70 taxmann.com 227 (Mumbai) has observed as follows:

> *20. Clause (a) of Explanation states that an order shall be deemed to be erroneous, if it has been passed without making enquiries or verification, which should have been made. In our considered view, this provision shall apply, if the order has been passed without making enquiries or verification which a reasonable and prudent officer shall have carried out in such cases, which means that the opinion formed by learned Principal CIT cannot be taken as final one, without scrutinising the nature of enquiry or verification carried out by the AO vis-a-vis its reasonableness in the facts and circumstances of the case. Hence, in our considered view, what is relevant for cl. (a) of Expln. 2 to s. 263 is whether the AO has passed the order after carrying our enquiries or verification, which a reasonable and prudent officer would have claimed out or not. It does not authorise or give*

unfettered powers to the learned Principal CIT to revise each and every order, if in his opinion, the same has been passed without making enquiries or verification which should have been made."

Satya Narayan Dhoot Vs. PCIT (2023) 222 DTR 177 (Jodhpur) (Trib.)

AO having sought break-up details of long-term investments, the expenses earned in relation to the exempt income and the details of availability of non-interest bearing funds and the assessee having replied that it has not incurred any expenditure relating to exempt income, it has to be held that the AO has made enquiries during the course of assessment proceedings with regard to the disallowance to be made u/s 14A and therefore, the revision order passed by the Principal CIT on the ground that the assessee has incurred interest expenses and it should have been disallowed u/s 14A is not sustainable.

Nalco Company Vs. CIT (2021) 200 DTR 275 (Pune) (Trib.)

If the AO makes inquiry, examines the issue which is borne out from the record of the assessment proceedings and then reaches a conclusion in favour of the assessee which is legally possible, the assessment order cannot be characterized as erroneous and prejudicial to the interest of the Revenue. Since none of the four clauses of the Expln. 2 to sec. 263(1) applies to the case under consideration, revisionary power even under the enlarged scope of the Expln. 2 was not legally exercisable.

Reliance Payment Solutions Ltd. Vs. PCIT (2022) 212 DTR 297 (Mum.)(Trib.)

AO having specifically looked into the issue before accepting the detailed submission made by the assessee, the assessment order cannot be said to be erroneous and prejudicial to the interest of revenue merely because the AO has not written the specific reasons for accepting the explanation of the assessee and therefore, invocation of powers u/s 263 was not justified.

2. The Ld. PCIT has relied on the decision of ITAT, Pune Bench and Delhi High Court but in these cases AO has not called for any specific details or made any enquiry. Hence these decisions are not applicable. Further the decision of Hon'ble Supreme Court in case of Malabar Industrial Co. Ltd. Vs. CIT 243 ITR 83 is in favour of the assessee as explained supra. Hence the order passed by CIT holding the order of AO as erroneous and so far as prejudicial to the interest of revenue is illegal & bad in law and the same be quashed.
3. On merit it may be noted that assessee is a general insurance company. Section 44 of Income tax Act, 1961 provides that income of insurance

business is required to be computed in accordance of First Schedule of Income tax Act, 1961. First Schedule provides only three types of adjustment i.e. adjustment u/s 30 to 43B, adjustment in respect of diminution of value of investments and adjustment in respect of reserve for unexpired risk. Except the above adjustments, no other adjustment can be made in the computation of income of insurance business. Section 44 of the Act is non obstante clause and specifically provides that income of insurance business is to be computed in accordance with specific provision of First Schedule irrespective of anything mentioned in any other provision of the Act. Section 44 creates a special provision in the cases of assessment of insurance companies and it was not permissible to the AO to travel beyond section 44 read with First Schedule to the Act. Thus section 14A is not applicable on a general insurance company. **Hon'ble Supreme Court in case ofGeneral Insurance Corporation of India Ltd. Vs. CIT reported at 240 ITR 139** held that *"Section 44 of the Income-tax Act is a special provision governing computation of taxable income earned from business of insurance. **It opens with a non-obstante clause and thus has an overriding effect over other provisions contained in the Act**. It mandates the assessing authorities to compute the taxable income for business of insurance in accordance with the provisions of the First Schedule. A plain reading of Rule 5(a) of the First Schedule makes it clear that in order to attract the applicability of the said provision, the amount should firstly be an expenditure or allowance. Secondly, it should be one not admissible under the provisions of Sections 30 to 43A. If the amount is not an expenditure or allowance, the question of testing its eligibility for adjustment by reference to Rule 5 (a) to the First Schedule would not arise at all."*

