

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

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

आयकर अपील सं./ITA. No. 313/JP/2023
निर्धारण वर्ष / Assessment Years : 2016-17

Gillette India Ltd SPA-65A, Industrial Area, Bhiwadi District- Alwar	बनाम Vs.	PCIT, Jaipur-1
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAACI 3924 J		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Sh. P. C. Parwal
राजस्व की ओर से / Revenue by : Sh. Ajay Malik (CIT)

सुनवाई की तारीख / Date of Hearing : 19/07/2023
उदघोषणा की तारीख / Date of Pronouncement : 27/09/2023

आदेश / ORDER

PER: RATHOD KAMLESH JAYANTBHAI, AM

This appeal is filed by the assessee aggrieved from the order of the Principal Commissioner of Income Tax, Jaipur-1 [Here in after referred as Ld. PCIT] for the assessment year 2016-17 dated 21.03.2023 which in turn arise from the order dated 31.03.2021 passed under section 143(3) r.w.s 144C(13) r.w.s. 143(3A) & 143(3B) of the Income Tax Act [here in after "Act"] by national National e-Assessment Centre [here in after "NeFAC/ld. AO"].

2. The assessee has marched this appeal on the following grounds:-

“1. On the facts and circumstances of the case and in law, order passed under section 263 of the Act setting aside the original assessment and directing the AO to make the assessment afresh is erroneous, illegal & bad in law in as much as the Ld. PCIT has erred in:-

- (a) not appreciating that in assessment order dt.31.03.2021 all the issues were duly examined & verified and thus the order of AO is not erroneous in terms of clause (a) or (b) of Explanation 2 of Section 263 of the Act.*
- (b) issuing the notice u/s 263 by broadly looking at financial statements, ITR, Tax Audit report, Form 10CCB etc. without conducting any enquiry or verification of its own to hold that assessment order passed u/s 143(3) r.w.s. 144C(13) is unsustainable in law.*
- (c) not pointing out any discrepancy or incorrectness in the submission and documentary evidence filed in course of proceeding u/s 263.*

2. On the facts and the circumstances of the case and in law, the Ld. PPCIT has erred by holding that employee’s contribution to PF amounting to Rs.2,59,71,570/- should have been disallowed by the AO without:-

- (a) appreciating that the employee contribution to provident fund amounting to Rs.2,14,97,991/- was paid by the assessee within the due date as specified in Explanation to section 36(1)(va).*
- (b) appreciating that the employee contribution to provident fund amounting to Rs.2,14,97,991/- was paid by the assessee within the grace period as extended by EPFO Circular issued vide No. WSU/9(1) 2013/ Settlement/35631 dt. 08.01.2016.*
- (c) considering that the payment of PF for the month of March of Rs.44,73,579/- was deposited on 16th of April 2016 due to bank holiday on 15th April.*

3. On the facts and the circumstances of the case and in law, the Ld. PCIT has erred in holding that entire amount of International transaction reported in Form 3CEB of Rs.28,83,46,471/- should have been subjected to TDS u/s 195 of the Act and the difference of Rs.1,06,97,070 /- should have been disallowed by AO by:-

- (a) *failing to understand the basic difference between transactions on which TDS is to be deducted u/s 195 of the Act and the transactions that are required to be reported in Form 3CEB.*
- (b) *not appreciating that the transactions mentioned in Form 3CEB include certain amounts which are not liable for taxation u/s 195 of the Act being in the nature of business income (not having Business connection or Permanent Establishment in India) or reimbursement of expenses.*
- (c) *not considering the detailed reconciliation submitted along with documentary evidence in response to notice u/s 263 of the Act.*
- (d) *not appreciating the fact that clause 34(a) of the form only reflects the amounts on which TDS is deducted u/s 195 of the Act with regard to payments made to Non-Residents.*

4. *On the facts and the circumstances of the case and in law, the Ld. PCIT has erred by holding that no TDS was made on commission paid to directors of Rs.52,41,000/- and 30% of this amount i.e. Rs.15,72,300/- should have been disallowed u/s 40(a)(ia) of the Act by:-*

- (a) *ignoring that the TDS is deducted on Rs.44,00,000/- u/s 192 of the Act and duly deposited within the due dates.*
- (b) *not appreciating that the TDS on accrued amount of Rs.8,25,000/- is deducted and deposited in subsequent FY on payment basis u/s 192 of the Act.*

5. *On the facts and the circumstances of the case and in law, the Ld. PCIT has erred by holding that the total rent of Rs.8,74,00,000/- paid during the year should have been subjected to TDS under section 194-I of the Act and 30% of the balance amount of Rs.3,20,28,825/- on which no TDS was deducted u/s 194-I of the Act i.e. Rs.96,08,647/- should have been disallowed by AO by:-*

- (a) *not considering the basic threshold limit below which TDS is not deductible as provided u/s 194I of the Act, 1961.*
- (b) *not appreciating that on certain expenses included in rent, tax is deducted at source u/s 194C, for example, travel, logistics and transport etc.*
- (c) *not considering the party wise breakup of rent expense amounting to Rs.8,74,00,000/- and the corresponding section under which TDS was deducted submitted during proceedings u/s 263.*

6. On the facts and the circumstances of the case and in law, the Ld. PCIT has erred by holding that amount of club fees of Rs.2,08,800/- ought to be disallowed by the AO by:-

- (a) not considering the fact that assessee has incurred the club membership fee on account of business expediency which is an allowable expenditure u/s 37 of the Act, 1961.
- (b) not appreciating the submission filed in response to notice issued u/s 263 wherein it was brought to the kind attention of Ld. PCIT that aforementioned expenditure was reported under clause 21(a) of the Form 3CD only for disclosure purpose.
- (c) not appreciating that the reporting criteria of clause 21(a) of Form 3CD has not used the terms disallowance or inadmissible as compared to some other clauses which specifically require the tax auditor to report disallowable or inadmissible expense.

7. On the facts and the circumstances of the case and in law, the Ld. PCIT has erred by holding that there is under-reporting of scrap sales amounting to Rs.80,20,987/- which should have been added to the total income of the assessee by the AO by:-

- (a) not considering the fact mentioned under the submission filed in response to notice issued u/s 263 of the Act wherein it was submitted that sale of scrap amounting to Rs.1,29,20,987/- was duly included under schedule 18 of the audited financial statements under the head total-other operating revenues.
- (b) not examining the audited financial statement submitted during the course of assessment as well as submitted by tax auditors with Form 3CD.

8. On the facts and the circumstances of the case, the Ld. PCIT has erred in holding that assessee has failed to submit the separate balance sheet and profit & loss account of eligible business along with Form 10CCB or during the course of assessment proceedings, therefore, the deduction claimed by assessee u/s 80IC is not legally allowable ignoring that separate audited balance sheet and profit & loss account was submitted in response to notice issued u/s 263 of the Act and that same is not required to be submitted along with the return.

8.1. On the facts and the circumstances of the case, the Ld. PCIT has erred in holding that the figure of sales claimed in Form 10CCB is not tallying with the figures of sales disclosed in VAT ignoring that:-

- (a) deduction u/s 80-IC is available to any undertaking which has begun or begins to manufacture or produce any article or thing in

notified area & section does not require that entire sales should also be made in that notified area or state.

- (b) sales made in the state of Himachal Pradesh was only Rs. 54 lakhs and the goods sent outside the state to other units of the assessee company for selling therefrom was Rs. 400.59 crores.*

8.2 On the facts and the circumstances of the case, the Ld. PCIT has erred in holding that there was a diversion of sales and profits of non-eligible business to eligible business by:-

- (a) not appreciating that the net profit of eligible unit undertaking is derived from only one activity whereas the net profit of the assessee at the entity level is from multiple activities.*
- (b) not appreciating that the total net profit ratio of the company has significantly increased in the year under consideration as compared to previous years.*
- (c) not rebutting the explanation filed in proceedings u/s 263 that the revenue of eligible unit as compared to total revenue at entity level is a meagre 6.95% and that the deduction claimed on the profits of eligible unit as compared to total taxable income is a meagre 4.07%.*

8.3 On the facts and the circumstances of the case, the Ld. PCIT has erred in holding that there was misreporting of facts in Form 3CEB ignoring that:-

- (a) in note 39 of audited financial statements all related party transactions has been disclosed both of domestic as well as international transactions.*
- (b) transfer pricing audit has certified that the particulars given in the Annexure of Form 3CEB are true and correct.*

8.4 On the facts and the circumstances of the case, the Ld. PCIT has erred in holding that there was a deliberate attempt of the appellant of non-disclosure by not filing Balance sheet in VAT15BS and Profit & loss account in VAT15PL with VAT returns of eligible unit to VAT authorities by not appreciating that:-

- (a) the separate audited financial statements of Baddi Unit (eligible unit) was filed in proceedings u/s 263.*
- (b) filing of figures in VAT15BS and VAT15PL is optional.*
- (c) there is no requirement under the Act to reconcile the figures from VAT return to claim deduction u/s 80IC.*

9. *The Appellant craves leave to add to add/or or alter, amend, rescind, modify the grounds herein above and/or produce further documents before or at the time of hearing of this appeal”*

3. The fact as culled out from the records is that in this case, return of income was e-filed on 29.11.2016 vide acknowledgement No. 545787771291116 declaring an income of Rs. 3,96,12,05,160/- and book profit u/s 115JB of Rs. 3,81,83,04,690/-. This case was selected for scrutiny under CASS. The statutory notice under section 143(2) of the Income Tax Act, 1961 was issued on 10.07.2017 which was duly served upon the assessee online and as well as through speed post. In compliance to the notice, the AR of the assessee company had furnished copy of ITR, Audit Report, Form-3CEB and computation of income for the year under consideration. Subsequently, notice u/s 142(1) along with a detailed questionnaire was issued on 04.11.2019 to the assessee fixing the case for hearing on 11.11.2019. During the year under consideration the assessee company was engaged in the manufacturing and sale of razors, blades, shaving systems, cartridges and other personal grooming products, tooth brushes, batteries and small electrical appliances, Mach-III and sensor blades are imported from overseas Gillette group companies and

sold in the domestic market. There was no change in the nature of business activities of the company as compared to earlier years. The assessee company continues to derive income from such activities. Based on the details so filed the Id. AO noted that the accounts of the assessee are audited. The audit reports in Form no. 3CD, 3CEB and other required details were furnished by the assessee. The assessee has maintained the Books of Account and other related records in an electronic form using "Fourth Shift", and Enterprise Resource Planning based software "SAP". The books of accounts maintained by the assessee comprise of cash book, bank book, general ledger and subsidiary ledgers like sale, purchase, debtors and creditors ledger, apart from this the assessee company maintains payroll record. Fixed asset record, stock register etc. The assessee filed details / documents on ITBA portal on various dates. On perusal of the details filed by the assessee and on a detailed deliberation the assessment in this case was finalised by making the following additions :

