आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL, RAIPUR BENCH, RAIPUR

BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER
AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

Sl. No.	Appeal No.	Name of Appellant	Name of Respondent	Asst. Year
1.	479/RPR/2024	Sanket Jhabak Jhabak Bada, Kamasipara, Raipur (C.G.)-492 001 PAN : AEQPJ7137M	The Pr. Commissioner of Income Tax-1, Raipur (C.G.)	2013-14
2.	233/RPR/2024	Sanjog Jhabak Jhabak Bada, Kamasipara Raipur (C.G.)-492 001 PAN: ADNPJ2775K	The Pr. Commissioner of Income Tax-1, Raipur (C.G.)	2013-14
3.	234/RPR/2024	Sanjog Jhabak L/h. Late Shri Gautam Chand Jhabak Jhabak Bada, Kamasipara Raipur (C.G.)-492 001 PAN: ACIPJ2421J	The Pr. Commissioner of Income Tax-1, Raipur (C.G.)	2013-14
4.	235/RPR/2024	Smt. Sushila Devi Jhabak Jhabak Bada, Kamasipara Raipur (C.G.)-492 001 PAN: AESPJ9825L	The Pr. Commissioner of Income Tax-1, Raipur (C.G.)	2013-14
5.	236/RPR/2024	Smt. Tilottma Jhabak Jhabak Bada, Kamasipara Raipur (C.G.)-492 001 PAN: ACTPJ5814G	The Pr. Commissioner of Income Tax-1, Raipur (C.G.)	2013-14

6.	237/RPR/2024	Smt. Pushpa Jhabak Jhabak Bada, Kamasipara Raipur (C.G.)-492 001 PAN: ACTPJ5816E	The Pr. Commissioner of Income Tax-1, Raipur (C.G.)	2013-14
7.	478/RPR/2024	Sampat Lal Jhabak Jhabak Bada, Kamasipara, Raipur (C.G.)-492 001 PAN : ACTPJ5813B	The Pr. Commissioner of Income Tax-1, Raipur (C.G.)	2013-14

Assessee by : Shri Nikhilesh Begani, Advocate
Revenue by : Shri S.L Anuragi, CIT-DR

सुनवाई की तारीख / Date of Hearing : 29.01.2025
घोषणा की तारीख / Date of Pronouncement : 19.02.2025

आदेश / ORDER

PER BENCH:

The captioned appeals filed by the assessee's are directed against the respective orders passed by the Pr. Commissioner of Income-Tax-1, Raipur, (for short, "Pr. CIT") for A.Y.2013-14, which in turn arises from the respective orders passed by the A.O's under Sec.147 r.w.s. 144B of the Income-tax Act, 1961 (in short 'the Act'), as under:

Sr. No.	ITA No.	Name of the assessee	Date of order u/s. 263 of the Act	Date of order of assessment a/w. Section
1.	479/RPR/2024	Sanket Jhabak	18.10.2024	147 r.w.s. 144B of the Act dated 30.05.2023

2.	233/RPR/2024	Sanjog Jhabak	31.03.2024	147 r.w.s. 144B of the Act dated 04.03.2022.
3.	234/RPR/2024	Sanjog Jhabak, L/h. Late Shri Gautam Chand Jhabak,	31.03.2024	147 r.w.s. 144B of the Act dated 30.03.2022.
4.	235/RPR/2024	Sushila Devi Jhabak	31.03.2024	147 r.w.s. 144B of the Act dated 29.03.2022.
5.	236/RPR/2024	Tellottama Jhabak	31.03.2024	147 r.w.s. 144B of the Act dated 29.03.2022.
6.	237/RPR/2024	Smt. Pushpa Jhabak	31.03.2024	147 r.w.s. 144B of the Act dated 30.03.2022.
7.	478/RPR/2024	Sampatlal Jhabak	23.10.2024	147 r.w.s. 144 r.w.s 144B of the Act dated 30.05.2023.

2. Shri Nikhilesh Begani, Ld. Authorized Representative (for short 'AR') for the assessee, at the threshold of hearing, submitted that as the issues leading to the controversy involved in the captioned appeals finds its genesis in common facts involved in the said respective appeals, therefore, the same can be taken up and disposed off vide a consolidated order. Elaborating further, the Ld. AR submitted that the appeal filed in ITA No.479/RPR/2024 in the case of Sanket Jhabak may be taken as the lead matter.

3. Shri S.L Anuragi, Ld. Departmental Representative (for short 'CIT-DR") did not raise any objection to the aforesaid request of the assessee's counsel.

4. We shall now take up the appeal in ITA No.479/RPR/2024 for A.Y.2013-14 as the lead matter, and the order passed therein shall *mutatis-mutandis* apply for the purpose of disposing off the remaining appeals. The assessee has assailed the impugned order passed by the Pr. CIT u/s. 263 of the Act, dated 18.10.2024 on the following grounds of appeal before us:

> "**GROUND No.I.**
>
> 1. That the Re-assessment Order framed u/s.147 r.w.s. 144B of the Income Tax Act, 1961 ("the Act') on 30.05.2023 by the Learned Assessing Officer, National Faceless Assessment Centre, Delhi ("the Ld.AO'), the reopening notice issued u/s.148 on 26.07.2022 & the Order passed u/s.148A(d) on 26.07.2022 is bad in law, highly illegal, without jurisdiction, barred by limitation & void ab initio since, the reopening notice u/s.148 and the subsequent proceedings are not in conformity with the pre-requisite conditions stipulated under the provisions of section 148/148A/147 of the Act when examined on the touchstone of the law propounded by the Hon'ble Supreme Court, consequentially, the impugned Revision Order passed by the Learned Pr. Commissioner of Income Tax-1, Raipur ("the Ld.PCIT') u/s.263 setting aside the Assessment Order passed u/s.147 r.w.s. 144B on 30.05.2023 is illegal, bad in law, legally unsustainable and without jurisdiction hence, it is earnestly prayed that the Revision Order passed u/s.263 on 18.10.2024 may please be quashed and cancelled in limine.
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> **GROUND No. II**
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> 2. That the Revision Order passed by the Ld.PCIT u/s.263 of the Act cancelling/modifying the reassessment order is highly unjustified, bad in law, against the principles of natural justice, clearly exceeding the revisional jurisdiction and not in

accordance with the provisions of law. It is prayed that the Revision Order passed u/s.263 of the Act may please be cancelled/set-aside on this ground alone.

GROUND No. III

3. That the Revision Order passed by the Ld.PCIT u/s.263 of the Act is highly unjustified, bad in law, without jurisdiction & void ab initio since, the Ld. PCIT has grossly erred in concluding that the Ld.AO has failed to carry out the necessary enquiries and investigation in relation to the issue relating to verification of claim of deduction put forth u/s.54B and further, fallaciously concluding that the conditions stipulated u/s.54B were not satisfied thereby resulting into substitution over the plausible & justified view taken by the Ld.AO clearly based upon the material on record. Hence, it is prayed that the Order passed by the Ld.PCIT under the provisions of section 263 of the Act may please be cancelled & quashed in limine.

GROUND No.IV

4. On the facts and in the circumstances of the case as well as in law, the Ld.PCIT has grievously erred in cancelling/modifying the re-assessment order passed by the Ld.AO under section 147 r.w.s. 144B of the Act on 30.05.2023 with direction to revise the reassessment order by disallowing the claim of deduction put forth u/s.54B of the Act and to consequently initiate penalty proceedings u/s.271(1)(c) of the Act on the specified issue by erroneously concluding that the essential conditions specified under the provisions of section 54B are not satisfied thereby holding that the said order is erroneous in so far as it is prejudicial to the interest of the revenue.

The Ld.PCIT has failed to appreciate that the said reassessment order has been passed by the Ld.AO after conducting necessary & diligent enquiries and conscious application of mind & deliberation to the material on record including the spot verification conducted by the ITO, VU, NaFAC and the unflinching, irrefutable and contemporaneous evidences thereby giving precedence to the Orders & Certificates of the Revenue Authorities under the Land Revenue Code unmistakably establishing the factum of agricultural operations for the specified period u/s.54B and hence, it is prayed that the order passed under section 263 of the Act being highly illegal, bad in law, legally unsustainable,

arbitrary, highly unjustified and not in accordance with the provisions of law, may please be cancelled.

GROUND No. V

5. That the Appellant craves leave to add, amend, alter or delete all or any of the grounds of Appeal at the time of hearing of the appeal."

5. Succinctly stated, the assessee had filed his return of income for A.Y.2013-14 on 31.10.2013, declaring an income of Rs.3,31,55,520/-. Subsequently, the case of the assessee was selected for scrutiny assessment u/s. 143(2) of the Act. Original assessment was framed by the A.O vide his order passed u/s. 143(3) of the Act, dated 21.03.2016 accepting the returned income of the assessee.

6. Thereafter, the A.O to verify the assessee's claim for deduction of Rs.5,61,14,943/- u/s. 54B of the Act, initiated reassessment proceedings. Notice u/s. 148 of the Act, dated 30.06.2021 was issued by the A.O.

7. During the course of re-assessment proceedings, the A.O observed that the assessee had during the subject year along with 8 others co-owners (family members), had vide a registered sale deed, dated 24.08.2012 sold an agricultural land situated at Village: Labhandi for a sale consideration of Rs.7,08,49,370/-(i.e. 1/9th share falling to his share), and Long term capital gain (LTCG) of Rs.6,98,15,050/- on the said sale transaction was worked out in his hands. The assessee had against the aforementioned amount of

LTCG, claimed deductions aggregating to Rs.5,61,15,943/-, viz. (i) U/s.54B of the Act: Rs.4,76,32,950/-; (ii) U/s. 54EC of the Act : Rs.50,00,000/-; and (iii) U/s. 54F of the Act : Rs.34,81,993/-. Accordingly, the A.O observed that the assessee after claiming the aforesaid deductions had disclosed the balance amount of LTCG at Rs.1,37,00,107/-. The return of income filed by the assessee was, thereafter, accepted by the Faceless Assessing Officer (FAO) vide his order passed u/s.147 r.w.s. 144B of the Act, dated 30.05.2023.

8. The Pr. CIT after culmination of the assessment was in receipt of information, which revealed that the assessee's claim for deduction of RS. 4,76,32,950/- u/s. 54B of the Act was not found in order. Elaborating on his view, the Pr. CIT observed that the pre-condition for claim of deduction u/s. 54B. i.e. the subject land transferred by the assessee was during the period of two years immediately preceding the date of transfer was being used by the assessee or his parents for agricultural purposes was not found to be satisfied in his case. The Pr. CIT observed that the land revenue record issued by the Village Patwari stated that no agricultural activities were conducted on the subject land during F.Y. 2009-10, F.Y. 2010-11 and F.Y. 2012-13. Further, the Pr. CIT observed that the satellite data taken by ISRO on 23.01.2010, 02.10.2011, 19.11.2011, 23.03.2012 and 29.05.2012, revealed that the usage pattern of the subject land was shown as "fallow

land" and also, there was no change in the usage of the same during the corresponding period. Accordingly, the Pr. CIT based on the aforesaid facts held a firm conviction that as the subject land transferred by the assessee was not used for agricultural purpose during the period of two years immediately preceding the date of its transfer, thus, the same violated the provisions of Section 54B of the Act.

9. The Pr. CIT based on the aforesaid facts, held a conviction, that the A.O while framing the reassessment had failed to examine the assessee's claim for deduction u/s.54B of the Act, which, thus, had rendered the order of reassessment passed by him u/s. 147 r.w.s. 144B of the Act, dated 30.05.2023 as erroneous in so far it was prejudicial to the interest of the revenue. The Pr. CIT to fortify his aforesaid conviction, observed that despite there being primary evidence available with the department and detailed enquiry already undertaken on this issue by the Jurisdictional Assessing Officer ("JAO", for short) who had with the prior approval of CCIT, Raipur passed an order u/s. 148A(d) of the Act, dated 26.07.2022, no enquiry/verification was independently done by the FAO. Accordingly, the Pr. CIT based on his aforesaid conviction that the FAO while passing the reassessment order had failed to conduct proper inquiry and examine the evidence/documents/accounts, thus, issued a "Show cause notice" (SCN), dated 18.04.2024, wherein the assessee was called upon to put forth an

explanation that as to why the reassessment order passed u/s.147 r.w.s. 144B of the Act, dated 30.05.2023 being erroneous in so far it was prejudicial to the interest of the revenue be not revised u/s. 263 of the Act.

