

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'F' BENCH,
NEW DELHI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
MS ASTHA CHANDRA, JUDICIAL MEMBER

ITA No. 1132/DEL/2022 [A.Y. 2017-18]

Shri Raghuvir Singh
S/o Shri Harphool Singh
H. No. 53, Near Shiv Mandir
Vill. Darbaripur Tehsil, Badshapur
Gurugram, Haryana

Vs.

The P.C.I.T.
Faridabad

PAN: GUSPS 8800 Q

(Applicant)

(Respondent)

Assessee By : Dr. Rakesh Gupta, Adv
Shri Somil Agarwal, Adv

Department By : Shri P.N. Barnwal, CIT-DR

Date of Hearing : 07.11.2023

Date of Pronouncement : 10.11.2023

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-

This appeal by the assessee is preferred against the order of the
ld. PCIT, Faridabad dated 25.03.2022 framed u/s 263 of the Income-
tax Act, 1961 [the Act, for short] pertaining to A.Y. 2017-18.

2. The sum and substance of the grievance of the assessee is that the PCIT erred in assuming jurisdiction u/s 263 of the Act and further erred in holding the assessment order dated 29.12.2019 as erroneous and prejudicial to the interest of the Revenue.

3. Representatives of both the sides were heard at length. Case records carefully perused. Relevant documentary evidence brought on record duly considered in light of Rule 18(6) of the ITAT Rules.

4. Briefly stated the facts of the case are that the assessee filed its return of income electronically on 02.07.2017 declaring income of Rs. 1,54,420/-. Return was selected for limited scrutiny under CASS with the following reasons:

- (i) investment in immovable property;
- (ii) deduction/exemption from capital gains; and
- (iii) capital gains/loss on sale of property.

5. Statutory notices were issued and served upon the assessee and assessment was completed on an assessed income of Rs. 19,14,920/- after making an addition of Rs. 17,60,500/-.

6. Assuming jurisdiction conferred upon him by provisions of section 263 of the Act, the PCIT, Faridabad served a notice and after receiving the reply to the queries raised by the PCIT, directed the Assessing Officer to examine issue of taxation of capital gains arising from sale of land and availing exemption u/s 54B of the Act on purchase of land.

7. The Assessing Officer was further directed to enquire, examine, verify and investigate all the issues relating to the claim of exemption/deduction u/s 54B and 54F of the Act and directed the Assessing Officer to pass a fresh assessment order and recompute the income of the assessee after making enquiries as mentioned in the order u/s 263 of the Act.

8. Before us, the ld. counsel for the assessee vehemently stated that all the issues/apprehensions raised by the PCIT were addressed during the course of assessment proceedings. The ld. counsel for the assessee took us to various queries raised during the course of assessment proceedings and replies filed by the assessee pointing out that each and every issue has been verified by the Assessing Officer before framing the impugned assessment order. Therefore, the order is neither erroneous nor prejudicial to the interest of the Revenue.

9. Supporting the order of the PCIT, the ld. DR stated that the Assessing Officer never examined the claim of deduction u/s 54B/54F of the Act. It is the say of the ld. DR that the Assessing Officer has also not examined whether the land purchased was used for agricultural purposes or not.

10. We have given thoughtful consideration to the orders of the authorities below. Notice u/s 143(2) of the Act was issued on 10.08.2018 wherein the reasons for scrutiny selection have been mentioned as (i) deduction/exemption from capital gain (ii) capital gain/loss on sale of property and (iii) investment in immovable property.

11. Notice u/s 142(1) of the Act was issued on 04.07.2019 with the following query:

"1. Please give a brief note indicating the nature of financial activities of the assessee alongwith copies of computation statement, complete copies of the bank accounts with narration thereof, form no 16/16A, Copies of the Form No. 26AS having complete details of Name & TAN of Deductors, total amount paid & amount of TDS deducted.

Reconciliation of 26AS vis a vis detail filed in return of income may be furnished.

2. Please furnish the complete documentary evidence of the source of investment in purchase of property and income relating to property and also give details of exempt income also reconcile the figure of sale as in ITR vis-à-vis 26QB.

3 Please furnish the complete details of the Capital Loss/Gain on the sale of property alongwith documentary evidences and also give complete details of exempt income with proof.

