IN THE INCOME-TAX APPELLATE TRIBUNAL "D" BENCH, MUMBAI

BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER
&
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER

ITA No.3640/MUM/2025
(A.Y. 2021-22)

Rivaara Labs Private Limited 17th Floor, Hoechst House, Nariman Point, Mumbai– 400 021, Maharashtra	v/s. बनाम	Principal Commissioner of Income Tax, Mumbai – 3, 612, 6th Floor, Aayakar Bhavan, Maharishi Karve Road, Mumbai– 400020, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAJCR8676F		
Appellant/अपीलार्थी	‥	**Respondent/प्रतिवादी**

Appellant by :	Shri Nishit Gandhi,AR
Respondent by :	Shri Uma Shankar Prasad, (CIT-DR)

Date of Hearing	13.08.2025
Date of Pronouncement	14.10.2025

आदेश / O R D E R

PER PRABHASH SHANKAR [A.M.]: -

The present appeal preferred by the assessee emanates from the Revision order dated 31.03.2025 passed u/s 263 of the Income-tax Act, 1961 by the Principal Commissioner of Income-tax, PCIT, Mumbai – 3 [hereinafter referred to as "PCIT"] pertaining to assessment order passed u/s. 143(3) r.w.s. 144B of the Income-tax Act, 1961 [hereinafter referred to as "Act"] dated 17.12.2022 for the Assessment Year [A.Y.] 2021-22.

2. The grounds of appeal are as under:

On the basis of the facts and circumstances of the case and in law:

1. *The order passed by the Ld. PCIT is invalid, non-est and bad-in-law in so far as the Ld. Principal Commissioner of Income Tax (hereinafter referred to as Ld. 'PCIT') has initiated the proceedings under section 263 of the Act in gross violation of the provisions of the Act and that the order ought to be struck out in limine and consequent additions made thereunder, ought to be deleted.*
2. *The order passed by the Ld. PCIT is bad-in-law in so far as the Ld. PCIT has acted beyond jurisdiction by initiating proceedings under section 263 of the Act without appreciating the fact that the twin conditions of order being erroneous and prejudicial to the interests of the Revenue prescribed under the provisions of section 263 of the Act were not satisfied.*
3. *The Ld. PCIT erred in invoking the provisions of section 263 by treating the assessment order under section 143(3) by the Assessment Unit, National Faceless Assessment Center ('the AO') as erroneous and prejudicial to the interests of the Revenue, without appreciating that the AO had duly enquired into the issues, conducted proper verification, and passed the order after due application of mind.*
4. *The Ld. PCIT erred in initiating the proceedings under section 263 without appreciating the fact that there was no lack of inquiry or error of fact or of the law on the part of the AO so as to make the order erroneous and prejudicial to the interests of the Revenue.*

<u>Disallowance of Marketing Research Expenses:</u>

Without prejudice to the issue of validity of proceedings and order passed under section 263 of the Act, the L PCIT erred in law and on facts:

5. *In disallowing the claim of marketing research expenditure of INR 2,23,40,975 and treating the same preliminary expenditure under section 35D, merely on the ground that the expenses provided a benefit of enduring nature, without appreciating that the expenditure was neither incurred before commencement of business nor in connection with the extension of an undertaking or setting up of a new unit after commencement.*
6. *In invoking the provisions of section 35D of the Act to restrict the claim of deduction of marketing research expenditure without appreciating the fact that provisions of section 35D of the Act covers within its ambit only a specific nature of expenses incurred for certain specific purposes and that the expenditure incurred by the Appellant did not satisfy any of those conditions.*