10. In reply, the assessee rebutted the proposed action of the Pr. CIT, and submitted that as the A.O had passed the reassessment order u/s. 147 r.w.s. 144B of the Act, dated 30.05.2023 after duly considering the submissions filed by the assessee and conscious application of mind to the tangible material on record before him, therefore, the reassessment order so passed by him could not be held as erroneous in so far it was prejudicial to the interest of the revenue on any of the aspects, on which, the same was sought to be revised u/s. 263 of the Act. The assessee to support his aforesaid claim had filed with the A.O a comprehensive research report of Dr.Neerav Sharma, Liasion Officer, IIT Roorkee Development Foundation, Uttarakhand along with a report of Shri Saurabh Rathi, Raipur i.e. a Horticulturist as certified by Dean of Indian Agricultural Research Institute, New Delhi. The aforesaid persons vide their respective reports had stated as under:

> "The image in the Google Historical imagery available for May 2012 shows that the land marked in the circle as 1 and 2 available in Google historical imagery is post harvest land. The land marked as 1 is after Kharif Crop harvest and due to the time lapse from harvest which may be around November till May the rice straw have become nominal but still visible. Whereas the land marked as 2 is also post harvest land but after Rabi crop has been harvested which may be around March. The difference in the Colour in the two images is due

> to Farming and Cultivation being carried on in case of place marked as 2 i.e. Indira Gandhi Krishi Vishvidhyala is of Rabi Crop which takes place in late November-December and March respectively. Where as the post cultivation image during May 2012 of the image marked as 1 is of Kharif Crop harvesting which would have been done around November, 2011. This is not at all possible as after Kharif crop harvest, if in the next Kharif season no farming is carried on in the farm land, the land will get filled with water during monsoon and when there is no farming, rice straw of the previous cultivation period will get decomposed and weeds will grow over the land on their own which will again die during summer leaving the land Red showing no agriculture activities have been carried on it. This is very clearly evident from the image of the location marked as 1 for the date April 2013 available again in Google historical imagery."

11. The Pr. CIT shared the reports of Dr. Neerav Sharma (supra) and Shri Saurav Rathi (supra) a/w. the google historical imageries with the Director General, Chhattisgarh Council of Science & Technology, Raipur ("CCOST" for short) i.e. a premier Government Institution and sought for its expert opinion on the same. In reply, the Director General, CCOST, Raipur vide its letter dated 06.08.2024 reported that the subject lands were "fallow lands". The Pr. CIT shared the report of the Director General, CCOST Raipur with the assessee for his counter comments. In rebuttal, the assessee vide his submission dated 12.09.2024, submitted that in the backdrop of the contemporaneous evidence that was filed on record in the shape of expert opinion from Dr. Neerav Sharma, Prof. Kamal Jain and Shri Saurabh Rathi as against the opinion of CCOST, a reasonable doubt ensued in favour of the assessee that agricultural operations were being carried out in the preceding two years prior to the date of transfer of the subject land. Apart

from that, it was submitted by the assessee that as the opinion arrived at by CCOST was completely based on a visual interpretation of certain satellite images on some stray dates, therefore, the same could not be treated as sacrosanct and absolute. Accordingly, the assessee based on his aforesaid submission claimed that as the A.O had arrived at a plausible view that agricultural operations were being carried out on the subject lands in the immediately preceding two years prior to the date of its transfer, therefore, the said fact in itself divested the Pr. CIT from exercising his revisional jurisdiction u/s. 263 of the Act.

12. The Pr. CIT after deliberating on the facts/material as was gathered by him in the backdrop of the contentions raised by the assessee did not find favour with the same. The Pr. CIT after deliberating on the facts involved in the case before him, observed that the assessee a/w. 8 others co-owners (family members) had sold their agricultural land bearing Kh. No.246/3, 247/3, 246/128, 246/129, 247/129, 246/160, 247/160 and 248/118 in P. H. NO.113/44, situated at Village : Labhandi, Tehsil & District : Raipur (C.G.), admeasuring 5.839 acres (2.363 Hectare), vide a registered sale deed dated 21st day of August, 2012 for an aggregate sale consideration of Rs.63,76,44,328/- (the assessee's 1/9th share being Rs.7,08,49,370/-), and the value adopted by the stamp valuation authority for the purpose of Section 50C was found to be the same. It was further observed by him that

the subject land was sold by the co-owners to a corporate entity i.e. M/s. Reliance Progressive Traders Pvt. Ltd. having its registered office at Raman Rati Apartment, Near Ashapura Hotel, Saru Section Road, Jamnagar, Gujarat-361 002. Apart from that, the Pr. CIT observed that the "Panchshala khasra" attached alongwith the registered sale deed clearly described the land khasra number 246/3 and 246/127 as "padath land" (i.e. barren land) for more than 5 years. Accordingly, the Pr. CIT observed that as per the revenue records i.e. the "panchshala khasra" annexed with the registered sale deed the nature of land was described as "barren land".

13. The Pr. CIT observed that the Village patwari of Ph. No.65, Village: Labhandi, had vide his reply dated 03.09.2019, certified the "Panchshala Khasra" of the subject land for the period 2009-10 to 2012-13, and had further certified that no agricultural activity was conducted on the land during the F.Y 2009-10, F.Y 2010-11 and F.Y 2012-13, but was carried out only in the F.Y 2011-12. The Pr. CIT to fortify his conviction that no agricultural activities were carried out by the assessee on the subject land in the two years immediately preceding the date on which it was transferred, had drawn support from the fact that the assessee had not disclosed any agriculture income in his income tax returns for any of the assessment years filed prior to the date of its sale i.e. 21.08.2012. Rather, it was observed by him, that the assessee had disclosed agriculture income only in his returns

of income filed for A.Y.2012-13 and A.Y. 2013-14 which were filed subsequent to 21.08.2012, as under:

A.Y.	Date of filing	Agricultural income	Total income
2011-12	25.03.2012	0/-	221200/-
2012-13	31.08.2012	55340/-	290730/-
2013-14	31.10.2013	71112/-	33155520/-

14. Further, the Pr. CIT observed that as per the Inspector's report, dated 07.02.2019, the subject land was not being used for agricultural purpose for more than 5-10 years. Based on his aforesaid observation, the Pr. CIT observed that the assessee had both during the assessment and reassessment proceedings failed to produce any documentary evidence which would evidence that any actual agricultural activities were conducted on the subject land in the two years immediately preceding the date on which it was transferred, i.e. the proof of sale of agricultural produce made to marketing societies or third parties etc., identity of purchasers of agricultural produce with copies of receipts issued to them, and the details of the withdrawals made from the bank accounts for incurring the agriculture expenses in relation to purchase of agriculture seeds, fertilizers etc. Also, it was observed by him that no material was placed on record by

the assessee which would prove that any payments to the agricultural laborers were made during the subject year.

15. Apropos the report of the Village patwari dated 03.09.2019, the Pr. CIT observed that the assessee a/w. the other co-owners (family members) had filed an application u/ss. 115 and 116 of the Chhattisgarh Land Revenue Code, 1959, wherein it was stated that though they had been cultivating the subject land since long but the land revenue officials had erroneously recorded the same in their revenue records as non-agricultural land. Also, the Pr. CIT observed that the assessee had filed a copy of the order passed by Naib Tehsilder, Raipur, dated 12.03.2020 under Chhattisgarh Land Revenue Code, 1959 wherein the latter had observed that entry in the manual panchshala had inadvertently not been entered as paddy irrigated land. The Pr. CIT, further observed, that the official scientist of the Chhattisgarh Counsel of Science & Technology (for short "CCOST"), vide a confidential letter No.1658/CCOSP/2020, dated 06.02.2020, had submitted that the subject land as per the satellite mapping done by the Indian Space Research Organization (ISRO), on various dates, i.e. 23.01.2010, 02.10.2011, 19.11.2011, 29.05.2012 and 23.03.2012 was a "fallow land", meaning thereby, it was not used for agricultural purpose/operations during the period falling between the year 2010 to 2012 i.e. the substantial time period prior to its sale on 21.08.2012. The Pr. CIT

after taking cognizance of the fact that while for the A.O in case of one of the co-owners, viz. Shri Sandeep Jhabak (PAN : ADNPJ2221L) had vide his exhaustive order running into 55 pages, after detailed analysis of the factual matrix, concluded, that the assessee's claim for deduction u/s. 54B of the Act was not in order, but the other A.Os of the remaining co-owners (family members) on identical facts had allowed the claim of the respective assessees (i.e. the other family members) for deduction u/s. 54B of the Act. The Pr. CIT after deliberating at length on the facts involved in the case before him concluded that as no agricultural operations were carried out on the subject land in the two years immediately preceding the date on which it was transferred, therefore, based on the documentary evidence, viz. (i) panchshala khasra report annexed with the registered sale deed, dated 21.08.2012; (ii) village patwari report, dated 03.09.2019; (iii) income tax returns of the assessee disclosing "Nil" agricultural income filed prior to the date of the sale of the subject land on 21.08.2012; (iv) analysis of google map by the A.O on various dates from 28.11.2005 to 01.10.2018 in the case of one of the co-owners, viz. Shri Sandeep Jhabak (supra), while disallowing his claim for deduction u/s. 54B of the Act; and (v) the scientific and irrefutable evidence of the premier research organization of the nation i.e. ISRO a/w. the report of the CCOST dated 06.02.2020, held a conviction that the FAO without properly appreciating the entire factual gamut of the case and without application of mind had wrongly allowed the assessee's claim

for deduction u/s. 54B of the Act which, thus, had rendered his order as erroneous in so far it was prejudicial to the interest of the revenue. Accordingly, the Pr. CIT finding favour with the view that was taken by the A.O in the case of Shri Sandeep Jhabak (supra), wherein the latters claim for deduction u/s. 54B of the Act was declined, thus, held a conviction that as the same treatment was required to be applied to the cases of the other co-owners (family members) which, however, was not done by the FAO while framing the reassessment in the case of the assesee, thus, the same justified the invocation of his revisional jurisdiction u/s. 263 of the Act.

16. Apropos the merits of the case, the Pr. CIT observed that the Village patwari of the Ph. No.65, Village: Labhandi, vide his reply dated 03.09.2019, had certified that no agricultural activities on the subject land was carried out during F.Y(s).2009-10, 2010-11 and 2012-13, and the same were only carried out in F.Y.2011-12. Apart from that, it was observed by him that the "panchshala khasra" attached with the registered sale deed clearly described the land khasra number 246/3 and 246/127 as "padath land" for more than 5 years. Also, the Pr. CIT had drawn support from the fact that the assessee in his returns of income that were filed prior to the date of registration of the sale deed i.e. on 21.08.2012, not disclosed any agriculture income in the same. Further, the Pr. CIT to fortify his conviction that the assessee had not carried out agricultural activities on the subject land had drawn support

from the fact that no cogent evidence regarding carrying out of the agricultural operations, viz. (i) proof of revenue records like chitta, khasra khatuni, panchshala; (ii) proof of sale of agricultural produce made to marketing societies or third parties etc. (iii) proof of purchase of agricultural seeds, fertilizers; and (iv) evidence of payments to the agricultural labourers etc. were filed either in the course of the assessment or the reassessment proceedings. Apart from that, the Pr. CIT had supported his aforesaid conviction, based on the fact that the assessee had failed to establish that any agricultural operations, viz. tilling, sowing, fertilizing and cutting the crops was carried on the subject land during the relevant period i.e. 21.08.2010 to 21.08.2012. Accordingly, the Pr. CIT based on the aforesaid facts held a firm conviction that the assessee had failed to discharge the burden of proof that was cast upon him to prove his eligibility for claim of deduction u/s. 54B of the Act.

17. Rebutting the support that was drawn by the assessee from the application that was filed by him a/w. the other co-owners (family members) u/ss. 115 & 116 of the Chhattisgarh Land Revenue Code, 1959, wherein it was claimed that though they had been cultivating the aforesaid land at Village: Labhandi since long, but due to an error, the same was wrongly recorded in the revenue records as non-agricultural due to the reason of non-updation of the concerned record, the Pr. CIT observed that the

assessee had filed before him a copy of the order of Naib Tahsilder, Raipur, dated 12.03.2020 under the Chhattisgarh Land Revenue Code, 1959. The Pr. CIT on a perusal of the order of Naib Tehsilder, observed that the assessee had filed an application based on the google map, dated 05.12.2010, as per which, the subject land appeared as land after harvesting of crop. The Pr. CIT observed that the order of the Naib Tehsilder, dated 12.03.2020 and the report of the Village patwari was merely based on the google map, dated 05.12.2010. It was further observed by him that the details of the satellite images of the subject land that were obtained from the National Remote Sensing Center, Balangar, Hyderabad were more scientific and reliable then the google map. Also, the Pr. CIT strongly relied upon the observations on the aforesaid images as was obtained from CCOST, Raipur, which revealed that the subject land was a “fallow land” and was not used for growing crops. Accordingly, the Pr. CIT was of the view that the claim of the assessee which in turn was based on the aforementioned document, i.e. order of Naib Tahsilder, Raipur, dated 12.03.2020 was merely based on the google map and, thus, did not substantiate the fact that any agricultural activities were carried on the subject land specifically when a more scientific report stating to the contrary was available on record.