4. Please furnish the complete details of the deduction/exemption claimed u/s 11(1A), other than 11(A), 54B, 54C, 54D, 54G, 54GA etc. with documentary evidence."

12. Second notice u/s 142(1) of the Act was issued on 17.07.2019 with the following query:

"You are requested to file the complete reply with supporting documents etc as per Questionnaire by 22.07.19 failing which action will be taken as per law."

13. Third notice was issued on 16.10.2019 with the following question:

"please refer to your last submission whereby you have just uploaded a few copies of sale/purchase of property, in this regard you are requested to kindly file your point wise reply as per questionnaire with complete details."

14. Fourth notice was issued on 06.11.2019 with the following question:

"please refer to your last reply, you have not furnished the details regarding Investment made nor furnished the copies of deeds of purchases made, so, in this regard you are requested to categorically mention in your reply the details of sale of properties, amount, date of sale/purchase, area of land and amount of consideration also for the properties purchased along with copies of deeds and payment details date wise with complete narration."

15. Fifth notice was issued on 24.12.2019 with the following question:

"please refer to your last reply kindly explain the purpose and basis for making agreement with the purchaser on the basis of some payment received immediately and mostly as PDC, Please give complete details alongwith copies of deed summarizing the payments made towards acquisition of assets keeping in view the last of payments realised by you and investment made towards purchase of properties."

Please clearly mention the date wise payments made towards this investment and the total amount so invested. further perusal of details it is also seen that property have been purchased in the name of wife also. please give complete justification on the issues and the bases upon which you have claimed exemption/deduction u/s 54, 54 B of the IT Act., please furnish your reply with complete documentary evidence by the date prescribed failing which action will be taken as per law."

16. From the above, it can be seen that the Assessing Officer has raised specific question on each issue considered by the PCIT. With the first reply of the assessee, the assessee submitted sale deed copies as per reply dated 30.08.2019 which is at page 8 of the Paper Book.

17. Second reply was given on 18.10.2019. Alongwith reply, the assessee submitted income computation statement, bank account statement and Form 26AS. The reply reads as under:

"Respected Sir,

With reference to above and your notice no. ITBA/AST/F/142(1)/2019 - 20/1016660381(1) dated 04-07-2019 and you notice no. ITBA/AST/F/142(11)/2019- 20/1018985688(1) dated 16-10-2019, I submit as under,

1. That copy of Income Tax return alongwith Computation of Income showing complete details of income are enclosed herewith.
2. That Copy of Form 26AS showing TDS deducted during the year is enclosed herewith.
3. That partly details of Investment and sources of investment are enclosed herewith.
4. That regarding capital gain/loss, computation of income is enclosed herewith and copy of sale deed has already been submitted.
5. That for details of exemption claimed u/s 54B and u/s 54F of the Income Tax Act, 1961 during the said assessment year, copy of computation of income is enclosed herewith.

In view of above, your honour are requested to kindly provide the copy of reasons.

Thanking You,

(RAGHUVIR SINGH)

Dated: 21-10-2019"

18. Third reply reads as under:

"Sub.: Reply to Notice u/s 142(1) of the Income Tax Act, 1961

Ref. No.: ITBA/AST/F/142(1)/2019-20/1019854836(1) dated 06-11-2019

Respected Sir,

With reference to above captioned subject matter, I submit as under:

1. That I had sold agriculture lands during the FY 2016-17, details of sale consideration are as under:

Total Sale Consideration (Rs.)	Assessee's Share (Rs.)			
		TDS (Rs.)	Received in FY 2016-17	Received in FY 2018-19
213,300,000	5,33,25,000	5,33,250	1,14,74,250	4,13,17,500
497,660,000	12,44,15,000	12,44,150	2,67,63,350	9,64,07,500
TOTAL	17,77,40,000	17,77,400	3,82,37,600	13,77,25,000

Copies of Sale deeds are already submitted for your reference.

2. That I had claimed transfer expenses of Rs. 17,71,000/- on said sale transaction, documentary evidence is enclosed herewith as 'Annexure-1'.

