

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH, MUMBAI**

**BEFORE SMT. BEENA PILLAI, JM &  
SMT. RENU JAUHRI, AM**

**I.T.A. No.2803/Mum/2024**  
(Assessment Year: 2018-19)

<b>Nuclear Power Corporation of India Ltd.</b> 16 <sup>th</sup> Floor, Centre-1, World Trade Centre, Cuffe Parade, Colaba, Mumbai-400005. <b>PAN : AAACN3154F</b>	Vs.	<b>Principal Commissioner of Income Tax-3,</b> 612, 6 <sup>th</sup> Floor, Aayakar Bhavan, M.M. Road, Mumbai-400020. .
<b>Appellant)</b>	:	<b>Respondent)</b>

**Appellant / Assessee by** : Shri Nitesh Joshi, AR  
**Revenue / Respondent by** : Shri Kailash C. Kanojiya, CIT-DR  
**Date of Hearing** : 08.10.2024  
**Date of Pronouncement** : 25.10.2024

O R D E R

**Per Beena Pillai, JM:**

Present appeal filed by the assessee arises out of order dated 28/03/2024 passed by Ld. PCIT Mumbai-3 for Assessment Year 2018-19 on following grounds of appeal:

*“1. The learned Principal Commissioner of Income Tax (PCIT) erred in directing revision of the assessment order passed u/s 143(3) of the Act and to add the income of Rs. 42,15,51,853 earned during the construction period to the book profits computed u/s 115JB of the Act.*

2. The learned PCIT erred in initiating revisionary proceedings u/s 263 of the Act by holding that the order passed by the Assessing Officer was erroneous and prejudicial to the interests of the revenue since: the details regarding the Capital work-in-progress and its accounting treatment was submitted during the course of assessment proceedings, and the AO had examined the issue and adopted the correct view of not adding the above amount to the book profits.

3. The learned PCIT erred in passing order under section 263 of the Act directing for addition to the book profits, without mentioning the applicable clause mentioned under Explanation 1- (a) to (k) to Sub-Section (2) of Section 115JB of the Act. Thus, any addition to the book profits beyond the additions prescribed in the section is not tenable in law.

4. The learned PCIT erred in passing order under section 263 of the Act, ignoring the order of the Hon'ble Tribunal in ITA No. --- (and upheld by Hon'ble Bombay High Court and Hon'ble Supreme Court) in similar matter for appellant's own case for AY 2009-10 decided in favour of the appellant.

5. Without prejudice to the above grounds, the learned PCIT failed to appreciate that the provisions of section 115JB are not applicable to the appellant.

6. Without prejudice to the above grounds, the learned PCIT erred in directing the learned Assessing Officer to compute book profits u/s 115JB by disturbing the audited accounts, which were prepared in accordance with the provisions of the Companies Act, 2013 and certified by the statutory auditors, wherein the above amount was not credited to the profit and loss account as income.”

**Brief facts of the case are as under:**

2. The assessee filed its return of income on 28/10/2018 for Rs.2,95,21,66,160/- under the normal provisions of the act and ₹47,37,52,74,335/- under section 115JB of the act. The return was

selected for complete scrutiny and notice under section 142 (1) along with notice under section 143 (2) of the act was issued. In response to the statutory notices the assessee furnished information and details as called for. From the submissions filed by the assessee. Ld.AO noted that, the assessee was incorporated in September 1987 with the objective of operating atomic power plants and establishing atomic power projects for the generation of electricity. It was noted that the assessee was engaged in the generation of electricity with nuclear fuel to the plant is located at various locations across the country it was further noted that the assessee was also involved in generation of electricity with the use of renewable resources. The assessee had 7 plants that were operational and 3 projects were under construction.

2.1 During the course of assessment proceedings the Ld. AO identified following issues:

1. Addition of decommissioning levy and interest thereon and interest on R&M fund levy and computation of book profits under section 115 JB of the act.
2. Disallowance of other income claimed under section 80IA of the act.
3. Addition of taxes or not monitor perquisites to employees while computing income under section 115 JB of the act.