18. Apropos the assessee’s claim that as per Section(s) 115, 116 & 117 of the Chhattisgarh Land Revenue Code, 1959, the order of Naib Tehsildar,

dated 12.03.2020, wherein he had acknowledged the erroneous entries in the khasra or any other land records, was final and unquestionable in the eyes of law, the Pr. CIT did not find favour with the same. It was observed by him that Section 115 of the Land Revenue Code provided for the correction of a wrong entry in khasra and any other land records by the superior officers. It was further observed by him that Sec. 115 (supra) provided that in case if any Tahsildar found that a wrong or an incorrect entry had been made in the land records prepared u/s. 114 of the Land Revenue Code by an officer subordinate to him, then, he shall direct necessary changes to be made in "red ink" after making such inquiry from the person concerned as he may deem fit after giving a written notice. The Pr. CIT further referring to Section 116 of the Land Revenue Code, 1959, observed that the same provided for the manner in which the disputes regarding entry in khasra or in any other land records were to be dealt with. It was observed by him that as per Section 116 of the Land Revenue Code, 1959, if any person is aggrieved by an entry made in the land records prepared u/s. 114 of the Land Revenue Code in respect of matters other than those referred to in Section 108, he shall apply to the Tahsildar for its correction within one year of the date of such entry. Thereafter, the Tahsildar shall after making such enquiry as he may deem fit, pass necessary orders in the matter. Also, the Pr. CIT referring to Section 117 of the Land Revenue Code, 1959 which provided for the presumption that was to be drawn

regarding the entries in the land revenue records, observed that all the entries made under this chapter in the land records shall be presumed to be correct until the contrary is proved. Accordingly, the Pr. CIT based on his aforesaid observations, concluded that if the Tahsildar finds that a wrong or an incorrect entry had been made in the land records prepared u/s. 114, he shall direct the necessary changes to be made in "red ink". The Pr. CIT referring to the facts of the present case, observed that neither any order was passed for making necessary entry in "red ink" nor any changes had been made in the land record. The Pr. CIT further taking note of the observation of the Naib Tahsildar, Raipur in his order dated 12.03.2020 that there was no provision for making entries for F.Y.2010-11, observed that the Land Revenue Code did not bar for making such entries. Apart from that, it was observed by him that now when the entries in the manual panchshala khasra already stated that no agricultural operations were carried out on the subject land in the year 2010-11, therefore, as per the provisions of Section 117 of the Land Revenue Code, 1959 it was to be presumed that the entry regarding no agricultural activity was correct.

19. Apropos the reliance that was drawn by the assessee from the opinion of Shri Saurabh Rathi, M. SC (Horticulture), the Pr. CIT was of the view that as the aforesaid person was an expert in the study or practice of growing flowers, fruits and vegetables and not in the study of satellite images,

therefore, the support drawn by the assessee from his opinion was misplaced. Apart from that, it was observed by him that the report on the aforesaid issue that was received from CCOST, Raipur that was shared with the assessee revealed beyond doubt that no agricultural activities were carried out on the subject land during the relevant period. Also, the Pr. CIT had pressed into service the Inspector report, dated 07.02.2019, wherein it was reported by him that the subject land was not being used for the purpose of agriculture for more than 5 to 10 years. The Pr. CIT in order to strengthen his conviction of absence of any agricultural activity on the subject land in the two years immediately preceding the date on which it was transferred i.e. 21.08.2012, had obtained Google Earth Imagery for the said relevant period i.e. 21.08.2010 to 21.08.2012, pertaining to the *kharif* and *Rabi* season, which as per him established the absence of agricultural activities on the subject land i.e. on 17.05.2012 (i.e. 3 months before the date on which the land was sold). The Pr. CIT after objectively analyzing the aspect, i.e. as to whether or not agricultural operations were carried out on the subject land in the two years immediately preceding the date on which the same was transferred had drawn support from the evidences, viz. (i) Inspector report dated 07.02.2019; (ii) non-disclosure of agriculture income in the returns of income filed prior to the date of transfer of the subject land; (iii) report of the village patwari dated 03.09.2019; (iv). manual panchshala khasra attached with the registered sale deed which clearly mentioned the

character of the land as a "Padhat land" for more than five years prior to the date of transfer of the said property; and (v) the scientific and irrefutable evidence in the form of satellite images taken by ISRO, i.e. a premier government agency alongwith the CCOST report(s) analyzing the said imageries, which all evidenced that no agricultural operations were carried out on the subject land in the two years prior to the date of its transfer. Accordingly, the Pr. CIT based on his aforesaid deliberations declined the assessee's claim for deduction of RS. 5,61,14,943/- u/s. 54B of the Act.

20. The Pr. CIT after heavily relying upon the satellite images of the ISRO and the report(s) of CCOST, rebutted the reports on the specific issue as that of Prof. Kamal Jain, Dr. Neerav Sharma and Shri Saurabh Rathi that were filed by the assessee in support of his submissions. The Pr. CIT observed that the two identical reports confirmed the same fact i.e. the subject land was a "fallow land". Also, it was observed by him that as the expert evidence put forth by the ISRO scientist was relevant in the situational circumstances of the case as a primary evidence based on the scientific analysis by CCOST, therefore, as per Section 46 of the Indian Evidence Act, 1872 the same was to be given weightage. Accordingly, the Pr. CIT vide his order passed u/s. 263 of the Act, dated 18.10.2024 disallowed the assessee's claim for deduction of Rs. 5,61, 14,943/- u/s. 54B of the Act and directed the A.O to revise the reassessment order passed by him u/s. 147 r.w.s. 144B of the

Act, dated 30.05.2023 by carrying out a consequential disallowance of the aforesaid claim of deduction so raised by the assessee.

21. Aggrieved, the assessee has assailed before us the order passed by the Pr. CIT u/s. 263 of the Act, dated 18.10.2024.

22. We have heard the Ld. Authorized Representatives of both the parties, perused the orders of the lower authorities and the material available on record, as well as considered the judicial pronouncements that have been pressed into service by them to drive home their respective contentions.

23. Shri Nikhilesh Begani, Ld. AR for the assessee assailed the order passed by the Pr. CIT u/s. 263 of the Act, dated 18.10.2024 based on his two fold contentions, viz. (i) that the Pr. CIT had grossly erred in law and facts of the case by traversing beyond the scope of the revisional jurisdiction vested with him u/s.263 of the Act; and (ii) that the Pr. CIT had based on his perverse observations concluded that the assessee a/w. 8 other co-owners (family members) had not carried out agricultural operations on the subject land in the two years immediately preceding the date on which the said land was transferred.

24. Apart from that, the Ld. AR has assailed the order passed by the Pr. CIT u/s. 263 of the Act regarding the validity of the jurisdiction that was assumed by him for passing an order u/s. 263 of the Act, which in turn,

was based on the multi-facet issues therein involved, viz. (i) as the order passed by the A.O u/s. 147 r.w.s. 144B of the Act, dated 30.03.2023 was in itself invalid and void-ab-initio, therefore, the same could not have been revised u/s. 263 of the Act for the reason, i.e. (a) that the reassessment order was passed based on the notice issued u/s. 148 of the Act, dated 26.07.2022 which was barred by limitation; (b) that as per the post-amended Section 149(1)(b) of the Act, the issuance of notice beyond the period of three years was subject to a jurisdictional requirement that the income of the assessee chargeable to tax, represented in the form of an asset; an expenditure; or an entry or entries in the books of account amounting to Rs.50 lacs or more had escaped assessment, but as the present case was reopened for verifying the correctness of the assessee's claim for deduction u/s. 54B of the Act, therefore, neither of the aforesaid pre-conditions for valid assumption of jurisdiction with the A.O to initiate reassessment proceedings was satisfied; and (ii) that the A.O had failed to obtain a sanction/approval for issuance of notice u/s. 148 of the Act from the specified authority as contemplated u/s.151(ii) of the Act. Accordingly, the Ld. AR had submitted that now when the reassessment order passed by the A.O u/s. 147 r.w.s. 144B of the Act, dated 30.05.2023 was in itself invalid and non-est, therefore, the same could not have been revised by the Pr. CIT in exercise of his revisional jurisdiction u/s. 263 of the Act.

25. Per Contra, Shri S.L Anuragi, Ld. CIT-DR relied on the order passed by the Pr. CIT u/s. 263 of the Act, dated 18.10.2024. Elaborating on his contention, the Ld. CIT-DR, submitted that despite the fact that the concluded assessment as per notice issued u/s.148A(b) of the Act, dated 26.07.2022 was reopened by the A.O based on the information, viz. (i) that the satellite data taken by ISRO for the specific dates, i.e. 23.01.2010, 02.10.2011, 19.11.2011, 23.03.2012 and 29.05.2012, revealed that the subject land was a "fallow land" and the usage of said land had not changed during the corresponding period; (ii) that the Land Revenue Records (manual) issued by the Village patwari further stated that no agricultural activities were conducted on the subject land during F.Y(s).2009-10, 2010-11 and 2012-13; and (iii) that the information gathered by the department from the Director of Chhattisgarh Council of Science and Technology, Vigyan Bhavan, Daldal Seoni, Raipur revealed that the subject land sold by the assessee was a "fallow land" that was in the two years immediately preceding the date on which it was transferred was not used for agricultural purposes, but the A.O while passing the reassessment order had lost sight of the aforesaid material aspects, and had without carrying out any verification allowed the assessee's claim for deduction u/s. 54B of the Act, therefore, the Pr. CIT had rightly exercised his revisional jurisdiction and set-aside the reassessment order u/s 263 of the Act.

26. The Ld. AR has assailed before us the impugned order passed by the Pr. CIT u/s. 263 of the Act, dated 18.10.2024 by primarily focusing on two material aspects, viz. (a) that as the assessee a/w. 8 other co-owners (family members) were using the subject land for agricultural purposes in the two years immediately preceding the date on which the same was transferred, therefore, the Pr. CIT had wrongly concluded that the said pre-condition entitling the assessee for claiming deduction u/s. 54B of the Act was not found to have been satisfied; and (b) that the Pr. CIT had exceeded the jurisdiction that was vested with him u/s. 263 of the Act and dislodged the well-reasoned order of reassessment that was passed by the A.O, wherein, the latter based on the material available on record had taken a plausible view as regards the assessee's entitlement for claim of deduction u/s. 54B of the Act.

27. As the Ld. AR has assailed the validity of the jurisdiction that was assumed by the Pr. CIT for dislodging the order of reassessment that was passed by the A.O u/s. 147 r.w.s. 144B of the Act, dated 30.05.2023, on the ground that he had exceeded his jurisdiction u/s. 263 of the Act, therefore, we deem it fit to first deal with the said material aspect.

28. Before proceeding any further, we deem it fit to cull out Section 263 of the Act, which reads as under:

"**263.** (1) The Principal Commissioner or Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by the Assessing Officer is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment.

Explanation 1.—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section,—

(*a*) an order passed on or before or after the 1st day of June, 1988 by the Assessing Officer shall include—

(*i*) an order of assessment made by the Assistant Commissioner or Deputy Commissioner or the Income-tax Officer on the basis of the directions issued by the Joint Commissioner under section 144A;

(*ii*) an order made by the Joint Commissioner in exercise of the powers or in the performance of the functions of an Assessing Officer conferred on, or assigned to, him under the orders or directions issued by the Board or by the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General or Principal Commissioner or Commissioner authorised by the Board in this behalf under section 120;

(*b*) "record" shall include and shall be deemed always to have included all records relating to any proceeding under this Act available at the time of examination by the Principal Commissioner or Commissioner;

(*c*) where any order referred to in this sub-section and passed by the Assessing Officer had been the subject matter of any appeal filed on or before or after the 1st day of June, 1988, the powers of the Principal Commissioner or Commissioner under this sub-section shall extend and shall be deemed always to have extended to such matters as had not been considered and decided in such appeal.

Explanation 2.—For the purposes of this section, it is hereby declared that an order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Principal Commissioner or Commissioner,—

(*a*) the order is passed without making inquiries or verification which should have been made;

> (*b*) the order is passed allowing any relief without inquiring into the claim;
>
> (*c*) the order has not been made in accordance with any order, direction or instruction issued by the Board under section 119; or
>
> (*d*) the order has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.
>
> (2) No order shall be made under sub-section (1) after the expiry of two years from the end of the financial year in which the order sought to be revised was passed.
>
> (3) Notwithstanding anything contained in sub-section (2), an order in revision under this section may be passed at any time in the case of an order which has been passed in consequence of, or to give effect to, any finding or direction contained in an order of the Appellate Tribunal, National Tax Tribunal, the High Court or the Supreme Court.
>
> *Explanation.*—In computing the period of limitation for the purposes of sub-section (2), the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 129 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded."