Returned Income	Rs. 3,96,12,05,160/-
Add:	
1. Addition on a/c of AMP expenses :	Rs. 1,85,58,94,000/-
2. Addition on a/c of royalty payment :	Rs. 11,83,50,107/-
3. Addition on intra group service charges payment:	Rs. 22,09,573/-
4. Disallowance of Inventory Written Off :	Rs. 5,98,33,389/-
Total Income:	Rs. 5,99,74,92,229/-

Rounded off :

Rs. 5,99,74,92,230/-

4. On culmination of assessment proceeding the case records were called for examination by the Principal Commissioner of Income Tax, Jaipur -1. On examination of the case records the PCIT noticed the following issue from the records of the assessing office:

1. On examination of the details available on record and on perusal of the details of payment of PF/ESI contributions of the employees, within the meaning of section 36(1)(va) of the Act reported by the auditors in form 3CD, it was seen that PF contributions of the employees were not deposited within the specified due date under the Provident Fund Act and should not have been deducted from income for the computation of the tax liability of the assessee. It was also noted that in the computation of income, the assessee had suo-moto disallowed the amount not paid within the grace period. For the remaining amounts, it was claimed that the same were paid within the grace period and thus not disallowable u/s 36(1)(va) of the Act. However, this contention is not acceptable. The provision of the grace period under the PF Act is for the contributions of the employer and not for the contributions of the employees collected by the assessee. Moreover the said grace period is for exemption of penalty leviable under the Provident Fund Act, which provides that in case the employer deposits the amount within the grace period no penalty under the Provident Fund Act would be levied upon it. As such this provision does not extend the due date of payment/deposit applicable so as to claim deduction u/s 36(1)(a) of the Act. Further, this grace period of five days, for late deposit of employer's contribution has also been withdrawn by EPFO Circular issued vide No WSU/9 (1) 2013/settlement/35631 dated 8.1.2016. Thus the claim of the assessee was legally incorrect and the AO should have further disallowed the amount of Rs. 25971570/- u/s 36(1)(va) read with section 2(24)(x) of the Act

2. Perusal of the record also shows that one of the main reasons for selection of the case for complete scrutiny was "large outwards remittances by the assessee and to check as to whether appropriate

provisions of withdrawal have been complied with." This was basically for examining the foreign remittances, reporting in form 15CA and TDS made thereon u/s 195 of the Act. It was noticed that in clause 34(a) of the Audit report Form 3CD, the Auditors had reported that the assessee had made total amount of foreign remittances of Rs 27,76,49,301/, on which TDS had been deducted u/s 195 of the Act. However, on verification of the same from the details of payments mentioned in the form 3CEB, it was noticed that the assessee had made payments of expenses to the Associate Enterprises which should have been subjected to TDS u/s 195 of the Act. As tax has been deducted at source only on Rs 277649301 u/s 195 of the Act, this implied that on balance amount of Rs. 10697070/-, no tax was deducted at source and thus the same was disallowable u/s 40(a) of the Act.

3. The assessee had paid commission of Rs. 52.41,000/- to the directors as claimed in ITR. In clause 34(a) of form 3CD total commission liable to TDS u/s 194H of the Act is shown at Rs 11564105/- but this amount does not include the commission paid to the directors. As per details filed by the assessee, during the course of assessment proceedings, vide reply dated 11.11.19, the payment of commission shown in clause 34(a) was to two concerns namely M/s Spencer Retails Ltd and M/s Universal enterprises. No tax was deducted at source on commission paid to directors as their names are not reflected in the list of deductees submitted by the assessee.

4. Further, as per ITR, total rent paid amounted to Rs 8.74,00,000/- However, in clause 34(a) of Form 3CD, the total amount of rent paid as well as payment liable to TDS were shown at Rs 8,05,089/- u/s 1941A and Rs 5,45,66,086/- u/s 1941B. Thus, as per clause 34(a) total Rs 5,53,71,175/- was subjected to TDS u/s 1941A and 1941B. Hence it becomes apparent that the balance amount of Rs 3,20,28,825/- of rent was paid without TDS and thus 30% of this amount Rs 96,08,647/- was disallowable u/s 40(a)(ia) of the Act.

On this issue, it is also observed, based on comments of the auditors below the Annexure J of signed copy of form 3CD, that the Auditors have not properly checked the compliance of TDS and they have simply relied upon the representation of the company that in view of voluminous data, it is not practicable for the company to prepare the complete reconciliation of the amounts reported with the corresponding expenses charged in the profit and loss account. The Auditors have further remarked that the assessee had represented that no other amounts were there in accounts other than the amounts reported in clause 34(a) on

which TDS was liable and further the auditors have also relied upon the representation without verification by them that the amount deducted/collected has been paid within the prescribed time under the Act. It means the auditors have not performed their legal duties cast upon them by the Act, in correct and right perspective and whatever the assessee has submitted/represented to them, the same has been reported by them in the statutory audit report. During the assessment proceedings, the AO questioned about TDS compliance, to which the assessee stated that since the TDS details given in Audit Form 3CD were duly audited by the statutory auditors, the same should be relied upon and accepted. The AO has accepted the version submitted by the assessee and no further query/examination was made for various TDS compliances and results thereof.

5. It was also noticed that as per clause 21(a) of form 3CD, there was an inadmissible claim of club fees of Rs. 2,08,800/- u/s 37 of the Act. This amount was neither been added back by the assessee in computation of business income nor was the same been disallowed by the AO.

6. It was noted that in the ITR, the assessee had disclosed income from sale of scrap at Rs 49,00,000/-, whereas, in clause 34(a) of form 3CD, the amount of scrap sale, on which TCS has been made u/s 206C, has been reported at Rs. 1,29,20,987/-. As such there is a prima facie case of under disclosure of sales of scrap by Rs 80,20,987/-. During the assessment proceedings the AO has neither questioned the said issue nor has he otherwise examined it as to why the sales of scrap have been under reported in ITR as compared to figures reported in clause 34(a) of form 3CD for amounts liable to TCS. From the facts on records it became apparent that there was under disclosure of sales of Rs 80,20,98/- resulting in to under assessment/computation of total income by this amount.

7. On examination of the ITR and other records available on system, it is observed that the assessee. had claimed a deduction of Rs 16,15,77,820/- u/s 80IC of the Act. For this purpose, the assessee had filed form 10CCB of the Act, which reflected that the assessee had a manufacturing concern at Plot No 4, Apparel park Industrial Area KhathaBhatoliKalan, Baddi Himachal Pradesh. As per claims made in the form 10CCB, the assessee had recorded sales of Rs. 144.83 crore on which a profit of Rs 53.86 crore has been earned and out of that profit, deduction @ 30 % has been claimed u/s 80TC of the Act. On verification/examination of the other details/documents filed during the course of assessment proceedings, this claim u/s. 80TC is prima-facie not admissible for the following reasons:

(i) One of the basic and mandatory conditions for claiming deduction u/s 801C of the Act is furnishing of Audit report in form 10CCB along with separate accounts of the eligible unit. Rule 18BBB of the Income Tax Rules, 1962 (the Rules) mandates maintenance of separate accounts and submission of separate balance sheet and profit and loss account of the eligible unit along with Form 10CCB. However, on verification of the records, it is found that no separate balance sheet and profit and loss account of the eligible units are filed along with the Form 10CCB or during the course of assessment proceedings. The balance sheet and profit and loss account filed with Form 10CCB are consolidated balance sheet and profit and loss account. As such, since the mandatory condition required for claiming of deduction u/s 801C of the Act is not fulfilled, the claim is not legally allowable.

(ii) In absence of separate profit and loss account of the eligible unit, the correctness of claims made in Form 10CCB was not subject to any verification/examination. In order to ascertain the correctness of the facts related to the eligible unit, as mentioned in form 10CCB, the details/claims made by the assessee in VAT return filed for this unit were examined. The assessee had filed VAT return of the eligible unit in Form VAT-XV-A vide acknowledgement No 90190251589873 on 18.10.2016 for the period 1.4.2015 to 31.3.2016. A copy of this VAT return was filed by the assessee during the assessment proceedings, which revealed that total sales of the eligible unit were of Rs 54.41 lakh only during FY 2015-16. Clause 24(1) of VAT return clearly states that sale price received and receivable for goods sold during return period are of Rs 54,41,233/- only, which consisted taxable sales of Rs 33,02,58/-. This figure of taxable sales is further confirmed from details enclosed in form LS-1 with VAT return. As against this sale (disclosed by you before the VAT authorities), the sales claimed in form 10CCB are of Rs 144.83 crore. This figure did not tally with the figures of sales disclosed in VAT return.

(iii) The VAT return further disclosed transfer of goods within or outside the state otherwise than sales are of Rs 400.95 crores. This implies that the eligible unit was mainly involved in the activities of inter unit transfers of goods. It may be seen that if the claims made by the assessee in Form 10CCB were to be accepted, then the assessee would show a Net Profit(NP) rate of 37.18%. However, the overall NP rate declared in audit report form 3CD is 17.90% only. The overall NP included a receipt of Rs 65.51 crore which was received as discontinuation facilitation income for discontinuation of 'duracel' business. If this income were to be excluded, being an extra ordinary item, the overall NP rate of non- eligible business

would only be 13.50% only. It was thus a clear case of diversion of sales and profits of non-eligible business to eligible business.

(iv) If the claims made in VAT return were compared with the domestic transactions disclosed in form No 3CEB, it would be seen that as against inter unit transfer to goods of Rs 400.95 crores from eligible unit to non-eligible units, form 3CEB (clause 23A) shows NIL amount. Similarly in clause 24 of form 3CEB, it was reported that transactions with any eligible unit which had resulted in more than ordinary profits to an eligible business was "NIL". This showed mis-reporting of facts in Form 3CEB and that is why the outward transactions of Rs 400.95 crores from eligible unit to non-eligible units remained unnoticed by the TPO and were not subjected to any TP adjustments by him.

(v) With the VAT return, there is a mandatory requirement of filing of balance sheet in form VAT15BS and profit and loss account in form VAT15PL. It is noticed that in these two forms, filed with VAT return, the assessee had reported NIL figures for all columns of balance sheet as well as of profit and loss account. Thus, it shows a deliberate attempt not to disclose separate financial statements of the eligible unit either to the Income Tax authorities with Form 10CCB or to VAT authorities with VAT return.

In view of above it was clear that the deduction claimed u/s 801C of the Act was not allowable firstly for the reason of not fulfilling the mandatory requirements of submission of separate accounts of the eligible unit as per mandate of rule 18BBB of the Act and secondly the facts on record showed no substantial profit of this unit. The AO failed to examine the case properly on this issue and did not disallow the claim causing an under assessment/computation of income by Rs 16,15,77,820/-."

