

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AGRA BENCH, AGRA**

**Before Sh. Satbeer Singh Godara, Judicial Member  
&  
Sh. M. Balaganesh, Accountant Member**

**ITA No. 120/Agr./2022 : Asstt. Year: 2017-18**

Sh. Jagdish Chand, Shop No. 8, Raj Shree Talkies, Agra, U.P.-282002	Vs	PCIT, Agra, U.P.-282002
(APPELLANT)		(RESPONDENT)
<b>PAN No. AINPC1973D</b>		

**Assessee by : None**

**Revenue by : Sh. Sukesh Kumar Jain, CIT-DR**

**Date of Hearing: 06.02.2025**

**Date of Pronouncement: 06.02.2025**

**ORDER**

**Per Satbeer Singh Godara, Judicial Member:**

This assessee's appeal for Assessment Year 2017-18, arises against the PCIT-1, Agra's in case No. PCIT-1/Agra/ITO(OSD)/263/JC/2021-22 dated 31.03.2022, in proceedings u/s 263 of the Income Tax Act, 1961 (in short "the Act").

2. Case called twice. None appears at the assessee's behest. He is accordingly proceeded *ex-parte*.

3. We find during the course of hearing that there is no indication in the learned PCIT's revision direction nowhere

specifically held the section 143(3) assessment; as an erroneous causing prejudice to the interest of the Revenue.

4. Faced with this situation, the Revenue's very able learned CIT-DR vehemently argues that once the assessee had been issued the corresponding section 263 show-cause notice which remained non-complied at his end, even if there is no specific finding in the impugned orders, the same deserve to be upheld for want of rebuttal by the appellant side before the revisional authority(es).

5. We have given out thoughtful consideration to the vehement rival pleadings. We find no reason to sustain any of the impugned revision direction forming subject matter of our adjudication in the instant case. This is for the precise reason that apart from reproducing the corresponding show-cause notices which went un-responded by the assessee, there is not even a single instance wherein the learned revisional authority has arrived at any categorical finding on merits after having discussed the relevant error as well as prejudice caused to the interest of the Revenue. Needless to say, the law on exercise of the impugned revision jurisdiction stand very well settled since long in light of Malabar Industries Ltd. vs. CIT (2000) 243 ITR

83(SC) that before the same is invoked, the assessment has to be simultaneously erroneous as well as causing prejudice to the interest of the Revenue. Meaning thereby that till the time such a conclusion is not arrived at by the learned revision authority, an assessment could not be held as liable to be revised merely because of the fact that the corresponding show-cause notice(s) issued to the taxpayer have gone un-responded. We are further informed that case law M. L. Chains Vs. PCIT (2024) 461 ITR 457 (All.) has already decided the very issue involving a similar revision direction, as not sustainable, in para 20 thereof. We thus accept the assessee identical submissions in the instant case to this extent and reverse the learned PCIT's section 263 corresponding identical revision directions. Ordered accordingly. All necessary computation shall follow.

6. All other pleadings on merits herein stand rendered academic.

7. This assessee's appeal is allowed in above terms.

Order Pronounced in the Open Court on 06/02/2025.

Sd/-  
**(M. Balaganesh)**  
**Accountant Member**

Sd/-  
**(Satbeer Singh Godara)**  
**Judicial Member**

**Dated: 06/02/2025**

\*Subodh Kumar, Sr. PS\*