As is discernible on a perusal of Section 263 of the Act, the Pr. CIT may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by the A.O. is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including, viz. an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment. As stated by the Ld. AR, and rightly so, it is only where

the revisional authority considers that the order passed by the A.O is erroneous in so far it is prejudicial to the interest of the revenue that he may assume jurisdiction to revise the said order u/s. 263 of the Act. Accordingly, two conditions needs to be cumulatively satisfied for invoking the revisional jurisdiction by the Commissioner, viz. (i) an order passed by the Assessing Officer is considered to be erroneous; and (ii) it is prejudicial to the interests of the revenue. As observed by the **Hon'ble Supreme Court** in the case of **CIT Vs. Kwality Steel Suppliers Complex (2017) 395 ITR 1 (SC)** the order of the A.O cannot be termed as prejudicial simply because he had adopted one of the courses permissible in law and it had resulted in loss of revenue; or where two views are possible and the A.O had taken one view with which the Commissioner does not agree. Accordingly, where two views are possible and the A.O had taken one view and the Commissioner does not agree with the view taken by the A.O, the assessment order cannot be treated as an order erroneous or prejudicial to the interest of the revenue within the meaning of Sec. 263 of the Act. The Hon'ble Apex Court in its aforesaid order, had held, that the Commissioner of Income Tax while exercising the revisional jurisdiction is not sitting in appeal. For the sake of clarity, the observations of the Hon'ble Apex Court are culled out as under:

> "……..As is clear from the language of the provision, there has to be a proper application of mind by the Commissioner to come to a firm conclusion that the order of the Assessing Officer is erroneous and prejudicial to the interests of the Revenue. Thus,

> two conditions need to be satisfied for invoking such a power by the Commissioner, which are:
>
> (i) the order of the Assessing Officer sought to be revised is erroneous; and
>
> (ii) it is prejudicial to the interests, of the Revenue.
>
> At the same time, this court has also laid down that this provision can-not be invoked to correct each and every type of mistake or error com-mitted by the Assessing. Officer. **While interpreting the expression "pre-judicial to the interests of the Revenue", it is also held that the order of the Assessing Officer cannot be termed as prejudicial simply because the Assessing Officer adopted one of the courses permissible in law and it has resulted in loss of revenue, or where two views are possible and the Assessing Officer has taken one view with which the Commissioner did not agree.**
>
> **It is clear from the above that where two views are possible and the Assessing Officer has taken one view and the Commissioner of Income-tax again revised the said order on the ground that he does not agree with the view taken by the Assessing Officer, in such circumstances the assessment order cannot be treated as an order erroneous or prejudicial to the interests of the Revenue……"**
>
> **(emphasis supplied by us)**

29. Also, a similar view was earlier taken by the **Hon'ble Supreme Court** in the case of **Malabar Industrial Co. Ltd. Vs. CIT (2000) 243 ITR 83 (SC)**. It was observed by the Hon'ble Apex Court that every loss of revenue as a consequence of an order of the A.O cannot be treated as prejudicial to the interests of the revenue, for example, when an Income-tax Officer adopted one of the courses permissible in law and it has resulted in loss of revenue; or where two views are possible and the Income-tax Officer has taken one view with which the Commissioner does not agree, it cannot be treated as

an erroneous order prejudicial to the interests of the revenue unless the view taken by the Income-tax Officer is unsustainable in law. We find that the Hon'ble Apex Court had thereafter reiterated its aforesaid view in the case of **CIT Vs. Max India Ltd. (2007) 295 ITR 282 (SC)**.

30. We further find that the **Hon'ble High Court of Chhattisgarh** in the case of **Pr. CIT Vs. Mahavir Ashok Enterprises (P) Ltd. (2024) 167 taxmann.com 396 (Chhattisgarh)** had after, inter alia, relying on the judgment of the **Hon'ble Apex Court** in the case of **Malabar Industrial Co. Ltd. Vs. CIT (supra)**, observed, that when the A.O had adopted one of the courses permissible in law and it has resulted in loss of revenue; or where two views are possible and the Income Tax Officer has taken one view with which the Commissioner does not agree, it cannot be treated as an erroneous order prejudicial to the interest of the Revenue unless the view taken by the A.O is unsustainable in law. In the aforesaid case before the Hon'ble Jurisdictional High Court, the assessee in the course of survey proceedings conducted at his business premises was found in possession of excess stock which was surrendered by him as his income. The A.O while framing the assessment called upon the assessee to explain as to why the excess stock may not be treated as his unexplained investment u/s.69 of the Act and brought to tax as per the special rates provided in Section 115BBE of the Act. As the reply of the assessee that the excess stock found

in the course of survey proceedings was recorded in his books of account for the subject year, thus, Section 69 of the Act would not be attracted found favour with the A.O, therefore, he accepted the same. Thereafter, the Pr. CIT after culmination of the assessment proceedings, held that as the A.O had failed to treat the excess stock found during the course of survey proceedings as the assessee's unexplained investment and subjected the same to tax as per the special rates u/s. 115BBE of the Act, therefore, the same had rendered the assessment order passed by him as erroneous in so far it was prejudicial to the interest of the revenue u/s. 263 of the Act. Accordingly, the Pr. CIT drawing support from "Explanation-2" to Section 263 of the Act set-aside the assessment order and remanded the matter to the file of A.O for fresh adjudication by passing a fresh assessment order after giving adequate opportunity of being heard to the assessee.

31. On appeal, the Hon'ble High Court observed that as the A.O had passed the assessment order after conducting inquiry wherein he had issued specific "Show Cause Notice" (SCN) to the assessee to explain as to why the excess stock found in the course of survey proceedings be not treated as his unexplained investment u/s.69 of the Act, and had after deliberating on the reply filed by the assessee accepted the same and, thus, taken a plausible view, therefore, there was no justification for the Pr. CIT to have exercised his revisional jurisdiction u/s. 263 of the Act for dislodging

the plausible view that was taken by the A.O on the subject issue after conducting necessary inquiry. For the sake of clarity, the observations of the Hon'ble Jurisdictional High Court are culled out as under:

> "16. In this regard, decision of the Supreme Court in the matter of Commissioner of Income Tax, (Central) Ludhiana v. Max India_Limited may be noticed herein profitably in which their Lordships have held that every loss of revenue as a consequence of an order of the Assessing Officer cannot be treated as prejudicial to the interest of the Revenue. When the Income Tax Officer adopted one of the courses permissible in law and it has resulted in loos of revenue; or where two views are possible and the Income Tax Officer has taken one view with which the Commissioner does not agree, it cannot be treated as an erroneous order prejudicial to the interest of the Revenue, unless the view taken by the Income Tax Officer is unsustainable in law.
>
> 17. In this case also, the Assessing Officer has issued specific show cause notice to the assessee as to why the excess stock of ₹ 2,25,75,951/- be treated as unexplained investment under Section 69 of the IT Act which the assessee replied stating that the said excess business stock was found during survey proceedings under the IT Act during the year under consideration in the business premises of the assessee Company and duly recorded in the books of accounts of the concerned year and thus, Section 69 of the IT Act would not be attracted to the assessee Company, as excess stock would not be treated as undisclosed income within the meaning of Section 69, which the AO has accepted and taken it as one of the possible views and which the ITAT has accepted holding to be the correct view.
>
> 18. In that view of the matter, we are of the considered opinion that both the twin conditions, namely, the order of the Assessing Officer sought to be revised is erroneous and it is prejudicial to the interests of the Revenue, are not satisfied at all to invoke the jurisdiction under Section 263 of the IT Act, as the Assessing Officer has passed the order of assessment after conducting inquiry. As such, the learned PCIT is absolutely unjustified in invoking the jurisdiction under Section 263 of the IT Act which has rightly been set-aside by the ITAT."

32. Also, we find that the **Hon'ble High Court of Bombay** in the case of **CIT Vs. Gabriel India Ltd. (1993) 203 ITR 108 (Bom),** had held, that the Commissioner of Income Tax cannot revise the order merely because he disagree with the conclusion arrived at by the A.O. The Hon'ble High Court, observed that Section 263 does not visualize 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. Referring to the facts involved in the case before them, it was observed that where the Income-tax Officer has exercised the quasi-judicial power vested with him in accordance with law and arrived at conclusion, therefore, the view so taken by him cannot be termed to be erroneous simply because the Commissioner does not feel satisfied with the same.

33. Also, we find that a similar view had been taken by the **Hon'ble High Court of Chhattisgarh** in the case of **ACIT, Central Circle-1, Raipur Vs. Sun and Sun Inframetric Pvt. Ltd., TAXC No.5 & 7 of 2022, dated 03.08.2024**. The Hon'ble High Court, had observed, that the power of revision under sub-section (1) of Section 263 of the Act is in the nature of a supervisory jurisdiction and the same can be exercised only if the two circumstances specified therein exists, viz. (i) the order passed by the A.O was erroneous; and (ii) by virtue of it, prejudice has been caused to the interest of the Revenue. The Hon'ble High Court while concluding as

hereinabove had relied on the judgment of the **Hon'ble Supreme Court** in the case of **CIT Vs. Greenworld Corporation (2009) 314 ITR 81 (SC).** It was observed by the Hon'ble High Court that if the A.O adopts one of the two courses available under the law and it results in loss of revenue, then the order cannot be said to be erroneous or prejudicial to the interest of revenue within the meaning of section 263 of the Act.

34. At this stage, we may herein observe, that in case where the A.O after carrying out necessary inquiries had accepted the specific claim raised before him, then the Pr. CIT based on his conviction that the A.O had failed to carry out necessary verification cannot assume jurisdiction to revise the order u/s. 263 of the Act. Our aforesaid view is fortified by the judgment of the **Hon'ble High Court of Calcutta** in the case of **Pr. CIT Vs. Anindita Steel Ltd. (2022) 1387 taxmann.com 203 (Cal.)** and that of **Hon'ble High Court of Bombay** in the case of **CIT Vs. Nirav Modi (2017) 390 ITR 292 (Bom).** Accordingly, in terms of the aforesaid settled position of law, if the A.O after carrying out necessary inquiry and verification had adopted one of the plausible view amongst other, resulting in the loss of the revenue, then on the standalone basis that the Commissioner does not agree with the view taken by him would not render the order passed by him as erroneous and prejudicial to the interest of the revenue within the meaning of Section 263 of the Act. In other words, the Commissioner cannot invoke the revisional

jurisdiction for the purpose of substituting his view as against that arrived at by the A.O.

35. Also, we may herein observe that though the "Explanation-2" to Section 263 of the Act (as had been made available on the statute vide the Finance Act, 2015 w.e.f. 01.06.2015), inter alia, contemplates that if, in the opinion of the Commissioner, the order is passed by the A.O without making inquiries or verification which should have been made, then the order so passed shall be deemed to be erroneous in so far it is prejudicial to the interest of the revenue, but the same cannot be triggered in case where the A.O had carried out inquiry/verification, however, inadequate. Our aforesaid view is supported by the judgments of the **Hon'ble High Court of Delhi** in the case of **Pr. CIT Vs. Bramha Centre Development Pvt. Ltd., ITA Nos. 116 & 118/2021, dated 05.07.2021** and in the case of **Pr. CIT Vs. Klaxon Trading (P). Ltd., ITA No.125 of 2021, dated 29.11.2023**.

36. We shall now in the backdrop of the scope and gamut of Section 263 of the Act as had been looked into by the Hon'ble Courts deal with the two issues which goes to the very foundation of the present appeal, viz. **(i)** that as to whether or not the Pr. CIT while exercising his revisional jurisdiction u/s. 263 of the Act had rightly concluded that the subject land in the two years immediately preceding the date on which it was transferred was not being used for agricultural purposes?; AND **(ii)**. that as to whether or not

the Pr. CIT is right in law and facts of the case in exercising his revisional jurisdiction u/s. 263 of the Act for dislodging the view taken by the A.O, who had vide his order passed u/s. 147 r.w.s. 144B of the Act, dated 30.05.2023, inter alia, found favor with the assessee's claim that the subject land in the two years immediately preceding the date on which it was transferred was used for agricultural purpose and, thus, had allowed his claim for deduction u/s. 54B of the Act?

37. Before proceeding any further for adjudicating the issue, i.e., as to whether or not the subject land in the two years immediately preceding the date on which it was transferred, was used for agricultural purposes, we will have to deal with the multi-facet facts and issues which forms the very genesis of the present controversy, as under:

(A). Satellite data taken by ISRO:

38. As per the material/information made available by the A.O u/s. 148A(b) of the Act, dated 26.05.2022 the satellite data/images that were taken by Indian Space Research Organization (ISRO) on 23.03.2012, 02.10.2011, 19.11.2011, 29.05.2012 and 23.01.2010, revealed that the usage pattern of the subject land situated at Village : Labhandi, Raipur that was sold by the assessee vide registered sale deed dated 21.08.2012 was that of a "fallow land" and there was no change in the land usage during the corresponding period. Accordingly, the A.O, inter alia, based on the

aforesaid facts had called upon the assessee to put forth an explanation that as to why its claim for deduction u/s. 54B of the Act may not be declined.

