

IN THE INCOME TAX APPELLATE TRIBUNAL
“DB” BENCH, AGRA

**BEFORE HON’BLE SHRI SATBEER SINGH GODARA, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकरअपील सं. / ITA No.27/Agr/2022
(निर्धारणवर्ष / Assessment Year: 2017-18)

Sh. Ram Saran Mittal 62-B, Nehru Nagar, Agra.	बनाम/ Vs.	CCIT(OSD)/PCIT-1, Agra.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. ABLPM-2281-M		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. Sahib P. Satsangl, CA – Ld. AR
प्रत्यर्थीकीओरसे/ Respondent by	:	Dr. Arun Kumar Yadav – Ld. CIT-DR

सुनवाईकीतारीख/ Date of Hearing	:	18-02-2025
घोषणाकीतारीख / Date of Pronouncement	:	22.04.2025

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. By way of this appeal, the assessee assails invocation of revisionary jurisdiction u/s 263 by Ld. Pr. Commissioner of Income Tax-1, Agra (Pr.CIT) for Assessment Year (AY) 2017-18 vide impugned order dated 31-03-2022 in the matter of an assessment framed by Ld. AO u/s 143(3) of the Act on 30-11-2019. Having heard rival submissions and upon perusal of case records, our adjudication would be as under.
2. Upon perusal of assessment order, it could be seen that the assessee’s return of income was accepted in scrutiny assessment. During the course of assessment proceedings, notices u/s 142(1) were issued to the assessee which were duly been responded to by the assessee.

3. Subsequent, Ld. Pr. CIT, upon perusal of case records, alleged that the order was erroneous and prejudicial to the interest of the revenue and accordingly, show-caused the assessee wherein it was alleged that Ld. AO did not enquire as to why the loan was extended at lower rate of 6% as against the rate of 12% as paid by the assessee. Further, the assessee did not reflect refund of Income Tax in its Balance Sheet. In the absence of any response from the assessee, the assessment was set aside and Ld. AO was directed to pass a fresh order. Aggrieved, the assessee is in further appeal before us.

4. From the impugned order, it could be ascertained that there is no independent finding by Ld. Pr. CIT as to how the assessment order was erroneous and prejudicial to the interest of the revenue. The revision has been sought merely to make fishing and roving enquiries. Except for issue of show-cause notice to the assessee, there is no categorical finding by Ld. CIT(A) on merits to make out a case for revision of the order. Till such a conclusion is arrived with due application of mind, the assessment could not be revised. Our view is duly supported by the order of Hon'ble Allahabad High Court in the case of **M.L.Chains vs. PCIT (461 ITR 457)** wherein, at para-20, the revision was quashed, inter-alia, on the ground that the impugned order does not render any finding to suggest that the assessment order was prejudicial to the interest of the Revenue in view of the judgment of the Apex Court in **Malabar Industrial Co. Ltd. v. CIT (243 ITR 83)**. Respectfully following the same, we would

quash impugned revision of the order and restore the assessment order. Delving into other arguments has been rendered mere academic in nature.

4. The appeal stand allowed as indicated upon conclusion of hearing.

Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-
(SATBEER SINGH GODARA)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखक सदस्य / ACCOUNTANT MEMBER

Dated: 22.04.2025

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AGRA