आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE

BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No. 04/Ind/2021
Assessment Year: 2015-16

Income-tax Officer, 4(3), Indore.	बनाम/ Vs.	Smt. Ranjana Gupta, 204, Sant Marg, Gandhi Nagar, Indore.
(Revenue / Appellant)		(Assessee / Respondent)
PAN: BCJPG 9105 N		
Assessee by	Shri Yash Kukreja and Hitesh Chimnani, CAs	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	23.11.2023	
Date of Pronouncement	13.02.2024	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by appeal-order dated 17.09.2020 passed by learned Commissioner of Income-Tax (Appeals)-II, Indore ["Ld. CIT(A)"], which in turn arises out of assessment-order dated 19.12.2017 passed by learned ITO, Ward-4(5), Indore ["Ld. AO"] u/s 143(3) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2015-16, the Revenue has filed this appeal on following grounds:

> *"(1) The Ld. CIT(A) was not justified in considering the provision of Section 50C is effective in the instant case relying the proviso is curative nature, rationalization measure and retrospective operation whereas the same proviso would be effective from 01.04.2017 and not applicable in this case.*

(2) The Ld. CIT(A) was not justified in not considering the working of cost of acquisition of the said land by the AO on the basis of sale consideration of adjoining land situated in same geographical measure.

(3) The Ld. CIT(A) was not justified in deleting the amount of Rs. 31,00,000/- whereas the assessee failed to furnish the relevant documents of transaction as well as failed to produce/appearance of the recipient before the AO for recording the statement.

(4) The Ld. CIT(A) was not justified in allowing exemption of Rs. 2,50,03,000/- u/s 54B whereas it was clear from the certificate issued by the Teheshildar that the impugned land sold out by the assessee was vacant and not used for agriculture activities since 5-6 years.

(5) The Ld. CIT(A) was not justified in deleting passing the appellate order without calling for proper report from the concerned AO."

2. The registry has informed that that the present appeal is filed after a delay of 22 days and therefore time-barred. Ld. AR for assessee prayed that the delay has occurred due to Covid-19 Pandemic. Ld. AR further placed reliance on the order of Hon'ble Supreme Court in **Suo Motu Writ Petition (C) No. 3 of 2020 read with Misc. Applications** by which *suo motu* extension of the limitation-period for filing of appeals w.e.f. 15.03.2020 under all laws has been granted; hence there is no delay in fact. We confronted Ld. DR for Revenue who agreed to the submission of Ld. AR. In view of this, we proceed with hearing of appeal, there being no delay.

3. Brief facts leading to present appeal are such that the assessee-individual filed return of relevant AY 2015-16 on 26.08.2015 which was subjected to scrutiny-assessment u/s 143(3). While carrying out scrutiny, the AO found that the assessee had declared capital gain from sale of an agricultural land admeasuring 2.600 hectare situated at Village – Bada Bangarda, Tehsil – Hatod, District – Indore. The AO further observed that while computing taxable gain, the assessee claimed deduction of indexed cost of acquisition, transfer expenses and exemption u/s 54B/54F from full value of consideration and declared net capital gain of Rs. Nil. The AO increased taxable gain by making following modifications:

(i) The assessee declared full value of consideration at Rs. 5,82,00,000/- which the AO increased to Rs. 6,75,25,000/- in terms of section 50C. This resulted in an addition of Rs. 93,25,000/-.

(ii) The assessee claimed indexed cost of acquisition at Rs. 28,65,777/- which the AO reduced to Rs. 23,84,241/-. This resulted in an addition of Rs. 4,81,536/-.

(iii) The assessee claimed expenses on transfer of Rs. 2,60,94,000/- which the AO reduced to Rs. 2,24,72,000/-. This resulted in an addition of Rs. 36,22,000/-.

(iv) The assessee claimed exemption of Rs. 2,50,03,000/- [Rs. 45,03,000 + 2,05,00,000/-] u/s 54B which the AO did not allow.

4. The assessee, aggrieved by above modifications, contested in first-appeal whereupon the CIT(A) allowed full relief *qua* (i), (ii) and (iv) and part relief of Rs. 31,00,000/- *qua* (iii). Now, the revenue being aggrieved by relief given by CIT(A), has come in next appeal before us. The grounds raised by revenue sequentially deal all items of relief one by one.

Ground No. 1:

5. In this ground, the revenue claims that the CIT(A) was not justified in holding that the first proviso to section 50C was having retrospective operation.

6. The precise facts are such that the assessee sold a land admeasuring 2.600 acres through a registered sale-deed dated 12.05.2014 for Rs. 5,82,00,000/-, the valuation made by stamps authority was Rs. 6,75,25,000/-. While computing taxable gain, the assessee took full value of consideration at Rs. 5,82,00,000/- on the premise that the impugned sale was made pursuant to a sale-agreement made in the year 2012-13 and the assessee also received a sum of Rs. 15,00,000/- through cheque No.

2033811 dated 06.03.2013 towards sale-consideration. However, due to a dispute created by assessee's family members, namely Shri Krishna Murari Gupta (brother-in-law) and Smt. Tara Gupta (sister-in-law), the sale-deed could not be executed. Ultimately, after settlement with brother-in-law and sister-in-law, the sale-deed could be executed in the year 2014-15 and during the intervening period, the valuation of stamps authority got increased from Rs. 5,82,00,000/- to Rs. 6,75,25,000/-. The assessee invited attention of AO to first proviso to section 50C which provides that where the 'date of agreement' and the 'date of registration' are not same, the valuation of stamps authority as on the 'date of agreement' may be taken for the purpose of full value of consideration, subject only to the rider that the consideration agreed or a part thereof must have been received by way of account payee cheque or account payee draft or electronic clearing system. The assessee submitted that she satisfied the conditions of first proviso to section 50C and hence eligible to take benefit of same. Although the AO did not have any dispute of factual aspects yet he rejected assessee's reply by observing thus:

> *"The contention of the assessee presented through aforesaid reply is not acceptable as the first proviso to section 50C of the Act has been effective from 01/04/2017 which is not applicable in the instant case as the land was sold on 12/05/2014."*