39. At the threshold, we may herein observe, that the A.O had, thereafter, in the course of the reassessment proceedings vide notice issued u/s.142(1) of the Act, dated 23.03.2023, inter alia, called upon the assessee to substantiate based on supporting evidence that the subject land sold was used for agricultural purpose in the preceding two years, which, thus, entitled him for raising a claim of deduction u/s.54B of the Act. For the sake of clarity, the notice u/s.142(1) of the Act, dated 23.03.2023 (annexure to the notice: relevant extract) is culled out as under:

> "**1. Please furnish the evidence in support of the claim u/s 54B that the land sold was utilized for agricultural purpose in the preceding two years.**
>
> 2. Supporting documents for exemption claimed u/s.54F
>
> 3. Proof for investment in REC bond
>
> 4. Proof for deposit of Capital gain account
>
> 5. Details of the residential house owned by you at the time of transfer of the asset."
>
> **(emphasis supplied by us)**

In reply, we find that the assessee vide his submission filed/uploaded with the A.O on 08.04.2023, had rebutted the aforesaid adverse inferences that were sought to be drawn based on the report on the satellite data images

that was prepared by the Chhattisgarh Space Applications Centre, Chhattisgarh Council of Science & Technology (CCOST) with reference to five specific dates, viz. 23.03.2012, 02.10.2011, 19.11.2011, 29.05.2012 and 23.01.2010. It was stated by the assessee that as the images extracted pertained to the months of January, October, November, February and May, while for the cultivation of the paddy crop on the said land as was recorded in the revenue records was, viz. (i) the sowing time of winter (kharif) rice was June and July; and (ii) harvesting period (cutting time) was August and September, which though was dependent on multiple factors, viz. quality of rice, land holding area, the amount of rainfall in the season etc., therefore, the aforesaid report on the satellite data images prepared by CCOST did neither correspond to the sowing season nor the harvesting period. Accordingly, it was the assessee's claim that since no images for the months of June to September, 2010 (kharif crop) or June to September, 2011 (kharif crop), i.e. the crucial months for determining the sowing and harvesting of paddy crop (of the kharif season) which was relevant to the assessee's case were made available or referred to, therefore, the satellite images pertaining to the irrelevant period could not be relied upon for concluding that no agricultural activity (kharif crop) was carried out on the subject land during the aforesaid period. Rather, it was the assessee's claim that the satellite images referred and relied upon by the A.O appeared to be of the post-harvest period when the paddy crop had already been harvested/cut from

the roots and the soil of land was cleaned, tilled and appeared as “fallow land” during the said period. The assessee based on his aforesaid contention had objected to the reliance that was placed upon the satellite images. Further, the assessee had specifically raised an objection that as to why the satellite images pertaining to the period when the paddy crop was sown and harvested were not being referred to. In short, the assessee had claimed that as the satellite images pressed into service by the A.O were not relevant for concluding that as to whether or not paddy crop was sown or harvested on the subject land, therefore, the same could not be acted upon. For the sake of clarity, the aforesaid objection so raised by the assessee in the course of the re-assessment proceedings before the A.O is culled out as under:

> “(ii) Most vitally, as could be seen the dates wherein the images were extracted pertains to the months of January, October, November, February & May and it is an indubitable fact on record as uncontrovertedly & unflinchingly evident from the Agricultural Records viz. the Patwari Records of the Revenue Department of Chhattisgarh that the crop cultivated on the said lands were recorded as "Paddy" in respect of Year 2010-11 & 2011-12 by them which is a 'Kharif' Season Crop and no other crop was taken (such as 'Rabi' Crop) during the assessment years determinative of the nature of crops sown, It is further submitted that the main rice growing season in the state of Chhattisgarh is the 'Kharif' season. It is known as winter rice as per the harvesting time. The state is comprised with three agro-ecological zones i.e. Chhattisgarh plains (applicable in the instant case), Bastar plateau and northern hill region of surguja, These zones have huge variations in terms of soil topography, rainfall intensity and distribution, irrigation and adoption of agricultural production system and thus varies in the productivity of rice in these regions. The sowing time of winter (kharif) rice is June-July and it is harvested (cut) in August-September depending upon the quality of rice, the land holding area, the amount of rainfall in the season etc. Hence, the

> Satellite Images prepared by the CCSR does not correspond to the sowing seal nor the harvesting season, since, no images for the months of June to September, 2010 or June to September, 2011 is not been considered nor is there any reference to the said months which are the crucial months for determining the 'Paddy' crop sown & harvested in the Kharif Season which is relevant in the assessee's case. Hence, the satellite images of the dates relied upon to allege that no agricultural activities were carried out purportedly appears to be of the post-harvest period when the 'Paddy' Crop has already been harvested/cut from the roots and the soil of land is cleaned, tilled and would certainly appear to be fallow during the said period. Hence, the reliance placed upon the satellite, images on the said dates is highly unjustified, incomprehensible, unreliable, scanty, vague and also preposterous since, we are unable to comprehend the reason as to why only the dates on which there is no crop as per the 'Kharif' season were only referred to the CCST and why there are no images for the period when the 'Paddy' crop is sown & harvested which is a very well known fact as per the agricultural norms and there is no gainsaying that in the scenario, the results drawn for inference would certainly be absurd and unreliable."

40. We find that the A.O had reopened the concluded assessment of the assessee u/s. 147 of the Act, for the reason, that as the subject land sold by him was in the two years immediately preceding the date of its sale not used for agricultural purpose, thus, he had raised a wrong claim of deduction u/s. 54B of the Act. However, we find, that the A.O had after necessary deliberations and, inter alia, considering the satellite data images taken by ISRO r.w. report of CCOST analyzing the satellite imageries, which had formed the basis for reopening the concluded assessment had not drawn any adverse inferences qua the usage of the subject land for agricultural purpose in the two years immediately preceding the date of its sale and, thus, accepted the assessee's claim for deduction u/s. 54B of the Act.

41. Ostensibly, the Pr. CIT had invoked the revisional jurisdictional, inter alia, for the reason that as per the satellite data taken by ISRO on 23.03.2012, 02.10.2011, 19.11.2011, 29.05.2012 and 23.01.2010, the usage pattern of the subject land was shown as “fallow land” and there was no change in the said land usage during the corresponding period. It was observed by him that as the A.O had failed to properly examine the aforesaid issue while allowing the assessee’s claim for deduction u/s. 54B of the Act, therefore, the same had rendered the assessment order passed by him u/s. 147 r.w.s. 144B of the Act, dated 30.05.2023 as erroneous in so far it was prejudicial to the interest of the revenue u/s. 263 of the Act. For the sake of clarity, the relevant extract of the “SCN”, dated 18.04.2024 of the Pr. CIT is culled out, as under:

> “.....Further, as per the satellite data taken by ISRO on 23.01.2010, 02.10.2011, 19.11.2011, 23.03.2012 and 29.05.2012 shows that the said land usage pattern is "fallow land" and there was no change in land use during the corresponding period. This fortifies the fact that the land was not used for agriculture purpose for period of two years immediately preceding the date of transfer which violates the provision of section 54B of the Act.
>
> 4. As the aforesaid issue of claiming exemption u/s 54B was not properly examined during the course of assessment proceedings in the light of ISRO report (copy enclosed), the order passed in this case appears to be erroneous in so far as it is prejudicial to the interests of revenue.”

42. Apart from that, we find that as the assessee, thereafter, had in the course of the revisional proceedings filed before the Pr. CIT reports from two

experts, viz. (i) Dr. Neerav Sharma, Liasion Officer, IIT Roorkee Development Foundation, Uttarakhand; and (ii) Shri Saurabh Rathi, Raipur, i.e. a Horticulturist, wherein the said respective persons had claimed that agricultural operations on the subject land were carried out during 22.08.2010 to 21.08.2012, therefore, the Pr. CIT had vide his letter dated 26.06.2024 addressed to the Director General, CCOST, Raipur, Page 17 & 18 of APB, called for a "fresh expert opinion" to rebut the aforesaid claim of the assessee. As is discernible from the record, the CCOST had, thereafter, vide its letter dated 06.08.2024 filed with the office of the Pr. CIT its "fresh report", wherein, it had reiterated what it had earlier reported, and stated that the subject land on the respective dates, viz. on 23.03.2012, 02.10.2011, 19.11.2011, 29.05.2012 and 23.01.2010 as per the satellite images obtained from the ISRO was a "fallow land", Page 10 to 16 of APB. At this stage, it would be relevant to point out that the aforesaid letter of CCOST, dated 06.08.2024 (supra), wherein it had shared its "fresh expert opinion" (supra) with the Pr. CIT only reiterated its earlier view, i.e. the subject land on the aforementioned dates (as was earlier reported) was a "fallow land". Accordingly, the CCOST vide its fresh report dated 06.08.2024 had not come up with any new facts/reporting but only reiterated its earlier view, i.e. no agricultural activities were carried on the subject land on the specific dates, viz. 23.03.2012, 02.10.2011, 19.11.2011, 29.05.2012 and 23.03.2010. Apart from that, the CCOST in its letter dated 06.08.2024, had

further emphasized that IRS-P-6 satellite data procured by NRSC, Department of Space, Government of India that was used for land use class identification at Spatial resolution, was better, as in comparison to the report of Indian Institute of Technology, Roorkee Development Foundation that was relied upon by the assessee.

43. We have given a thoughtful consideration and are of the considered view that the satellite data taken by ISRO regarding the subject land on certain specific dates, i.e. on 23.03.2012, 02.10.2011, 19.11.2011, 29.05.2012 and 23.01.2010, along with the report of the CCOST, Raipur, which after analyzing the aforementioned satellite images had reported that the subject land was not used for agricultural purpose, had, inter alia, formed the very basis for reopening of the concluded assessment of the assessee which was earlier framed by the A.O vide his order passed u/s.143(3) of the Act, dated 21.03.2016. As observed by us hereinabove, the aforesaid facts can safely be gathered on a perusal of the information that was shared by the A.O with the assessee u/s. 148A(b) of the Act, wherein the latter was called upon to explain as to why notice u/s. 148 of the Act may not be issued in his case, Page 160-161 of APB. As the aforesaid issue had, inter alia, formed a basis for reopening of the concluded assessment of the assessee, therefore, the A.O, vide his notice issued u/s. 142(1) of the Act, dated 23.03.2023 had specifically called upon the assessee to

substantiate, based on evidence, that the subject land sold by him a/w. the other co-owners (family members) was used for agricultural purpose in the two years immediately preceding the date of its transfer, which, thus, entitled him for raising a claim of deduction u/s. 54B of the Act, Page 219 to 221 of APB. Also, as have purposively been culled out by us hereinabove, the assessee vide his reply filed/uploaded with the A.O on 08.04.2023, had, inter alia, rebutted the aforesaid documents that were earlier sought to be pressed into service by him for drawing adverse inferences as regards the assessee's claim of deduction u/s. 54B of the Act, viz. (i) satellite images taken by ISRO of the subject land as on 23.03.2012, 02.10.2011, 19.11.2011, 29.05.2012 and 23.01.2010; and (ii) report of the CCOST, Raipur stating that the subject land was not used for agricultural purposes. In fact, a careful perusal of the reply filed by the assessee on 08.04.2023, reveals that he had given cogent reasons as to why the satellite images of ISRO and the report of the CCOST could not be relied upon for concluding that no agricultural activities were carried out on the subject land during the two years immediately preceding the date on which the said land was transferred.

44. Apart from that, we find that the assessee to buttress his claim that agricultural activities were carried out on the subject land during the relevant period, had in the course of the reassessment proceedings filed

before the A.O, viz. (i) satellite images available on Open Access Google Earth Platform (Link: https://earth.google.com) near or about the same dates corresponding to the satellite images prepared from CCOST accessing the Date source-NRSC/ISRO IRS-LISS;-IV/Sensor L5FX/SubScene C; and (ii) images extracted/clicked by the satellite deployed by Google Earth, which revealed everyday images that were very easily understandable; and (iii) opinion of Shri Saurav Rathi, Master of Science Degree in the discipline of Horticulture from Indian Agricultural Research Institute (having a rich experience of more than 15 years in agricultural activities), wherein he had stated that the satellite images drawn/extracted from Google Earth Platform for the aforesaid period were the post-harvest images i.e. after the kharif crop. Also, Shri Saurabh Rathi (supra) had tendered an unconditional opinion that the Google Imagery clearly depicted that on the subject land agricultural activities were being carried out.

45. Be that as it may, we find that the aforementioned documents which had, inter alia, formed the very basis for the Pr. CIT to conclude that the subject land in the two years immediately preceding the date on which the same was transferred was not used for agricultural purposes is based on the same documents/material as were available with the A.O at the time of reopening of the concluded assessment of the assessee, viz. (i). satellite images obtained from ISRO; and (ii). report of the CCOST, Raipur. Apart

from that, we find that, the A.O in the course of reassessment proceedings vide notice u/s.142(1) of the Act, dated 23.03.2023, Page 219 to 221 of APB, had specifically called upon the assessee to place on record documents which would support his claim that the subject land was used for agricultural purposes in the two years immediately preceding the date on which the same was transferred and, thus, his claim of deduction u/s. 54B was in order. Also, the assessee considering the fact that adverse inferences as regards his claim of deduction u/s. 54B of the Act were sought to be drawn by the A.O, inter alia, based on, viz. (i) the satellite images obtained from ISRO for certain specific dates, viz. 23.03.2012, 02.10.2011, 19.11.2011, 29.05.2012 and 23.01.2010; and (ii) the report of the CCOST, Raipur, wherein, it was stated that no agricultural activities were carried out on the subject land in the two years immediately preceding the date on which the same was transferred i.e. on 21.08.2012, had vide his reply dated 08.04.2023, referring to the said material/documents and rebutted the adverse inferences which were sought to be drawn by him.

46. Considering the aforesaid facts, we are of a firm conviction that as the ISRO's report (supra) and CCOST report (supra), wherein it was stated that no agricultural activities were carried out on the subject land were there before the A.O in the course of the reassessment proceedings, and the same were rebutted by the assessee based on his exhaustive submissions and

supporting documents filed in the course of the said proceedings, which, thereafter, had been accepted by the A.O who had not drawn any adverse inferences on the aforesaid issue which, inter alia, had formed the very basis for reopening of his concluded assessment, therefore, it can safely be concluded that the A.O had after considering the aforementioned documents arrived at a possible and plausible view that the subject land in the two years immediately preceding the date on which the same was transferred was used for agricultural purposes.