7. *In invoking the provisions of section 35D of the Act and disallowing the claim of deduction under section 37(1) of the Act, without appreciating the fact that both section 35D of the Act and section 37(1) of the Act are enabling provisions and not mutually exclusive and that the deduction of expenses which is otherwise allowable under the provisions of section 37(1) of the Act cannot be denied pursuant to section 35D of the Act*
8. *In failing to consider CBDT Circular No. 56 dated 19.03.1971, which clarifies that section 35D does not override or supersede any other provisions of the Act, or restrict deductions allowable under other provisions, including section 37(1) and on the contrary, the provisions of section 37 provides relief for expenses which are otherwise not deductible under section 37(1).*
9. *In disallowing the claim of expenditure merely on the grounds that the deduction provided a long-lasting benefit to the Appellant and therefore treated the expenditure as capital in nature, without appreciating the fact that the pre-conditions for classifying an expenditure as capital in nature, viz, there should be a benefit of enduring nature and the enduring benefit should be of capital field leading to creation of a tangible or intangible asset for the Appellant, were not fulfilled.*

Disallowance of Retainership Fees and Recruitment Charges:

Without prejudice to the issue of validity of proceedings and order passed under section 263 of the Act, the Ld.PCIT erred in law and on facts:

10. *In erroneously in disallowing the claim of deduction of recruitment charges of INR 87,58,529/- and retainership fees of INR 52,84,362/- under section 37(1) of the Act, by treating the expenditure as preliminary expenses under section 35D of the Act and amortising the claim of deduction over a period of 5 years.*
11. *In failing to appreciate that section 35D applies only to specific nature of expenses incurred before commencement of activities or after commencement of activities but in connection with extension of undertaking or setting up of a new unit, as expressly enumerated therein and that the recruitment charges and retainership fees incurred by the Appellant do not fall within the ambit of section 350 of the Act and are allowable as revenue expenditure under section 37(1), having been incurred wholly and exclusively for the business of the Appellant.*
12. *In disallowing the claim of deduction of recruitment charges and retainership fees incurred by the Appellant without appreciating the fact that the expenses were incurred by the Appellant during the ordinary course of its business activities and that the expenses were revenue in nature.*
13. *In disallowing the claim of deduction of recruitment charges and retainership fees incurred by the Appellant without appreciating the fact*

that merely because an expenditure provides an indirect benefit to the taxpayer for a longer period of time, the same cannot be considered to be a preliminary expenditure under section 35D of the Act.

14. *In not appreciating the fact that the nature of expenses to which the provisions of section 35D of the Act are applicable is exhaustive and any expenditure which is not covered expressly therein, cannot be covered merely on the basis of a presumption that the expenditure provided long-term benefits to the taxpayer.*

3. The assessee is engaged in the business of conducting specialized molecular diagnostics tests etc. and incorporated on 18.10. 2019,commenced its operations during FY 2020-21. It filed its return of income for declaring loss of Rs 17,66,28,559/-. Its case was selected for scrutiny and after considering the submissions filed by it in response to the notices issued during the course of the proceedings, the AO passed an order u/s 143(3) of the Act on 17.12.2022 accepting the returned income without making adjustments/additions to the returned income.

4. Subsequently, the ld. PCIT initiated revisionary proceedings under section 263 of the Act proposing to disallow Marketing Research Expenses of Rs 2,23,40,975/-, Recruitment charges of Rs 87,58,029/- and Retainership feesof 52,84,362/-claimed deductible u/s 37 of the Act observing that these expenses should be considered as preliminary expenses under section 35D of the Act and ought to be amortised over a period of 5 years. After calling for response from the assessee, he passed order u/s 263 of the Act rejecting the claim of above expenditure under section 37(1) of the Act and directing the AO to allow only one-fifth of

the expenditure as per the provisions of section 35D of the Act and disallow the balance amount of expenditure.

5. Aggrieved, the assessee has filed the instant appeal. The ld.AR has argued at length contesting the action of the ld.PCIT.It is submitted as per the provisions of section 263 of the Act, the pre-requisite condition for initiating revisionary proceedings is that the order of the AO should be erroneous and prejudicial to the interest of the revenue and the twin conditions enshrined under the said section are composite and non-segregable.From the perspective of section 263 of the Act, an assessment order cannot be termed as erroneous unless it is not in accordance with law. Further, it is a trite in law that unless there is lack of inquiry on the part of the AO while assessing the income, a mere change in opinion by the ld.PCIT does not permit initiation of proceedings under section 263 of the Act.It is further submitted that large number of judicial precedents have held that if the AO acting in accordance with law makes a certain assessment and passes an assessment order, the same cannot be termed as erroneous by the ld.PCIT simply because he has a different view than the one taken by the assessing authority.The second necessary element for invocation of jurisdiction under section 263 relates to the order being prejudicial to the interest of the revenue. If one of the above two conditions is absent

ie, if the order of the AO is erroneous but is not prejudicial to the Revenue or, if it is not erroneous but is prejudicial to the Revenue then the recourse cannot be made to provisions of section 263 of the Act.