7. During first-appeal, the CIT(A) accepted assessee's contention that the first proviso to section 50C was having retrospective operation. Thus, the controversy between assessee and revenue, as raised in ground No. 1, is with regard to the applicability date of the first proviso to section 50C only. While the assessee claims that the said proviso was appliable to AY 2015-16 under consideration being retrospective in operation, the AO is insisting that it was introduced through Finance Act, 2016 applicable from 01.04.2017 i.e. from AY 2017-18. In this regard, on perusal of order of CIT(A), we find that the CIT(A) has decided controversy in favour of assessee by relying upon following decisions where it has been held that the first proviso to section

50C was introduced to remove an undue hardship being faced by assessees; that the said proviso is curative in nature and therefore retrospective in operation applicable from 01.04.2003 when the section 50C was introduced:

(a) ITAT, Vishakhapatnam in Chalasani Naga Ratna Kumari Vs. ITO, ITA No. 639/Vizag/2013 order dated 23.12.2016

(b) ITAT, Ahmedabad in Dharma Shibai Sonani Vs. DCIT, ITA No. 1237/Ahd/2013 order dated 30.09.2016.

(c) ITAT, Indore in Manjo Yadav & Anr. Vs. ITO, ITA No. 916/Ind/2016 order dated 09.10.2018.

(d) ITAT, Indore in DCIT Vs. Indori Foot Care Pvt. Ltd., ITA No. 788/Ind/2016 order dated 02.05.2017 following the judgement of Hon'ble Supreme Court in Sanjeev Lal and Smt. Shanti Lal Vs. CIT 365 ITR 389.

The decisions at S.No. (c) and (d) are rendered by the Co-ordinate Bench of ITAT, Indore itself. Ld. DR for revenue is not able to point out any ruling holding that the first proviso to section 50C was prospective and not retrospective. Faced with this situation, we have no reason to deviate from the view taken in aforesaid decisions relied upon by CIT(A). Accordingly, we approve the order of CIT(A). This ground is thus dismissed.

Ground No. 2:

8. In this ground, the revenue claims that the CIT(A) was not justified in not considering the cost of acquisition computed and allowed by AO.

9. Facts apropos to this ground are such that while computing taxable gain, the assessee adopted the option of Fair Market Value as on 01.04.1981 at Rs. 1,07,638/- per hectare, accordingly computed cost of acquisition of 2.600 hectare of land sold by her at Rs. 2,79,861/- which was further

indexed to Rs. 28,75,777/-. This way, the assessee claimed deduction of indexed cost of acquisition at Rs. 28,75,777/-. During assessment-proceeding, the AO proposed a very low figure of Rs. 10,000/- per hectare. When the AO show-caused assessee, the assessee submitted that the proposed value of Rs. 10,000/- was unjustified. To show this, the assessee submitted a sample sale-deed dated 21.12.1981 executed by independent parties in adjoining vicinity where a comparable transaction of sale of land admeasuring 0.201 hectare was made for Rs. 18,000/-, which showed effective rate per hectare at Rs. 89,552/- (18,000/0.201). On reply of assessee, the AO adopted the figure of Rs. 89,552/- per hectare, accordingly computed cost of acquisition of 2.600 hectare of land sold by assessee at Rs. 2,32,832/- which was further indexed to Rs. 23,84,241/-. This way, the AO allowed indexed cost of acquisition at Rs. 23,84,241/- as against Rs. 28,75,777/- claimed by assessee which resulted in an addition of Rs. 4,81,536/-. During first-appeal, the CIT(A) rejected AO's approach of relying upon the sample sale-deed without considering specific parameters of assessee's land and deleted addition.

10. Before us, Ld. DR for revenue strongly supported AO's action and opposed CIT(A)'s order. He submitted that it is the assessee who herself filed a copy of the sample-deed which revealed fair market value at Rs. 89,552/- per hectare. Ld. DR argued that when the AO adopted assessee's own submission, where is the question of having any grievance?

11. Replying to above, Ld. AR for assessee submitted that it is true that the assessee herself filed sample-deed to AO but that filing was basically to demonstrate to AO that his proposal of adopting fair market value at Rs. 10,000/- per hectare was grossly wrong. But the AO mechanically adopted the rate of Rs. 89,552/- per hectare even without taking care to look into the differences between assessee's land and the land transacted in sample-deed. To explain one such difference which is very significant, Ld. AR carried us to sale-deed of assessee's land at Page No. 11-18 of Paper-Book-2 and the

impugned sample deed at Page No. 4-10 of Paper-Book-2. Referring to the locations of the lands transacted by respective deeds, Ld. AR showed that the assessee's land was situated in village "Bada Bangarda" whereas the land transacted in sample-deed was situated in village "Chota Bangarda", thus the two lands were located in different locations. Ld. AR submitted that the assessee submitted sample deed with two-fold perceptions, (i) the AO would come to know that his proposal of adopting 10,000/- per hectare was bad and accordingly drop his proposal, and (ii) the AO shall consider higher value of assessee's land having regard to the sample-deed. Although the AO dropped his proposal of 10,000/- per hectare but still mechanically adopted the value of Rs. 89,552/- per hectare shown by sample-deed as yardstick. Ld. AR submitted that the AO must have given due regard to the differences in two lands, for example the very important point of locational difference. Ld. AR submitted that had the AO taken due care, he would have not upset the fair value adopted by assessee. Ld. AR submitted that the CIT(A) has correctly appreciated all these aspects and thereafter reversed AO' fallacious action. He submitted that the order of CIT(A) is very correct and must be upheld.