47. At this stage, we may herein observe, that the Pr. CIT in the garb of his revisional jurisdiction u/s. 263 of the Act cannot seek substitution of his view as against a possible and plausible view arrived at by the A.O. As observed by us hereinabove, the A.O while framing the reassessment vide his order passed u/s. 147 r.w.s. 144B of the Act, dated 30.05.2023, had queried the assessee as regards his claim for deduction u/s. 54B of the Act, specifically in the backdrop of the ISRO report (supra) and CCOST report (supra), wherein it was reported that the subject land in the two years immediately preceding the date on which it was transferred was not used for agricultural purposes. In reply, the assessee vide his letter/submissions dated 08.04.2023, Page 367 to 371 of APB, had rebutted the aforesaid observations of the A.O, based on which, no adverse inferences regarding his claim for deduction u/s. 54B was thereafter drawn by the A.O. We, thus,

in the backdrop of the aforesaid facts, are unable to comprehend, that now when the AO had queried the assessee on the aforesaid issue which had a material bearing on his claim for deduction u/s 54B of the Act, and further, deliberated upon the latter's reply and the supporting documents, then on what basis the Pr. CIT had observed that the A.O while framing the assessment had failed to examine the said claim for deduction in the backdrop of the aforesaid reports. On the contrary, we are of the view that the Pr. CIT in the garb of his revisional jurisdiction had sought to substitute the view that was arrived at by him by analyzing the satellite imageries provided by ISRO and the CCOST report, as against the plausible view that was arrived at by the A.O after carrying out necessary verifications, inquiries and deliberations. We are afraid that seeking of such substitution of view by the Pr. CIT falls beyond the scope and realm of the revisional jurisdiction vested with him under Section 263 of the Act. Our aforesaid view that the Pr. CIT in the garb of his revisional jurisdiction cannot sit as an appellate authority and seek substitution of his view as against the possible and plausible view arrived at by the A.O after carrying out necessary verifications and inquiries is supported by the judgments of the **Hon'ble Supreme Court** in the case of **CIT Vs. Kwality Steel Suppliers Complex (2017) 395 ITR 1 (SC)** and **Malabar Industrial Co. Ltd. Vs. CIT (2000) 243 ITR 83 (SC)**. Also, we find that a similar view had been taken by the **Hon'ble High Court of Chhattisgarh** in the case of **Pr. CIT Vs. Mahavir Ashok Enterprises (P)**

Ltd. (2024) 167 taxmann.com 396 (Chhattisgarh) and the **Hon'ble High Court of Bombay** in the case of **CIT Vs. Gabriel India Ltd. (1993) 203 ITR 108 (Bom).**

48. Once again, it would be relevant to point out that though the Pr. CIT in the course of the revisional proceedings, had vide his letter dated 26.06.2024 sought a "fresh opinion" of the CCOST, Raipur pursuant whereto, the latter had vide its letter dated 06.08.2024 filed its "fresh opinion/report", but a careful perusal of the same does not reveal any new opinion/view but only a reiteration of its earlier view that the subject land was a "fallow land" on the aforementioned specific dates, viz. 23.03.2012, 02.10.2011, 19.11.2011, 29.05.2012 and 23.01.2010. Accordingly, the aforesaid report dated 06.08.2024 of the CCOST, Raipur cannot be construed as an additional information before the Pr. CIT which was not considered by the A.O while framing the reassessment vide his order passed u/s. 147 r.w.s. 144B of the Act, dated 30.05.2023.

(B). Land Revenue Records, viz. (i) Manual report of the Village patwari, dated 03.09.2019; (ii) Form P-II Khasra issued by patwari based on computerized land revenue records; and (iii) Order of Naib Tehsildar, District : Raipur, dated 12.03.2020:

49. Ostensibly, the information shared by the A.O with the assessee u/s. 148A(b) of the Act, dated 26.05.2022, revealed that the case of the assessee was, inter alia, sought to be reopened, for the reason that the land revenue

record (manual record) issued by Village patwari, dated 03.09.2019 stated that no agricultural activities were carried out on the subject land during F.Y 2009-10, F.Y 2010-11 and F.Y 2012-13. Accordingly, the A.O based on the aforesaid information had called upon the assessee to explain that as to why his claim for deduction u/s. 54B of the Act be not disallowed and a notice be issued to him u/s. 148 of the Act.

50. As observed by us hereinabove, the A.O had, thereafter, in the course of the reassessment proceedings, vide notice issued u/s. 142(1) of the Act, dated 23.03.2023 called upon the assessee to furnish evidence that the subject land in the two years immediately preceding the date on which the same was transferred used for agricultural purposes and, thus, his claim of deduction u/s. 54B of the Act was in order, Page 221 of APB. As the A.O had sought to dislodge the assessee's claim for deduction u/s. 54B of the Act, i.e. allegedly for the reason that the subject land, inter alia, based on the manual report of the Village patwari, dated 03.09.2019 (supra) was in the two years immediately preceding the date on which it was transferred not used for agricultural purposes, thus, the assessee had vide his reply dated 08.04.2023, Page 367 to 371 of APB rebutted the same and had substantiated his claim for deduction u/s. 54B of the Act by drawing support from, viz. (i) patwari report/panchshala wherein it was stated by him that the google earth map drawn on 05.12.2010 revealed the "post-

harvest" situation of the land; (ii) computerized land revenue records; and (iii) order dated 12.03.2020 passed by Naib Tehsildar, District : Raipur on an application filed by the assessee a/w. the other 8 co-owners (family members) under Chhattisgarh Land Revenue Code, 1959, wherein it was stated by him that due to a clerical mistake in the manual records, the land usage was wrongly recorded in the revenue record as "Padati bhumi" for F.Y.2010-11 while for the computerized revenue records stating to the contrary was correct.

51. Although, it is a matter of fact borne from record that the Village patwari vide his report dated 03.09.2019 (supra) had, inter alia, stated that though the subject land in F.Y.2011-12 was used for cultivating "paddy crop" but in the immediately preceding year i.e. F.Y.2010-11 no crop was taken. However, we find that nothing had been stated by him as to whether or not any agricultural operations were carried out on the subject land in F.Y.2009-10. We find that the assessee finding mistake/error in the revenue records as was issued by the patwari-in-charge in respect of the subject agricultural land had along with the other 8 co-owners (family members) filed applications under Sections 115 and 116 of the Chhattisgarh Land Revenue Code, 1959, wherein it was stated that as they have been cultivating the subject land situated at Village: Labhandi since long,

therefore, an error had crept in the non-updated land revenue records wherein the same was wrongly recorded as a non-agricultural land.

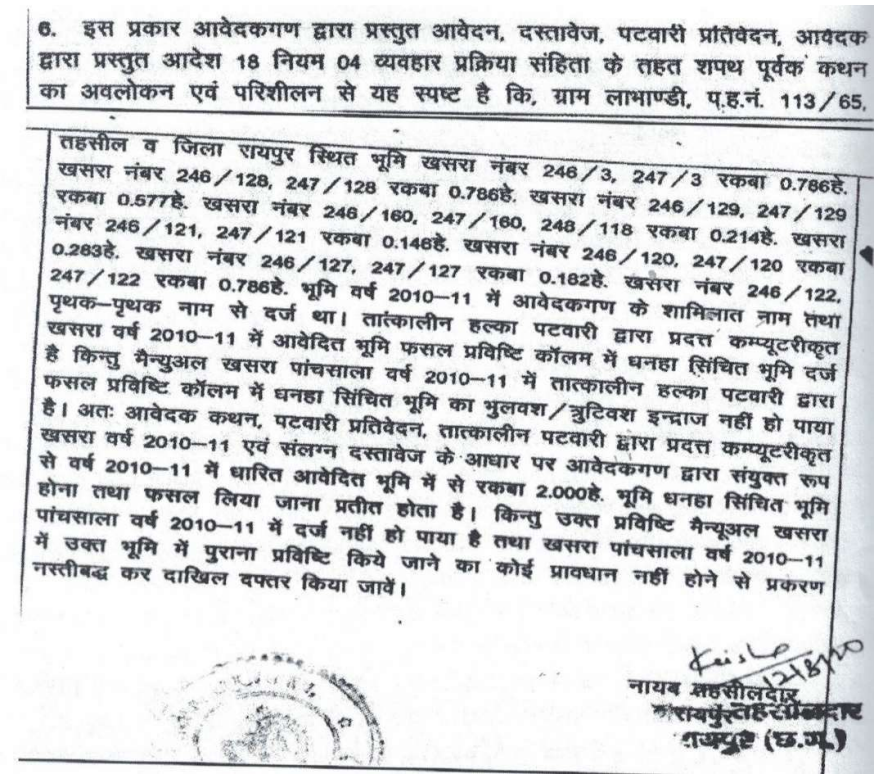
52. Ostensibly, in pursuance of the directions of the Addl. Tehsildar, the patwari-in-charge based on the google map images drawn on 05.12.2010, had, thereafter, prepared a panchnama report taking into consideration the patwari panchshala khasra which revealed the details of crop sown as per the manual patwari records and other documentary evidence. Thereafter, the Naib Tehsildar, District: Raipur in the Revenue Case No.B-121/Year 2019-20 in case of Goutam Chand Jhabak & Others Vs. State of Chhattisgarh, had vide his order dated 12.03.2020 held that based on the statements, patwari report/panchanama, computerized land revenue records certified by patwari at the relevant time and attached with the registered deeds it was found that the subject land was being cultivated since long (cultivation of paddy was registered in patwari records for the year 2011-12). Also, it was observed by him in his order that though the factum of cultivation of paddy was all along rightly reflected and registered in online B-1 khasra in all the years but merely owing to a clerical mistake/non-updation of the entries in the manual records of the patwari that the cultivation of paddy or agricultural activities had wrongly been shown as “Padati Bhumi”. The Naib Tehsildar (supra), had thereafter, based on the plenary powers conferred upon him u/ss. 115 and 116 of the Chhattisgarh

Land Revenue Code, 1959, ordered that in respect of the subject agricultural land, in place of "Padati Bhumi", the crop cultivated should have been recorded as "paddy" in the revenue records for F.Y.2010-11. At the same time, it was observed by him that as there was no provision to update the revenue records, therefore, the said case was being filed.

53. Accordingly, the assessee to rebut the adverse inferences which the A.O had sought to draw to dislodge the assessee's claim for deduction u/s.54B of the Act, i.e. the manual Patwari report, dated 03.09.2019 (supra), wherein it was, inter alia, stated that the subject land was not used for agricultural purposes during F.Y.2010-11, had filed exhaustive submissions and documents proving to the contrary, viz. (i) computerized land revenue records certified by patwari based on the google map drawn on 05.12.2010, as per which, the subject land was being cultivated since long; and (ii) Order passed by the Naib Tehsildar, District: Raipur in the Revenue Case No.B-121/Year 2019-20 of Gautam Chand Jhabak & Others Vs. State of Chhattisgarh, dated 12.03.2020, wherein he had held that the subject land was cultivated since long and the factum of cultivation of paddy had all along been rightly reflected and registered in the online B-1 khasra in all the years. Also, it was observed by him that due to a clerical mistake/non-updation of the manual records, cultivation of paddy or agricultural activities was wrongly recorded as "Padati Bhumi". After considering the

aforesaid facts, he had as per the powers vested with him u/ss. 115 and 116 of the Chhattisgarh Land Revenue Code, 1959, ordered that in respect of the subject lands, in place of "Padati Bhumi", crop cultivated should have been recorded as "paddy" for F.Y.2010-11. For the sake of clarity, the submissions filed by the assessee a/w. supporting documents vide his reply dated 08.04.2023, on the aforesaid issue, with the A.O in the course of the reassessment proceedings are culled out as under:

> "**7. Pertinently, most vitally,** finding some mistakes/errors in the Revenue Records issued by the Patwari Incharge in respect of agricultural lands sold situated at Kh.No.246/3, 247/3, 246/128, 247/128, 246/129, 247/129, 246/160, 247/160, 248/118, 246/121, 247/121, 246/12C, 247/120, 246/122, 247/122 etc., the assessee along with the other co-owners & family members made an application under the provisions of section 115 & 116 of the Chhattisgarh Land Revenue Code, 1959 stating that they have been cultivating the aforesaid lands at Village Labhandih since long and that an error in recording the same as non-agricultural seems to be committed by the Land Revenue Officials seemingly owing to the reason of non-updation of the concerned records.
>
> Thereafter in pursuance of directions of the Addl. Tahsildar as aforesaid, the Patwari In charge, on the basis of Google Map Image drawn on 05.12.2010, prepared a Panchanama Report diligently taking into consideration the Patwari (Panchsala Khasra) Records reflecting the details of crops shown in the manual patwari records and after extensive examination of the documentary evidences supported with Patwari Panchanama and other contemporaneous evidences etc., the Ld. Nayab Tahsildar, District Raipur in Revenue Case No.8-121/Year 2019-20 in the case of Gautam Chand Jhabak & Others. Vs. State of Chhattisgarh vide his Order Dated 12th March, 2020 stoutly & specifically held



6. इस प्रकार आवेदकगण द्वारा प्रस्तुत आवेदन, दस्तावेज, पटवारी प्रतिवेदन, आवेदक द्वारा प्रस्तुत आदेश 18 नियम 04 व्यवहार प्रक्रिया संहिता के तहत शपथ पूर्वक कथन का अवलोकन एवं परिशीलन से यह स्पष्ट है कि, ग्राम लाभाण्डी, प.ह.नं. 113/65, तहसील व जिला रायपुर स्थित भूमि खसरा नंबर 246/3, 247/3 रकबा 0.786हे. खसरा नंबर 246/128, 247/128 रकबा 0.786हे. खसरा नंबर 246/129, 247/129 रकबा 0.577हे. खसरा नंबर 246/160, 247/160, 248/118 रकबा 0.214हे. खसरा नंबर 246/121, 247/121 रकबा 0.146हे. खसरा नंबर 246/120, 247/120 रकबा 0.283हे. खसरा नंबर 246/127, 247/127 रकबा 0.182हे. खसरा नंबर 246/122, 247/122 रकबा 0.786हे. भूमि वर्ष 2010–11 में आवेदकगण के शामिलात नाम तथा पृथक–पृथक नाम से दर्ज था। तात्कालीन हल्का पटवारी द्वारा प्रदत्त कम्प्यूटरीकृत खसरा वर्ष 2010–11 में आवेदित भूमि फसल प्रविष्टि कॉलम में धनहा सिंचित भूमि दर्ज है किन्तु मैन्युअल खसरा पांचसाला वर्ष 2010–11 में तात्कालीन हल्का पटवारी द्वारा फसल प्रविष्टि कॉलम में धनहा सिंचित भूमि का भुलवश/त्रुटिवश इन्द्राज नहीं हो पाया है। अतः आवेदक कथन, पटवारी प्रतिवेदन, तात्कालीन पटवारी द्वारा प्रदत्त कम्प्यूटरीकृत खसरा वर्ष 2010–11 एवं संलग्न दस्तावेज के आधार पर आवेदकगण द्वारा संयुक्त रूप से वर्ष 2010–11 में धारित आवेदित भूमि में से रकबा 2.000हे. भूमि धनहा सिंचित भूमि होना तथा फसल लिया जाना प्रतीत होता है। किन्तु उक्त प्रविष्टि मैन्यूअल खसरा पांचसाला वर्ष 2010–11 में दर्ज नहीं हो पाया है तथा खसरा पांचसाला वर्ष 2010–11 में उक्त भूमि में पुराना प्रविष्टि किये जाने का कोई प्रावधान नहीं होने से प्रकरण नस्तीबद्ध कर दाखिल दफ्तर किया जावें।

नायब तहसीलदार
रायपुर तहसीलदार
रायपुर (छ.ग.)

