

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**

**1. आयकरअपीलसं./ ITA No. 29/Agr/2021
(निर्धारणवर्ष / Assessment Year: 2015-16)**

&

**2. आयकरअपीलसं./ ITA No.30/Agr/2021
(निर्धारणवर्ष / Assessment Year: 2016-17)**

Smt. Rukmani Devi Jain 37/396/17, Gopal Kunj Agra (UP)-282002.	बनाम/ Vs.	Pr. CIT - 1 Agra.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. ANXPJ-7557-M		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

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

सुनवाईकीतारीख/Date of Hearing	:	19-02-2025
घोषणाकीतारीख /Date of Pronouncement	:	22.04.2025

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. By way of these appeals, the assessee assails revision of order u/s 263 for Assessment Years (AY) 2015-16 & 2016-17. First, we take up appeal for AY 2015-16 which assail invocation of revisionary jurisdiction u/s 263 by Ld. Pr. Commissioner of Income Tax-1, Agra (Pr.CIT) vide impugned order dated 22-03-2021 in the matter of an assessment framed by Ld. AO u/s 143(3) of the Act on 24-12-2017. 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 selected for limited scrutiny to verify whether the cash was deposited from disclosed sources. During the course of assessment proceedings, Ld. AO raised various queries and issued notices u/s 142(1) on various occasions. It transpired that the assessee derived income from trading of jewellery and it reflected net profit of Rs.5.94 Lacs on sales of Rs.74.32 Lacs u/s 44AD. Consequently, the assessee did not maintain any books of accounts. The assessee furnished details of cash deposit of Rs.122.31 Lacs in the bank accounts and also furnished cash flow statement to explain the source of cash deposits. After due consideration of assessee's submissions, Ld. AO enhanced sales turnover to Rs.122.31 Lacs and estimated additional business income of Rs.3.83 Lacs and framed the assessment.

3. Subsequently, Ld. Pr. CIT, upon perusal of case records, alleged that Ld. AO accepted the entire cash deposits as sales proceeds without any evidence of sales. Therefore, assessment order was proposed to be revised u/s 263. Aggrieved, the assessee is in further appeal before us.

4. From the facts, it could be ascertained that the assessee's case was selected for scrutiny specifically to verify the cash deposits in the bank accounts. During the course of assessment proceedings notices u/s 142(1) were issued on various occasions which were duly responded to by the assessee. The assessee furnished complete cash flow statement. The assessee did not maintain any

books of account and is not shown to have any other source of income. The Ld. AO looked into the submissions and arrived at a conclusion that the turnover would be higher and accordingly, he computed additional income u/s 44AD. On these facts, it could very well be said that the flagged issues were well documented by the assessee and duly been enquired into by Ld. AO during the course of assessment proceedings itself. After due consideration of assessee's submissions, Ld. AO estimated additional business income. In our opinion, the allegations in the proposed revision are not well founded. It is a case of acceptance of one of the plausible views which was more on facts and the said view could not be said to be opposed to any law or statutory provisions. The Ld. AO, in our opinion, had taken one of the plausible views in the matter and therefore, Ld. Pr. CIT could not be said to be justified in substituting the view of Ld. AO with that of his own view. Simply because the some further verification was required or simply because the verification was not done in a particular manner, the same could not justify revision of the order unless it was shown that the view of Ld. AO was erroneous or opposed to any law.

5. The Hon'ble Supreme Court in **Malabar Industrial Co. Ltd. vs. CIT (supra)** has held that the phrase 'prejudicial to the interests of the revenue has to be read in conjunction with an erroneous order passed by the Assessing Officer. Every loss of revenue as consequence of an order of the Assessing Officer cannot be treated as prejudicial to the interest 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 interest of the revenue, unless the view taken by the Income-tax Officer is unsustainable in law. The said principal has been reiterated by Hon'ble Court in its subsequent judgment titled as **CIT V/s Max India Ltd. (295 ITR 282)**. Similar principal has been followed in **Grasim Industries Ltd. V/s CIT (321 ITR 92)**. The ratio of all these decisions is that where two views are possible and AO has preferred one view against another view, order could not be said to be erroneous or prejudicial to the interest of the revenue.

6. Therefore, on the given facts, the impugned revision of assessment order could not be sustained in law. We order so. The assessment as framed by Ld. AO stand restored back.

7. The facts in AY 2016-17 are *pari-materia* the same. The Ld. AO estimated additional income in the assessment order. The Ld. Pr. CIT proposed similar revision of the order. This being the case, our adjudication for AY 2015-16 shall *mutatis-mutandis* apply to this appeal also.

8. Both the appeals stand allowed in terms of our above order.

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

Sd/-

(SATBEER SINGH GODARA)

Sd/-

(MANOJ KUMAR AGGARWAL)

न्यायिक सदस्य / JUDICIAL MEMBER लेखा सदस्य / ACCOUNTANT MEMBER

Dated: 22.04.2025

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

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

ASSISTANT REGISTRAR

ITAT AGRA