12. We have considered rival submissions of both sides and perused the case record including the orders of lower-authorities as also the documents placed in Paper-Book. The dispute between the parties is *qua* the estimation of fair market value as on 01.04.1981. While the assessee estimated fair market value at Rs. 1,07,638/- per hectare, the AO adopted value at Rs. 89,552/- per hectare. It is a fact that the AO picked the value of Rs. 89,552/- from a sample-deed submitted by assessee. Now, the question before us is whether the AO was correct in doing so? The assessee in this regard is claiming that the AO has picked figure without taking care of the differences in two lands i.e. the land sold by assessee and land transacted by sample-deed. One vital difference pointed out by Ld. AR is such that the assessee's land was situated in a better village called "Bada Bangarda"

whereas the land transacted in sample-deed was situated in a smaller village "Chota Bangarda". We find much weightage in this point itself. Therefore, the AO's action of applying the figure of Rs. 89,552/- from sample-deed is faulty. In such a case, the next question would of course arise as to what would be the correct estimation? In this regard, the Ld. CIT(A) has made following conclusion accepting the estimation made by assessee:

> *"4.3 At the time when the land/property in question was sold, there were no guidelines as issued by the government for that area, as such it was prerogative of the District Registrar to determine and decide cost in respect of each piece of land going by specific parameters, i.e. location, size, shape, etc. The AO had taken the indexed cost after following the sample deed as an extract yardstick without having regard to exact location and other parameters specific to the land in question. On careful examination of this matter and the attendant circumstances, the addition so made by the AO is hereby deleted; accordingly, ground of appeal No. 4 is allowed."*

On perusal of above order, we find that the CIT(A) has accepted the fair value estimated by assessee. The conclusion of CIT(A) is resting upon two premises, namely (i) there were no guideline values issued by Govt. for the area in which assessee's land was situated for valuation as on 01.04.1981 and (ii) the AO had wrongly taken the cost following the sample-deed as yardstick without having regard to exact location and other parameters. Before us, the revenue is not able to impugn the order of CIT(A) giving these findings/conclusions. The revenue's effort is only to insist that the value adopted by AO as per sample-deed must be upheld but this pleading is meritless when it is clearly apparent that there is a significant locational difference in the land sold by assessee and land transacted by sample-deed. Therefore, we are inclined to the accept the order passed by CIT(A). The same is hereby approved. This ground is also dismissed.

Ground No. 3:

13. In this ground, the revenue claims that the CIT(A) has erred in granting deduction of Rs. 31,00,000/- claimed by assessee as payment made to Smt. Tara Gupta.

14. The assessee made a payment of Rs. 31,00,000/- to Smt. Tara Gupta (sister-in-law) for clearing title of land and claimed same as deduction in computing taxable gain. The AO disallowed deduction vide para No. 6(iii) of assessment-order by observing that the assessee did not file any details like Confirmation, copy of PAN and ITR nor even produced the payee for recording statements. During first-appeal, the CIT(A) allowed deduction by holding thus:

> *"6.2 I have gone through this matter carefully and as a submitted by the appellant, Smt. Tara Gupra has furnished her confirmation of having received said amount towards settlement of family dispute. Smt. Tara Gupta is real sister-in-law of the appellant and had staked a claim to the property and wanted her share in the sale proceeds received by the appellant. It is exactly this family dispute because of which there was delay in the registry of sale-deed for which Agreement to Sale took place in the year 2012-13 and finally sale-deed was registered in 2014-15 (grounds of appeal Nos. 1, 2 & 3 supra). In view of clear evidence of payment of Rs. 31,00,000/- to Smt. Tara Gupta and her written confirmation no disallowance of the said amount is warranted. Therefore, addition/disallowance of Rs. 31,00,000/- is deleted and ground of appeal No. 6 is allowed."*

15. Ld. DR for revenue strongly supported the order of AO and submitted that the assessee has shown payment to Smt. Tara Gupta who happens to be sister-in-law. He submitted that when the assessee claimed deduction of an expenditure, it was bounden duty of assessee to prove the same. But the assessee could neither submit the a/c confirmation nor the ITR details of the payee nor even produced the payee before AO for examination. Therefore, the assessee has failed to discharge her obligation and the AO has rightly disallowed the unproved deduction claimed by assessee.

16. Per contra, Ld. AR for assessee supported the order of CIT(A) with reference to the documents filed in Paper-Book. He explained the factual matrix of impugned land. He submitted that the land was an ancestral

property owned by assessee's father-in-law (Shri Mangi Lal Gupta) and the assessee received through a registered-will dated 04.08.2005 executed by her father-in-law, copy of will is filed at Page No. 23-25 of Paper-Book-2. However, Smt. Tara Gupta (assessee's sister-in-law) alongwith other successors created a dispute and the matter travelled to Tahsildar, Hatod Tahsil, in Case No. 3/35/6 of 2010-11. Then, the assessee had to enter into a compromise with Smt. Tara Gupta vide consent-agreement dated 17.04.2012 agreeing to pay a sum of Rs. 31,00,000/- to Smt. Tara Gupta, copy of consent-agreement is filed at Page No. 22 of Paper-Book-2. After such compromise, the impugned Case No. 3/35/6 of 2010-11 was decided in favour of assessee vide order dated 30.04.2012 passed by Tehsildar, copy of order is also filed at Page No. 26-33 of Paper-Book-2. Then, the assessee paid a sum of Rs. 31,00,000/- to Smt. Tara Gupta through various a/c payee cheques drawn on A/c No. 0478901100000750 with Yes Bank, Gorakunj Choraya, Indore branch, copy of bank statement showing debit entries of payments is filed at Page No. 73-74 of Paper-Book-1. Therefore, Ld. AR argued, the assessee has claimed a genuine deduction evidenced by documents and the AO has wrongly disallowed assessee's claim but subsequently, the CIT(A) has rightly allowed the same. Ld. AR requested to uphold CIT(A)'s order.

17. We have considered rival submissions of both sides and perused the orders of lower-authorities as well as the above-noted documents held in Paper-Book to which our attention has been drawn. On a careful scrutiny, we find that the assessee acquired impugned property from her father-in-law through will. However, Smt. Tara Gupta and other persons brought a case disputing assessee's ownership and claiming antecedent interest. Then, the assessee made a settlement with Smt. Tara Gupta agreeing to pay a sum of Rs. 31,00,000/- and thereafter the case was got decided in favour. Pursuant to such compromise, the assessee made payment of pre-agreed sum to Smt. Tara Gupta through banking channel. All these facts are clearly

established by respective documentary evidences filed in Paper-Book. The revenue is not able to controvert these facts. Therefore, it is well established by sufficient documentary evidences that the assessee has made payment for closing dispute and clearing her title. We find that the CIT(A) has taken a proper view of the issue and allowed deduction. We do not find any fallacy in the view taken by CIT(A). Therefore, we uphold the order of CIT(A) and dismiss the revenue's ground.