That is to say, on the basis of Statements, Patwari Report/Panchanama, Computerized Land Revenue Records certified by the Patwari at the relevant time & attached with the registered deeds, it is found that the at Kh.No.246/3, 247/3, 246/128, 247/128, 246/129, 247/129, 246/1E 247/160, 248/118, 246/121, 247/121, 246/120, 247/120, 246/122, 247/122 etc. at Village Labhandih was being cultivated since long (Cultivation of Paddy duly registered in the Patwari Records for the Year 2011-12) and the factum of cultivation of paddy has been rightly reflected & registered in Online B-1 Khasra in all the years all along and merely owing to clerical mistake/non-updation when making entries in Record Roster of Patwari, the cultivation of Paddy or agricultural activity has been fallaciously recorded as "Padati" Bhumi and after consideration of the entire conspectus of the case before him, in view of the plenary pow(conferred upon him under sections 115 & 116 of the Chhattisgarh Land Revenue Code, 1959, the Ld. Nayab Tahsildar ordered that in respect of the aforesaid agricultural lands, in place "Padati" Bhumi, the crop cultivated should have been recorded as "Paddy" in respect of Year 2010-11 however, there being no provision to update the records, the said case was disposed off."

> "(iv) It is further imperative to point out that the Patwari Incharge on the basis of very same Google Map Image drawn on 05.12.2010 prepared a Panchanama Report diligently taking into consideration the Potwari (Panchsala Khasra) Records reflecting the details of crops shown in the manual patwari records and after extensive examination of the documentary evidences supported with Patwari Panchanama and other contemporaneous evidences etc. as referred to in Para 3.5 supra which inherehtly and unflinchingly indicates that the Images drawn from Google Earth Open Platform is much more authentic and reliable and it is humbly submitted that the Revenue Records as modified by the Ld. Nayab Tahsildar, District Raipur in Revenue Case No.B-121/Year 2019-20 in the case of Gautam Chand Jhabak & Others. Vs. State of Chhattisgarh vide his Order Dated 12th March, 2020 deserves precedent over the bald and unsubstantiated purportedly vague and scanty opinion drawn by the CCST on the basis of Satellite Images does not deserve much credence and ought to be discarded as unreliable and uncorroborated. It is imperative to point out that the very same material & data supplied by the other co-owners in the course of reassessment proceedings before the Ld,Assessing Officers, NFAC have been duly & consciously deliberated upon and vehemently accepted by diligently allowing the claim of exemption/deduction under section 54B of the Act thereby tacitly accepting the claim of deduction put forward by the co-owners hence, it is most earnestly requested that the same treatment is deservedly required to be extended to the assessee individual and the returned income may please be assessed & accepted as such."

54. We find that the A.O after considering the aforesaid reply of the assessee, dated 08.04.2023 (supra), had found favour with his explanation and after giving preference to the aforesaid computerized land revenue records certified by the patwari; as well as the order of the Naib Tehsildar, dated 12.02.2020, wherein the factum of mistake in fallaciously recording the subject land as "Padati Bhumi" due to a clerical mistake/non-updation of the manual records of the patwari was referred to and corrected, had arrived at a possible and plausible view that pursuant to the aforesaid

subsequent developments i.e. the computerized land revenue records and the Naib Tehsildar order, dated 12.02.2020 the "manual report" of the Patwari, dated 03.09.2010 could not be given credence and relied upon, thus, accepted the assessee's claim that the subject land was used for agricultural purposes i.e. for cultivation of "paddy crop" in F.Y.2010-11.

55. At this stage, it would be relevant to point out that though the A.O in the body of the assessment order had not vociferously spelled out his aforesaid observation, i.e. agricultural operations were carried out on the subject land in F.Y.2010-11, but cannot remain oblivion of the fact that he had vide his notice u/s. 142(1) of the Act, dated 23.03.2023 (supra) called upon the assessee to substantiate, based on the supporting documents, that the subject land in the two years immediately preceding the date on which it was transferred used for agricultural purposes. Thereafter, the assessee in his reply to the aforesaid information that was called for by A.O based on the Patwari report (manual), dated 03.09.2019 (supra), wherein it was stated that no agricultural operations were carried out on the subject land in F.Y.2010-11, had furnished an exhaustive reply dated 08.04.2023, wherein based on, viz. (i) computerized revenue records; and (ii) Order of the Naib Tehsildar dated 12.03.2020, he had dispelled the adverse inferences that were sought to be drawn as regards his claim for deduction u/s.54B of the Act. As the A.O had after necessary deliberations accepted the aforesaid

reply of the assessee, therefore, that in itself suffices for concluding that he had based on a possible and plausible view accepted the same. Our aforesaid view, that where the A.O while framing the assessment had examined the assessee's claim and accepted it, then, irrespective of the fact that he had in the body of the assessment order there is no specific mention of acceptance of such claim of the assessee cannot form a basis for concluding that the same was not verified by the A.O is fortified by the judgment of the **Hon'ble High Court of Punjab & Haryana** in the case of **Hari Iron Trading Co. Vs. CIT (2003) 263 ITR 437 (P&H).** The Hon'ble High Court in its order has observed as under:

> "A bare perusal of the aforesaid provisions shows that the CIT can exercise powers under Sub-section (1) of Section 263 of the Act only after examining "the record of any proceedings under the Act". The expression 'record' has also been defined in Clause (b) of the Explanation so as to include all records relating to any proceedings available at the time of examination by the CIT. Thus, it is not only the assessment order but the entire record which has to be examined before arriving at a conclusion as to whether the Assessing Officer had examined any issue or not. **The assessee has no control over the way an assessment order is drafted. The assessee on its part had produced enough material on record to show that the matter had been discussed in detail by the Assessing Officer. The least that the Tribunal could have done was to refer to the assessment record to verify the contentions of the assessee. Instead of doing that, the Tribunal has merely been swayed by the fact that the Assessing Officer has not mentioned anything in the assessment order. During the course of assessment proceedings, the Assessing Officer examines numerous issues. Generally, the issues which are accepted do not find mention in the assessment order and only such points are taken note of on which the assessee's explanations' are rejected and additions/disallowances are made. As already observed, we have examined the records of the case and find that the Assessing Officer had made full inquiries before**

> **accepting the claim of the assessee qua the amount of Rs.10 lacs on account of discrepancy in stock. Not only this, he has even gone a step further and appended an office note with the assessment order to explain why the addition for allegation discrepancy in stock was not being made. In the absence of any suggestion by the CIT as to how the inquiry was not proper, we are unable to uphold the action taken by him under Section 263 of the Act**."
>
> **(emphasis supplied by us)**

56. Once again, we are of a firm conviction that the A.O in the present case had after considering the reply filed by the assessee, wherein he had in the course of reassessment proceedings rebutted/dispelled the adverse inferences which the A.O had sought to draw as regards his claim of deduction u/s.54B of the Act, i.e., inter alia, for the reason that as per the patwari report, dated 03.09.2019 (supra) no agricultural operations were carried out on the subject land in F.Y.2010-11, had, thus, arrived at a possible and plausible view, therefore, the Pr. CIT in the garb of his revisional jurisdiction could not have sought to substitute his view as against that which was arrived at by the A.O based on necessary inquiries and verifications. Our aforesaid view is fortified by the judgments of the **Hon'ble Supreme Court** in the case of **CIT Vs. Kwality Steel Suppliers Complex (2017) 395 ITR 1 (SC)** and **Malabar Industrial Co. Ltd. Vs. CIT (2000) 243 ITR 83 (SC)** and also that of the **Hon'ble High Court of Chhattisgarh** in the case of **Pr. CIT Vs. Mahavir Ashok Enterprises (P) Ltd. (2024) 167 taxmann.com 396 (Chhattisgarh).**

(C). Physical Verification Report, dated 03.05.2023 obtained by FAO from the AO (Verification Unit):-

57. As observed by us hereinabove, the A.O while framing the reassessment vide his order passed u/s.147 r.w.s. 144B of the Act, dated 30.05.2023 was satisfied with the submissions that were advanced by the assessee to substantiate his claim that the subject agricultural land in the two years immediately preceding the date on which the same was sold was used for agricultural purposes, viz. (i) Google Earth Images drawn on 05.12.2010 showing post-harvest position of the land and apparently addressing the ISRO's report (supra) and CCOST report (supra); (ii) opinion from the scholar/expert in the field of agriculture, viz. Shri Saurabh Rathi (supra), wherein he had opined that the google imagery clearly depicted that agricultural activities were being carried out on the subject land; (iii) the satellite images as of December, 2010 of the subject land were of post-harvest period, i.e. after the kharif crop and the yellow color of the land evidenced the rice straw left.; (iv) the computerized land revenue records certified by the patwari evidencing the cultivation of paddy on the subject land during F.Y.2010-11; and (v) Naib Tehsildar, District: Raipur, order dated 12.03.2020 (supra), wherein it was observed by him that due to a clerical mistake/non-updation of the manual records the subject land was wrongly recorded as "Padati Bhumi", while for, the crop cultivated should have been recorded as "paddy" in F.Y.2010-11 and, thus, had sufficient

material before him which would substantiate the assessee's claim that the subject land in the two years immediately preceding the date on which it was transferred was utilized for agricultural purposes, i.e. a pre-condition for claiming deduction u/s. 54B of the Act. However, we find that the A.O in order to dispel all doubts and arrive at an irrefutable view on the issue in hand, i.e. as to whether or not the subject land in the two years immediately preceding the date on which it was transferred used for agricultural purposes, therein, sought for a physical verification of the subject land by making a reference to the A.O, Verification Unit, Raipur ["A.O (VU)", for short].

58. As is discernible from the record the A.O (VU), had thereafter, issued summons u/s. 131(1) of the Act, dated 22.04.2023 to the assessee, viz. Shri Sanket Jhabak, Page 224 to 226 of APB, wherein he was, inter alia, called upon to substantiate based on corroborative material his claim that the subject land was used for agricultural purposes during the two years immediately preceding the date on which the same was transferred. Also, the A.O (VU) had informed the assessee that the matter was assigned to him for physical verification and inquiry of the genuineness of his claim of deduction raised u/s. 54B of the Act. In compliance, the assessee vide his reply dated 26.04.2023, Page 378 to 387 of APB, had relied on the case of the another co-owner, viz. Shri Sanjog Jhabak, wherein, involving identical

facts, the A.O in the latter's case had vide his order passed u/s. 147 r.w.s. 144B of the Act, dated 04.03.2022 allowed his claim for deduction of Rs.4.85 crore (supra) u/s. 54B of the Act. Once again, the assessee had before the A.O (VU), vide his reply dated 26.04.2023 (supra), to buttress his claim that the subject land in the two years immediately preceding the date on which it sold was used for agricultural purposes, had relied upon the computerized land revenue records i.e. panchnama report prepared by patwari-incharge based on google map drawn on 05.12.2010 (after taking into consideration the patwari panchshala revenue records revealing the details of crop sown as per the manual patwari record); and Naib Tehsildar, Raipur, order dated 12.03.2020. Also, the assessee in order to buttress his aforesaid claim, had pressed into service before the A.O the expert opinion of Shri Saurabh Rathi (supra).

59. The A.O (VU) had, thereafter, recorded the statement of the assessee on 02.05.2023, wherein, he had vide Question No.6 called upon him to substantiate his claim of deduction u/s. 54B of the Act. In reply, the assessee had stated that the subject land was being used for cultivation of paddy. It was stated by the assessee that one Shri Hrithram Nisad, S/o. Shri Din Dayal Nisad, an ex-serviceman (a security personnel from M/s. J.B Security Corporation) alongwith his family members during the relevant period resided at the subject land and carried out agricultural activities for

and on behalf of "Jhabak family". Elaborating further, it was stated by the assessee that Shri Hrithram Nisad (supra) after partially appropriating the agricultural produce, i.e. paddy for his self-consumption would deliver the balance produce to him and the other co-owners (family members). The A.O (VU) had, thereafter, carried out verification from Shri Hrithram Nisad (supra) who [as can be gathered from the A.O(VU)'s report] had stated before him that he along with his family members and his forefathers have been doing agricultural activities on the subject land since F.Y.2005-06 and growing paddy for "Jhabak family". Also, it was stated by him that after the land was sold by the assessee/co-owners, the present owner had thereafter not carried out agricultural activities on the subject land. It was further stated by him that presently he was serving in the capacity as that of a security guard on the subject land of the present owner.