2.2 The Ld. AO after considering all the submissions in respect of the issues raised in the show cause notice, made

addition/disallowances in the assessment order dated 20/05/2021 as under:

	Particulars	Amount in Rs.	Amount in Rs.
	Gross Total Income (As per ITR)		2080,13,55,453
Add	(i) Decommissioning levy	69,38,00,00	
	(ii) Interest of Decommissioning Fund	138,47,00,000	
Add	(iii) Interest on R&M levy	83,00,000	
Add	(iv) Interest on R&D levy	7,48,00,000	
			216,16,00,000
	Gross Total Income		2296,29,55,453
Less	Deduction u/s. 80IA admissible		1724,21,00,451

	Particulars	Amount in Rs.	Amount in Rs.
	Book profit as declared in ITR		4737,52,74,335
Add	(i) Decommissioning levy	69,38,00,00	
	(ii) Interest of Decommissioning Fund	138,47,00,000	
Add	(iii) Interest on R&M levy	83,00,000	
Add	(iv) Interest on R&D levy	7,48,00,000	
Add	(v) Taxes on non-monetary perquisites to employees	24,20,65,271	240,36,65,271
	Book Profit u/s. 115JB		4977,89,39,606

2.3 Subsequently vide notice dated 18/03/2024 the Ld. PCIT issued notice under section 263 that reads as under:

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
INCOME TAX DEPARTMENT  
OFFICE OF THE PRINCIPAL COMMISSIONER OF INCOME TAX  
PCIT, Mumbai-3**

To, NUCLEAR POWER CORPORATION OF INDIA LTD 16th Floor Centre I World Trade Centre, Colabis S.O Mumbai MUMBAI 400005 Maharashtra India	
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PAN/TAN: AAACN3154F	AY 2018-19	DIN & Notice ITBA/REV/F/REV1/2023- 24/1062850852(1)	No:	Dated: 18/03/2024
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**NOTICE FOR THE HEARING**

M/s/Mr/Ms

*Subject: Notice for Hearing in respect of Revision proceedings u/s 263 of the THE INCOME TAX ACT. 1961-Assessment Year 2018-19.*

*In this regard, a hearing in the matter is fixed on 22/03/2024 at 02:55 PM. You are requested to attend in person or through an authorized representative to submit your representation, if any alongwith supporting documents/information in support of the issues involved (as mentioned below). If you wish that the Revision proceeding be concluded on the basis of your written submissions/representations filed in this office, on or before the said due date, then your personal attendance is not required. You also have the option to file your submission from the e-filing portal using the link: [Incometaxindiaefiling.gov.in](http://Incometaxindiaefiling.gov.in)*

*2. The assessee had filed return of income on 28/10/2018 for Rs 2,95,21,66,160/- under normal provision of the Act and at Rs 47,37,52,74,335/- under section 115JB of the Act. The scrutiny assessment order was passed on 20.05.2021, assessing the income at Rs 572,08,55,002/- under normal provision of the Act and Rs 49,77,89,39,606/- under section 115JB of the Act.*

*3. On perusal of the record, it is seen that following issues were not properly examined by the assessing officer during assessment proceedings.*

*"The assessee had added Rs. 42,15,51,853 as income earned during construction period while computing income under normal provision of the Act. As per 3CD (Sr. no 16(e)) report, the same amount is inclusive of interest income for Rs 36,16,12,892 and other Income for Rs 5,99,39,161/- and has been not been credited in the profit and loss account. As per above mentioned provisions, the same income earned during construction period, should be credited in the profit and loss account.*

*However, the same amount has not been credited in the profit and loss account. This omission had resulted into under assessment of income under section 115JB of the Act for Rs 42,15,51,853/-leading to the short levy of tax of Rs. 8,99,65,910/.*

*4. The assessment order passed u/s. 143(3) r.w.s 144B of the IT Act dated 20.05.2021 in the case of Nuclear Power corporation of India Ltd by the assessing officer without making proper inquires or verification. The same should have been done so as to make corresponding additions/disallowances after making such inquires which ought to have been made. Therefore, the order passed u/s143(3) r.w.s 1448 dated 20.05.2021 is erroneous in so far as it is prejudicial to the interest of Revenue.*

*5. In view of the aforesaid reasons, it is proposed to revise the assessment order u/s. 143(3) r.w.s 144B dated 20.05.2021, under section 263 of the Income Tax Act, 1961, being erroneous in so far as it is prejudicial to the interest of Revenue.*