3. That I had sold my agriculture land during the FY 2016-17. That out of total sale consideration of Rs. 17,77,40,000/-, I had received Rs. 3,82,37,600/- in FY 2016-17 and remaining amount received as PDC Cheque dated 30/07/2018 of Rs. 13,77,25,000/- which was encashed in FY 2018-19.

4. That I had invested Rs. 15,09,24,500/- in agriculture land on the basis of PDC Cheque as payment was received in FY 2018-19.

5. That statement showing summary of exemption claimed under section 54F and 54B of the Income Tax Act, 1961 is enclosed herewith as 'Annexure-2'.

6. That explanation regarding exemption of Rs. 1,79,00,000/- claimed under section 54F of the Income Tax Act, 1961, I purchased a residential plot of land of Rs. 98,50,000/- and incurred Rs. 85,00,000/- on construction of residential Building, Copy of purchase deed dated 15-09-2016 and Copy of Valuation Report is enclosed herewith as 'Annexure-3'.

7. That explanation regarding exemption of Rs. 15,60,00,000/- claimed under section 54B of the Income Tax Act, 1961, it is being brought to your notice that I made following investments on purchase of agriculture lands within time stipulated under section 54B of the Income Tax Act, 1961:

Sr. No.	Date of Purchase / Date of Agreement	Type of Investment	Investment Amount (Rs)
1	09-09-2016	Agriculture Land	50,75,500
2	16-01-2017	Agriculture Land	79,89,500
3	30-06-2017	Agriculture Land	3,75,00,000
4	15-05-2017	Agriculture Land	2,90,00,000
5	08-06-2016	Agriculture Land	1,39,10,000
6	01-07-2017	Agriculture Land	1,80,00,000
7	15-05-2017	Agriculture Land	50,00,000
8	15-04-2017	Agriculture Land	3,30,25,000
9	18-01-2017	Agriculture Land	65,00,000

Copies of above mentioned agreements/purchase deed are enclosed herewith as 'Annexure-4' and Page reference numbers mentioned in above table are related to the attached agreements for your kind reference.

In view of above, your honour will find the above in order.

Thanking You,

(Raghuvir Singh)

Dated: 23-12-2019

19. With the fourth reply, the assessee submitted purchase deed.

This reply is placed at pages 127 to 176 of the Paper Book.

20. Fifth reply reads as under:

"Sub.: Reply to Notice u/s 142(1) of the Income Tax Act, 1961

Ref: No.: ITBA/AST/F/142(1)/2019-20/1023018961(1) dated 24-12-2019

Respected Sir, With reference to above captioned subject matter, I submit as under:

1. That your query regarding purpose and basis for making agreement with the purchaser on the basis of some payment received immediately and mostly as PDC, reply are as under:

That due to litigation issue with Builder [M/s ENTREPRENEURS (CALCUTTA)PVT LTD and VIPUL BUILDER], we were fighting in court

against Builder alongwith our family member since last 10 year. But finally, we have decided to resolve this issue and agreed to sell our agriculture land to M/s M3M India Pvt. Ltd, Rohsni Builders Pvt. Ltd. and High Rise Propbild Private Ltd (Buyer).

That our family members agreed with said buyer company to take some payment received immediately and mostly as PDC.

2. That a summary showing investment made with supporting evidence along with sources of payment from bank (FY-2016-17, FY-2017-18 and FY-2018-19) is enclosed herewith. (Annexure 1 & 2)

3. That query regarding property have been purchased in the name of wife, submission are as under:

That I had made payment to purchase the agriculture land and residential property out of sale consideration received/receivable on sale of agriculture land of Rs.17,77,40,000/-

ii. That out of total investments, some property had been registered in the name of my wife Bishembari Devi.

That my wife Smt. Bishembari Devi is depended upon me and she had not claimed any exemption benefit against the said purchases under the income tax.

iv. That I had also relied on below judgments:

.HON'BLE HIGH COURT OF RAJASTHAN in case of Laxmi Narayan vs Commissioner of Income-tax, JP-II [2018] 89 taxmann.com 334

HON'BLE HIGH COURT OF DELHI in case of Commissioner of Income-tax-XII vs Kamal Wahal [2013] 30 taxmann.com 34

.HON'BLE HIGH COURT OF PUNJAB AND HARYANA in case of Commissioner of Income-tax vs Gurnam Singh [2008] 170 Taxman 160

Copies of Orders are enclosed herewith. (Annexure-3)

4. That affidavit of my wife Smt. Bishembari Devi is enclosed herewith. (Annexure4)

In view of above, your honour will find the above in order.