Further **Hon'ble Delhi High Court in case of PCIT Vs. Oriental Insurance Co. Ltd. (2020) 273 Taxmann 427 (PB 29-31)** at Para 9 of the order held as under:-

9. We have heard learned counsels and are of the view that no substantial question of law arises for our consideration. The Tribunal has interpreted s. 44 read with the first schedule and concluded that applicability of s. 14A is

excluded in relation to computation of income of an insurance company. We have examined the relevant provisions. Sec. 44 begins with a non-obstante clause and overrides the other provisions of the Act as mentioned therein including s. 14A. We are not convinced with the submission of Mr. Ajit Sharma that s. 14A would be applicable in respect of the respondent. Sec. 14A does not have independent legs to stand on. Sec. 14A inter alia begins with the words "for the purposes of computing the total income under this chapter, no deduction shall be allowed in respect of expenditure incurred.....". The chapter in question is Chapter IV. This chapter also contains the provisions relating to computation of profits and gains of business or profession. Sec. 44 specifically excludes the provisions of the Act relating to computation of income, inter alia, those contained in "Sec. 28 to 43B". Thus, the exclusion would take within its sweep s. 14A which is an exemption for deductions as allowable under the Act, as provided under ss. 28 to 43B. Further, s. 44 is a special provision applicable in the cases of insurance companies and applies, notwithstanding anything to the contrary contained in the provisions of the IT Act relating to the computation of income chargeable under different heads. For computing the profits and gains of the business of insurance company, the AO had to resort to s. 44 and the prescribed rules, and could not have applied s. 28 to 43B, since the same were excluded from the purview of s. 44. This necessarily includes the exception provision enshrined under s. 14A of the Act. Therefore, in our view, the AO could not have travelled beyond s. 44 in the first schedule of the Act. Besides, the Tribunal has also invoked the rule of consistency since the same view of the Tribunal has prevailed in respect of the earlier assessment years i.e. 2000-01, 2001-02 and 2005-06.

Recently **Hon'ble ITAT Pune Bench videitsorderdt.19.04.2022 in case of DCIT Vs. Bajaj Allianz General Insurance Co. Ltd. 36 NYPTTJ 475** has decided the issue in favour of assessee by relying on the aforesaid decision of Oriental Insurance Co. Ltd. (supra).

The Ld. PCIT has held that against the decision of Hon'ble Delhi High Court, SLP has been filed. However, as per the website of Supreme Court it is still pending and otherwise also, only because SLP is pending would not make the order of AO erroneous and prejudicial to the interest of revenue.

4. The Ld. PCIT at para 6.3 of the order has referred to Note No.17 of Schedule 16 to state that expenses directly identifiable with the investment activity is Rs.5418 thousand and the indirect expenses apportioned is Rs.34068 thousand. However, these figures are incorrect in as much as the details is given in Note

No.15 of Schedule 16 and not in Note No.17. As per Note No.15 expenses directly identifiable with investment activity is Rs.3437 thousand and the indirect expenses apportioned is Rs.26927 thousand. Thus the figures mentioned by CIT in its order is also incorrect.

In view of above, order passed by Ld. PCIT u/s 263 is illegal & bad in law and be quashed."

4. On the other hand, the ld. D/R relied on the order of the ld. PCIT.

5. We have heard the rival submissions, perused the material on record and gone through the orders of the revenue authorities and the case laws cited by both the sides. From the record, we noticed that the assessee company is engaged in general insurance business mainly fire and motor vehicle insurance. It had filed the return of income for the year under consideration on 28.09.2018 declaring total income of Rs. 5,33,11,66,150/-. Since the case of the assessee was selected for scrutiny, therefore, after serving statutory notices and receiving replies of the assessee, order of assessment under section 143(3) of the IT Act, 1961 was passed at declared income. Subsequently, the ld. PCIT issued show cause notice under section 263 dated 15.02.2022 by holding that the AO had accepted the version of the assessee at its face value without going into correct interpretation of section 44 of the IT Act and also without going through the judgments cited by the assessee. It was further held by ld. PCIT that in the absence of clear evidences and basis of allocation, the expenses disallowable under section 14A of the IT Act should have been computed under Rule 8D of the Act. Therefore, the order of assessment was held to be erroneous as well as prejudicial to the interest of the revenue. In this regard, at the very outset, the ld. A/R submitted before us that during the original