*6. You are hereby given an opportunity to represent your case as to why the proposed action u/s 263 of the Income tax Act, 1961 should not be pursued and necessary order be passed on these issues discussed above as well as other issues that may come to the notice of the undersigned during these proceeding. You or any duly authorized person can appear on the date and time mentioned in this Notice at Room No.612 Aayakar Bhavan, M. K. Road, Mumbai-400020 or you may file written submission which will be considered while passing the revision order. Failure to comply will lead to the conclusion that you have nothing to offer and you are agree to the proposed action as deemed fit on the materials available on record or gathered during this proceeding.*

*KISHAN KUMAR VYAS  
PCIT, Mumbai-3*

2.4 The assessee in response to the notice under section 263, filed its reply on 21/03/2024, a copy of which is placed at page 218-287 of the paper book. The sum and substance of the submissions made by the assessee was that, the expenditure incurred on the assets under construction (including the project) is carried to, capital work in progress; And that such cost comprises purchase price (after deducting trade discount/rebate) including nonrefundable duties and taxes and other costs that are directly attributable to bringing the asset to the location and condition necessary for it capable of operating in the manner intended managed.

2.5 It was also submitted that the cost directly attributable to the project under construction include cost of preparing project report, conducting feasibility study, land survey, location study, site preparations, employee benefits, initial delivery and handling charges, installation and assembly cost, professional fees, expenditure on common public facilities including its maintenance and upgradation, depreciation on assets used in construction of project, interest in during construction and other costs including unavoidable cause that are directly attributable to construction activities. It was submitted that, such costs were accumulated under capital work in progress, after netting of any revenue generated including, for the Commercial operation. The cause are subsequently allocated on rational basis to the PPE capitalized, other than the land on commencement of the commercial operation. The assessee submitted that the depreciation as per the book is claimed only on the net capital work in progress capitalised on the commencement of the commercial operation.

2.6 The assessee submitted that, there was categorical query raised by the Ld. AO during the assessment proceedings calling for details of the capital work in progress and detailed note on the financial statements that was submitted before the Ld. AO. The assessee had refer to the notice and reply given as Annexure-3A & 3B wherein, the note clearly depicts that the treatment given to the income of Rs.42.15 crore. It was also submitted before the Ld. PCIT that, the above treatment was in conformity with the financial

reporting framework applicable to the assessee, and that the financial statements of the assessee are subjected to audit by the Comptroller and auditor general of India. It was also submitted that neither the statutory auditor nor the Comptroller and auditor general of India has commented adversely upon the accounting treatment given by the assessee with respect to the income earned during the construction, shown in capital work in progress.

2.7 The assessee referring to the provisions of Explanation 1 to section 115 JB of the act, submitted that, for the purpose of computing book profit, the assessing officer is bound to take net profit as per the audited financial statements and adjust only those permissible items that are expressly provided therein. It was submitted that, in the absence of any specific provisions to increase the book profits by the amount of income earned during the construction, and reduced from the construction cost and capital work in progress, the question of adding the same to the book profits does not arise.

2.8 Before the Ld.PCIT the assessee referred to the orders passed by coordinate bench of this *Tribunal* in assessee's own case for assessment year 2009-10, which is upheld by *Hon'ble High Court* and also by *Hon'ble Supreme Court* the details of which are as under:

1). *Decision of this Tribunal in ITA No.3880/Mum/2014  
Nuclear Power Corporation of India Ltd. Vs. CIT(LTU)*

2) Decision of Hon'ble High Court in Income Tax Appeal No. 1356 of 2017

Commissioner of Income Tax, LTU Vs. Nuclear Power Corporation of India Ltd.

3) Decision of Hon'ble Supreme Court in 138 taxmann.com 332(SC)  
Commissioner of Income Tax, LTU Vs. Nuclear Power Corporation of India Ltd.

4) Decision of this Tribunal in Commissioner of Income Tax, LTU Vs. Nuclear Power Corporation of India Ltd. for AY 1998-99 to 2006-07.