Ground No. 4:

18. In this ground, the revenue is claiming that the CIT(A) has erred in allowing exemption u/s 54B to assessee ignoring the certificate of Tehsildar indicating that the land sold by assessee was not used for agricultural purpose.

19. To understand this issue, we may firstly re-produce the order of AO in entirety, as under:

> *"**Disallowance of exemption claim u/s 54B of the IT Act***
>
> *(7) I looked in to the submission as produced by the assessee and it has been found that the assessee claimed exemption u/s 54B treating the original land sold out was an agricultural land. In support of her claim, she furnished B-I, P-II certified by the concerned Patwari, produced a sale bill of crop borne during the financial year relevant to the AY etc.*
>
> *7(i) In this connection the concerned AO of the Circle 4(1), Indore, who just completed the assessment proceedings for the same A.Y. of Shri Krishna Murari Gupta to whom the assessee has made payment of his share, shared some information with me and provided a copy of letter of Tehsildar, Hatod, Dt. Indore dated 06/11/2017 where it has been mentioned by him that the original land which was sold by the assessee vide survey no. 299/2/2 admeasuring 2.600 hectare had remained without agricultural activities since last 5-6 years. Since the authority concerned given the said certificate with reference the same Patwari and in comparison to this certificate the evidences produced by the assessee like Patwari's certificate viz. B-I, P-II and sale bills of crops remained meaningless and found to be fabricated, to claim exemption u/s 54B of the Income-tax Act, 1961, whereas the fact is that the land sold was not agricultural land and therefore such exemption is not allowable.*
>
> *7(ii) In this issue the assessee was asked to give reply vide order-sheet dated 15.12.2017 why the said land sold out should not be considered as*

non-agricultural land in reference the letter issued by the Tehsildar concerned in the case of Shri Krishna Murari Gupta whereas the Survey no. was identical in both of the cases. ***In compliance to the same, the assessee's AR replied that his client, the assessee, has communicated with the same Tehsildar and filed an application addressing to him for reconsidering the matter while the certificate of Patwari concerned viz. B-I, P-II has already been produced before the Tehsildar. The assessee also said that the Tehsildar required more days to further consider, this is why the assessee requested to this office to re-verify while original verification has already made by the said Tehsildar. Thereby the plea of the assessee is not being considered for being time-barred matter.***

7(iii) Therefore, the submissions provided by the assessee on the issue have been duly considered but not found acceptable. As it is not being justified that the original land was utilized for agricultural activities hence claimed exemptions u/s 54B of Rs. 4503000/- as well as amount invested in capital gain account scheme with the Union Bank of India of Rs. 20500000/- are being disallowed and addable to the income of the assessee."

[Emphasis supplied]

20. Thus, the crux of the matter is such that the AO treated the land sold by assessee as non-agricultural relying upon an information shared by another assessing authority of Shri Krishna Murari Gupta that the land sold by assessee had remained without agricultural activities for last 5-6 years. The basis of such information is a certificate/letter dated 06.11.2007 issued by Tehsildar, Tehsil-Hatod. The AO has also mentioned that the said certificate/letter of Tehsildar is with reference to the same Patwari as in assessee's case. The AO relied heavily upon such information shared by another assessing authority in juxtaposition to the documents submitted by assessee, namely Patwari's documents like B-I and P-II and the Bill of crop, to show that the land was in fact agricultural and cultivated. When the AO show-caused assessee, the assessee filed an application supported by his own documents viz. B-I and P-II, to concerned Tehsildar for re-consideration of the matter. Furthermore, the assessee also requested the AO to carry out necessary verification. But the AO rejected assessee's plea on the premise that it was a time-barring matter. Accordingly, the AO disallowed exemption. During first-appeal, the CIT(A) passed a detailed order rejecting AO's action and allowing assessee's claim.

21. Before us, Ld. DR for revenue submitted the AO received a clear information from other assessing authority of department revealing that the land sold by assessee was not an agricultural land and the other authority's view was also based on a tangible material in the shape of a certificate/letter of Tehsildar. Therefore, the AO had sufficient reason to hold that the assessee's land was non-agricultural. He submitted that the AO's conclusion is not baseless; it is very much based on a cogent material and must be approved.

22. Per contra, Ld. AR carried us to a few documents filed in Paper-Book which go to establish that the impugned land was an agricultural land:

(a) Copy of B-I/P-II documents maintained by Patwari for the year 2010-11, 2011-12 and 2013-14 showing that Soyabeen and Wheat were cultivated over the land and also showing that the impugned land was irrigated. These documents are also certified by Tehsildar (Page No. 1-3 of Paper-Book-2).

(b) Two invoices dated 20.03.2013 and 24.03.2014 issued by the office of Krishi Upaj Mandi Samiti, Indore in Form No. 3 as an evidence under Rule 22(2) of Mandi Samiti Rules, confirming sale of wheat made by assessee to M/s Ritesh Enterprises, Indore (Page No. 75 and 76 of Paper-Book-1).

(c) Copy of ITR for AY 2013-14 filed by assessee on 26.03.2014 declaring agricultural income of Rs. 2,25,000/- (Page No. 77-79 of Paper-Book-1).

Additionally, Ld. AR submitted that the will of Shri Mangi Lal Gupta under which the assessee acquired the impugned land (Page No. 23 of Paper-Book-2) and the Order dated 30.04.2012 passed in Case No. 3/35/6 of 2010-11 (Page No. 27 and 31 of Paper-Book-2) also have a categorical mention that

the impugned land was being cultivated for agriculture purposes. Ld. AR submitted that the AO has wrongly converted 'good proof' submitted by assessee into 'no proof'. However, the CIT(A) has analysed the case of assessee aptly and passed a well-reasoned. To show this, Ld. AR carried us to Para No. 7.2 to 7.20 of the order passed by CIT(A) and read over a significant part of these paras line by line. Finally, Ld. AR prayed that the order of CIT(A) must be upheld.

23. In rejoinder, Ld. DR submitted that the CIT(A) is also a facts-finding authority and he could also get the enquiry done before giving relief to assessee.