assessment proceedings, the AO vide notice dated 23.09.2019 under section 143(2) of the IT Act, which is at paper book pages 17-18, required the assessee to explain the issue of expenses incurred for earning exempt income. In this regard our attention was also drawn to the paper book pages 19-22 wherein another notice dated 23.11.2020 issued under section 142(1) of the Act and at question no. 7 it was required by the AO from the assessee to furnish the details of investment, details of exempt income earned during the year under consideration, details of expenses incurred for earning exempt income, computation as per Rule 8D read with section 14A of the IT Act, 1961. Consequently, in response to the above notice, vide reply dated 07.12.2020 which is at paper book pages 23-28 it was categorically submitted by the assessee that section 14A is not applicable on assessee as the assessee is a general insurance company and, therefore, as per section 44 of the IT Act, it provides that income of insurance business is required to be computed in accordance of First Schedule of Income Tax Act, 1961. The First Schedule provides only three types of adjustments i.e. adjustment under section 30 to 43B, adjustment in respect of diminution of value of investment and adjustment in respect of reserve for unexpired risks. Except the above adjustments, no other adjustment can be made in the computation of income from insurance business. It was further submitted by ld. A/R that section 44 of the IT Act begins with a non obstante clause and specifically provides that income of insurance business is to be computed in accordance with specific provisions of First Schedule irrespective of anything mentioned in any other provisions contained in the Act. Thus section 14A is not applicable to general insurance company.

5.1 Before proceeding further, we would like to analyze the provisions of section 263 of the IT Act, 1961, which reads as under :-

"263. (1) The 99 [Principal Chief Commissioner or Chief Commissioner or 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 [or the Transfer Pricing Officer, as the case may be,] 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,—

(i) an order enhancing or modifying the assessment or cancelling the assessment and directing a fresh assessment; or

(ii) an order modifying the order under section 92CA; or

(iii) an order cancelling the order under section 92CA and directing a fresh order under the said section].

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 1 [or the Transfer Pricing Officer, as the case may be,] 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 [or the Transfer Pricing Officer, as the case may be,] 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;

[(iii) an order under section 92CA by the Transfer Pricing Officer;]

(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) where any order referred to in this sub-section and passed by the Assessing Officer [or the Transfer Pricing Officer, as the case may be,] 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 [or the Transfer Pricing Officer, as the case may be,] 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 Chief Commissioner or Chief Commissioner or 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.

[Explanation 3.—For the purposes of this section, "Transfer Pricing Officer" shall have the same meaning as assigned to it in the *Explanation to section 92CA.]*

(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, 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."

From the above analyzes of section 263, we find that clause (a), (b) and (c) of the Explanation 2 to section 263 applies when the order is passed by the AO without making enquiry or verification which should have been made or order is passed allowing any relief without enquiring into the claim or the order has not been made in accordance with any order, direction or instruction issued by the Board. As per the facts of this case is concerned, we noticed that the case of the assessee was selected for scrutiny to examine the issue of expenses incurred for earning exempt

income and to verify the same, AO vide notice dated 23.11.2020 issued under section 142(1) of the Act, which is placed at paper book pages 19-22, at question no. 7 required the assessee to furnish the details of investment, details of exempt income earned during the year under consideration, details of expenses for earning exempt income, computation as per Rule 8D read with section 14A of the IT Act. In response to the said notices, the assessee had also filed reply dated 07.12.2020 which is at paper book pages 23-28 and at Point No. (iii) submitted that section 14A is not applicable on assessee as it is a general insurance company. After analyzing the provisions of section 44 of the Act, we find that section 44 creates a special provision in the cases of assessment of insurance companies and it was not permissible to the AO to travel beyond section 44 read with First Schedule to the I.T. Act, 1961 as section 44 of the Act begins with non obstante clause and specially provides income of insurance business is to be computed in accordance with specific provisions of First Schedule irrespective of anything mentioned in any other provisions of the Act. Thus section 44 creates a special provision in the cases of assessment of insurance companies, therefore, it was not permissible to AO to travel beyond section 44 read with First Schedule of the Act and thus section 14A is not applicable on insurance companies. For reaching to this view, we draw strength from the decision of Hon'ble Supreme Court in the case of General Insurance Corporation of India Ltd. vs. CIT, 240 ITR 139 (SC) wherein it has been held as under :-

