

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. 368/Agr/2018
(निर्धारणवर्ष / Assessment Year:2013-14)

Pramod Kumar Goyal (Prop. M/s. Shreyansh Traders) Chhutmal Ki Bajariya, Maina Wali Gali, Dal Bazar, Gwalior(MP).	बनाम/ Vs.	Pr. CIT Gwalior
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AGSPG-1575-G		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. Navin Gargh, Adv. – Ld. AR
प्रत्यर्थीकीओरसे/ Respondent by	:	Sh. Sukesh Kumar Jain – Ld. CIT-DR

सुनवाईकीतारीख/ Date of Hearing	:	20-02-2025
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, Gwalior (Pr.CIT) for Assessment Year (AY) 2012-13 vide impugned order dated 23-03-2018 in the matter of an assessment framed by Ld. AO u/s 143(3) of the Act on 23-03-2016. 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 scrutinized and during the course of assessment proceedings, notices u/s 142(1) were issued raising various queries against the assessee. The assessee claimed exemption u/s 54B. Upon perusal of computations and various

documents as furnished by the assessee, the claim of Long Term Capital Gains for Rs.10.11 Lacs was not accepted.

3. Subsequently, Ld. Pr. CIT, upon perusal of case records, observed that the stamp duty value of the property was Rs.171 Lacs as against the value of Rs.12.40 Lacs as shown by the assessee. The same was not verified 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 which was evident from assessee's replies during assessment proceedings. The assessee invested full sale consideration towards purchase of new agricultural land and claimed exemption u/s 54B which was denied by Ld. AO. The Ld. Pr. CIT rejected the same on the ground that the investment was made prior to sale by the assessee. Further, Ld. AO did not invoke the provisions of Sec.50C. Accordingly, the assessment order was held to be erroneous and prejudicial to the interest of the revenue and Ld. AO was directed to pass fresh order on all these issues. Aggrieved, the assessee is in further appeal before us.

4. It could be observed that during the course of assessment proceedings, various queries were raised by Ld. AO on the issue of computation of capital gains. The assessee duly replied the same vide its replies dated 06-12-2015 and 14-01-2016 which are on record. The assessee furnished copies of purchase deed and agreement to sale. The computation of capital gains as well as new investment as made by the assessee was placed before Ld. AO. The

assessee also furnished copy of sale deed dated 30-03-2013 on the basis of which impugned revision has been initiated. After due consideration of assessee's replies and documents on record, Ld. AO accepted substantial claim of the assessee except for claim of deduction u/s 54B. On these facts, it could very well be said that all aspects of capital gains were duly been looked into by Ld. AO during the course of assessment proceedings. The flagged issues were well documented by the assessee and the same were duly been enquired into by Ld. AO during the course of assessment proceedings itself. After due consideration of assessee's submissions, Ld. AO substantially accepted the claim of the assessee with due application of mind. Accordingly, Ld. AO chose not to invoke the provisions of Sec.50C. 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 considered 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.

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 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)
लेखा सदस्य / 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