In view of the above mentioned facts, it appeared that the assessment order passed u/s. 143(3) r.w.s.144C of the Act in the case of the assessee was erroneous in so far as it is prejudicial to the interest of the revenue. Based on these observations the Id. PCIT proposed to modify the order u/s. 263 of the Act and

therefore, the assessee was given an opportunity of being heard to the assessee vide notice dated 28.02.2023 generated on the ITBA. The assessee filed the reply dated 09.03.2023 and on perusal of the reply the Id. PCIT noted as under :

“16. I have perused the assessment order of the AO, the reply of the assessee along with the documents placed on record. Perusal of the above documents shows the following:-

(1) On going through details of PF/ESI contributions of employees, it is seen that the assessee has not deposited ESI/PF contribution of employees within the due date as prescribed in those acts. Total of such delayed amount comes out to be Rs 3,01,86,158/- which is liable to be disallowed u/s 36(1)(va) of the Act read with section 2(24)(x) of the Act. However, the assessee has itself disallowed only Rs 42,14,588/- in its computation. Thus the remaining amount Rs 2,59,71,570/- should have been disallowed by the AO.

(ii) It is seen that in clause 34(a) of the audit report form 3CD the auditors have reported that the assessee has made total amount of foreign remittances of Rs 27,76,49,301/-, on which TDS has been made u/s 195 of the Act. When this fact is verified from the details of payments mentioned in the form 3CEB it is noticed that the assessee has made total payments of expenses to the AES of Rs 28,83,46,471/- which should have been subjected to TDS u/s 195 of the Act. Thus no TDS has been made on difference of Rs 1,06,97,070/- which should have been disallowed by the AO.

iii) The assessee has paid commission of Rs. 52.41,000/- to its directors as claimed in ITR. However no TDS was made on commission paid to directors. As such 30% of this amount of Rs 5241000/- i.e. Rs 15,72,300/- should have been disallowed u/s 40(a)(a) of the Act.

(iv) As per ITR the assessee has paid total rent of Rs 8,74,00,000/- during the year. However in clause 34(a) of Form 3CD the total amount of rent paid as well as payment liable to TDS are shown at Rs 8,05,089/- u/s 1941A and Rs 5,45,66.086/- u/s 1941B. Thus balance amount of Rs 3,20,28,825/- of rent was paid without TDS and 30% of this amount i.e. Rs. 96,08,647/- should have been disallowed u/s. 40(a)(ia) of the Act.

(v) On going through ITR it is seen that as per clause 21(a) of form 3CD, there is an inadmissible claim of club fees of Rs 2.08,800/- u/s 37

of the Act. This amount has neither been added back by the assessee in computation of business income nor has the same been disallowed by the AO. Thus the amount of Rs 2,08,800/- ought to be disallowed and added back to the income of the assessee.

(vi) Ongoing through ITR and other details furnished by the assessee it is seen that the assessee has disclosed income from sale of scrap at Rs 49,00,000/-, whereas, in clause 34(a) of form 3CD, the amount of scrap sale, on which TCS has been made w/s 206C, has been reported at Rs. 1,29.20,987/-. Thus, difference of Rs 80,20,987/- is under reporting of scrap sale by the assessee which should have been added to the total income of the assessee by the AO.

(viii) On going through ITR and other details furnished by the assessee, it is seen that the assessee has claimed a deduction of Rs 16,15,77,820/- u/s 801C of the Act. As per claims made in the form 10CCB, the assessee has made sales of Rs. 144.83 crore on which a profit of Rs 53.86 crore has been earned and out of that profit deduction @ 30% has been claimed u/s 801C of the Act. However following anomalies have been observed with regard to the said deduction:

(a) On verification of the records, it is seen that no separate balance sheet and profit and loss account of the eligible units are filed along with the form 10CCB or during the course of assessment proceedings. The balance sheet and profit and loss account filed with form 10CCB are consolidated balance sheet and profit and loss account of the assessee. As such, since the mandatory condition required for claiming of deduction u/s 801C is not fulfilled, the claim is not legally allowable.

(b) The assessee has filed VAT return of the eligible unit in Form VAT-XV-A vide acknowledgement No 90190251589873 on 18.10.2016 for the period 1.4.2015 to 31.3.2016. A copy of this VAT return has been filed by the assessee during the assessment proceedings, which reveals that total sales of the eligible unit were of Rs 54.47 lakh only during FY 2015-16. As against this sale (disclosed by the assessee voluntarily before the VAT authorities), the sales claimed in form 10CCB are of Rs 144.83 crore. This figure is not tallying with the figures of sales disclosed in VAT.

(c) The VAT return further discloses transfer of goods within or outside the state otherwise than sales are of Rs 400.95 crores. It means, the eligible unit was, mainly involved in the activities of inter unit transfers of goods. It may be seen that if the claims of the assessee in form 10CCB are accepted then it shows a NP rate of 37.18%, whereas the overall NP rate declared in audit report form 3CD is 17.90% only. The overall NP of the assessee included a receipt of Rs 65.51 crore received as discontinuation facilitation income for discontinuation of its duracell business. If this income is excluded, being an extra ordinary item, the overall NP rate of non-eligible business is just 13.50% only.

This points to diversion of sales and profits of non-eligible business to eligible business.

(d) If the claims made in VAT return are compared with the domestic transactions disclosed in form No 3CEB, it may be seen that as against inter unit transfer to goods of Rs 400.95 crores from eligible unit to non-eligible units, form 3CEB (clause 23A) shows NIL amount. Similarly in clause 24 of form 3CEB, the assessee has again reported that transactions with any eligible unit which has resulted in more than ordinary profits to an eligible business are also reported at "NIL" This shows clear mis-reporting of facts in form 3CEB and that is why the outward transactions of Rs 400.95 crores from eligible unit to non-eligible units remained unnoticed by the TPO and were not subjected to any TP adjustments by him.

(e) With the VAT return, there is a mandatory requirement of filing of balance sheet in form VAT 15BS and profit and loss account in form VAT 15PL. It is noticed that in these two forms, filed with VAT return, the assessee has reported NIL figures for all columns of balance sheet as well as of profit and loss account. Thus, it shows a deliberate attempt of the assessee not to disclose separate financial statements of the eligible unit neither to the Income Tax authorities with form 10CCB nor to VAT authorities with VAT return."

Thus on the basis of above facts, the deduction claimed u/s 801C by the assessee should have been disallowed by the AO.

17. As discussed above, the Assessing Officer failed to apply his mind on the material available on record and failed to invoke the applicable provisions of law. This in turn has resulted in passing of an erroneous order by the Assessing Officer in the case due to non-application of mind to relevant material, an incorrect assumption of facts and an incorrect application of mind to the law which is prejudicial to the interest of the revenue and hence liable for revision under section 263 of the Income Tax Act. The Hon'ble Supreme Court in the case of Malabar Industrial Limited V/S CIT 243 ITR it has held as under-

"... 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."

18. Considering all the facts and circumstances of the case and for the reasons discussed above, the assessment order dated 31/03/2021 for A.Y. 2016-17 passed by the AO is held erroneous in so far as it is prejudicial to the interests of the revenue for the purpose of section 263 of the Act. The said order has been passed by the AO in a routine and casual manner without verification of the issues discussed in above paras. The order of the AO is, therefore, liable to revision under the explanation (2) clause (a) and clause (b) of section 263 of the Act. The

assessment order is set aside to be made afresh in the light of the observations made in this order. The AO is required to make necessary verification and examine in depth the issues discussed above in accordance with the prevailing law to determine the correct income of the assessee liable to tax for the A.Y.2016-17 after affording reasonable opportunity to the assessee.”

5. Aggrieved from the above order of the PCIT passed u/s. 263 of the Act the assessee has preferred this appeal on the grounds as reiterated here in above in para 2 above. Apropos to the grounds so raised the Id. AR appearing on behalf of the assessee has placed their written submission on record and the same is reproduced here in below;

“On the facts and circumstances of the case and in law, order passed under section 263 of the Act setting aside the original assessment and directing the AO to make the assessment afresh is erroneous, illegal & bad in law in as much as the Ld. PCIT has erred in:-

- (d) not appreciating that in assessment order dt.31.03.2021 all the issues were duly examined & verified and thus the order of AO is not erroneous in terms of clause (a) or (b) of Explanation 2 of Section 263 of the Act.*
- (e) issuing the notice u/s 263 by broadly looking at financial statements, ITR, Tax Audit report, Form 10CCB etc. without conducting any enquiry or verification of its own to hold that assessment order passed u/s 143(3) r.w.s. 144C(13) is unsustainable in law.*
- (f) not pointing out any discrepancy or incorrectness in the submission and documentary evidence filed in course of proceeding u/s 263.*

Facts:-

1. Assessee is engaged in manufacturing and sale of razors, blades, shaving systems, cartridges and other personal grooming products. It filed its return declaring total income of Rs.3,96,12,05,160/-. The case was selected for complete scrutiny inter-alia to examine the international and domestic transaction, deduction claimed under Chapter VI-A and admissibility of the expenses claimed.

2. AO issued notice u/s 142(1) dt. 04.11.2019 raising 37 queries (PB 68-71). At Point No.6, 31 and 34 of the notice the issue of TDS and deduction under Chapter VI-A was specifically raised. The same was complied by the assessee vide letter dt. 11.11.2019, 29.11.2019, 16.12.2019. The AO after considering the same completed the assessment as per the direction of DRP on 31.03.2021 at total income of Rs.5,99,74,92,230/-.
3. The Ld. PCIT issued notice u/s 263 dt. 28.02.2023 on the issue of delay in deposit of employee's contribution to PF, non-deduction of tax at source on foreign remittance, commission and rent, inadmissibility of club fees, under-reporting of scrap sale and claim of deduction u/s 80-IC. The assessee filed a detailed reply dt. 09.03.2023 explaining each of the issues raised. The Ld. PCIT, however, without pointing out any discrepancy or incorrectness in the submission made supported by documentary evidences held that on each of the issues raised in notice u/s 263 the AO failed to apply his mind on the material available on record and failed to invoke the applicable provisions of law making his order erroneous in so far as prejudicial to the interest of the revenue and directed him to make addition for the same by setting aside the assessment order to be made afresh in the light of the observations made in the order.

Submission:-

1. At the outset it is submitted that the Ld. PCIT has invoked clause (a) and clause (b) of Explanation 2 to Section 263 to held the order of AO erroneous in so far as prejudicial to the interest of the revenue. As per clause (a) and clause (b) of Explanation to section 263, an order shall be deemed to be erroneous in so far as prejudicial to the interest of the revenue, if the order is passed without making enquiries and verification which should have been made or the order is passed allowing any relief without enquiring into the claim.
2. In the present case, the Ld. PCIT at Para-16, Pg 18 to 20 held the order of AO erroneous on following issues:-
 - (i) Delay in deposit of employees contribution to PF
 - (ii) Non-deduction of TDS on all foreign remittance
 - (iii) Non-deduction of TDS on commission paid to directors
 - (iv) Non-deduction of TDS on payment of rent
 - (v) Inadmissible claim of club fees
 - (vi) Under-reporting of scrap sale
 - (vii) Anomaly in deduction claimed u/s 80-IC
3. It is submitted that there is no delay in deposit of employee's contribution to PF as explained before the PCIT (Pg 9-11 of the order) and explained with reference to Ground No.2 below. There is no default

of non-deduction of tax at source as explained in Ground No.3, 4 and 5 below. Further this issue has been thoroughly examined by the AO in course of assessment proceeding as is evident from notice u/s 142(1) dt. 04.11.2019 and reply of the assessee dt. 11.11.2019. The payment of club fees is not inadmissible expenditure as explained to PCIT supported by the case laws mentioned at Page 13 of the order and further explained in Ground No.6 below. There is no under-reporting of scrap sale as explained at Page 14 of the order and further explained in Ground No.7 below. There is no anomaly in claim of deduction u/s 80-IC as explained to PCIT at Page 14 to 18 of the order and further explained in Ground No.8 below. This issue was also examined by the AO in course of assessment proceeding as evident from reply dt. 29.11.2019. Thus, on none of the issues raised in notice u/s 263, the order of the AO can be held to be erroneous so far as prejudicial to the interest of the revenue. In this connection reliance is placed on the following cases:-

PCIT 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 PCIT 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 PCIT could not exercise his powers u/s 263.