> *"Section 44 of the Income-tax Act is a special provision governing computation of taxable income earned from business of insurance.* ***It opens with a non-obstante clause and thus has an overriding effect over other provisions contained in the Act****. It mandates the assessing authorities to compute the taxable income for business*

of insurance in accordance with the provisions of the First Schedule. A plain reading of Rule 5(a) of the First Schedule makes it clear that in order to attract the applicability of the said provision, the amount should firstly be an expenditure or allowance. Secondly, it should be one not admissible under the provisions of Sections 30 to 43A. If the amount is not an expenditure or allowance, the question of testing its eligibility for adjustment by reference to Rule 5 (a) to the First Schedule would not arise at all."

Further, Hon'ble Delhi High Court in the case of PCIT vs. Oriental Insurance Co. Ltd.

(2020) 273 Taxmann 427 at para 9 of its order held as under :-

9. We have heard learned counsels and are of the view that no substantial question of law arises for our consideration. The Tribunal has interpreted s. 44 read with the first schedule and concluded that applicability of s. 14A is excluded in relation to computation of income of an insurance company. We have examined the relevant provisions. Sec. 44 begins with a non-obstante clause and overrides the other provisions of the Act as mentioned therein including s. 14A. We are not convinced with the submission of Mr. Ajit Sharma that s. 14A would be applicable in respect of the respondent. Sec. 14A does not have independent legs to stand on. Sec. 14A inter alia begins with the words "for the purposes of computing the total income under this chapter, no deduction shall be allowed in respect of expenditure incurred.....". The chapter in question is Chapter IV. This chapter also contains the provisions relating to computation of profits and gains of business or profession. Sec. 44 specifically excludes the provisions of the Act relating to computation of income, inter alia, those contained in "Sec. 28 to 43B". Thus, the exclusion would take within its sweep s. 14A which is an exemption for deductions as allowable under the Act, as provided under ss. 28 to 43B. Further, s. 44 is a special provision applicable in the cases of insurance companies and applies, notwithstanding anything to the contrary contained in the provisions of the IT Act relating to the computation of income chargeable under different heads. For computing the profits and gains of the business of insurance company, the AO had to resort to s. 44 and the prescribed rules, and could not have applied s. 28 to 43B, since the same were excluded from the purview of s. 44. This necessarily includes the exception provision enshrined under s. 14A of the Act. Therefore, in our view, the AO could not have travelled beyond s. 44 in the first schedule of the Act. Besides, the Tribunal has also invoked the rule of consistency since the same view of the Tribunal has prevailed in respect of the earlier assessment years i.e. 2000-01, 2001-02 and 2005-06."

Recently, the coordinate bench of the ITAT Pune Bench vide its order dated 19.04.2022 in case of DCIT vs. Bajaj Allianz General Insurance Co. Ltd. 36 NYPTTJ 475 has decided the issue in favour of assessee by relying on the aforesaid decision of Oriental Insurance Co. Ltd. (supra).

5.2 Apart from this, we are also of the view that where two views are possible and the AO has taken one view, then in that eventuality the assessment order cannot be treated as erroneous or prejudicial to the interest of the revenue. This is for the reason that while exercising the revisionary jurisdiction, the ld. PCIT is not sitting in appeal. In this regard, we draw strength from the decisions of Hon'ble Supreme Court and coordinate benches of the Tribunal, as under :-

> **CIT Vs. Kwality Steel Suppliers Complex (2017) 395 ITR 1 (SC)**
> Where two views are possible and the AO has taken one view, the assessment order cannot be treated as erroneous or prejudicial to the interest of revenue. This is for the reason that while exercising the revisionary jurisdiction, the CIT is not sitting in appeal. In the instant case, the assessee firm was constituted with two partners viz., mother and son. It stood dissolved by the operation of law in view of the death of one of the partners, i.e. the mother but the business did not come to an end as the other partners, viz., son who inherited the share of the mother continued with the business. In this situation, there was no question of selling the assets of the firm including stock-in-trade and therefore, it was not necessary to value stock-in-trade at market price. Thus, the view taken by AO in accepting the book value of the stock-in-trade was a plausible and permissible view and therefore, the CIT could not exercise his powers u/s 263.
>
> **CIT Vs. Max India 295 ITR 282 (SC)**
> Where two views are possible and the ITO has taken one view with which the CIT does not agree, it cannot be treated as an erroneous order prejudicial to the interest of the Revenue, unless the view taken by the ITO is unsustainable in law. When the CIT passed the impugned order under sec. 263, two views were inherently possible on the word "profits" occurring in the proviso to s. 80HHC(3). Subsequent amendment of sec.80HHC(3) made in the year 2005, though retrospective, did not render the order of the AO erroneous and prejudicial to the interest of the Revenue and CIT could not exercise powers under sec. 263.