2.9 The Ld. PCIT after considering the decisions relied by the assessee in its own case as well as the provision of Explanation 1 to section 115 JB of the act observed and held as under:

*"9 The AO has not examined the issue further though it is required to be examined as to how the above mentioned income is inextricably linked to the project and why it should be reduced from the cost of the project. This is the core issue which has not been examined by the AO. The AO has also not examined the issue that when these incomes have been offered to taxation in computation of income under normal provisions then why it should not be credited to the Profit and Loss Account. The capital receipt amounting to Rs.42 15 crores includes interest income and other income but the nature of these incomes was not examined by the AO during the assessment proceedings. The assessee has also not furnished any description of these incomes during the assessment proceedings.*

*10. This clearly shows that the AO has not examined the issue and didn't conduct Inquiries which are required to be conducted. As stated above, the order u/s 143(3) r.w.s 144B dated 20.05 2021 is erroneous in so far it is prejudicial to the interest of the revenue 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 Dadabhoy & Co. v. S.P. Jain (1957) 31 ITR 872 (Cal) the High Court of Karnataka in CIT v T. Narayana Pal ((1975) 98*

*ITR 422 (Kant)] the High Court of Bombay in CIT v. Gabriel India Ltd [(1993) 203 ITR 108 (Bom)] and the High Court of Gujarat in CIT v. Minalben S. Parikh ((1995) 215 ITR 81 (Guj)) treated loss of tax as prejudicial to the interests of the Revenue. The High Court of Madras in Venkatakrishna Rice Co. v. CIT (1987) 163 ITR 129 (Mad)) 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 Income-tax Officer, which might set a bad trend or pattern for similar assessments, which on a broad reckoning, the Commissioner might think to be prejudicial to the interests of Revenue Administration."*

*11. It is pertinent to mention that the Hon'ble SC in the case of CIT Vs Paville Projects P Ltd(2023) 149 taxmann 115(SC) held that 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. It is further observed that if due to an erroneous order of the Income-tax Officer, the Revenue is losing tax lawfully payable by a person, it will certainly be prejudicial to the interests of the Revenue.*

*This makes the assessment order dated 20.05.2021 passed by the AO erroneous in so far as prejudicial to the interest of the revenue.*

*12. With regard to the merit of the case, the contention of the assessee that no adjustments on account of income earned during the construction period is possible since the same does not fall under any of the adjustments mentioned in the Explanation to the Section 115JB of the Act. Considering the facts of the case, this contention of the assessee is also not correct. The Explanation 1 to the Section 115JB of the Act provides the meaning of book profit for the purpose of the Section 115.JB of the Act It says that for the purpose of Section 115JB "Book Profit means the profit as shown in the Statement of Profit and Loss for the relevant previous year prepared under sub-section 2 as increased by the adjustment mentioned in the Explanation.*

*13. The issue here is whether the income of Rs.42.15 crores earned during the construction period should be credited to Profit and Loss*

*Account or not. The assessee had added this amount while computing income under normal provisions of the Act but the same has been not credited in the Profit and Loss Account. While finalizing the assessment, this issue was not examined by the AO.*

*14. The assessee has also contended that the provision u/s 115JB of the Act are not applicable to the Corporation and the Hon'ble ITAT in recent judgement in assessee's own case has upheld this.*

*15. It is noticed that assessee is registered under Companies Act and its account prepared under Companies Act. Moreover, the assessee itself has offered income u/s 115 JB of the Act in the return of income. The judgement of the Hon'ble Kerala High Court followed by the Hon'ble ITAT is different on facts.*

*16. Considering the above, the AO is directed to examine the issue of income earned during the construction period as discussed above and revised the income computed u/s 115JB of the Act.*

*17. Hence the order passed u/s 143(3) r.w.s 144B of the Act dated 20.05.2021 for the AY 2018-19 is set aside and AO is directed to pass the assessment order after giving opportunity to the assessee.”*

Aggrieved by the order of the learn appreciating, assessee is in appeal before the tribunal's.

3. The Ld.AR submitted that, all grounds raised in the present appeal is on the single issue pertaining to the adjustments contemplated in section 115 JB of the act and where better any adjustment on account of income earned during the construction period is possible since the same but not fall under any items mentioned in the explanation to section 115 JB of the act.