24. Replying to above, Ld. AR submitted that the primary documents evidencing the claim of agricultural land like B-I/P-II, Sale bills of crop, ITR of assessee assessed by department, etc. were already on record and there is no defect whatsoever in those documents found or pointed out by AO. In such a situation, why should the CIT(A) make further enquiry? He submitted that the AO has simply preferred the certificate/letter of Tehsildar taken by another assessing authority in a different case but that certificate/letter itself was against the statutory documents in the form of B-I/P-II maintained by very same Patwari and certified by Tehsildar in assessee's case. That is why the assessee applied to concerned Tehsildar for re-consideration and also requested the AO to make verification. But the AO rejected assessee's submission on an untenable footing that the case was getting time-barred. He submitted that the CIT(A) has categorically depricated the AO's action in louder terms in his order and passed a well-reasoned order.

25. We have considered rival submissions of both sides and perused the orders of lower-authority as also the documents held in Paper-Book. On a careful consideration, we find that the assessee has filed copies of several

documents as noted in foregoing paragraph, which we do not wish to repeat for the sake of brevity and to avoid repetition, which clearly show that the assessee has cultivated land, sold crop and also declared agricultural income in ITR. We find that the document filed at Page No. 1-3 of Paper-Book-2 is a document called "B-I/P-II" maintained as a statutory-record under Govt. Rules. The said document has been maintained by Patwari and issued as a certified copy by office of Tehsildar. Therefore, it is wrong on the part of AO to allege this document as fabricated document. This document itself shows agricultural crop having been grown during the years 2010-11, 2011-12 and 2013-14. The AO was prompted, on the basis of information received from another assessing authority, to show-cause assessee with a proposal to treat assessee's land as non-agricultural. Although there is nothing wrong in show-causing assessee but when the assessee made an application to Tehsildar for re-consideration and also made a specific request to AO to carry out necessary verification, it was not at all fair on the part of AO to reject assessee's request just by saying that the case of assessee was getting time-barred. Needless to mention that the AO himself show-caused assessed on 15.12.2017 and in response, the assessee took immediate action of making application to Tehsildar as well as a specific request to AO, there is no lack of activeness on the part of assessee. We find that the CIT(A) has made an extensive analysis and passed following order:

deleted and **ground of appeal No. 6 is allowed.**

7.0 Ground of Appeal No. 7 - Disallowance u/s 54B of Rs.2,50,03,000/- – The appellant, vide Ground No. 7, contests disallowance made by the AO of exemption claimed u/s 54B of the Act and making addition of the said amount of Rs.2,50,03,000/- to her income for the year under reference. The appellant has vehemently challenged the impugned order vide her submissions and documentary evidence filed in this regard. **5.1 Submission of the appellant** -The appellant submits that she had claimed exemption u/s 54B at Rs. 2,50,03,000/-. The AO has taken a stand that no agricultural operations were carried on in the immediately preceding two years on the said land. The AO, on this issue, has relied on the letter of Tehsildar obtained in the case of Shri Krishna Murari Lal Gupta by the ACIT Circle 4(1), Indore. No such report was obtained in the case of the assessee, Smt. Ranjana Gupta. Reliance on the report of tehsildar is misplaced. As per Tehsildar's letter there were no agricultural operations on the land of the assessee since last 5 to 6 years. Whereas, as per the evidence produced by the assessee in the form of Income Tax Return (ROI) of the appellant, sales bills of crop, etc., a different picture emerges. And, it is established that agricultural operations were being carried on in the immediately preceding two years of sale of the land. The appellant has submitted that she is aggrieved that she was not given full and proper opportunity to present her case with all relevant material and evidence on record. Thus, she asserts that the disallowance of exemption u/s 54B was made in violation of principles of natural justice. In this scenario, the appellant pleads that her case, on this issue, may be decided afresh after a reappraisal of evidence available on record. As such, relief is sought by her vide ground No. 7 with request to delete said addition/disallowance.

7.2I have carefully examined this matter and thrashed all the evidence and material placed by the appellant in the course of these proceedings. I have also gone through the assessment order of the AO. my observation, at the very outset, is that the AO in the instant case has failed to marshal facts resulting in gross miscarriage of justice. Appellant is aggrieved that so-called report of tehsildar is prepared in gross violation of principles of natural justice. Edifice of the case, on this issue, is the move or enquiry initiated by the ACIT-4(1) Indore and information collected through Tehsildar, Hatod about the land of the appellant, furnished in a letter purported to be an enquiry report. The said letter dated 06.11.2017 of tehsildar thus played a key role in determining this issue. This is on the basis of this letter that the ACIT-4(1)-Indore, unilaterally, without ever consulting or confronting Smt Ranjana Gupta, the appellant herein, decided the issue against her that no agriculture operations were carried out on her land two years prior to sale of her land, a condition necessarily to be fulfilled for claiming exemption u/s 54B of the Act. Though, assessment proceedings in the case of appellant, Ranjana Gupta, at that time were pending before a different assessing officer, ITO-4(5) Indore. Thereafter he forwarded said letter to her AO in order to give a certain direction to him as to how this was to be dealt with by him, putting the cart before the horse. The ITO-4(5) found himself in a piquant situation had no option left but to take up the matter following the same direction as set in motion by the ACIT-4(1) Indore in the case of Shri Krishna Murari Lal Gupta order passed on 17.11.2017. Thus case of appellant was taken up by her AO with a predetermined approach and biased mindset. This case thus is a glaring example of throwing all rules of enquiry and principles of natural justice to the wind. Various objections of the appellant in this regard and final outcome of this exercise on the part of ACIT-4(1) and ITO-4(5) Indore are enumerated and adjudicated hereunder.