Malabar Industrial Co. Ltd. Vs. CIT 243 ITR 83 (SC)

A bare reading of section 263 of the Income-tax Act, 1961, makes it clear that the prerequisite for the exercise of jurisdiction by the Commissioner suomotu under it, is that the order of the Income-tax Officer is erroneous in so far as it is prejudicial to the interests of the Revenue. The Commissioner has to be satisfied of twin conditions, namely, (i) the order of the Assessing Officer sought to be revised is erroneous; and (ii) it is prejudicial to the interests of the Revenue. If one of them is absent i.e. if the order of the Income-tax Officer is erroneous but is not prejudicial to the Revenue or if it is not erroneous but is prejudicial to the Revenue, recourse cannot be had to section 263(1) of the Act. The provision cannot be invoked to correct each and every type of mistake or error committed by the Assessing Officer. It is only when an order is erroneous that the section will be attracted. An incorrect assumption of facts or an incorrect application of law will satisfy the requirement of the order being erroneous. In the same category fall orders passed without applying the principles of natural justice or without application of mind. The phrase ‘‘prejudicial to the interests of the Revenue’’ has to be read in conjunction with an erroneous order passed by the Assessing Officer. Every loss of revenue as a consequence of an order of the Assessing Officer cannot be treated as prejudicial to the interests of the Revenue. For example, when an Income-tax Officer adopted one of the courses permissible in law and it has resulted in loss of revenue, or where two views are possible and the Income-tax Officer has taken one view with which the Commissioner does not agree, it cannot be treated as an erroneous order prejudicial to the interests of the Revenue unless the view taken by the Income-tax Officer is unsustainable in law.

Sir Dorabji Tata Trust Vs. DCIT(E) 188 ITD 38 dt.28.12.2020 (Mum.)(Trib.)

The Hon’ble ITAT Mumbai Bench in Para 19-21 held as under:-

“19. The question that we also need to address is as to what is the nature of scope of the provisions of Expln. 2(a) to s. 263 to the effect that an order is deemed to be "erroneous and prejudicial to the interests of the Revenue" when CIT is of the view that "the order is passed without making inquiries or verification which should have been made".

20. Undoubtedly, the expression used in Expln. 2 to s. 263 is "when CIT is of the view," but that does not mean that the view so formed by the CIT is not subject to any judicial scrutiny or that such a view being formed is at the unfettered discretion of the CIT. The formation of his view has to be in a reasonable manner, it must stand the test of judicial scrutiny, and it must have, at its foundation, the inquiries, and verifications expected, in the ordinary course of performance of duties, of a prudent, judicious and responsible public servant-that an AO is expected to be. If we are to proceed on the basis, as is being urged by the learned Departmental Representative

and as is canvassed in the impugned order, that once CIT records his view that the order is passed without making inquiries or verifications which should have been made, we cannot question such a view and we must uphold the validity of revision order, for the recording of that view alone, it would result in a situation that the CIT can de facto exercise unfettered powers to subject any order to revision proceedings. To exercise such a revision power, if that proposition is to be upheld, will mean that virtually any order can be subjected to revision proceedings; all that will be necessary is the recording of the CIT's view that "the order is passed without making inquiries or verification which should have been made". Such an approach will be clearly incongruous. The legal position is fairly well settled that when a public authority has the power to do something in aid of enforcement of a right of a citizen, it is imperative upon him to exercise such powers when circumstances so justify or warrant. Even if the words used in the statute are prima facie enabling, the Courts will readily infer a duty to exercise a power which is invested in aid of enforcement of a right—public or private—of a citizen. [LHirdayNaran vs. ITO (1970) 78 ITR 26 (SC)]. As a corollary to this legal position, when a public authority has the powers to do something against any person, such an authority cannot exercise that power unless it is demonstrated that the circumstances so justify or warrant. In a democratic welfare state, all the powers vested in the public authorities are for the good of society. A fortiorari, neither can a public authority decline to exercise the powers, to help anyone, when circumstances so justify or warrant, nor can a public authority exercise the powers, to the detriment of anyone, unless circumstances so justify or warrant. What essentially follows is that unless the AO does not conduct, at the stage of passing the order which is subjected to revision proceedings, inquiries and verifications expected, in the ordinary course of performance of duties, of a prudent, judicious and responsible public servant–that an AO is expected to be, CIT cannot legitimately form the view that "the order is passed without making inquiries or verification which should have been made". The true test for finding out whether Expln. 2(a) has been rightly invoked or not is, therefore, not simply existence of the view, as professed by the CIT, about the lack of necessary inquiries and verifications, but an objective finding that the AO has not conducted, at the stage of passing the order which is subjected to revision proceedings, inquiries and verifications expected, in the ordinary course of performance of duties, of a prudent, judicious and responsible public servant that the AO is expected to be.