3.1 At the outset it was submitted that this issue squarely covered by coordinate bench of this Tribunal in assessee's own case for assessment year 2009-10 in ITA number 3880/MU M/2014 wherein the view was taken that no addition of decommissioning levy and interest there upon can be made while computing profits under section 115 JB of the act. He also submitted that all the details pertaining to the capital were in progress was called upon by the Ld. AO and was duly verified which is categorically clear from the issues that were identified during the assessment proceedings reproduced at page 2 of the assessment order. It was submitted that great detail of the evidences were furnished by the assessee during the assessment proceedings. He submitted that, from para 7 of the assessment order, item-wise details were threadbare analysed by the Ld. AO and upon satisfaction, no disallowance was made.

3.2 The Ld.AR submitted that, the assessee relied on following decisions in support of his claim. Even before the Ld. AO in the assessment proceedings:

*Decision of Hon'ble Supreme Court in case of Malayalam Manorama Co Ltd vs CIT reported in 300 ITR 215:*

*Decision of Hon'ble Supreme Court in case of Apollo tyres Ltd vs. CIT reported in 255 ITR 273:*

*Decision of Hon'ble Mumbai Tribunal in case of ITO vs. Su-raj Jewelry (India) Ltd reported in (2008) 21 SOT 79*

3.3 The Ld.AR thus prayed that, the assessment order so passed by the Ld. AO does not necessary criteria for invoking provisions of 263 in the present facts of the case.

3.4 On the contrary the Ld.DR vehemently supported the orders passed by the authorities below and placed reliance on the categorical observations by the Ld.PCIT in the impugned order.

We have perused the submissions advanced for both sides in the light of records placed before us.

3.5 In the present facts of the case the Ld.AO called for all requisite details on specific issues that was the subject matter of notice issued under section 263 by the Ld.PCIT. Even otherwise, provisions under section 115JB does not include such items that forms part of the capital work in progress. We further note that the in the note 2 to the audit report the assessee netted off the revenue generated that includes interest income (others), income from infirm power before the commercial operation and other income totalling to ₹ 42.15 crore and the balance was allocated to PPE. The details of computing the expenditure during construction pending allocation is at page 38-39 of the paper book.

3.6 Admittedly the assessee did not include certain income on the assets under construction in the profit and loss account instead, carried to the capital work in progress. It is noted that the assessing officer during the assessment proceedings issued a specific query

calling upon the assessee to furnish details in respect of certain incomes along with interest, that was credited under decommissioning fund but not offered to tax. Further we note that the Ld. AO vide query no.17 in the show cause notice dated 03/12/2020, specifically called for details of capital work in progress. And vide query no.21, the assessee was called upon to furnish details of capital receipt of ₹ 42,15,51,853/- as part of AOI of ITR, and how the same was reflecting in the books of account and taxation of the said. The relevant queries in the show cause notice are at 153 and 15 of the paper book.

4. The response to the specific queries raised by the Ld. AO was furnished by the assessee vide reply dated 18/12/2020 at page 164 of the paper book, wherein the details of capital work in progress were submitted as Annexure 10. It is also noted that, response to query no.21 regarding capital receipt of ₹42.15 crore, credited to capital work in progress was submitted to be a part of annual report in note 2 (v).

4.2 It is noted that, this *Tribunal* for assessment year 2009-10 in assessee's own case in *ITA number 3880/MUM/2014* on identical issue observed as under:

*“4.1.The provisions of [section 115JB](#) of the Act,were introduced in the Act with specific purposes.While computing the income under the said section certain items are to be added and certain items are to be deducted.The AO or the assessee cannot travel beyond the Laxman Rekha drawn by the section itself.The disputed four items are not part of the list appearing in the section.Therefore,in our opinion,there was no justification for the CIT to use his revisionary powers in the case*

*under consideration. It is to be remembered that the accounts of the assessee were audited by the C&AG and by a special auditor. They had not found any defect in the accounts prepared by it. Besides, in the judgment of Apollo Tyres Ltd. (supra), the Hon'ble Supreme Court has held as under:*

