IN THE INCOME TAX APPELLATE TRIBUNAL

NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND

SHRI K.M. ROY, ACCOUNTANT, MEMBER

ITA no.186/Nag./2024
(Assessment Year : 2016–17)

Vikas Gupta
C–601, Sanghavi Residency
Bypass Road, Bicholi Mardana
Indore 452 016 PAN – AGTPG1270D ……. Appellant

v/s

Principal Commissioner of Income Tax
(Central), Nagpur ……. Respondent

Assessee by : Ms. Neha Jain
Revenue by : Shri Sandipkumar Salunke

Date of Hearing – 04/03/2025	Date of Order – 21/03/2025

O R D E R

PER K.M. ROY, A.M.

By this appeal, the assessee has challenged the impugned order dated 26/02/2024, passed by the learned Principal Commissioner of Income Tax, Nagpur, [*"learned PCIT"*], for the assessment year 2016–17.

2. In its appeal, the assessee has raised following grounds:–

"1. That the Ld. Principle Commissioner of Income Tax erred in passing order u/s 263 without making required examination of genuineness of transaction and creditworthiness of Assessee.

The initiation of proceedings u/s 263 is totally wrong and illegal.

2. Ld. Principal Commissioner of Income Tax erred in holding that the order passed by the Assessing Officer is erroneous and prejudicial to the interest of revenue.

3. That the Ld. Principal Commissioner of Income Tax did not paid attention towards the fact that the original assessment u/s 143(3) was completed by AO

after considering all the aspects and full facts of the case and therefore leaving no scope for the order to be erroneous and prejudicial to the interest of the revenue.

4. That the order passed by the Ld. Principal Commissioner of Income Tax may be kindly quashed.

5. That the appellant craves to leave, add, alter or amend any of the ground at or before hearing.

3. Facts in Brief:– On 29/12/2016, the assessee, for the year under consideration, originally filed his return of income under section 139(1) of the Income Tax Act, 1961 (*"the Act"*) declaring total income of ₹ 5,87,870. The assessment under section 153A of the Act was completed on 23/04/2021, determining total income at ₹ 5,87,870. The assessee is engaged in the business of marketing agricultural produce and soil conditioner. Additionally, during the relevant assessment aear, the assessee worked as a partner in Radha Enterprises, a business engaged in grinding, and received a salary from Trimbekeshwar Agro Industries P. Ltd.

4. The Income tax Officer, Air Intelligence Unit, Chennai Airport has intercepted Shri. Vikas Gupta at Chennai Airport, who was travelling from Bhubaneshwar to Indore via Chennai carrying cash of ₹ 10 lakh. The Income tax officer, AIU, Chennai has informed DDIT-1, Indore, that Shri Vikas Gupta in his statement, has stated that he is unaware of the source of the cash found.

5. Subsequently, on 31/03/2019, a search and seizure action was conducted under section 132 of the Act, by the DDIT (Inv.)-I, Indore, at the UG-16, MG Road, Indore, and the cash of ₹ 10 lakh was seized from Shri Vikas Gupta. Consequent to search action, the case of Shri Vikas Gupta was

centralised with Dy. Commissioner of Income Tax, Central Circle–1(1), Nagpur. The Assessing Officer, on 30/09/2020, has issued notice under section 153A of the Act, in response to which, the assessee, on 27/03/2021, filed return of income for the year under consideration declaring the total income of ₹ 5,87,870, showing the same income as shown in original return of income filed on 29/12/2016. The assessment under section 153A was completed on 23/04/2021 determining total income of ₹ 5,87,870.