PCIT Vs. Max India 295 ITR 282 (SC)

Where two views are possible and the ITO has taken one view with which the PCIT 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 PCIT 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 PCIT could not exercise powers under sec. 263.

Malabar Industrial Co. Ltd. Vs. PCIT 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 suo motu 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. DPCIT(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 PCIT 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 PCIT is of the view," but that does not mean that the view so formed by the PCIT is not subject to any judicial scrutiny or that such a view being formed is at the unfettered discretion of the PCIT. 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 PCIT 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 PCIT 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 PCIT'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 PCITizen, 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 PCITizen. [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 fortiori, 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, PCIT 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 Explan. 2(a) has been rightly invoked or not is, therefore, not simply existence of the view, as professed by the PCIT, 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. PCIT & 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. PCIT (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 PCIT 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 PCIT 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 PCIT 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."

Nalco Company Vs. PCIT (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 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. PPCIT (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.

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

Ground No.2

On the facts and the circumstances of the case and in law, the Ld. PPCIT has erred by holding that employee's contribution to PF amounting to Rs.2,59,71,570/- should have been disallowed by the AO without:-

- (d) *appreciating that the employee contribution to provident fund amounting to Rs.2,14,97,991/- was paid by the assessee within the due date as specified in Explanation to section 36(1)(va).*
- (e) *appreciating that the employee contribution to provident fund amounting to Rs.2,14,97,991/- was paid by the assessee within the grace period as extended by EPFO Circular issued vide No. WSU/9(1) 2013/ Settlement/35631 dt. 08.01.2016.*
- (f) *considering that the payment of PF for the month of March of Rs.44,73,579/- was deposited on 16th of April 2016 due to bank holiday on 15th April.*

Facts and Submission:-

1. The Ld. PCIT at Page 18, Para 16(i) held that the total delayed payment of employee's contribution to PF is Rs.3,01,86,158/- out of which assessee itself disallowed Rs.42,14,588/- in its computation. Hence, the remaining amount of Rs.2,59,71,570/- should have been disallowed by the AO.
2. The details of the amount of Rs.2,59,71,570/- as given at Page 10 of the order is as under:-

S. No.	Amount (INR)	Due Date of Deposit	Actual Date of Deposit	Delay in Days
1	41,90,834/-	15.05.2015	18.05.2015	3 days
2	42,07,642/-	15.07.2015	16.07.2015	1 day
3	42,67,718/-	15.10.2015	16.10.2015	1 day

4	44,14,532/-	15.12.2015	18.12.2015	3 days
5	44,17,265/-	15.01.2016	20.01.2016	5 days
6	44,73,579/-	15.04.2016	16.04.2016	1 day
Total	2,59,71,570/-			

From the above it can be noted that the delay is between 1 day to 5 days. As per Paragraph 38(1) of EPF Scheme, 1952 read with Para 5.1.3 of manual of accounting procedure, a grace period of 5 days is allowed to remit the contribution. This has been withdrawn vide order dt. 08.01.2016 (PB 24) to apply from February, 2016 (contribution for the month of January, 2016 and payable in the month of February, 2016). Thus, where delay is upto 5 days, the same is treated as paid within due date prescribed under the relevant statute. In the present case, the amount mentioned at S. No.1 to 5 is paid within the grace period of 5 days and therefore the same having been paid within due date cannot be disallowed u/s 36(1)(va) of the Act. For this proposition reliance is placed in the case of PCIT Vs. Hind Filter Ltd. [2018] 90 Taxmann.com 51 (Bom.), CIT Vs. Rambal (P) Ltd. [2018] 96 Taxmann.com 170 (Madras) and CIT Vs. Bharat Hotel Limited [2019] 103 Taxmann.com 295 (Delhi) where it is held that contribution made after the due date of the relevant fund but within the grace period allowed under the relevant statute is to be allowed as deduction.

So far as contribution for the month of March, 2016 payable on 15.04.2016 but paid on 16.04.2016 is concerned, it can be noted that the cheque was sent for clearing on 15.04.2016 but the same cleared from the bank on 16.04.2016. Otherwise also, 15th April was bank holiday (PB 25) and therefore amount cleared on 16.04.2016 is within due date as per section 10 of General Clauses Act, 1977.

- Thus the employee's contribution to PF having been deposited within the due date of the relevant statute, the same cannot be disallowed u/s 36(1)(va) of the Act and therefore the order passed u/s 263 on this issue is not sustainable in law.

Ground No.3

On the facts and the circumstances of the case and in law, the Ld. PCIT has erred in holding that entire amount of International transaction reported in Form 3CEB of Rs.28,83,46,471/- should have been subjected to TDS u/s 195 of the Act and the difference of Rs.1,06,97,070 /- should have been disallowed by AO by:-

- (e) *failing to understand the basic difference between transactions on which TDS is to be deducted u/s 195 of the Act and the transactions that are required to be reported in Form 3CEB.*
- (f) *not appreciating that the transactions mentioned in Form 3CEB include certain amounts which are not liable for taxation u/s 195 of the Act being in the nature of business income (not having Business connection or Permanent Establishment in India) or reimbursement of expenses.*
- (g) *not considering the detailed reconciliation submitted along with documentary evidence in response to notice u/s 263 of the Act.*
- (h) *not appreciating the fact that clause 34(a) of the form only reflects the amounts on which TDS is deducted u/s 195 of the Act with regard to payments made to Non-Residents.*

Facts and Submission:-

1. The Ld. PCIT at Pg 18, Para 16(ii) of the order has observed that clause 34(a) of Form No.3CD (PB 120) has reported that total foreign remittance is of Rs.27,76,49,301/- on which TDS has been made u/s 195 of the Act. However, in Form No.3CEB total payment of expenses to associated enterprises is of Rs.28,83,46,471/- (PB 123-134) on which tax should have been deducted and therefore difference of Rs.1,06,97,070/- should have been disallowed by the AO.
2. It is submitted that Ld. PCIT has not appreciated the facts and the purpose of reporting in Form No.3CD and Form No.3CEB. In clause 34(a) of Form No.3CD the accountant is to report the tax deducted u/s 195 of the Act with regards to payment made to non-residents whereas in Form No.3CEB the accountant is required to report the international transaction or specified domestic transaction which may not be liable for taxation u/s 195 of the Act being in the nature of business income or reimbursement of the expenses. Hence on the basis of the difference in the figures reported in two Forms, it cannot be presumed that the same is disallowable. The assessee before the PCIT has filed a reconciliation statement along with necessary documentary evidences by way of invoice and Form No.15CA to highlight that no deduction u/s 195 is required to be made on certain amount reported in Form No.3CEB (PB 26). The Ld. PCIT without pointing out any discrepancy in the same has held that the difference of Rs.1,06,97,070/- should have been disallowed by the AO even when the tax auditor has not reported any disallowance u/s 40(a)(i) of the Act. Further AO in course of assessment proceeding has also examined this issue as per Point No.31 of notice dt. 04.11.2019 (PB 70). Hence, the disallowance proposed by the Ld. PCIT is unjustified, unwarranted and beyond the scope of section 263.

Ground No.4

On the facts and the circumstances of the case and in law, the Ld. PCIT has erred by holding that no TDS was made on commission paid to directors of Rs.52,41,000/- and 30% of this amount i.e. Rs.15,72,300/- should have been disallowed u/s 40(a)(ia) of the Act by:-

- (c) *ignoring that the TDS is deducted on Rs.44,00,000/- u/s 192 of the Act and duly deposited within the due dates.*
- (d) *not appreciating that the TDS on accrued amount of Rs.8,25,000/- is deducted and deposited in subsequent FY on payment basis u/s 192 of the Act.*

Facts and Submission:-

1. The Ld. PCIT at Pg 18, Para 16(iii) observed that assessee has paid commission of Rs.52,41,000/- to its directors but no tax is deducted at source. Accordingly, he held that 30% of such amount, i.e. Rs.15,72,300/- should have been disallowed u/s 40(a)(ia) of the Act.
2. It is submitted that Ld. PCIT has not looked into the facts correctly. In the Profit & Loss A/c, the assessee has claimed commission paid to directors at Rs.52,25,000/- and not Rs.52,41,000/-. In fact in reply dt. 16.12.2019 to the AO (PB 118), commission paid to the directors is wrongly totaled at Rs.52,41,000/- whereas the correct total is Rs.52,25,000/-. It may be noted that at each year end assessee made provision for commission payable to directors which is reversed on the next date and actual payment of commission is made in the next year after approval by the Board of Directors. Accordingly the commission which was provided in FY 2014-15 was paid during the year on 31.08.2015 on which tax was deducted at source (PB 89). Similarly in FY 2015-16 commission was provided at the year end which was actually paid after the approval in the meeting of Board of Directors held on 10.08.2016 (PB 53-54) and actual payment was made on 23.08.2016 when tax is deducted at source. Thus, when on the entire commission paid to the directors, tax has been deducted at source, no disallowance u/s 40(a)(ia) can be made. The tax auditor has also not reported any disallowance u/s 40(a)(ia) of the Act. Further AO in course of assessment proceedings has also examined this issue at Point No.31 of notice dt. 04.11.2019 (PB 70) and Point No.J of reply dt. 16.12.2019 (PB 118). Hence, disallowance proposed by the Ld. PCIT is unjustified, unwarranted and beyond the scope of section 263.