*"The Assessing Officer, while computing the book profits of a company u/s. 115J of the Income-tax Act, 1961, has only the power of examining whether the books of account are certified by the authorities under the Companies Act as having been properly maintained in accordance with the Companies Act. The Assessing Officer, thereafter, has the limited power of making increases and reductions as provided for in the Explanation to section 115J. The Assessing Officer does not have the jurisdiction to go behind the net profits shown in the profit and loss account except to the extent provided in the Explanation. The use of the words "in accordance with the provisions of Parts II and III of Schedule VI to the Companies Act" in section 115J was made for the limited purpose of empowering the Assessing Officer to rely upon the authentic statement of accounts of the company. While so looking into the accounts of the company, the Assessing Officer has to accept the authenticity of the accounts with reference to the provisions of the Companies Act, which obligate the company to maintain its accounts in a manner provided by that Act and the same to be scrutinised and certified by statutory auditors and approved by the company in general meeting and thereafter to be filed before the Registrar of Companies who has a statutory obligation also to examine and be satisfied that the accounts of the company are maintained in accordance with the requirements of the Companies Act. Sub-section (1A) of section 115J does not empower the Assessing Officer to embark upon a fresh enquiry in regard to the entries made in the books of account of the company."*

*Considering the above, we are not able to persuade ourselves to endorse the action taken by the AO u/s. 263 of the Act.*

*Here, we would like to mention that the case relied upon by the DR is of no help to Revenue. It was a case of an individual and an action u/s. 132(1) of the Act was taken in his case. The matter relates disclosure made and the discrepancies found in the reconciliation of cash found and admission made. Facts of that case are totally different and not relevant to decide the present matter. Reversing the order of the CIT, we decide the effective ground of appeal in favour of the assessee."*

4.3 We also have perused the provisions in the Explanation 1 to section 115 JB of the act, wherein we note that, what has been credited to the capital work in progress are not to be considered for computation of book profits. The manner in which assessee prepared its books of accounts, was never questioned, which was also subjected to verification before Comptroller and Auditor General of India. The Ld. AO did not point any mistake in the manner in which the profits were computed by the assessee.

4.4 We refer to the decision of *Hon'ble Supreme Court* in case of *Malabar Industrial Co. Ltd. Vs. CIT* reported in (2000) 243 ITR 83. *Hon'ble Supreme Court inter alia* laid down that, the prerequisite for the exercise of jurisdiction by the CIT under section 263 is that, the order of the AO must be erroneous in so far as it is prejudicial to the interests of Revenue. The PCIT has to be satisfied of twin conditions, namely :

- (a) The order of the AO sought to be revised is erroneous, and
- (b) It is prejudicial to the interests of the Revenue.

4.5 If one of them is absent i.e; if the order of the AO is erroneous, but is not prejudicial to the revenue or if it is not erroneous, but is prejudicial to the interest of the revenue, recourse cannot be had to section 263(1) of the Act. It was further held that, the provisions of section 263 cannot be invoked to correct each and every type of mistake or error committed by the AO.

4.6 Further, in case of *Jamnadas T. Mehta Vs. ITO* reported in (2002) 257 ITR (AT) 90 (Pune) (TM), it was held that, the ambit of interference under section 263 is not to set aside merely unfavourable orders and bring to tax some more money to the treasury. The section is not enacted to get a sheer escapement of revenue which is taken care of in other provisions of the Act. Prejudice that is contemplated under section 263 is the prejudice to the income-tax administration as a whole. Section 263 is to be invoked not as a jurisdictional corrective or as a review of a subordinate's order in exercise of the supervisory power, but it is to be invoked and employed only for setting right distortions and prejudices to the revenue. It was held that provisions of section 263 is a unique conception, which is to be understood in the context of and in the interest of the revenue administration.

4.7 From the above decisions and ratio laid down by Hon'ble Supreme Court and Hon'ble High Court, having regard to the facts of the case we do not find this case to be fit to invoke the Provisions of section 263 of the Act. The action of the Ld. AO is neither prejudicial nor interest of the revenue erroneous. Unless both these two criteria does not stand fulfilled, simultaneously invoking section 263 has to be considered to be bad-in-law. Therefore, in view of aforesaid legal precedents, provisions of section 263 of the Act, we hold the 263 order passed by the Ld. PCIT to be bad in law and the same is quashed.

**Accordingly we allow the grounds raised by the assessee.**

**In the result, appeal filed by the assessee stands allowed.**

*Order pronounced in the open court on 25-10-2024.*

**Sd/-**  
**(RENU JAUHRI)**  
**Accountant Member**  
*\*SK, Sr. PS 25/10/2024*

**Sd/-**  
**(BEENA PILLAI)**  
**Judicial Member**

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**