21. That brings us to our next question, and that is what a prudent, judicious, and responsible AO is to do in the course of his assessment proceedings. Is he to doubt or test every proposition put forward by the assessee and investigate all the claims made in the IT return as deep as he can ? The answer has to be emphatically in negative because, if he is to do so, the line of demarcation between scrutiny and investigation will get blurred, and, on a more practical note, it will be practically impossible to complete all the assessments allotted to him within no matter how liberal a time-limit is framed. In scrutiny assessment proceedings, all that is required to be done is to examine the IT return and claims made therein as to whether these are prima facie in accordance with the law and where one has any reasons to doubt the

correctness of a claim made in the IT return, probe into the matter deeper in detail. He need not look at everything with suspicion and investigate each and every claim made in the IT return; a reasonable prima facie scrutiny of all the claims will be in order, and then take a call, in the light of his expert knowledge and experience, which areas, if at all any, required to be critically examined by a thorough probe. While it is true that an AO is not only an adjudicator but also an investigator and he cannot remain passive in the face of a return which is apparently in order but calls for further inquiry but, as observed by Hon'ble Delhi High Court in the case of Gee Vee Enterprises vs. Addl. CIT &Ors. 1975 CTR (Del) 61 : (1995) 99 ITR 375 (Del) , "it is his duty to ascertain the truth of the facts stated in the return when the circumstances of the case are such as to provoke an inquiry. (Emphasis, by underlining, italicised in print, supplied by us). It is, therefore, obvious that when the circumstances are not such as to provoke an inquiry, he need not put every proposition to the test and probe everything stated in the IT return. In a way, his role in the scrutiny assessment proceedings is somewhat akin to a conventional statutory auditor in real-life situations. What Justice Lopes said, in the case of Re Kingston Cotton Mills (1896) 2 Ch.D 279, 288), in respect of the role of an auditor, would equally apply in respect of the role of the AO as well. His lordship had said that an auditor (read AO in the present context)" is not bound to be a detective, or, as was said, to approach his work with suspicion or with a foregone conclusion that there is something wrong. He is a watch-dog, but not a bloodhound". Of course, an AO cannot remain passive on the facts which, in his fair opinion, need to be probed further, but then an AO, unless he has specific reasons to do so after a look at the details, is not required to prove to the hilt everything coming to his notice in the course of the assessment proceedings. When the facts as emerging out of the scrutiny are apparently in order, and no further inquiry is warranted in his bona fide opinion, he need not conduct further inquiries just because it is lawful to make further inquiries in the matter. A degree of reasonable faith in the assessee and not doubting everything coming to the AO's notice in the assessment proceedings cannot be said to be lacking bona fide, and as long as the path adopted by the AO is taken bona fide and he has adopted a course permissible in law, he cannot be faulted-which is a sine qua non for invoking the powers under s. 263. In the case of Malabar Industrial Co. Ltd. vs. CIT (2000) 159 CTR (SC) 1 : (2000) 243 ITR 83 (SC) , Hon'ble Supreme Court has held that "Every loss of revenue as a consequence of an order of the AO cannot be treated as prejudicial to the interests of the Revenue, for example, when an ITO adopted one of the courses permissible in law and it has resulted in loss of revenue; or where two views are possible and the ITO has taken one view with which the CIT does not agree, it cannot be treated as an erroneous order prejudicial to the interests of the Revenue unless the view taken by the ITO is unsustainable in law." The test for what is the least expected of a prudent, judicious and responsible AO in the normal course of his assessment work, or what constitutes a permissible course of action for the AO, is not what he should have done in the ideal circumstances, but what an AO, in the course of his performance of his duties as an AO should, as a prudent, judicious or reasonable public servant, reasonably do bona fide in a real-life situation. It is also important to bear in mind the fact that lack of bona fides or

unreasonableness in conduct cannot be inferred on mere suspicion; there have to be some strong indicators in direction, or there has to be a specific failure in doing what a prudent, judicious and responsible officer would have done in the normal course of his work in the similar circumstances. On a similar note, a Co-ordinate Bench of the Tribunal, in the case of Narayan T. Rane vs. ITO (2016) 70 taxmann.com 227 (Mumbai) has observed as follows:

> *20. Clause (a) of Explanation states that an order shall be deemed to be erroneous, if it has been passed without making enquiries or verification, which should have been made. In our considered view, this provision shall apply, if the order has been passed without making enquiries or verification which a reasonable and prudent officer shall have carried out in such cases, which means that the opinion formed by learned Principal CIT cannot be taken as final one, without scrutinising the nature of enquiry or verification carried out by the AO vis-a-vis its reasonableness in the facts and circumstances of the case. Hence, in our considered view, what is relevant for cl. (a) of Expln. 2 to s. 263 is whether the AO has passed the order after carrying our enquiries or verification, which a reasonable and prudent officer would have claimed out or not. It does not authorise or give unfettered powers to the learned Principal CIT to revise each and every order, if in his opinion, the same has been passed without making enquiries or verification which should have been made."*

Satya Narayan Dhoot Vs. PCIT (2023) 222 DTR 177 (Jodhpur) (Trib.)

AO having sought break-up details of long-term investments, the expenses earned in relation to the exempt income and the details of availability of non-interest bearing funds and the assessee having replied that it has not incurred any expenditure relating to exempt income, it has to be held that the AO has made enquiries during the course of assessment proceedings with regard to the disallowance to be made u/s 14A and therefore, the revision order passed by the Principal CIT on the ground that the assessee has incurred interest expenses and it should have been disallowed u/s 14A is not sustainable.

Nalco Company Vs. CIT (2021) 200 DTR 275 (Pune) (Trib.)

If the AO makes inquiry, examines the issue which is borne out from the record of the assessment proceedings and then reaches a conclusion in favour of the assessee which is legally possible, the assessment order cannot be characterized as erroneous and prejudicial to the interest of the Revenue. Since none of the four clauses of the Expln. 2 to sec. 263(1) applies to the case under consideration, revisionary power even under the enlarged scope of the Expln. 2 was not legally exercisable.

Reliance Payment Solutions Ltd. Vs. PCIT (2022) 212 DTR 297 (Mum.)(Trib.)

AO having specifically looked into the issue before accepting the detailed submission made by the assessee, the assessment order cannot be said to be erroneous and prejudicial to the interest of revenue merely because the AO has not written the specific reasons for accepting the explanation of the assessee and therefore, invocation of powers u/s 263 was not justified."

The ld. PCIT has relied on the decision of ITAT, Pune Bench and Delhi High Court but in these cases the AO has not called for any specific details or made any enquiry. Hence these decisions are not applicable. Further, the decision of Hon'ble Supreme Court in case of Malabar Industrial Co. Ltd. vs. CIT 243 ITR 83 (SC) is in favour of the assessee as explained supra. Hence the order passed by ld. PCIT holding the order of AO as erroneous and so far as prejudicial to the interests of the revenue is wrong, illegal & bad in law and not tenable in law. We, therefore, on the basis of above detailed discussion and also considering the case laws discussed hereinabove, are of the view that the impugned order of ld. PCIT deserves to be set aside.

6. In the result, this appeal of the assessee is allowed.

Order pronounced in the open court on 28/06/2023.

Sd/-	Sd/-
(राठौड़ कमलेश जयंतभाई)	(संदीप गोसाई)
(RATHOD KAMLESH JAYANTBHAI)	(SANDEEP GOSAIN)
लेखा सदस्य / Accountant Member	न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 28/06/2023.

Das/

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

1. अपीलार्थी/The Appellant- Shriram General Insurance Co. Ltd., Jaipur.
2. प्रत्यर्थी/ The Respondent- The PCIT, Jaipur-2, Jaipur.
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त/ CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर/DR, ITAT, Jaipur.
6. गार्ड फाईल/ Guard File {ITA No. 260/JP/2023}

आदेशानुसार/ By order,

सहायक पंजीकार/Asst. Registrar