6. Meanwhile, the learned PCIT, on a perusal of assessment order, found that order of assessment is erroneous inasmuch as it is prejudicial to the interests of Revenue. Hence the learned PCIT, in exercise of power conferred upon him under section 263 of the Act, assumed jurisdiction. Accordingly, a show cause notice under section 263 of the Act was issued to the assessee on 22/11/2023, in response to which the assessee furnished reply which is reproduced below:–

> *"The aforesaid assessee is in receipt of your honour notice dated 22.11.2023, requiring details of unsecured loans. In the regard we hereby submit as under-*
>
> *1. The assessee has taken unsecured loan from the below mentioned persons during the year under consideration. Further, for your honor's verification for creditworthiness and genuineness of the transaction we hereby attach a copy of ITR Acknowledgement & Computation at annexure listed below and copy of duly highlighted bank statement showing receipt of amount at Annexure 4.*

Sr. no.	*Unsecured Loan taken from*	*Date on which loan taken*	*Amount*	*PAN*	*Anne–xure*
1.	*Amar Dubey*	*02/02/2016*	*5,00,000*	*AGPPD2991L*	*1*
2.	*Vikas Patidar*	*21/01/2016*	*5,00,000*	*ALDPP3179K*	*2*
3.	*Ramesh Chandra Patidar*	*09/12/2015*	*13,00,000*	*Refer below paragraph*	*2*
	Total		*23,00,000*		

7. Finally, the learned CIT(A), considering the submissions of the assessee, quashed the assessment order by directing the Assessing Officer to reframe the assessment by considering the specific issues and make necessary enquiries to ascertain the income of the assessee. The findings of the learned CIT(A) are as under:–

> *"8. I have carefully considered the facts of the case and the submissions made by the assessee. In response to the show cause, the assessee has filed a written submission dated 08/01/2024 which is placed on record. The reply submitted by the assessee is considered, but found not acceptable for the detailed reasons mentioned hereunder.*
>
> *(a) The assessee in its submission has stated that "he assessee has taken unsecured loan from the persons during the year under consideration. Further, for your honour's verification for creditworthiness and genuineness of the transaction we hereby attach a copy of ITR Acknowledgement & Computation at annexure listed below and copy of duly highlighted bank statement showing receipt of amount at Annexure 4.*
>
> *The assessee has further stated that Shri Ramesh Chandra Patidar and his son passed away, therefore confirmation of unsecured loan from his wife (Kala Bai Patidar) is attached at Annexure 3. Further, the entire family is having income through agriculture activities, which is not taxable under the Act hence ITR not filed. So, for your honour verification PAN of Kala Bai Patidar, Land rights document, death certificate of Ramesh Chandra and his son is also attached at Annexure 3."*
>
> *(b) From the above submission and the documents produced during the course of hearing u/s 263 of the I.T.Act, it is clear that these documents were not verified by the AO while completing the assessment as the same were neither called for by the AO nor produced by the assessee for verification. The AO has not called for these details. As such, the AO has not verified the creditworthiness, identity of the creditor and genuineness of the transactions in respect of the persons who have provided unsecured loan to the assessee. As evident from the above that the AO has completed the assessment without making inquiry and verification in this case. The order dated 23-04-2021 passed by the AO u/s 143(3) of the I.T. Act is therefore erroneous and prejudicial to the interest of revenue.*
>
> *9. Considering the specific facts as discussed above and also keeping in view the provisions of Explanation 2 to section 263 of the Act as the AO has not made enquires and verification on the above issues, which should have been made, I am of the considered view that the assessment order passed by the AO u/s 143(3) dated 23.04.2021, is erroneous in so far as it is prejudicial to the interest of revenue. Accordingly, the order is set aside for framing fresh assessment. The A.O is directed to consider the specific issues as discussed above and make necessary enquiries to ascertain the income of the assessee and pass the assessment order afresh in accordance with the law, after providing an opportunity of being heard to the assessee."*

8. Without adverting to the merits of the case, it is apparent that the assessment year 2016–17 was clearly an unabated assessment year, because no proceedings were pending as on date of search. There was no incriminating documents which were unearthed on the basis of which addition could have been perpetuated. Hence, provisions of section 263 of the Act has got no application, as addition on account of section 68 do no emanate from any seized documents which are incriminating in nature. In this regard, we refer and rely upon the decision of the Co–ordinate Bench of the Tribunal, Kolkata Bench, in Arati Ray v/s DCIT, ITA no.778/Kol./2024, for the assess–ment year 2014–15, order dated 11/07/2024, wherein the Bench, on identical issue, held as under:–

> *"14. We have duly considered the rival contentions and gone through the record carefully. Before we embark upon an enquiry on the facts and issues agitated before us to find out whether the action u/s 263 of the Act, deserves to be taken against the assessee or not, it is pertinent to take note of this section. It reads as under:-*
>
> *"263(1) The 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 interest 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.- 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*

Chief Commissioner or Director General or Commissioner authorized 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 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 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.