Thanking You,

(Raghubir Singh) Dated: 28-12-2019

21. Specific queries were raised by the Assessing Officer to which specific replies were filed by the assessee.

22. A perusal of the assessment order clearly shows that the Assessing Officer has made enquiry in respect of capital gains. In the light of the afore-stated facts the Hon'ble Supreme Court in *Malabar Industrial Co. Ltd.*, 243 ITR 83, has laid down the following ratio:

"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--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".

23. The Hon'ble Bombay High Court in the case of *Gabriel India Ltd* 203 ITR 108 has held as under:

"The power of suo motu revision under subsection (1) is in the nature of supervisory jurisdiction and the same can be exercised only if the circumstances specified therein exist. Two circumstances must exist

to enable the Commissioner to exercise power of revision under this sub-section, viz., (i) the order is erroneous; (ii) by virtue of the order being erroneous prejudice has been caused to the interests of the Revenue. It has, therefore, to be considered firstly as to when an order can be said to be erroneous. We find that the expressions "erroneous", "erroneous assessment" and "erroneous judgment" have been defined in Black's Law Dictionary. According to the definition, "erroneous" means "involving error; deviating from the law". "Erroneous assessment" refers to an assessment that deviates from the law and is, therefore, invalid, and is a defect that is jurisdictional in its nature, and does not refer to the judgment of the Assessing Officer in fixing the amount of valuation of the property. Similarly, "erroneous judgment" means "one rendered according to course and 8 practice of court, but contrary to law, upon mistaken view of law; or upon erroneous application of legal principles". 12. From the aforesaid definitions it is clear that an order cannot be termed as erroneous unless it is not in accordance with law. If an Income-tax Officer acting in accordance with law makes a certain assessment, the same cannot be branded as erroneous by the Commissioner simply because, according to him, the order should have been written more elaborately. This section does not visualise a case of substitution of the judgment of the Commissioner for that of the Income-tax Officer, who passed the order unless the decision is held to be erroneous. Cases may be visualised where the Income-tax Officer while making an assessment examines the accounts, makes enquiries, applies his mind to the facts and circumstances of the case and determines the income either by accepting the accounts or by making some estimate himself. The Commissioner, on perusal of the records,

may be of the opinion that the estimate made by the officer concerned was on the lower side and left to the Commissioner he would have estimated the income at a figure higher than the one determined by the Income-tax Officer. That would not vest the Commissioner with power to re-examine the accounts and determine the income himself at a higher figure. It is because the Income-tax Officer has exercised the quasi-judicial power vested in him in accordance with law and arrived at conclusion and such a conclusion cannot be termed to be erroneous simply because the Commissioner does not feel satisfied with the conclusion. It may be said in such a case that in the opinion of the Commissioner the order in question is prejudicial to the interests of the Revenue. But that by itself will not be enough to vest the Commissioner with the power of suo motu revision because the first requirement, viz., that the order is erroneous, is absent. Similarly, if an order is erroneous but not prejudicial to the interests of the Revenue, then also the power of suo motu revision cannot be exercised. Any and every erroneous order cannot be the subject-matter of revision because the second requirement also must be fulfilled. There must be some prima facie material on record to show that tax which was lawfully exigible has not been imposed or that by the application of the relevant statute on an incorrect or incomplete interpretation a lesser tax than what was just has been imposed. We, therefore, hold that in order to exercise power under sub-section (1) of section 263 of the Act there must be material before the Commissioner to consider that the order passed by the Income-tax Officer was erroneous in so far as it is prejudicial to the interests of the Revenue. We have already held what is erroneous. It must be an order which is not in accordance with the law

