

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**

आयकरअपीलसं./ ITA No. 151/Agr/2024
(निर्धारणवर्ष / Assessment Year:2018-19)

Ms. Preeti Agrawal 22, Vaibhav Kunj, Jyoti Road, Dayalbagh, Agra.	बनाम/ Vs.	Pr. CIT- 1, Agra.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AHCPA-6085-C		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. Pankaj Gargh, Adv. – 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 / O R D E R

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 for (Pr.CIT) for Assessment Year (AY) 2018-19 vide impugned order dated 23-03-2023 in the matter of an assessment framed by Ld. AO u/s 143(3) of the Act on 27-01-2021. Having heard rival submissions and upon perusal of case records, our adjudication would be as under. The registry has noted delay of 330 days in the appeal which stand condoned.

2. Upon perusal of assessment order, it could be seen that the assessee’s return of income was selected to verify the issue of low income in comparison to large commission receipt. The Ld. AO

raised various queries and issued notices u/s 142(1) on various occasions. After due consideration of assessee's submissions, Ld. AO accepted the returned income of the assessee.

3. Subsequently, Ld. Pr. CIT, upon perusal of case records, observed that the assessee paid salary of Rs.31.52 Lacs to 9 employees in cash without deduction of tax at source u/s 192. The Ld. Pr. CIT also opined that the provisions of Sec.40A(3) would be attracted. The assessee also claimed Business / Gift / rental expenses which should have been examined by Ld. AO. Accordingly, the assessee was show-caused. The assessee refuted all these allegations and stated that due enquiries were made on all the issues during assessment proceedings itself. However, rejecting the same, Ld. Pr. CIT held the assessment order to be erroneous and prejudicial to the interest of the revenue and directed Ld. AO to pass fresh order on all these issues. Aggrieved, the assessee is in further appeal before us.

3. At the outset, it could be observed that the case was selected for scrutiny specifically to verify the Business expenses / low income in comparison to large commission receipt. During the course of assessment proceedings, various queries were raised by Ld. AO for major expenses including the expenses which have been flagged in the impugned revisionary order. The assessee, during the course of revisionary proceedings also highlighted the fact that it worked as an insurance agent and received commission. The details of all salaried employees were given along with ledger extracts. None of the

payment exceeded the threshold limit of Rs.10000/-. On the issue of business expenses also, all details were furnished by the assessee to Ld. AO in its various replies along with ledger extracts. The Ld. AO looked into the same and arrived at a satisfaction. In the light of all these facts, it could be concluded 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 accepted the claim of the assessee with due application of mind. Accordingly, Ld. AO chose not to make any addition in the hands of the assessee on the flagged issues while framing the assessment. 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 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.

4. 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.

5. 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.

6. The appeal 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)
 न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
 लेखासदस्य / ACCOUNTANT MEMBER

Dated: 22.04.2025

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

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

ASSISTANT REGISTRAR

ITAT AGRA