(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."

15. A bare perusal of the sub section-1 would reveal that powers of revision granted by section 263 to the learned Commissioner have four compartments. In the first place, the learned Commissioner may call for and examine the records of any proceedings under this Act. For calling of the record and examination, the learned Commissioner was not required to show any reason. It is a part of his administrative control to call for the records and examine them. The second feature would come when he will judge an order passed by an Assessing Officer on culmination of any proceedings or during the pendency of those proceedings. On an analysis of the record and of the order passed by the Assessing Officer, he formed an opinion that such an order is erroneous in so far as it is prejudicial to the interests of the Revenue. By this stage the learned Commissioner was not required the assistance of the assessee. Thereafter the third stage would come. The learned Commissioner would issue a show-cause notice pointing out the reasons for the formation of his belief that action u/s 263 is required on a particular order of the Assessing Officer. At this stage the opportunity to the assessee would be given. The learned Commissioner has to conduct an inquiry as he may deem fit. After hearing the assessee, he will pass the order. This is the 4th compartment of this section. The learned Commissioner may annul the order of the Assessing Officer. He may enhance the assessed income by modifying the order. He may set aside the order and direct the Assessing Officer to pass a fresh order.

16. A perusal of sub-clause (c) of the above would contemplate that if any order, which is subject matter for revision under section 263 is challenged in appeal, then, on the items which are subject matter of appeal, no power under section 263 could be exercised by the ld. Commissioner. We may elaborate

further, for example- an assessment order was passed, it contains five issues, which were challenged before the ld. CIT(A), but ld. Assessing Officer failed to look into few issues, which may arise from the record, then inspite of the assessment order being challenged before the ld. CIT(A), the ld. Commissioner would have jurisdiction on such items, which are not subject matter of appeal in that assessment order.

17. At this stage, before considering the multi-fold contentions of the ld. Representatives, we deem it pertinent to take note of the fundamental tests propounded in various judgments relevant for judging the action of the CIT taken u/s 263. The ITAT in the case of Mrs. Khatiza S. Oomerbhoy Vs. ITO, Mumbai, 101 TTJ 1095, analyzed in detail various authoritative pronounce–ments including the decision of Hon'ble Supreme Court in the case of Malabar Industries 243 ITR 83 and has propounded the following broader principle to judge the action of CIT taken under section 263.

(i) The CIT must record satisfaction that the order of the AO is erroneous and prejudicial to the interest of the Revenue. Both the conditions must be fulfilled.

(ii) Sec. 263 cannot be invoked to correct each and every type of mistake or error committed by the AO and it was only when an order is erroneous that the section will be attracted.

(iii) An incorrect assumption of facts or an incorrect application of law will suffice the requirement of order being erroneous.

(iv) If the order is passed without application of mind, such order will fall under the category of erroneous order.

(v) Every loss of revenue cannot be treated as prejudicial to the interests of the Revenue and if the AO has adopted one of the courses permissible under law or where two views are possible and the AO has taken one view with which the CIT does not agree. If cannot be treated as an erroneous order, unless the view taken by the AO is unsustainable under law.

(vi) If while making the assessment, the AO examines the accounts, makes enquiries, applies his mind to the facts and circumstances of the case and determine the income, the CIT, while exercising his power under s 263 is not permitted to substitute his estimate of income in place of the income estimated by the AO.

(vii) The AO exercises quasi-judicial power vested in him and if he exercises such power in

accordance with law and arrive at a conclusion, such conclusion cannot be termed to be erroneous simply because the CIT does not fee stratified with the conclusion.

(viii) The CIT, before exercising his jurisdiction under s. 263 must have material on record to arrive at a satisfaction.