or which has been passed by the Income-tax Officer without making any enquiry in undue haste. We have also held as to what is prejudicial to the interests of the Revenue. An order can be said to be prejudicial to the interests of the Revenue if it is not in accordance with the law in consequence whereof the lawful revenue due to the State has not been realised or cannot be realised. There must be material available on the 10 record called for by the Commissioner to satisfy him prima facie that the aforesaid two requisites are present. If not, he has no authority to initiate proceedings for revision. Exercise of power of suo motu revision under such circumstances will amount to arbitrary exercise of power. It is well-settled that when exercise of statutory power is dependent upon the existence of certain objective facts, the authority before exercising such power must have materials on record to satisfy it in that regard. If the action of the authority is challenged before the court it would be open to the courts to examine whether the relevant objective factors were available from the records called for and examined by such authority. The Income-tax Officer in this case had made enquiries in regard to the nature of the expenditure incurred by the assessee. The assessee had given detailed explanation in that regard by a letter in writing. All these are part of the record of the case. Evidently, the claim was allowed by the Income-tax Officer on being satisfied with the explanation of the assessee. Such decision of the Income tax Officer cannot be held to be "erroneous" simply because in his order he did not make an elaborate discussion in that regard. Moreover, in the instant case, the Commissioner himself, even after initiating proceedings for revision and hearing the assessee, could not say that the allowance of the claim of the assessee was erroneous and that the

expenditure was not revenue expenditure but an expenditure of capital nature. He simply asked the Income- 11 tax Officer to re-examine the matter. That, in our opinion, is not permissible. Hence the provisions of section 263 of the Act were not applicable to the instant case and, therefore, the commissioner was not justified in setting aside the assessment order."

24. It is a settled position of law that powers u/s 263 of the Act can be exercised by the Commissioner on satisfaction of twin conditions, i.e., the assessment order should be erroneous and prejudicial to the interest of the Revenue. By 'erroneous' is meant contrary to law. Thus, this power cannot be exercised unless the Commissioner is able to establish that the order of the Assessing Officer is erroneous and prejudicial to the interest of the Revenue. Thus, where there are two possible views and the Assessing Officer has taken one of the possible views, no action to exercise powers of revision can arise, nor can revisional power be exercised for directing a fuller enquiry to find out if the view taken is erroneous. This power of revision can be exercised only where no enquiry, as required under the law, is done. It is not open to enquire in case of inadequate inquiry. Our view is fortified by the 12 decision of Hon'ble High Court of Bombay in the case of CIT vs. Nirav Modi, [2016] 71 Taxmann.com 272 (Bombay)".

25. The Hon'ble High Court of Gujarat in the case of CIT vs. Nirma Chemical Works Ltd. 309 ITR 67 has observed as under:

"if assessment order were to incorporate the reasons for upholding the claim made by an assessee, the result would be an epitome and not an assessment order. In this case, during the assessment proceedings for both the Assessment Years, the Assessing . A.Y. 2009-10 Officer issued a query memo to the assessee, calling upon him to justify the genuineness of the gifts. The Respondent Assessee responded to the same by giving evidence of the communications received from his father and his sister i.e. the donors of the gifts along with the statement of their Bank accounts. On perusal, the Assessing Officer was satisfied about the creditworthiness/capacity of the donors, the source from where these funds have come and also the creditworthiness/ capacity of the donor. Once the Assessing Officer was satisfied with regard to the same, there was no further requirement on the part of the Assessing Officer to disclose his satisfaction in the Assessment Order passed thereon. Thus, this objection on the part of the Revenue cannot be accepted."

26. We find that the Hon'ble Delhi High Court in the case of CIT Vs Sunbeam Auto reported in 332 ITR 167 has held as held as under:

"12. We have considered the rival submissions of the counsel on the other side and have gone through the records. The first issue that

arises for our consideration is about the exercise of power by the CIT under s. 263 of the IT Act. As noted above, the submission of learned counsel for the Revenue was that while passing the assessment order, the AO did not consider this aspect specifically whether the expenditure in question was revenue or capital expenditure. This argument predicates on the assessment order, which apparently does not give any reasons while allowing the entire expenditure as revenue expenditure. However, that by itself would not be indicative of the fact that the AO had not applied his mind on the issue. There are judgments galore laying down the principle that the AO in the assessing order is not required to give detailed reason in respect of each and every item of deduction, etc. Therefore, one has to see from the record as to whether there was application of mind before allowing the expenditure in question as revenue expenditure. Learned counsel for the assessee is right in his submission 14 that one has to keep in mind the distinction between "lack of inquiry" and "inadequate inquiry". If there was any inquiry, even inadequate that would not by itself give occasion to the CIT to pass orders under s. 263 of the Act, merely because he has different opinion in the matter. It is only in cases of "lack of inquiry" that such a course of action would be open".