(1)Tehsildar's Letter Per Se has no Evidentiary Value - Tehsildar's so-called report is a third party evidence collected behind assessee's back; it is self-serving and not a legally admissible evidence. In fact, the manner in which this so-called report is prepared and obtained is highly objectionable and against all tenets of law. It is not known as to under which section information about land of Smt. Ranjana Gupta was sought by the ACIT-4(1) and as to why she herself was not involved in the enquiry either by himself or by the tehsildar. Further,

the land being enquired into belonged to her until FY 2012-13, but at the stage of enquiry about the land, once owned by her, she was kept in dark and outside the purview of enquiry. Therefore, agreeing with the appellant, I am compelled to observe that in the true legal sense it is not an enquiry report because no rules of enquiry have been observed and followed while preparing the same; it is not fit to be called a report. Such a report has no evidentiary value in the eyes of law. It is a simple letter given by the tehsildar after making a perfunctory and half-hearted attempt at ascertaining state of affairs related to this matter. It is rather strange that the said authority, i.e. tehsildar, while carrying investigation in this kind of purported enquiry in respect of a certain agriculture land, did not feel any need to approach the owner of the land in question. This is a matter of gross negligence and a serious lapse on his part. Whereas, fact of the matter is that he was entrusted to carry out verification of agricultural activity on the land belonging to Smt. Ranjana Gupta, but the latter was never contacted in this connection by the former. From the said report matter is not clear as to the identity of the person referred to in his letter, and it is also not known as to what is the locus standi of the said person, consulted by the tehsildar. Some 'kotwar' is mentioned in the report who is a village chawkidar, how he would know in 2017 as to what activity had happened on the land before 5-6 years. Tehsildar did not bother to know as to since when said chawkidar was there and whether he was present in the year 2012, 2013 and part 2014 when Smt Ranjana Gupta was having agriculture operations on the said land as evidenced by the Govt. record including her I T Return. Though the ACIT-4(1) Indore got the report by referring the matter in the case of appellant's Brother-in-Law, Shri Krishna Murari Lal Gupta, the moot point involved herein is that the said land belonged to Smt. Ranjana Gupta who was the only competent person to throw light on this matter. But the correct procedure of enquiry and collection of evidence for preparation of report was not followed in this case. Neither did the ACIT-4(1) deem it fit to cross-verify the contents of letter purported to be an enquiry report by involving Smt. Ranjana Gupta. This was imperative in the case in the event the ACIT decided to send across said report to the AO of the appellant, Smt. Ranjana Gupta, to be used in her assessment, to her detriment. And, AO of the appellant, on his part, taking tehsildar's letter, though obtained unlawfully, as gospel truth, was too eager and keen to jump to

conclusion that no agriculture activity was carried on by the appellant on the land under consideration. But, facts on record, that too Govt. record, contradict tehsildar's version. Strangely, the AO refused to even look into the same. Therefore, such a report cannot be considered a credible or valid evidence to be accepted in legal and quasi-judicial proceedings; instead the same deserves to be rejected outright.

(2) Evidence of Agriculture Activity available on Record – The appellant, in the course of assessment proceedings before the AO, had presented valid and legal evidence confirming agriculture operation on the land under consideration in the immediately preceding two years, i.e. AYs 2013-14 & 2014-15, but the AO did not consider the same with an open and unbiased mind. Khasra B-1 and P-2 and crop bill, etc., are legal records and still hold the field. Moreover, the appellant in AY 2013-14 had shown agriculture income at Rs.2,25,000/- in her IT Return which stands accepted by the IT Deptt. As for AY 2014-15, the appellant did grow crop of wheat on the land under consideration which was sold also but since it was a case of no loss no profit no agriculture income was reported to the IT Deptt. for the said AY. In fact, the buyer of the land had to wait for considerable time to register the sale as there was standing crop of wheat on the land. Since harvesting of wheat continued till March and April of the year 2014 registry of the land was kept pending until harvesting was over. Consequently registry of the land could take place in the month of May 2014 only. Confirmation of the buyer of the land that there was crop of wheat on the said land just before going for registry is available on record enclosed in Paper Book. Thus appellant's case is strongly supported by sufficient circumstantial, documentary and legal evidence to establish her case that there were agricultural operations on the land in question in AYs 2013-14 & 2014-15. Said evidence is again produced before this authority in present proceedings.

(3)Tehsildar's Report and Consequential Order of the AO are Cryptic – The tehsildar concerned, in such a serious matter of far reaching consequences, threw all rules of enquiry and caution to the wind. He failed to appreciate that though enquiry was being conducted in the case of Krishan Murari Gupta by the ACIT-4(1), Indore but the khasra No. - subject of this enquiry - stood in the name

of Smt. Ranjana Gupta, an independent and different entity altogether. It was incumbent upon him to approach the owner of the land to ascertain exact position and state of affairs. Instead, he consulted some unknown person, rather a stranger, who was not even in the know of affairs and a person having no locus standi in the matter. This is how he came to conclusion that no agriculture operations were carried on there since last 5-6 years. The report was prepared and collected sometime in the year 2017 taking the matter back to 2011-2012, counting 5-6 years from the date of enquiry. But as submitted herein above at point No. (2) (supra) there is sufficient credible evidence on record that agriculture did happen in these years. Moreover, in records for these years under consideration this land was not even shown as 'parat'. Thus the tehsildar concerned prepared and submitted a cryptic report to the ACIT-4(1) Indore against all rules. The same deserves to be rejected. The ACIT-4(1), on his part, did not even realize shortcomings in the report. He, rather, accepted the same as gospel truth and went ahead with the proceedings. Not only that, he went one step further by sending the same across to the AO of Smt. Ranjana Gupta to be utilized in her assessment as well with a view to disallowing exemption u/s 54B of the Act. The AO of the appellant, religiously following the report of tehsildar, dismissed assessee's plea for re-verification of the matter and disallowed her claim of exemption u/s 54B. The apparent reason cited by the AO of the appellant was limitation involved in the matter. It is unacceptable because the AO, while sitting at his desk even, could have easily found out correct position by simply referring to appellant's ROI for AY 2013-14. But the AO did not wish to go even one step further to pass a just and fair order. In the back drop of these events the appellant is compelled to express her disappointment and has no qualms in saying that both the Assessing Officers dealing with this matter and with tehsildar's report, acted without due application of mind. The appellant with regret says that all Govt. authorities involved in this matter, i.e. tehsildar, ACIT-4(1) and ITO-4(5) Indore, violated principles of natural justice and prepared a cryptic report/order which is divorced from reality. The appellant, in view of this position, requests that her claim of exemption u/s 54B be allowed deciding ground of appeal No. 7 in her favour.