60. The A.O (VU) after recording the statements of the assessee, viz. Shri Sanjay Jhabak, Shri Hrithram Nishad i.e. the erstwhile care taker of the subject land, and perusing the documents that were filed by the assessee before him etc., vide his "Physical Verification Report", dated 03.05.2023, concluded that the subject land was used for agricultural purposes in the two years immediately preceding the date on which the same was transferred i.e. F.Y.2010-11 and F.Y 2011-12. For the sake of clarity, the

observations of the A.O(VU) recorded in the "Physical Verification Report", dated 03.05.2023 is culled out as under: (relevant extract)

> "During Physical Verification Proceedings, on visiting the above land, we have met with Shri Hrithram Nisad, Ex Serviceman, security person from J.B Security Corporation appointed to look after and care the property and stated that previously, my family along with my forefather's have been doing agricultural activities since 2005-06 on the above land and growing paddy for Jhabak Faimly and for irrigation there was a well and also give glimpse of this. All the expenses on agricultural activities was borne by us and the production was used by us for our requirements, if anything remained that was given to assessee i.e Jhabak Family. But, after the transfer of property, the present owner has denied to do agricultural activities, because he has some future plan and but now no any project was developed and it is full of Brushwood. Now he is employed with present owner in the capacity of security guard.
>
> Further, on perusal and analysing the submission filed by the assessee in response to the above statutory - notices, the assessee- claimed deduction- under sections 54/5413/54D/54EC/54F /54G/54GA/54GB of Income Tax Act, 1961 as under :-

Particulars	Amount (In Rs.)
U/s. 54F of the Income Tax Act, 1961	Rs.34,81,993/-
U/s. 54EC of the Income Tax Act, 1961	Rs.50,00,000/-
U/s. 54B of the Income Tax Act, 1961	4,76,32,950/-
Total	5,61,14,943/-

> Out of Rs.4,76,32,950/- claimed u/s 54B of Income Tax Act, 1961, an agricultural Land of share of Rs.6,32,950/- was purchased by the assessee as on 13.03.2013 and remaining amount of Rs.4,70,00,000/- was deposited into Capital Account scheme and later onward during FY 2014-15, the assessee have offered unutilized amount of Rs.3,40,00,000/- for taxation.
>
> **Therefore, in light of above discussion, it is found that the land was used for agricultural purposes for period of two**

years immediately preceding the date of transfer i.e 2010-11 & 2011-12.

Thus, the physical verification report along with following annexures are submitted for your kind perusal and accorded.

Annexure : A (Summon issued to Assessee dated 22.04.2023)
Annexure : B (Statement of Assessee dated 02.05.2023)
Annexure : C (Photograph)
Annexure D (Submission filed by the assessee)"

Accordingly, a perusal of the A.O(VU)'s "Physical Verification Report" (supra), reveals that he had after carrying out necessary physical verification, recording the statements of the assessee and Shri Hrithram Nisad, i.e. the erstwhile care taker, clicking photographs of the site, consulting the records as were filed before him, and deliberating upon the documents that were filed by the assessee with him, had concluded that the subject land was used for agricultural purposes in the two years immediately preceding the date on which the same was transferred.

61. We, thus, based on our aforesaid observations hold a firm conviction that not only the view taken by the A.O on the issue in hand, i.e. the subject land in the two years immediately preceding the date on which the same was transferred used for agricultural purposes is supported by, viz. (i) the computerized land revenue records certified by patwari based on the google map drawn on 05.12.2010; (ii) Naib Tehsildar, Raipur, order dated 12.03.2020; (iii) opinion of Shri Saurabh Rathi (supra), but in fact, the department itself, i.e. the A.O (VU) who had based on his necessary

inquiries/verifications/recording of statements and carrying out physical inspection of the site vide his "Physical Verification Report", dated 03.05.2023, had concurred with and accepted the assessee's claim. Considering the fact that the A.O(VU) in his "Physical Verification Report" (supra) had based on his inquiries/verifications reported that the subject land was in the two years immediately preceding the date on which it was transferred used for agricultural purposes, we find no reason as to why the view taken by the A.O in his order of reassessment passed u/s. 147 r.w.s. 144B of the Act, dated 30.05.2023 by relying on the said report amongst others, wherein he had accepted the assessee's claim as regards usage of the land during the relevant period for agricultural purposes is not to be construed as a possible and plausible view arrived at by him while framing the reassessment.

62. As deliberated by us at length hereinabove, the fact that the computerized revenue records certified by the patwari based on the google map drawn on 05.12.2010, and also the Naib Tehsildar, Raipur order, dated 12.03.2020 evidenced that "paddy crop" was cultivated on the subject land in F.Y.2010-11, which though on account of a clerical mistake/non-updation of the revenue records was wrongly recorded as "Padati Bhumi", we are of a firm conviction that based to the said correction of the facts, there could have been no justification for the Pr. CIT to have drawn adverse

inferences based on the patwari report, dated 03.09.2019 (supra). Accordingly, it can safely be concluded that as per the "revenue records" the subject land in the two years immediately preceding the date on which the same was transferred used for agricultural purposes.

63. Based on our aforesaid observations, it would be relevant to point out that now when as per the "revenue records" the subject land in the two years immediately preceding the date on which the same was transferred, used for agricultural purposes, therefore, there was no justification for the Pr. CIT to have taken a contrary view based on the satellite images obtained from ISRO, and CCOST report(s) analyzing the said imageries. We, say so, for the reason that as held by the **Hon'ble Supreme Court** in the case of **Construction of park at NOIDA near Okhla Bird Sanctuary Vs. Union of India & Ors. (2011) 1 SCC 744**, the satellite images may not always reveal a complete story. In the case before the Hon'ble Apex Court, the State of Uttarpradesh had undertaken a project for building of a large scale memorial with extensive stone work which involved cutting of a very large number of trees for clearing the ground for the project. Two residents of Noida objected to the project, inter alia, for the reason that the project area was a forest area and felling of the trees violated Section 2(ii) of the Forest (Conservation) Act, 1980. The applicants to support their claim that there used to be a forest at the project site had relied upon, viz. (i) report of the Chief

Conservator of Forests (CCF) that was based on site inspection and the google image; and (ii) Forest Survey of India (FSI) Report based on satellite imagery. On the other hand, as per the revenue records, none of the khasras (plots) falling in the project area was ever shown as a jungle or forest, *banjar* (uncultivable) or parti land (uncultivated). Also, the records of the land acquisition between the years 1980 to 1983, complemented the revenue record of 1952 in which the lands were shown as agricultural and not as jungle or forest.

64. The Hon'ble Apex Court considering the aforesaid facts in the backdrop of the material available before them, had observed, that the satellite images may not always reveal a complete story. Also, it was observed that there was no justifiable reason for not giving credence to the "revenue records" since the same pertained to a time when the impugned project was not even in anyone's imagination and its proponents were nowhere on the scene. We, thus, based on the aforesaid judgment of the **Hon'ble Apex Court** in the case of **Construction of park at NOIDA near Okhla Bird Sanctuary Vs. Union of India & Ors. (supra)** are of a firm conviction that in the case of the present assessee, the revenue records which evidence that the subject land in the two years immediately preceding the date on which the same was transferred was used for agricultural purposes ought to have been given credence as against the satellite

imageries that have been pressed into service by the Pr. CIT, i.e. satellite images obtained from ISRO and CCOST reports (supra) analyzing the said satellite images.

65. Accordingly, we are of a firm conviction that as the A.O in the present case before us had arrived at a plausible and possible view, i.e. the subject land in the two years immediately preceding the date on which the same was transferred used for agricultural purposes, therefore, there was no justification for the Pr. CIT to have exercised his revisional jurisdiction for the purpose of substituting his view as against the possible view that was arrived at by the A.O based on the material as was available before him in the course of the reassessment proceedings.

66. Before parting, we deem it fit to observe that the Pr. CIT in the present case had dislodged the view taken by the A.O vide his reassessment order u/s. 147 r.w.s. 144B of the Act, dated 30.05.2023, i.e. the subject land during the two years immediately preceding the date on which it was transferred used for agricultural purposes, based on the same set of facts and documents as were available and deliberated upon by the A.O while framing the reassessment. We find that controversy involved in the present case finds it genesis in the conviction of the Pr. CIT regarding the manner in which the documents, i.e. the satellite imageries, land revenue records ought to have been looked into and analyzed by the A.O while framing the

reassessment vis-à-vis the manner in which the same were analyzed by him. We are of the view that though an order passed by an A.O without making inquiries or verification which should have been made can be brought within the meaning of an order which is "deemed to be erroneous" under Section 263 of the Act, but the supervisory jurisdiction of the revisional authority cannot be exercised for seeking dislodging of a possible and plausible view taken by the A.O after carrying out necessary inquiries and verifications, for the reason, that the revisional authority is of the view that the documents/material ought to have been looked into and analyzed by the A.O in a different manner. In our view, the exercise of revisional jurisdiction based on a conviction that the documents/material ought to have been looked into and analyzed by the A.O not in the manner that was adopted by the latter for arriving at a possible and plausible view, but in a manner of choice advocated by the revisional authority, will be nothing short of seeking of substitution of the view of the revisional authority by imposing the manner of analyzing of the documents/material as desired by him as against that adopted by the A.O i.e. a quasi-judicial authority, for arriving at a possible and plausible view, which, as observed by us at length hereinabove is not permissible as per the mandate of law as held by the **Hon'ble Apex Court** in, viz. (i) **CIT Vs. Kwality Steel Suppliers Complex (2017) 395 ITR 1 (SC);** (ii) **Malabar Industrial Co. Ltd. Vs. CIT (2000) 243 ITR 83 (SC);** (iii) **CIT Vs. Max India Ltd. (2007) 295 ITR 282 (SC)** and the **Hon'ble**

Jurisdictional High Court in the cases of, viz. (i) **Pr. CIT Vs. Mahavir Ashok Enterprises (P) Ltd. (2024) 167 taxmann.com 396 (Chhattisgarh)**; and (ii) **ACIT Vs. Sun and Sun Inframetric Pvt. Ltd., Tax case No.5 of 2022, dated 03.08.2023 (Chhattisgarh)**.

67. We, thus, in terms of our aforesaid deliberations hold a firm conviction that as the Ld. Pr. CIT had in exercise of the powers vested with him u/s. 263 of the Act dislodged a possible and plausible view that was arrived at by the A.O after carrying out necessary inquiries, verifications and deliberations on the issue in hand, i.e. the subject land in the two years immediately preceding the date on which the same was transferred was used for agricultural purposes and, thus, had observed that the assessee's claim for deduction u/s. 54B of the Act was well founded and in order; therefore, the Pr. CIT by seeking substitution of his view as against the possible and plausible view arrived at by the A.O based on the same set of documents/material, had, thus, traversed beyond the scope of his jurisdiction u/s 263 of the Act. Accordingly, we herein set-aside the order passed by the Pr. CIT u/s. 263 of the Act, dated 18.10.2024 and restore the order of reassessment passed by the A.O u/s. 147 r.w. Section 144B of the Act, dated 30.05.2023.

68. Resultantly, the appeal filed by the assessee in ITA No.479/RPR/2024 for A.Y.2013-14 is allowed in terms of our aforesaid observations.

ITA Nos. 233, 234, 235, 236 & 237/RPR/2024
ITA No.478/RPR/2024
A.Y.2013-14

69. As the facts and issue involved in the captioned appeals remain the same as were there before us for A.Y. A.Y.2013-14 in the aforementioned appeal of Shri Sanket Jhabak Vs. Pr. CIT-1, Raipur, ITA No.479/RPR/2024, [except for the "Physical Verification Report", dated 03.05.2023 that was obtained by the FAO from the A.O (Verification Unit) in the case of Shri. Sanket Jhabak (supra), therefore, our order therein passed shall *mutatis-mutandis* apply for the purpose of disposing of the captioned appeals i.e. ITA Nos. 233, 234, 235, 236 & 237/RPR/2024 & ITA No.478/RPR/2024 for A.Y.2013-14.

70. Resultantly, the appeals of the assessee in ITA Nos. 233, 234, 235, 236 & 237/RPR/2024 & ITA No.478/RPR/2024 for A.Y.2013-14 on the similar terms are allowed.

71. In the result, all the appeals filed by the captioned assessees are allowed in terms of our aforesaid observations.

Order pronounced in open court on 19th day of February, 2025.

Sd/-	**Sd/-**
ARUN KHODPIA	**RAVISH SOOD**
(ACCOUNTANT MEMBER)	**(JUDICIAL MEMBER)**

रायपुर/ RAIPUR ; दिनांक / Dated : 19th February, 2025.
**#SB, Sr. PS

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT, Raipur-1 (C.G)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच, रायपुर / DR, ITAT, Raipur Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.