5.1 It is vehemently argued that in the present case, the AO had issued exhaustive notices and replies to that were duly filed by the assessee. Further, the expenditure under consideration(i.e. marketing research, retainership fees and recruitment fees) was thoroughly examined by the AO during the course of the proceedings and it is after satisfying himself with the validity of the claim and after analysing the documents submitted by it during the course of the assessment proceedings and considering that all the conditions under section 37(1) of the Act were met by the assessee in order to be eligible for deduction as per the said section, he passed the order without any adjustment in this regard. On perusal of the order passed by the AO, it is abundantly clear that the AO has applied his mind while framing the assessment. It therefore cannot be held that the order passed by the AO was erroneous and prejudicial to the interest of the revenue. Further, even if the application of mind of the AO was not discernible from the assessment order, the fact that complete details of expenses were filed before the AO during the course of proceedings and after analysing the documents/information and clarifications submitted by the assessee, the

AO had come to a conclusion to not disallow the claim of deduction for the said expenses showed that he applied his mind to the relevant material and facts and thus, the provisions of section 263 of the Act cannot be invoked in such a case merely because the opinion of the Ld. PCIT is contrary to the opinion of the AO.

6. In so far as the deductibility of the impugned expenses are concerned,it is submitted that Marketing Research Expenses were incurred by the assessee during the course of its business operations to explore other business avenues in the form of various tests and diagnostic procedures and in order to expand its forte into various areas such as oncology and other diseases. Further, the Appellant had also signed MOU with a foreign entity to enter into a joint venture and in order to analyze the prospects of the business and to evaluate the business model, the Appellant had appointed consultants for which the fees were paid.However, since the plans with respect to the joint venture proposal or the oncology treatment and tests did not materialize further, the proposals were discarded by the Company and accordingly, the costs incurred for these exercises were sunk costs. The Company continued to focus on its core strength, i.e. molecular diagnostics and developed the said business.

6.1 As regards, the Recruitment charges the said expenses were incurred in relation to hiring of employees of the Company. Since the captioned year was the first year of material operations for the Appellant it was difficult for the assessee to source the right talent and as a result, it had to appoint specialized agencies for sourcing the right talent for the its business.As per the terms of agreement with the parties, the itwas required to pay a certain percentage of the amount of the annual salary of the employee hired by the Appellant as their commission / fees for providing services. The assessee had submitted party wise details of expenses incurred and payment made along with copies of invoices of the service providers during the course of the assessment proceedings and the revisionary proceedings.

6.2 Similar to recruitment charges, since the Appellant did not have its own finance team or a team of professionals for middle / top-level management, it had appointed certain consultants and professional agencies to look after certain specific and critical aspects of its business activities. The payment made to such professionals and consultants was debited to the statement of profit and loss of the Appellant under the head Retainership Fees. It had submitted party wise details of expenses incurred and payment made along with copies of invoices of the service providers and agreements entered into with the service providers during

the course of the assessment proceedings and the revisionary proceedings. Since, the assessee did not have an entire operative eco-system in place considering the captioned financial year was the first year of full-fledged operations, the company had hired these agencies and consultants and a fixed amount of professional fee was paid by the Company to these parties. However, it was evident from the nature of expenses and on perusal of the invoices of fees paid toconsultants and the agreements with them that the expenses were incurred for day-to day operational activities such as purchase and procurement manager, housekeeping in charge, office manager, accounting/taxation/financial advisory services.