(ix) If the AO has made enquiries during the course of assessment proceedings on the relevant issues and the assessee has given detailed explanation by a letter in writing and the AO allows the claim on being

satisfied with the explanation of the assessee, the decision of the AO cannot be held to be erroneous simply because in his order he does not make an elaborate discussion in that regard.

18. In the light of above, let us examine the facts and circumstances of the appeals before us. There is no dispute to the fact that all these assessees have filed their returns within due date provided under section 139(1) of the Income Tax Act. They have disclosed the long-term capital gain assessable in their hands. Those returns have been accepted under section 143(1) of the Income Tax Act. The assessments have attained finality. No notice under section 143(2) for scrutinizing the returns have been issued upon the assessee before the search carried out. Even the time limit for issuance of such notice have already been expired before the search. During the course of search, no incriminating material was found which can authorize the ld. Assessing Officer to assess the income under section 153A of the Income Tax Act. To buttress this observation, we have taken note of the relevant part of the assessment orders in the case of each assessee in the earlier part of this order. The Hon'ble Delhi High Court has considered the scope of section 153A in the case of CIT -vs.- Kabul Chawala (supra). The assessment years involved therein were A.Ys. 2001- 02, 2005-06 and 2006-07. In all these assessment orders, return was processed under section 143(1) and there was no scrutiny assessment. Thereafter search was carried out under section 132 of the Income Tax Act on 15.11.2007. The revenue sought to make addition on account of deemed dividend under section 2(22)(e) of the Income Tax Act.

19. The Hon'ble Delhi High Court after considering host of decisions propounded following propositions in the concluding paragraph of the judgment, which read as under:-

"Summary of the legal position

37. On a conspectus of Section 153A(1) of the Act, read with the provisos thereto, and in the light of the law explained in the aforementioned decisions, the legal position that emerges is as under:

i. Once a search takes place under Section 132 of the Act, notice under Section 153 A (1) will have to be mandatorily issued to the person searched requiring him to file returns for six AYs immediately preceding

the previous year relevant to the AY in which the search takes place.

ii. Assessments and reassessments pending on the date of the search shall abate. The total income for such AYs will have to be computed by the AOs as a fresh exercise.

iii. The AO will exercise normal assessment powers in respect of the six years previous to the relevant AY in which the search takes place. The AO has the power to assess and reassess the 'total income' of the aforementioned six years in separate assessment orders for each of the six years. In other words there will be only one assessment order in respect of each of the six AYs "in which both the disclosed and the undisclosed income would be brought to tax".

iv. Although Section 153 A does not say that additions should be strictly made on the basis of evidence found in the course of the search, or other post-

search material or information available with the AO which can be related to the evidence found, it does not mean that the assessment "can be arbitrary or made without any relevance or nexus with the seized material. Obviously an assessment has to be made under this Section only on the basis of seized material."

v. In absence of any incriminating material, the completed assessment can be reiterated and the abated assessment or reassessment can be made. The word 'assess' in Section 153 A is relatable to abated proceedings (i.e. those pending on the date of search) and the word 'reassess' to completed assessment proceedings.

vi. Insofar as pending assessments are concerned, the jurisdiction to make the original assessment and the assessment under Section 153A merges into one. Only one assessment shall be made separately for each AY on the basis of the findings of the search and any other material existing or brought on the record of the AO.

vii. Completed assessments can be interfered with by the AO while making the assessment under Section 153 A only on the basis of some incriminating material unearthed during the course of search or requisition of documents or undisclosed income or property discovered in the course of search which were not produced or not already disclosed or made known in the course of original assessment.

Conclusion

38. The present appeals concern AYs, 2002-03, 2005-06 and 2006-07.On the date of the search the said assessments already stood completed. Since no incriminating material was unearthed during the search, no additions could have been made to the income already assessed.