Ground No.5

On the facts and the circumstances of the case and in law, the Ld. PCIT has erred by holding that the total rent of Rs.8,74,00,000/- paid during the year should have been subjected to TDS under section 194-I

of the Act and 30% of the balance amount of Rs.3,20,28,825/- on which no TDS was deducted u/s 194-I of the Act i.e. Rs.96,08,647/- should have been disallowed by AO by:-

- (d) not considering the basic threshold limit below which TDS is not deductible as provided u/s 194I of the Act, 1961.*
- (e) not appreciating that on certain expenses included in rent, tax is deducted at source u/s 194C, for example, travel, logistics and transport etc.*
- (f) not considering the party wise breakup of rent expense amounting to Rs.8,74,00,000/- and the corresponding section under which TDS was deducted submitted during proceedings u/s 263.*

Facts and Submission:-

1. The Ld. PCIT at Pg 18, Para 16(iv) of the order observed that assessee paid rent of Rs.8,74,00,000/- but in clause 34(a) of Form No.3CD the amount of rent paid u/s 194-IA and 194-IB liable to TDS is shown at Rs.5,53,71,175/-. Accordingly, he held that 30% of the balance amount of Rs.3,20,28,825/-, i.e. Rs.96,08,647/- should have been disallowed u/s 40(a)(ia) of the Act.
2. It is submitted that Ld. PCIT has not properly appreciated the facts. In the Profit & Loss A/c, assessee has debited rent expenses of Rs.8,74,49,998/- (PB 55). This includes payment of taxi hire charges as well as payment of rent. In the tax audit report, in clause 34(a) of Form No.3CD rent payment on which tax is deducted at source u/s 194-I(a) & 194-I(b) is reported at Rs.5,53,71,175/-. On the balance amount tax is deducted u/s 194-C being payment made towards taxi hiring charges or transport charges or for carrying out any work or tax was not deductible being below the threshold limit. The tax auditor has also not reported any disallowance u/s 40(a)(ia) of the Act. Further AO in course of assessment proceeding has also examined this issue at Point No.31 of notice dt. 04.11.2019 (PB 70) and at Point No.5 of reply dt. 11.11.2019 (PB 74 & 80-112). Hence, disallowance proposed by the Ld. PCIT is unjustified, unwarranted and beyond the scope of section 263.

Ground No.6

On the facts and the circumstances of the case and in law, the Ld. PCIT has erred by holding that amount of club fees of Rs.2,08,800/- ought to be disallowed by the AO by:-

- (a) not considering the fact that assessee has incurred the club membership fee on account of business expediency which is an allowable expenditure u/s 37 of the Act, 1961.*

- (b) *not appreciating the submission filed in response to notice issued u/s 263 wherein it was brought to the kind attention of Ld. PCIT that aforementioned expenditure was reported under clause 21(a) of the Form 3CD only for disclosure purpose.*
- (c) *not appreciating that the reporting criteria of clause 21(a) of Form 3CD has not used the terms disallowance or inadmissible as compared to some other clauses which specifically require the tax auditor to report disallowable or inadmissible expense.*

Facts and Submission:-

1. The Ld. PCIT at Pg 18-19, Para 16(v) of the order observed that as per clause 21(a) of Form No.3CD, there is an inadmissible claim of club fees of Rs.2,08,800/- u/s 37 of the Act. This amount ought to be disallowed and added back to the income of assessee.
2. It is submitted that expenditure incurred on payment of club membership fees is towards business expediency as it provides an opportunity to develop business contacts. The reporting in clause 21(a) of Form No.3CD is only for disclosure. There is no section in the Income Tax Act to disallow the club membership fees. Hon'ble ITAT Jaipur Branch in case of ACIT Vs. Popular Art Palace Private Ltd. 82 Taxman 274 has held that clubs like Lions Club provide an opportunity to the assessee to develop business contacts, whereas Dinners Club besides providing business facilities at important centers also provides credit card facility which may be useful at certain business meetings and in travelling. Hence, it was in interest of business to become members of this clubs, the subscription of which is allowable as business expenditure. Thus, when AO has taken a plausible view, the same cannot be subject matter of action u/s 263 of the Act.

Ground No.7

On the facts and the circumstances of the case and in law, the Ld. PCIT has erred by holding that there is under-reporting of scrap sales amounting to Rs.80,20,987/- which should have been added to the total income of the assessee by the AO by:-

- (a) *not considering the fact mentioned under the submission filed in response to notice issued u/s 263 of the Act wherein it was submitted that sale of scrap amounting to Rs.1,29,20,987/- was duly included under schedule 18 of the audited financial statements under the head total-other operating revenues.*
- (b) *not examining the audited financial statement submitted during the course of assessment as well as submitted by tax auditors with Form 3CD.*

Facts and Submission:-

1. The Ld. PCIT at Pg 19, Para 16(vi) of the order observed that assessee has disclosed income from sale of scrap at Rs.49,00,000/- whereas in clause 34(a) of Form No.3CD, the amount of scrap sale on which TCS has been collected u/s 206C is reported at Rs.1,29,20,987/-. He thus held that difference of Rs.80,20,987/- is under reporting of scrap sales and should have been added to the total income of the assessee by the AO.
2. It is submitted that in Note No.18 of the audited financial statements (copy enclosed), sale of scrap and other raw material is reported under other operating revenue of Rs.172 lacs comprising of sale of scrap Rs.49 lacs and sale of raw material Rs.123 lacs. The scrap has been defined u/s 206C to mean waste and scrap from the manufacturing or mechanical working of material which is definitely not usable as such because of breakage, cutting-up, wear and other reasons. Thus, part of the sale of raw material also is covered by the meaning of scrap u/s 206C. Accordingly, out of total other operating revenue of Rs.172 lacs, tax u/s 206C has been collected on scrap sale of Rs.129 lacs as reported in clause 34(b) of Form No.3CD. The details are enclosed. Thus, it is incorrect on part of PCIT to presume that assessee has under-reported scrap sale by Rs.80,20,987/- (Rs.1,29,20,987-Rs.49,00,000) by not appreciating that even the sale of raw material include sale of waste which is covered by the definition of scrap. Otherwise also, it is ridiculous to presume that such large multi-corporates would under-report the petty scrap sale. Hence, the addition proposed by PCIT without appreciating the explanation of the assessee is illegal and bad in law.

Ground No.8

On the facts and the circumstances of the case, the Ld. PCIT has erred in holding that assessee has failed to submit the separate balance sheet and profit & loss account of eligible business along with Form 10CCB or during the course of assessment proceedings, therefore, the deduction claimed by assessee u/s 80IC is not legally allowable ignoring that separate audited balance sheet and profit & loss account was submitted in response to notice issued u/s 263 of the Act and that same is not required to be submitted along with the return.

Ground No.8.1

On the facts and the circumstances of the case, the Ld. PCIT has erred in holding that the figure of sales claimed in Form 10CCB is not tallying with the figures of sales disclosed in VAT ignoring that:-

- (a) *deduction u/s 80-IC is available to any undertaking which has begun or begins to manufacture or produce any article or thing in notified*

area & section does not require that entire sales should also be made in that notified area or state.

- (b) *sales made in the state of Himachal Pradesh was only was Rs. 54 lakhs and the goods sent outside the state to other units of the assessee company for selling therefrom was Rs. 400.59 crores.*

Ground No.8.2

On the facts and the circumstances of the case, the Ld. PCIT has erred in holding that there was a diversion of sales and profits of non- eligible business to eligible business by:-

- (a) *not appreciating that the net profit of eligible unit undertaking is derived from only one activity whereas the net profit of the assessee at the entity level is from multiple activities.*
- (b) *not appreciating that the total net profit ratio of the company has significantly increased in the year under consideration as compared to previous years.*
- (c) *not rebutting the explanation filed in proceedings u/s 263 that the revenue of eligible unit as compared to total revenue at entity level is a meagre 6.95% and that the deduction claimed on the profits of eligible unit as compared to total taxable income is a meagre 4.07%.*

Ground No.8.3

On the facts and the circumstances of the case, the Ld. PCIT has erred in holding that there was misreporting of facts in Form 3CEB ignoring that:-

- (a) *in note 39 of audited financial statements all related party transactions has been disclosed both of domestic as well as international transactions.*
- (b) *transfer pricing audit has certified that the particulars given in the Annexure of Form 3CEB are true and correct.*

Ground No.8.4

On the facts and the circumstances of the case, the Ld. PCIT has erred in holding that there was a deliberate attempt of the appellant of non-disclosure by not filing Balance sheet in VAT15BS and Profit & loss account in VAT15PL with VAT returns of eligible unit to VAT authorities by not appreciating that:-

- (a) *the separate audited financial statements of Baddi Unit (eligible unit) was filed in proceedings u/s 263.*
- (b) *filing of figures in VAT15BS and VAT15PL is optional.*

- (c) *there is no requirement under the Act to reconcile the figures from VAT return to claim deduction u/s 80IC.*

Facts and Submission:-

1. The Ld. PCIT at Pg 19-20, Para 16(viii) of the order observed that assessee claimed deduction of Rs.16,15,77,820/- u/s 80-IC by filing Form No.10CCB but the same should have been disallowed by AO due to following anomalies:-
 - a. Assessee has not filed separate Balance Sheet and Profit & Loss A/c of the eligible unit.
 - b. In the VAT Return, total sales of eligible unit is declared at Rs.54.47 lacs but claimed in Form 10CCB at Rs.144.83 cr.
 - c. The VAT Return discloses transfer of goods within or outside the state at Rs.400.95 cr. On sale of the transfer of goods from the eligible unit, the NP Rate declared is 37.18% whereas overall NP Rate as per audit report in Form No.3CD is 17.90% and if extraordinary income is reduced, the overall NP Rate would be only 13.50%. This point to diversion of sale and profits of non-eligible business to eligible business.
 - d. Against the inter-unit transfer of goods of Rs.400.97 cr. from eligible unit to non-eligible unit, Form No.3CEB (clause 23A) shows Nil amount. Further clause 24 of Form No.3CEB which requires reporting of more than ordinary profits to the eligible business is reported at Nil. Due to mis-reporting of facts in Form-3CEB the inter-unit transfer of goods of Rs.400.95 cr. remained un-noticed by the TPO and not subjected to any TP Adjustment.
 - e. With the VAT Return, there is a mandatory requirement of filing Balance Sheet in Form VAT-15BS and Profit & Loss A/c in Form VAT-15PL, but assessee has reported Nil figure which shows a deliberate attempt not to disclose separate financial statements of eligible unit.
2. It is submitted that the Ld. PCIT has not correctly understood the fact and made incorrect observations. In fact deduction u/s 80-IC has been claimed in respect of the manufacturing unit established at Baddi. There are two units of which deduction u/s 80-IC is available only on one unit, i.e. Guard unit. In the VAT return of both units, transfer of products other than Guard unit are reflected whereas assessee has prepared separate financials for Guard unit where turnover declared is Rs.144 cr. which is lower than Rs.400.59 cr. disclosed in the VAT return. Each of the observation made by Ld. PCIT is explained hereunder:-