(4)AO's Order Smacks of Bias against the Appellant, Replete with Unwarranted Remarks - The appellant is sorry to say that AO's

order in her case smacks of bias against her. The order passed by him is neither fair nor judicious. The order is objectionable too as it is replete with unwarranted remarks which need to be expunged. The AO has leveled a serious charge against the appellant by labeling the evidence presented by her in assessment proceedings as "meaningless" and "fabricated". Clarification, in an elaborate manner, about the evidence produced by the appellant in the course of assessment has been given herein above before this authority, supra. The appellant expresses serious objections to this kind of treatment meted out to her without any basis. Thereafter, the AO, after making such comments, did not bring the matter to any logical conclusion; he, instead, left the matter open and closed the proceedings by using excuse of limitation involved as an alibi for not passing a judicious, logical and complete order.

(5) Legal Position- The case of the appellant and the impugned order judged in the light of judicial pronouncements –

Natural Justice in Income Tax Assessment - Natural justice is the soul of the machine of justice. Natural justice is the very foundation, upon which is based the dispensation of justice. Justice, to be true has to be arrived at by a process which must have been behind it, the sanction of good conscience, equity and fair play.

In **Mahadayal Premchandran v. Commercial Tax Officer, Calcutta, (1959) SCR 551**, the procedure adopted by the Sales Tax Authorities was pronounced to be unfair and contrary to the principles of natural justice in that it had failed to afford to the appellant an opportunity of being heard. On these very principles the Income Tax Authorities were held to be judicial or quasi-judicial bodies in **Suraj Mall Mohta & Co. v. A. V. Visvanath Sastry, (1954) 26 ITR 2 (SC)** and it was observed by the Supreme Court that under the provision of Section 37 (corresponding to section 131 of the Income-tax Act, 1961) the proceedings before the Income Tax Officer are judicial proceedings and all the incidents of such judicial proceedings have to be observed before the result is arrived at. In other words, assessee would have a right to inspect the records and all relevant documents before he is called upon to lead evidence in rebuttal. This right has not been taken away by any express provision of the Income-tax Act.

7.3 In **M. Chockalingam and M. Meyyappan v. CIT, Madras, (1963) 48 ITR 34 (SC)**, *Hidayatullah, J,* speaking for the court observed that the authorities acting under the Income-tax Act have to act judicially and one of the requirements of judicial action is to give a fair hearing to a person before deciding against him.

7.4 The rule is that no decision should be given against a party without affording reasonable opportunity of being heard or the rule as is expressed by the maxim 'audi alteram partem'. The Act itself provides for an opportunity of being heard in express terms and this salutary principle is statutorily recognised under the Income Tax Laws. Examples of such statutory provisions are to be found in section 127 (1) and section 142(3) and various other sections of the 1961 Act. Beside the statutory recognition, there may arise the circumstances under which the taxing authorities are bound to follow the rules of natural justice by implication. In fact it can be said in all proceedings it would be the safest and most ideal to observe rules of natural justice except where the statutory provisions are clearly to the contrary. Further, vast discretionary powers are given to the various Income Tax Authorities under the Income tax Act, 1961. Such powers are to be exercised not capriciously but on judicial grounds and for substantial reason.

7.5 And, the application of the law must be correct. It is matter of public interest that the tax-payers are protected against unlawful decisions and actions of the taxing authorities. It has been shown in ample measure in the discussions herein above with reference to handling of tehsildar's report and consequent disallowance of exemption u/s 54B that order of the AO, and measures taken up by the ACIT-4(1) Indore and tehsildar, Hatod rules of natural justice have not been followed and this has vitiated entire proceedings and the resultant order in the case of Smt Ranjana Gupta.

7.6 The ACIT-4(1) before arriving at a conclusion regarding activity or no activity on the land of Smt. Gupta in 2012-13 and 2013-14 was duty bound to confront her with the report of the tehsildar which is actually a hearsay report. No such notice was given to her by either of the authorities. Service of notice is a condition precedent for the making of an order of assessment by the authorities under the Income-tax Act, 1961. The assessee in law is entitled to rebut the material placed before him or her, if he or she so chooses and any

material placed on record without notice to the assessee cannot be relied upon by the Assessing Officer being violative of the principles of natural justice.

7.7 It is, therefore, trite law that rules of natural justice must be followed by Income Tax Authorities. In a plethora of judicial pronouncements the Supreme Court has held that the tax authority is entrusted with the power to make assessment of tax liability of a person discharging quasi-judicial functions, and such officers are bound to observe the principle of natural justice in reaching their conclusion as regards the tax liability. This observation by the Apex Court makes it amply clear that assessing officer under the Income-tax Act, 1961, while making assessment, discharge quasi-judicial functions, and is bound to follow the principle of natural justice. A duty to act fairly, that is in consonance with the fundamental principle of substantive justice.

7.8 Hon'ble Supreme Court in **(1993) 1 SCC78, C.B. Gautam v. Union of India and others** invoked the same principle and held that even though it was not statutorily required, yet the authority was liable to give notice to the affected parties while purchasing their properties under Section 269-UD of the Income Tax Act, namely, the compulsory purchase of the property. The AO in the instant case failed to give the assessee reasonable opportunity to rebut the adverse evidence collected against her behind her back.

7.9 Adequate & proper opportunity of hearing should be provided to ensure fair hearing and fair deal to the assessee. **Ramrshwaram Paper Mills (P) Ltd. v. State of U.P. & others, (2009) 11VLJ 33 (All); Padam Traders & others v. State of U.P. & others, (2009) 47 STJ 392 (All).**

7.10 Principles of natural justice involve Right to rebut adverse evidence **and** disclosure of evidence/material to assessee.The elementary principle of Natural Justice in the Law of Taxation is that the assessee should have knowledge of the material which is being used against him or her by the assessing officer so that he may be able to meet it. In an Income tax case of Ram Chander, the Income Tax Tribunal relied on certain data supplied by the Income Tax Department behind the back of the assessee and without giving an opportunity to the assessee to rebut the same. The Apex Court in the

case of **Ram Chander vs Union of India & Ors 1986 SCC (4) 12** held as under:

> *"In principle, there ought to be an observance of natural justice called equally at both stages.....If natural justice is violated at the first stage, the right to appeal is not so much a true right of appeal as a corrected initial hearing, instead of fair trial followed by appeal, the procedure is reduced to unfair trial followed by fair trial".*