39. The question framed by the Court is answered in favour of the Assessee and against the Revenue.

40. The appeals are accordingly dismissed but in the circumstances no orders as to costs".

20. This judgment and other judgments on this school of thought have fallen for consideration of the Hon'ble Supreme Court, who concurred with the Hon'ble Delhi High Court as well as Hon'ble Gujrat High Court. The relevant part of the finding of the Hon'ble Supreme Court in this aspect reads as under:-

"11. As per the provisions of Section 153A, in case of a search under Section 132 or requisition under Section 132A, the AO gets the jurisdiction to assess or reassess the 'total income' in respect of each assessment year falling within six assessment years. However, it is required to be noted that as per the second proviso to Section 153A, the assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years pending on the date of initiation of the search under Section 132 or making of requisition under Section 132A, as the case may be, shall abate. As per sub-section (2) of Section 153A, if any proceeding initiated or any order of assessment or reassessment made under sub-section (1) has been annulled in appeal or any other legal proceeding, then, notwithstanding anything

contained in sub-section (1) or section 153, the assessment or reassessment relating to any assessment year which has abated under the second proviso to sub- section (1), shall stand revived with effect from the date of receipt of the order of such annulment by the Commissioner. Therefore, the intention of the legislation seems to be that in case of search only the pending assessment/reassessment proceedings shall abate and the AO would assume the jurisdiction to assess or reassess the 'total income' for the entire six years period/block assessment period. The intention does not seem to be to re-open the completed/unabated assessments, unless any incriminating material is found with respect to concerned assessment year falling within last six years preceding the search. Therefore, on true interpretation of Section 153A of the Act, 1961, in case of a search under Section 132 or requisition under Section 132A and during the search any incriminating material is found, even in case of unabated/completed assessment, the AO would have the jurisdiction to assess or reassess the 'total income' taking into consideration the incriminating material collected during the search and other material which would include income declared in the returns, if any, furnished by the assessee as well as the undisclosed income. However, in case during the search no incriminating material is found, in case of completed/unabated assessment, the only remedy available to the Revenue would be to initiate the reassessment proceedings under sections 147/48 of the Act, subject to fulfilment of the conditions mentioned in sections 147/148, as in such a situation, the Revenue cannot be left with no remedy. Therefore, even in case of block assessment under section 153A and in case of unabated/completed assessment and in case no incriminating material is found during the search, the power of the Revenue to have the reassessment under sections 147/148 of the Act has to be saved, otherwise the Revenue would be left without remedy.

12. If the submission on behalf of the Revenue that in case of search even where no incriminating material is found during the course of search, even in case of unabated/completed assessment, the AO can assess or reassess the income/total income taking into consideration the other material is accepted, in that case, there will be two assessment orders, which shall not be permissible under the law. At the cost of repetition, it is observed that the assessment under Section 153A of the Act is linked with the search and requisition under Sections 132 and 132A of the Act. The object of Section 153A is to bring under tax the undisclosed income which is found during the course of search or pursuant to search or requisition. Therefore, only in a case where the undisclosed income is found on the basis of incriminating material, the AO would assume the jurisdiction to assess or reassess the total income for the entire six years block assessment period even in case of completed/unabated assessment. As per the second proviso to Section 153A, only pending assessment/reassessment shall stand abated and the AO would assume the jurisdiction with respect to such abated assessments. It does not provide that all completed/unabated assessments shall abate. If the submission on behalf of the Revenue is accepted, in that case, second proviso to section 153A and sub- section (2) of Section 153A would be redundant and/or re- writing the said provisions, which is not permissible under the law.

13. For the reasons stated hereinabove, we are in complete agreement with the view taken by the Delhi High Court in the case of Kabul Chawla (supra) and the Gujarat High Court in the case of Saumya Construction (supra) and the decisions of the other High Courts taking the view that no addition can be

made in respect of the completed assessments in absence of any incriminating material"