- a. The assessee is having Guard manufacturing unit at Baddi, Himachal Pradesh which is a eligible unit for claim of deduction u/s 80-IC and the assessee has been regularly claiming such deduction from AY 2010-11 and is allowed such deduction. For claiming the deduction, assessee every year files audit report and Form No.10CCB (copy enclosed) along with separate audited financial statements (PB 56-67).
- b. The issue of claim of deduction u/s 80-IC was also raised at Point No.34 of notice u/s 142(1) dt. 04.11.2019 (PB 70) in course of the regular assessment proceedings. The assessee in its reply dt. 29.11.2019 at Point No.3 (PB 115) referred to Form No. 10CCB along with audited financial statement of Guard unit and statement showing computation of deduction u/s 80-IC in respect of profit and gains of the business of Guard unit. The AO after examining the same allowed the deduction u/s 80-IC. Thus, when AO has examined the claim in the original assessment proceedings, the same cannot be subject matter of proceedings u/s 263 to held the order of the AO erroneous.
- c. The Ld. PCIT has incorrectly stated that separate Balance Sheet and Profit & Loss A/c of the eligible unit is not filed with Form No.10CCB ignoring that assessee has prepared separate financial statement of Guard Unit which is also filed in proceedings u/s 263 of the Act (PB 18). The financial statements are duly audited by the Chartered Accountant on 23.11.2016 and on that basis AO has correctly allowed deduction u/s 80-IC at Rs.16,15,77,820/-.
- d. The sale of goods of Guard Unit as per the audited financial statement is of Rs.144.84 cr. but as per VAT return the sale is Rs.54.47 lacs apart from inter-unit transfer of goods of Rs.400.95 cr. This variation is for the reason that deduction u/s 80-IC is allowable under Profit and Gains of the manufacture and sale by eligible manufacturing unit anywhere. Thus sale can be in notified area or outside as well whereas in the VAT return of Himachal Pradesh only the sale made at Himachal Pradesh is required to be declared. Hence, comparison of the figures reflected in the VAT return has no relevance to the sale recorded in the audited financial statement of the eligible unit.
- e. The net profit ratio of eligible unit as per audited financial statement is 35.84% whereas net profit ratio of computed income of eligible unit is 37.18%. As against this the overall NP rate of the assessee is 17.90% only. This variation is for the reason that the eligible unit is exclusively engaged in manufacturing of razors and blades whereas assessee at entity level has multiple functional profiles which includes manufacturing and selling of grooming products, portable power and oral care business. Hence, it is incorrect to compare the assessee's overall profitability at entity level with the profitability of the eligible unit. Otherwise also, out of total grooming sale of Rs.1496.71 cr., the sale of eligible unit is only Rs.144.83 cr. representative only 9.67% of grooming product sale and 6.95% of the total revenue at entity level.

Further deduction claimed u/s 80-IC at Rs.16.15 cr. is mere 4.07% of the total taxable income of Rs.396.12 cr. Therefore, it is incorrect on part of Ld. PCIT to presume that there is diversion of sales and profits of non-eligible business to the eligible business.

- f. The Ld. PCIT has incorrectly mentioned that in Form No.3CEB assessee has shown Nil amount in clause 23A in respect of transfer of goods by eligible business to any other business but he ignored that in clause 23B the assessee has reported inter-unit acquisition of goods from other business to the eligible business at Rs.13.95 cr.
- g. The Ld. PCIT has also incorrectly observed that it is a mandatory requirement of filing Balance Sheet in Form VAT-15BS and Profit & Loss A/c in Form VAT-15PL whereas there is no such mandatory requirement. Further the audited financial statement of eligible unit was signed on 23.11.2016 whereas Annual VAT return of Himachal Pradesh was filed on 18.10.2016 and therefore due to unavailability of audited financials, the optional figure of Balance Sheet and Profit & Loss A/c were not filed. However this cannot be a reason to allege that there is any deliberate attempt of the assessee not to disclose the financial statement of the eligible unit particularly when financial statement of eligible unit was filed with Form No.10CCB and deduction u/s 80-IC is also reported in clause 33 of the Tax Audit Report.

In view of above, it is incorrect on part of Ld. PCIT to hold that AO should have disallowed the deduction claimed u/s 80-IC of the Act ignoring that assessee has explained the so called anomalies and such deduction has been allowed to the assessee in the past.”

5.1 The Id. AR appearing on the behalf of the assessee objected to the invocation of the provision of the section 263 of the Act and submitted that every order of the Id. AO is not subjected to provision of section 263 of the Act and if the issue is observed in such a way, then every order is found to be prejudicial to the interest of the revenue. The Id. AO has based on the details submitted passed a detailed order and the issue that has been

flagged are general and not specific faults that has been found by the Id. PCIT even from the submission so filed by the assessee. The Id. AR of the assessee carried to our attention to the notice dated 04.11.2019 demonstrated that the issue of TDS [question no. 6, 31 – APB page 69 & 70] has already applied his mind and the Id. PCIT intend to invoke the provision of section 263 just to see the Id. AO should have made the enquiry the way he wanted and the same is not permissible under the law. As regards the delay in payment of ESI/PF the Id. AR of the assessee submitted that the delay is between 1 to 5 days and as per the manual of accounting procedure a grace period of 5 days is allowed to remit the contribution and therefore, the claim is in accordance with the limit line. As regards the remittance made outside India the assessee company has followed the law and filed all the details and has collected the withholding of the tax u/s. 195 of the Act. The assessee has also filed the reconciliation before the PCIT justifying that the no deduction u/s. 195 is required to be made. As regards the commission paid to directors commission was provided at the year end which was actually paid after the approval in the meeting of the board of directors and tax has been deducted when the actual payment is done and this explanation of the assessee is not

found at fault by the Id. PCIT. As regards the TDS on rent the same was on account of the rent and taxi hire charges and was not deductible being below the threshold limit under the law and even the tax auditor has not pointed out any discrepancies on that issue. As regards the club fees he has submitted that the same is in the interest of business activity of the assessee and it is thus allowable on the decision relied upon in the written submission. As regards the income on sale of scrap the Id. AR of the assessee submitted that difference is on account of sale of Raw material include sale of waste and therefore, in fact there is no under reporting of the sales. As regards the deduction u/s. 80 IC the Id. AR of the assessee submitted that PCIT incorrectly observed that it is mandatory requirement of filling balance sheet in form VAT-15BS and infact there is no such requirement and that cannot be reason to allege that there is deliberate attempt of the assessee not to disclose the financial statement of eligible unit, when financial statement of eligible unit was filed with the form no. 10CCB and deduction u/s. 80IC is duly reported in form no. 3CD. Based on these arguments the Id. AR submitted that the crux of various grounds raised by the assessee is that the revision-order passed by Ld. PCIT u/s 263 is bad in law, illegal and deserves to be quashed since the same has

been passed even when the order of assessment is neither erroneous nor prejudicial to the interest of revenue. In support of the contentions so raised the Id.AR of the assessee relied upon the following documents :

S. No.	Particulars	Page No.
1	Copy of notice dt. 28.02.2023 issued u/s 263 of IT Act	1-4
2	Copy of assessee's reply dt. 09.03.2023 in response to above notice	5-23
3	Copy of order dt. 08.01.2016 issued by Employees Provident Fund Organisation withdrawing the grace period of 5 days from February, 2016	24
4	List of Rajasthan Bank Holidays 2016	25
5	Reconciliation statement of amount as per Section 195 vs. Form No. 3CEB along with invoice and Form No. 15CA showing that no deduction u/s 195 is required to be made on certain amount reported in Form No. 3CEB.	26-51
6	Papers relating to commission payable to Directors	52-54
7	Details of party wise rent expenses as per financial statement	55
8	Copy of Balance Sheet and P & L A/c of Guard Baddi unit	56-67
9	Copy of notice dt. 04.11.2019 issued by ACIT u/s 142(1) IT Act, 1961	68-71
10	Copy of assessee's reply dt. 11.11.2019 in response to above notice along with following documents:- -Computation of total income -Comparative gross profit and net profit ratios for three years -TDS statement -List of shareholders as on 31.03.2016	72-77 78 79 80-112 113
11	Copy of assessee's further reply dt. 29.11.2019 in response to above notice dt. 04.11.2019	114-116
12	Copy of assessee's reply dt. 16.12.2019 in response to notice dt. 08.12.2019 issued u/s 142(1) of IT Act, 1961	117-118

13	Copy of Form 3CD	119-122
14	Copy of Form No. 3CEB	1230134

6. Per contra, we heard the Id DR who has relied on the findings of the Id. PCIT recorded in the order passed u/s. 263 of the Act on each of the seven aspects raised by the PCIT. He further submitted that the PCIT has dealt the submission of the assessee on each of the seven aspects of the case and passed a speaking order holding that the order passed by the Id. AO is erroneous and prejudicial to the interest of the revenue. The Id. DR vehemently argued that on the issue of TDS and withholding of the tax u/s. 195 of the Act, the assessee one hand relying on the finding of the CA and on the other hand CA submit that they have relied upon the representation of the assessee and thus no one is made responsible for the details and its correctness and therefore, the same is required to be examined in the light of the observation made by the Id. PCIT. As regards the ESI/PF he has repeated the finding of the Id. PCIT and regards the deduction u/s. 80IC the Id. DR submitted that the assessee failed to justify the claim with the details required and the assessee wisely avoided to submit the separate books as required as regards the sales reported in VAT

return he relied upon the finding of the PCIT. Thus, based on these observation the Id. DR submitted that since there is clear failure on the part of the assessee not giving the details in the form NO. 3CD to CA and thereby the issue has remained to be examined the Id. PCIT left with no option but to invoke the provision of section 263 of the with explanation 2 and correctly hold the order erroneous and prejudicial to the interest of the revenue.

7. We have heard the rival contentions, perused the material placed on record and gone through the judicial precedent cited by both the parties to drive home to their contentions so raised. The bench noted the case of the assessee was selected for complete scrutiny on the various issues flagged under the E-assessment Scheme, 2019 and the issues flagged were:

S. No.	Issues
i.	Whether value of international transactions are correctly shown in Form 3CEB and return of income.
ii.	Whether sales turnover/receipts has been correctly offered for tax.
iii.	Whether value of specified domestic transactions have been correctly shown in Form 3CEB and return of income.
iv.	Whether claim of deduction against business income is admissible.
v.	Whether deduction under Chapter VIA has been claimed correctly.
vi.	Whether value of international transactions in respect of business restructuring or reorganization are correctly shown in Form 3CEB and return of income.”

7.1 On the issue flagged under scrutiny, it is evident that the case was selected for complete scrutiny to examine the international and domestic transaction, deduction claimed under chapter VI-A and admissibility of the expenses claimed therein. On these issues Id. AO issued notice u/s. 142(1) dated 04.11.2019 raising 37 queries (APB 68-71). At point no. 6, 31 and 34 of the notice the issue of TDS and deduction under chapter VI-A was specifically raised. The same was complied with by the assessee vide letter dated 11.11.2019, 29.11.2019, 16.12.2019. The Id. AO after considering the reply completed the draft order and thus as per the direction of the DRP, passed the final order. Hence, out of the issues flagged by the Id. PCIT even the issue of PF and ESI and club fees are covered by the selection criteria i.e. “whether claim of deduction against business income is admissible.” Thus, in fact when we see the contentions raised by the Id. PCIT and the criteria of selection of the scrutiny of the case then we find that on all most in all issues the Id. AO raised the query which were on 37 points and even on the specific points raised by the Id. PCIT the assessee has in detail explained the issue for deduction of TDS, remittance outside India and issue of deduction u/s. 80IC of the Act. However, so far as the issue of remittance outside India made

by the assessee, as per annexure-2 submitted by the assessee before the Id. PCIT, we note from annexure that at Sr. No. 11 that the assessee has disclosed amount u/s. 195 in column for an amount of Rs. 21,53,289/- paid to Procter & Gamble Company, USA as reimbursement of employee related expenses or FTS on this issue. We further find that the assessee still at the stage of the Id. PCIT and even before us has not given the complete information and submitted only Note No. 3 which reads that

“Some of the payments to this recipient were taxable and hence TDS deducted u/s. 195. But others were not taxable, being in the nature of reimbursement without any markup, on which TDS was not deducted. We are enclosing some sample debit notes and form 15CA as documentary evidence in support of non taxable payments”.