7.11 It is relevant to refer to the case of **Dhakeswari Cotton Mills Ltd. vs. CIT 1955 AIR 65,** wherein the Apex Court emphasizing the requirement of application of principles of natural justice, observed thus:

> *"It is surprising that the Tribunal took from the representative of the department statement of gross profit rates of other cotton mills without showing the statement to the assessee and without giving him an opportunity to show that the statement had no relevancy whatsoever to the case of the mill in question."*

7.12 As observed by the Hon'ble Supreme Court here in this case, the appellant, Smt Ranjana Gupta was never called upon by the ACIT – 4(1) to examine and rebut the report of the tehsildar and an adverse finding was given in her case regarding agriculture operations on the land in question. Thus future course of assessment and decision in her own case pending at that stage with ITO-4(5) was already determined even without her knowledge. And, as expected, her AO framed her assessment on the same lines as decided by the ACIT-4(1).

Reasoned decisions and speaking orders -

7.13 The concept of speaking order is the essential part of the principles of natural justice.

7.14 It would be trite to refer to the decision of the Apex Court in **S.N. Mukherjee vs. Union of India 1990 AIR 1984** wherein the Court held thus:

> *"The recording of reasons by an administrative authority serves a salutary purpose, namely it excludes chances of arbitrariness and assures a degree of fairness in the process of decision making. The said purpose would apply equally to all decisions and its*

application cannot be confined to decisions, which are subject to appeal, revision or judicial review. Therefore, the requirement that reasons be recorded should govern the decisions of an administrative authority exercising quasi- judicial functions irrespective of the fact whether the decision is subject to appeal, revision or judicial review."

It would be trite to refer to the decision of the Apex Court in ***Kranti Associates (P) Ltd. v. Masood Ahmed Khan, (2010) 9 SCC 496*** *wherein the Court* while dealing with the requirement of passing reasoned order by an authority whether administrative, quasi-judicial or judicial, has *after applying the earlier declarations of law in this regard, summarized as under:*

" Summarizing the above discussion, this Court holds:

a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

b. A quasi-judicial authority must record reasons in support of its conclusions.

c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.

f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

g. Reasons facilitate the process of judicial review by superior Courts.

h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.

i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

j. Insistence on reason is a requirement for both judicial accountability and transparency.

k. If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

l. Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or ***`rubber-stamp reasons'*** *is not to be equated with a valid decision making process.*

m. It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny.

o. In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of Due Process. "

7.15 In a recent decision of Rajasthan High Court in Income Tax appeal no. 117/2004 decided on 21-01-2014 in the case of **CIT v RamSingh**, the Court laid the importance of giving reasons in the orders and held as under:

"Recording of reasons is part of fair procedure and reasons are harbinger between the mind of the maker of the decision in the controversy and the decision or conclusion arrived at and they always substitute subjectivity with objectivity and as observed in Alexander Machinery (Dudley) Ltd. Crabtree, 1974 L.C.R. 120, failure to give reasons amounts to denial of justice and this is what was also observed by the Apex Court in 2005 (2) SC 329 Mangalore Ganesh Beedi Works Vs. CIT & Anr."

7.16 The AO in the impugned order has not supplied reasons as to why he has denounced the evidence produced by the assessee as "fabricated" and "meaningless"; he has passed a cryptic order.

7.17 Submissions made by the tax payer during Assessment Proceedings ignored by the AO -

Sometimes, the Assessing Officer passes an order in a haste to meet the time limit for passing the assessment order without considering the relevant documents or information produced by the assessee before him/her.

7.18 In the recent judgement of the Hon'ble High Court of Patna in the case of **Dhananjay Kumar Singh vs. Assistant Commissioner ofIncome Tax and Ors.[2018] 402 ITR 91 (Patna),** the question canvassed before the Hon'ble High Court was whether the order passed by the Assessing Officer hastily without considering the documents and other materials on record is valid? The Hon'ble High Court held that it is a cardinal principle of law that if relevant materials and objections are produced before a quasi-judicial authority, the quasi-judicial authority is duty-bound, under law to advert to consider the same, discuss them and then reject it by recording reasons. Therefore, the Hon'ble Court remanded the matter back holding the order as perverse based on his *ipse dixit* (assertion without proof) and in violation to the principles of natural justice.

7.19 Therefore, the Assessing Officer is duty bound to consider all the submissions made before him. But, the AO, in the instant case, i.e. ITO-4(5), did not entertain assessee's plea to go through the records made available by her. Her request for reverification and reappraisal of evidence was not acceded to by the AO by citing reasons of limitation involved in the matter. Thus there was miscarriage of justice in this case.

7.20 In my considerate opinion the order passed by the AO withdrawing exemption u/s 54B cannot be sustained. As such addition of Rs.2,50,03,000/- is ordered to be deleted and ground of appeal No. 7 is **allowed**.

26. On perusal of order of CIT(A), we find that the CIT(A) has given vehement findings/conclusions supported by several judicial precedents and passed a detailed order. We do not wish to re-narrate same as it would only make our order lengthy. Suffice it to say that the order of CIT(A) is a proper adjudication of assessee's issue. Therefore, we do not have any reason to upset his order, the same is hereby approved. This ground raised by revenue is also dismissed.

Ground No. 5:

27. In this ground, the revenue has mentioned that the CIT(A) was not justified in passing the appellate order without calling remand-report from concerned AO. However, during hearing before us, the parties have not made any submission *qua* this ground, perhaps realizing that everything was already on record and there were infirmities in the adjudication by AO which only set right by CIT(A), hence there was no necessity of remand-report. We, therefore, dismiss this ground.

28. Resultantly, this appeal of revenue is dismissed.

Order pronounced in the open court on 13.02.2024.

Sd/-	Sd/-
VIJAY PAL RAO	B. M. BIYANI
JUDICIAL MEMBER	ACCOUNTANT MEMBER

Indore
दिनांक/Dated : 13.02.2024.
CPU/Sr. PS

Copies to:
(1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

Assistant Registrar
Income Tax Appellate Tribunal
Indore Bench, Indore