27. Coming back to the facts of the case, the root cause for initiation of the impugned proceedings is the audit objection by the audit party, order dated 29.12.2019. The operative part reads as under:

"2. During the course of Audit, it is noticed that the assessee has sold land with other co-owners and received his share of Rs.

17,77,40,000/- and after claiming cost of indexation and expenses of transfer declared net long term capital gain of Rs.17,38,92,452/-. The assessee has further claimed deduction u/s 54B of the Act of Rs. 15,60,00,000/- and u/s 54F of the Income Tax Act of Rs.1,79,00,000/- from the perusal of sale deed it is noticed that, the assessee has received sale consideration of Rs.3,82,22,600/- on 30.07.2016 and Rs. 13,77,25,000/- on 30.07.2018. For claiming exemption u/s 54B of the Income Tax Act the assessee has to be invest the sale consideration of Rs.3,82,22,600/- received on 30.07.2016 with in a period of two years i.e. by 30.07.2018 but the assessee has made only payment of Rs.2,00,000/- on 01.07.2017 and payment of Rs. 15,00,000/- on 16.09.2016 mentioned in the copies of agreements for purchase of land submitted by the assessee. The assessee has also purchase a plot on 09.09.2016 vide sale deed No.2103 registered on 09.09.2016 by Joint sub-registrar, Manesar in the name of Smt. Bishamvari Devi wife of the assessee. The land purchased by the assessee is within the M.C.Area of Manesar. Therefore the deduction claimed u/s 54B of the Income Tax Act of Rs.50,75,000/-(including Stamp duty of Rs.2,75,000/-) invested in plot in the name of wife is not allowable and is to be disallowed. The assessee has also claimed deduction u/s 54F of the Income Tax Act of Rs.1,79,00,000/- including renovation expenses of Rs.85,00,000/- for the house purchased on 15.09.2016 vide sale deed No. 2726 in the name of Smit. Bishamvari Devi wife of the assessee situated at Village Bhondsi Tehsil Sohna registered by Sub-Registrar, Sohna. This deduction is not allowable as the plot/house is not purchased in the name of the assessee and is to be disallowed. Out of the total sale consideration of Rs 3,82,22 600/- received on 30.07.2016 an amount

of Rs. 1,35,47,000/- is to be disallowed as the same is a not invested with in a period of two-years from the date of transfer required as per the provisions of section 54B of the Income Tax Act Therefore, wrong deduction claim u/s 54F of Rs.1,79,00,000/- and excess deduction claimed u/s section 54B of the Income Tax Act of Rs. 1,35.47,000/- is to be disallowed.”

28. In his reply dated 14.02.2022, which is placed at pages 199 to 201 of the Paper Book, the Assessing Officer himself has recommended to the PCIT to initiate proceedings u/s 263 of the Act.

29. A plain reading of section 263 of the Act would show that the PCIT may call for and examine the record of any proceedings under this Act whereas in the case in hand, we find that it was the Assessing Officer who recommended the PCIT to initiate proceedings u/s 263 of the Act for which it can be safely concluded that the PCIT did not apply his mind. Even the recommendation of the Assessing Officer is based upon the audit objection when the Assessing Officer was well aware of the questions raised during the assessment proceedings which have been duly verified and examined by him before framing the impugned assessment order.

30. Considering the facts of the case in totality in light of judicial decisions discussed hereinabove, we do not find any error or infirmity in the assessment order which could make it erroneous and prejudicial to the interest of the Revenue. Therefore, we set aside the order of the PCIT and restore that of the Assessing Officer dated 29.12.2019. We order accordingly.

31. In the result the appeal of the assessee in ITA No. 1132/DEL/2022 is allowed.

The order is pronounced in the open court on 10.11.2023 in the presence of both the rival representatives.

Sd/-

**[ASTHA CHANDRA]
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 10th NOVEMBER, 2023.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	