Thus, from these it is noted that assessee has not provided details of complete payment of Rs. 1,56,20,520/- even before the Id. PCIT justifying as to how only an amount of Rs. 21,53,289/- was considered for withholding of tax u/s. 195 of the Act and why not the other payments were considered. We note that there is a difference in the form No. 3CD and form No. 3CEB, wherein the auditor issuing these reports are not similar chartered accountant and the same needs to be explained. Thus, we have also reason to believe that both the independent auditors have not explained

as to why the same are different and why the same are differing in their perception. Thus, the assessee failed to establish as to why the withholding of the tax on the amount of Rs. 1,56,20,520/- is not made justifying the reasons thereof and therefore, since there was a specific flagged issue for scrutiny i.e. “whether value for international transactions are correctly shown in Form no. 3CEB and return of income”. Thus, we are of the considered view that the assessee has also missed the bus to justify the reasons of the difference before the Id. PCIT and before us. We also note that on this aspect of the case there is an error on the part of the Id. AO. On careful perusal of the records, it has been made available by the assessee and also by going through the order under disputes, we take note on the matter that the issue was raised by the Id. AO at point no. 36 of the notice dated 04.11.2019. Based on the paper book submitted by the assessee, we see no reply on the issue. The question no. 36 raised by the Id. AO is reproduced here in below:

36. As per details available on record, it revealed that during the year under consideration the assessee company has made large outward remittance. Please furnish details of all outward remittance made during the year under consideration with source of the same with documentary evidences. Also furnish copy of form No. 15CA for the relevant period. Please furnish all the reports prepared by the company for the foreign remittance during the year under consideration.”

7.2 When the assessee was specifically called upon to furnish all the details and related information /evidence then we find that the order has been passed without submission of that information. Be that as it may the assessee whether replied to the query of the Id. AO or not and it has no clear submission demonstrating it as to why the remittance of Rs. 21,53,289/- is considered for deduction u/s. 195 and why not the other payments were made. The bench also noted that the submission made before the Id. PCIT that there is no whisper of furnishing this information in the submission so made. The bench further noted that even from the written submission so filed by the Id. AR of the assessee before us that there is no reference of the information so supplied to Id. AO and, in all fairness, it has not been pointed out as to why the same has not been placed on record in the paper book so filed by the assessee. Therefore, we are of the considered view that the order passed by the Id. AO is erroneous and prejudicial to the interest of the revenue. Since we have seen that the assessee miserably failed before the Id. AO, before the PCIT and before us to demonstrate the correct discharge of liability u/s. 195 of the Act and tax compliance thereof by filling in the correct information. Therefore, on this issue we find that the Id. AO failed to place on

record the required details and order has been passed without looking into the details required on the issue flagged for scrutiny. Hence, based on these observations we are of the considered view that there is sufficient reason to quash the order of the Id. AO and we find no infirmity in the finding of the Id. PCIT in holding the order is erroneous and prejudicial to the interest of the revenue. At this stage, we are aware that the Id. AR of the assessee cited various case laws, and on careful perusal of the facts of this case as well as fact of those case laws which are on different facts and are not applicable to the present fact and the assessee failed to establish the reasons for non-deduction of tax u/s. 195 of the Act and also failed to demonstrate before us that the relevant information have been in fact supplied to AO or not and even before the two stage after the order of the Id. AO.

7.3 Thus, now discussing the relevant details related to compliance of value of international transaction are correctly shown in form no. 3CEB and the return of income is concerned as the issue flagged for examination is concerned it is undisputed from the perusal of the record that the relevant information had never been placed on record. Thus, now we are examining

Explanation 2 inserted in section 263 by Finance Act, 2015, w.e.f. 01.06.2015, which has widened the powers of CIT to revise the already completed assessment. In the present case Id. PCIT has taken shelter of clause (a) and (b) of the same, which reads as under:

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.]*

7.4 Thus, on careful perusal of above provision of the law it clarifies that order passed by assessing officer shall be “deemed to be erroneous and prejudicial to the interest of the revenue if (a) AO has passed such order without making inquiries or verification which should have been made and (b) AO has passed the order allowing any relief without inquiring into the claim”. Thus, it is worthwhile to note here that the phrase *“the order is passed without making inquiries or verification which should have been*

made;” is clearly attracted in this case. Thus, looking to this aspect of the case the Id. AO in this case has passed the order without taking the relevant details on record and the claim of the assessee was allowed without sufficient records where no inquires or verification appears to have been made by the AO. Therefore, the revision u/s. 263 in the light of explanation 2 of Section 263 of the Act is correctly invoked and we see no infirmity in the finding of the Id. PCIT on this issue. We draw the strength on the issue from the order of the apex court in the case of Malabar Industrial Co. Ltd. Vs CIT [243 ITR 83(SC)] where in the apex court held that;

7. There can be no doubt that 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' is not an expression of art and is not defined in the Act. Understood in its ordinary meaning, it is of wide import and is not confined to loss of tax. The High Court of Calcutta in *Dawjee Dadabhov & Co. v. S.P. Jain* [1957] 31 ITR 872, the High Court of Karnataka in *CIT v. T. Narayana Pai* [1975] 98 ITR 422, the High Court of Bombay in *CIT v. Gabriel India Ltd.* [1993] 203 ITR 208 and the High Court of Gujarat in *CIT v. Smt. Minalben S. Parikh* [1995] 215 ITR 81/ 79 Taxman 184 treated loss of tax as prejudicial to the interests of the revenue.

8. Mr. Abraham relied on the judgment of the Division Bench of the High Court of Madras in *Venkatkrishna Rice Co. v. CIT* [1987] 163 ITR 129 interpreting 'prejudicial to the interests of the revenue'. The High Court held, "In this context, it must be regarded as involving a conception of acts or orders which are subversive of the administration

of revenue. There must be some grievous error in the Order passed by the ITO, which might set a bad trend or pattern for similar assessments, which on abroad reckoning, the Commissioner might think to be prejudicial to the interests of Revenue Administration". In our view, this interpretation is too narrow to merit acceptance. The scheme of the Act is to levy and collect tax in accordance with the provisions of the Act and this task is entrusted to the revenue. If due to an erroneous order of the ITO the revenue is losing tax lawfully payable by a person, it will certainly be prejudicial to the interests of the revenue.

9. 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 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 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 ITO is unsustainable in law. It has been held by this Court that where a sum not earned by a person is assessed as income in his hands on his so offering, the order passed by the Assessing Officer accepting the same as such will be erroneous and prejudicial to the interests of the revenue - *Rampyari Devi Saraogi v. CIT* [1968] 67 ITR 84 (SC) and in *Smt. Tara Devi Aggarwal v. CIT* [1973] 88 ITR 323 (SC).

10. In the instant case, the Commissioner noted that the ITO passed the order of *nil* assessment without application of mind. Indeed, the High Court recorded the finding that the ITO failed to apply his mind to the case in all perspective and the order passed by him was erroneous. It appears that the resolution passed by the board of the appellant-company was not placed before the Assessing Officer. Thus, there was no material to support the claim of the appellant that the said amount represented compensation for loss of agricultural income. He accepted the entry in the statement of the account filed by the appellant in the absence of any supporting material and without making any inquiry. On these facts, the conclusion that the order of the ITO was erroneous is irresistible. We are, therefore, of the opinion that the High Court has rightly held that the exercise of the jurisdiction by the Commissioner under section 263(1) was justified.

11. The second contention has to be rejected in view of the finding of fact recorded by the High Court. It was not shown at any stage of the proceedings that the amount in question was fixed or quantified as loss of agricultural income and, admittedly, it is not so found by the Tribunal. The further question whether it will be agricultural income within the meaning of section 2(1A) of the Act as elucidated by this Court

in *CIT v. Raja Benoy Kumar Sahas Roy* [1957] 32 ITR 466 does not arise for consideration. It is evident from the order of the High Court that the findings recorded by the Tribunal that the appellant stopped agricultural operation in November 1982 and the receipt under consideration did not relate to any agricultural operation carried on by the appellant, were not questioned before it. Though we do not agree with the High Court that the amount was paid for breach of contract as indeed it was paid in modification/relaxation of the terms of the contract, we hold that the High Court is justified in concluding that the said amount was a taxable receipt under the head 'Income from other sources'.

12. We find no merit in the appeal and dismiss the same with costs.

Thus, here in this case also we find that the phrase 'prejudicial to the interests of the revenue' is not an expression of art and is not defined in the Act but has to be understood in its ordinary meaning, it is of wide import and is not confined to loss of tax. The High Court of Calcutta in *Dawjee Dadabhov & Co. v. S.P. Jain* [1957] 31 ITR 872, the High Court of Karnataka in *CIT v. T. Narayana Pai* [1975] 98 ITR 422, the High Court of Bombay in *CIT v. Gabriel India Ltd.* [1993] 203 ITR 208 and the High Court of Gujarat in *CIT v. Smt. Minalben S. Parikh* [1995] 215 ITR 81/ 79 Taxman 184 treated loss of tax as prejudicial to the interests of the revenue. Thus, it is observed that the assessee in this case has failed to establish as to why the withholding of the tax on the payment made u/s. 195 is not made on the full amount and the assessee failed to justify and establish that the same has been

verified by the Id. AO. In the light of this fact, we see no infirmity in the order of the PCIT and the same is sustained and the order of the Id. AO is quashed and thus, we confirm the direction of the Id. PCIT. Based on these observations the ground no. 1 (a),(b) & (c) stands dismissed.

8. As regards the ground no. 2 (a), (b) & (c) the bench noted that the Id. AO has raised the query for disallowance of liability vide question no. 9. On this issue before us the Id. AR of the assessee has not demonstrated that the issue has been examined by the Id. AO and what details has been placed on record and we see no information so as to decide whether the said information was correctly supplied before the Id. AO or not. In the absence of the information not being placed on record we concur the finding of the Id. PCIT and based on this observation ground no. 2 raised by the assessee stands dismissed.

9. As regards the ground no. 3 (a), (b), (c) & (d) we have while deciding ground no. 1 have given the finding on the issue raised in ground no. 3 and therefore, considering that finding recorded in

para 7 above we see no merits in the ground raised by the assessee and the same stands dismissed.