21. In view of the above position of law, a short question before us is, whether scope of assessment under section 153A could be enhanced to include re-computation of long-term capital gain qua those assessments, which are unabated. The assessments in each appellant's case have attained finality. It is pertinent to note that in paragraph no. 4.1 of the impugned order in the case of each assessee, ld. PCIT has observed that assessment orders under section 153A were passed without making necessary inquiry, verification, investigation on the issue. The ld. PCIT further observed that reliance placed by the assessees on the judgment of the Hon'ble Supreme Court in the case of PCIT -vs.- Abhisar Buildwell (P) Ltd. (supra) is misplaced. According to the ld. PCIT, the factum of the difference in sale consideration, vis-à-vis valuation of the property for the purpose of stamp duty valuation ought to be considered as an incriminating aspect, which would not come to the light if search or consequential search assessment had not taken place. The ld. PCIT thereafter made reference to section 50C of the Income Tax Act. We have considered this finding of the ld. PCIT, but these findings are not in consonance with the proposition of law laid down by the Hon'ble Supreme Court in the case of Abhisar Buildwell (P) Ltd. Had the assessees have not disclosed long-term capital gain in their regular returns of income and then a discovery of this factum was unearthed during the course of search. The situation would be different. The ld. PCIT has not made reference to any seized material found during the course of search. He is of the view that the subject matter of a regular assessment, which would have taken under section 143(3) after issuance of a notice u/s 143(2) ought to have been considered in this search assessment under section 153A, but this proposition harbored by the ld. PCIT is contrary to the position of law laid down by the Hon'ble Supreme Court. It is pertinent to note that section 48 of the Income Tax Act contemplates mode of computation of long-term capital gain. It provides that from the full value of the consideration received or accrued to an assessee on transfer of capital assets, the cost of acquisition, cost of any improvement and any expenditure incurred in connection with the transfer are to be debited. This expression "full value of the consideration" is to be deemed equivalent to the amount on which stamp duty was paid. This deeming fiction is provided under section 50C of the Income Tax Act. Sub-clause (2) of section 50C further authorizes the ld.

Assessing Officer that in case, an assessee disputes about deeming of the full sale consideration equivalent to the amount on which stamp duty was paid, then, he would make a reference to the DVO for determining the fair market value. Now this exercise was required to be conducted in a regular assessment under section 143(3), but that assessment attained finality. The factum of transfer of capital asset was brought to the notice of the revenue by all these assessees, therefore, it is not a new discovery of fact during the course of search, which can authorize the ld. Assessing Officer to carry out the exercise contemplated in section 50C of the Income Tax Act. The ld. PCIT has misread and misconstrued the position of law laid down by the judgment of the Hon'ble Supreme Court. This issue does not fall within the ambit of assessment under section 153A of the Income Tax Act. For buttressing our finding, we have made reference to the assessment orders. The ld. Assessing Officer has duly observed that neither there was any incriminating material nor there is any adverse mentioned in the appraisal report for taking this action. The ld. Assessing Officer has recorded a categorical finding that no incriminating material was found during the course of search. Therefore, no addition could

be made and if no addition could be made, how ld. Pr. CIT could enlarge the scope of assessment by exercising the powers under section 263 of the Income Tax Act. The issue in dispute is squarely covered by the decision of the Hon'ble Supreme Court in the case of PCIT -vs.- Abhisar Buildwell (P) Ltd. (supra) as well as PCIT -vs.- Jay Ambey Aromatics (Supra). Therefore, in view of the above discussion, the orders of ld. Pr. CIT in each case of the appellant are not sustainable. They are quashed.

9. Respectfully following the above decision of the Co–ordinate Bench of the Tribunal, nothing warrants us to deviate from the view taken as above. Accordingly, we set aside the impugned order passed by the learned PCIT under section 263 of the Act by allowing the grounds raised by the assessee.

10. In the result, assessee's appeal stands allowed.

Order pronounced in the open Court on 21/03/2025

Sd/-	**Sd/-**
V. DURGA RAO	**K.M. ROY**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

NAGPUR, DATED: 21/03/2025

Copy of the order forwarded to:

(1) The Assessee;
(2) The Revenue;
(3) The PCIT / CIT (Judicial);
(4) The DR, ITAT, Nagpur; and
(5) Guard file.

True Copy
By Order

Pradeep J. Chowdhury
Sr. Private Secretary

Sr. Private Secretary
ITAT, Nagpur