10. In ground no. 4 (a) & (b), the assessee raised the issue of TDS deducted on the payment made to directors. On this issue we note that the assessee in the Profit & Loss A/c, claimed commission paid to directors at Rs.52,25,000/- and not Rs.52,41,000/-. In fact in reply dt. 16.12.2019 to the AO (PB 118), commission paid to the directors is wrongly totaled at Rs.52,41,000/- whereas the correct total is Rs.52,25,000/-. The assessee explained that at each year end provision for commission payable to directors which is reversed on the next date and actual payment of commission is made in the next year after approval by the Board of Directors. Accordingly, the commission which was provided in FY 2014-15 was paid during the year on 31.08.2015 on which tax was deducted at source (PB 89). Similarly in FY 2015-16 commission was provided at the year end which was actually paid after the approval in the meeting of Board of Directors held on 10.08.2016 (PB 53-54) and actual payment was made on 23.08.2016 when tax is deducted at source. Thus, we see that when on the entire commission paid to the directors, tax has been deducted at source, no disallowance u/s

40(a)(ia) can be made. We also note that even the tax auditor has also not reported any disallowance u/s 40(a)(ia) of the Act. Further AO in course of assessment proceedings has also examined this issue at Point No.31 of notice dt. 04.11.2019 (PB 70) and Point No.J of reply dt. 16.12.2019 (PB 118). Thus, we are of the view that on this issue the disallowance proposed by the Ld. PCIT is unjustified, unwarranted and beyond the scope of section 263 and therefore, the ground no. 4 raised by the assessee is allowed.

11. In ground no. 5 the assessee has challenged the observation of the Id. PCIT stating that total rent of Rs. 8,74,00,000/- paid during the year under consideration should have been subjected to TDS u/s. 194 I of the Act and 30 % of the amount which on which TDS is not seems to have been deducted should have been disallowed by the Id. AO. On this issue we note the assessee in the profit and loss account debited rent expenses of Rs. 8,74,49,998/-(APB-55), out this amount TDS on Rs. 5,53,71,175/- is deducted u/s 194 of the Act and even the said payment get reconciled with the figure reported at clause 34(a) of the form no. 3CD. On the balance amount we note that though the point no. 31

was raised by the Id. AO but in the submission the Id. AR demonstrates that the reply is given at point no. 5 of reply dated 11.11.2019(APB 74 & 80-112) on this issue we note that the reply is related to point no. 5 and not on the issue raised in the notice at point no. 31. We also take note that in the point no. 5 only those entries are reported on which tax is deducted and thus, the figure of the payment on which TDS is not deducted is not Even the Id. AR of the assessee failed to demonstrate whether the assessee filed any reply on the issue raised at point no 31 or not in the assessment proceeding. On this issue we also take note that the assessee is merely relying on the statement that no disallowance has been proposed by the auditor. We also persuaded the question no. 31 where in the Id. AO has called for the gross amount of expenditure and amount on which TDS is deducted this aspect of the matter we see has not been furnished and therefore, we are of the considered view that the Id. AR neither convinced to the PCIT on the issue nor before us demonstrated that the conviction on the issue by the Id. PCIT is incorrect. Thus, based on this observation we see no merits in the ground no 5 taken by the assessee and the same is dismissed.

12. As regards ground no. 6(a), (b) & (c) raised by the assessee for an amount of Rs. 2,08,800/- the bench noted clause no. 5 to 30 extract has not been submitted by the assessee before us. Whereas the Id. AR of the assessee submitted that the details given in the clause 21(a) of form no. 3CD is only for disclosure but in support the Id. AR of the assessee for the best reason know not submitted the relevant part of the tax audit report in the paper book so filed therefore, we failed to agree with the arguments of the Id. AR of the assessee. The case law cited in the present case without examining the fact reported in the tax audit report that whether in the tax auditor reported the same are personal expenditure or not we do not want to fuss into the merits of the case as the assessee even before us failed to submit the relevant information as to decide the same are not in the nature of personal expenditure. We, in the absence of the information placed before us, do not agree with the argument advanced before us. Hence on this issue we concur the finding of the Id. PCIT on this issue and therefore, ground no. 6 raised by the assessee stands dismissed.

13. As regards the ground no. 7(a) & (b) we note that the Id. PCIT noted that the assessee under reported sales of scrap for an amount of Rs. 80,20,987/-. Whereas on this issue we note that the assessee before us as well as before the Id. PCIT submitted by an evidence that the sale of scrap and other raw material is reported under other operating revenue of Rs. 172 lacs comprising of sale of scrap of Rs. 49 lacs and sales of raw material at Rs. 123 lacs and part of the sale of raw material consist of sale of scrap and the details there of has also been placed on record which even the Id. PCIT has not controverted in the order passed and has merely stated that the sale is under reported without commenting upon the submission of the assessee. Thus, on this issue we are of the view that the finding of the Id. PCIT is not correct and thus, we allow this ground no. 7 of the assessee.

14. The ground no. 8 raised by the assessee against the observation of the Id. PCIT that assessee has failed to submit the separate balance sheet and profit and loss account of eligible business along with Form no. 10CCB or in the assessment proceeding. Ground no. 8,1 the figure of sales claimed in form no. 10CCB not tallying with the figure of sales disclosed in the VAT. Ground no. 8.2 that there is diversion of sales and profit of non

eligible business to eligible business. Ground no. 8.3 that there was misreporting of facts in the Form no. 3CEB and Ground no. 8.4 relates to non-disclosure by not filling Balance Sheet in VAT 15BS and profit and loss account in VAT15PL. On this issue we note the assessee is having Guard manufacturing unit at Baddi, Himachal Pradesh which is a eligible unit for claim of deduction u/s 80-IC and the assessee has been regularly claiming such deduction from AY 2010-11 and is allowed such deduction. For claiming the deduction, assessee every year files audit report and Form No.10CCB (copy enclosed) along with separate audited financial statements (PB 56-67). We also note from the records that the issue of claim of deduction u/s 80-IC was also raised at Point No.34 of notice u/s 142(1) dt. 04.11.2019 (PB 70) in course of the regular assessment proceedings. The assessee in its reply dt. 29.11.2019 at Point No.3 (PB 115) referred to Form No. 10CCB along with audited financial statement of Guard unit and statement showing computation of deduction u/s 80-IC in respect of profit and gains of the business of Guard unit. The AO after examining the same allowed the deduction u/s 80-IC. Thus, when AO has examined the claim in the original assessment proceedings, twin condition as prescribed under section 263 fails and on the issue

which has been examined by the Id. AO the observation of the Id. PCIT is not fulfilling the twin condition and therefore on these we do not concur the finding of the Id. PCIT. The observation of the Id. PCIT is incorrect that separate Balance Sheet and Profit & Loss A/c of the eligible unit is not filed with Form No.10CCB ignoring that assessee has prepared separate financial statement of Guard Unit which is also filed in proceedings u/s 263 of the Act (PB 18). The financial statements are duly audited by the Chartered Accountant on 23.11.2016 and on that basis AO has correctly allowed deduction u/s 80-IC at Rs.16,15,77,820/-. As regards the observation on the sale of goods of Guard Unit as per the audited financial statement is of Rs.144.84 cr. but as per VAT return the sale is Rs.54.47 lacs apart from inter-unit transfer of goods of Rs.400.95 cr. This variation is for the reason that deduction u/s 80-IC is allowable under Profit and Gains of the manufacture and sale by eligible manufacturing unit anywhere. Thus sale can be in notified area or outside as well whereas in the VAT return of Himachal Pradesh only the sale made at Himachal Pradesh is required to be declared. Hence, comparison of the figures reflected in the VAT return has no relevance to the sale recorded in the audited financial statement of the eligible unit and therefore, we do

not concur the finding of the Id. PCIT on the issue. We also take note that the net profit ratio of eligible unit as per audited financial statement is 35.84% whereas net profit ratio of computed income of eligible unit is 37.18%. As against this the overall NP rate of the assessee is 17.90% only. This variation is for the reason that the eligible unit is exclusively engaged in manufacturing of razors and blades whereas assessee at entity level has multiple functional profiles which includes manufacturing and selling of grooming products, portable power and oral care business. Hence, it is incorrect to compare the assessee's overall profitability at entity level with the profitability of the eligible unit. Otherwise also, out of total grooming sale of Rs.1496.71 cr., the sale of eligible unit is only Rs.144.83 cr. representative only 9.67% of grooming product sale and 6.95% of the total revenue at entity level. Further deduction claimed u/s 80-IC at Rs.16.15 cr. is mere 4.07% of the total taxable income of Rs.396.12 cr. Therefore, it is incorrect on part of Ld. PCIT to presume that there is diversion of sales and profits of non-eligible business to the eligible business. The bench further noted that the Id. PCIT has incorrectly mentioned that in Form No.3CEB assessee has shown Nil amount in clause 23A in respect of transfer of goods by eligible business to any other

business but he ignored that in clause 23B the assessee has reported inter-unit acquisition of goods from other business to the eligible business at Rs.13.95 cr. The bench further noted that the Id. PCIT has also incorrectly observed that it is a mandatory requirement of filing Balance Sheet in Form VAT-15BS and Profit & Loss A/c in Form VAT-15PL whereas there is no such mandatory requirement as stated by the assessee before us and before the PCIT and the Id. DR did not controvert the contention by filling any ruling on the issue. Further the audited financial statement of eligible unit was signed on 23.11.2016 whereas Annual VAT return of Himachal Pradesh was filed on 18.10.2016 and therefore due to unavailability of audited financials, the optional figure of Balance Sheet and Profit & Loss A/c were not filed. Hence we note that this cannot be a reason to allege that there is any deliberate attempt of the assessee not to disclose the financial statement of the eligible unit particularly when financial statement of eligible unit was filed with Form No.10CCB and deduction u/s 80-IC is also reported in clause 33 of the Tax Audit Report. Therefore, on these issue we do not concur the finding of the Id. PCIT and based on the observations discussed herein above we allow the ground no. 8 and 8.1 to 8.4.

15. The ground no. 9 being general in nature same is not required to be adjudicated and as regards the ground no. 10 no arguments were advanced and therefore, the same is also not adjudicated.

16. Hence, in the light of the discussion so recorded by us the appeal of the assessee in ITA no. 313/JP/2023 is partly allowed.

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

Order pronounced in the open Court on 27 /09/2023

Sd/-

(डा० एस. सीतालक्ष्मी)
(Dr. S. Seethalakshmi)
न्यायिक सदस्य / Judicial Member

Sd/-

(राठोड कमलेश जयन्तभाई)
(Rathod Kamlesh Jayantbhai)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 27 /09/2023

*Ganesh Kumar, PS

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

1. अपीलार्थी / The Appellant- Gillette India Limited, Alwar
2. प्रत्यर्थी / The Respondent- PCIT, Jaipur-1
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. 313/JP/2023 }

आदेशानुसार / By order

सहायक पंजीकार / Asst. Registrar