6.3 It is contended that as per the provisions of section 35D of the Act, the preliminary expenses eligible for amortisation should be incurred before commencement of the business or after commencement of the business but where there is an extension of undertaking or setting up of a new unit. In the present case, the ld.PCIT has disallowed the claim of deductions by treating the same as preliminary expenditure merely on the grounds that the expenses provided a benefit of enduring nature and without appreciating the fact that such expenses were neither incurred before commencement of business nor incurred in connection with extension of undertaking or setting up of new unit after

commencement of business.During the course of the assessment proceedings as well the revisionary proceedings, the assessee had submitted copies of all the invoices pertaining to marketing research expenses which clearly substantiated the fact that these expenses were revenue in nature and no enduring benefit was derived from such expenses.

6.4. The assessee also invited attention of the ld. PCIT to the fact that provisions of section 35D of the Act covers within its ambit only a specific nature of expenses incurred for certain specific purposes and that the expenses incurred by it did not satisfy any of those conditions. The assessee in its submissions before the ld. PCIT highlighted the fact that both section 35D and section 37(1) of the Act are enabling provisions and not mutually exclusive and that the deduction of expenses which are otherwise allowable under the provisions of section 37(1) of the Act, cannot be denied pursuant to section 35D of the Act. Additionally, the assessee also relied on the CBDT Circular No. 56 dated 19.03.1971, which clarifies that section 35D does not override or supersede any other provisions of the Act, or restrict deductions allowable under other provisions, including section 37(1) and on the contrary, the provisions of section 37D provides relief for expenses which are otherwise not deductible under section 37(1) of the Act.

Further, the assessee in its response to the show cause notice issued by the ld. PCIT placed reliance on various judicial precedents wherein it was held that section 35D of the Act would apply only in respect of expenditure, which is otherwise not allowable under the law and certain other judicial precedents which support the proposition that market research or feasibility study expenses incurred in the course of an existing business, without the setting up of a new line of business or capital asset, are allowable as revenue expenditure under section 37(1) of the Act. However, the ld. PCIT disallowed the claim of expenditure of the Appellant merely on the grounds that the deduction provided a long-lasting benefit to the assessee and therefore treated the expenditure as capital in nature, without appreciating the fact that the pre-conditions for classifying an expenditure as capital in nature, viz, there should be a benefit of enduring nature and the enduring benefit should be of capital field leading to creation of a tangible or intangible asset for the assessee were not fulfilled.

6.5 It was also submitted by the ld.AR that the provisions of section 35D are applicable only w.r.t. expenses of certain nature viz. preparation of feasibility report, preparation of project report, engineering services, legal charges, drafting charges, expenses related to printing, drafting,etc.The section does not cover in its ambit any

expenditure which is in the nature of payment of salary or payment of expenses for hiring of employees or sourcing of right talent for the business of the Company or any payment made to consultants for acting as an office/purchase manager or a tax consultant or for providing accounting advisory or IT services. As a result, the provisions of section 35D of the Act cannot be invoked w.r.t. payment of recruitment charges to agencies or payment of retainership fees to independent consultants.As regards the allowability of such expense as deduction under section 37(1) of the Act, it was stated that since the recruitment charges and the retainership fees were incurred for the purpose of business of the company and during the course of day-to-day activities, the deduction of such expenses ought to be allowed under section 37(1) of the Act.

6.6 The ld.PCIT failed to appreciate the fact that the nature of expenses to which the provisions of section 35D of the Act are applicable is exhaustive and any expenditure which is not covered expressly therein, cannot be covered merely on the basis of a presumption that the expenditure provided long-term benefits to the taxpayer.In view of the above facts and submissions, it is respectfully submitted that all relevant details and supporting documents were duly furnished during the course of assessment proceedings as well as the revisionary proceedings. The

expenditure incurred was wholly and exclusively for the purpose of business and is therefore allowable under the provisions of section 37(1) of the Act. The disallowance made by the ld. PCIT is unwarranted and not supported by the applicable law.

7. The ld.DR has DR argued that the AO did not raise any specific querry examining the issue in the light of the provisions of section 35D of the Act.The company was incorporated on 18.10.2009 and the instant year is the second year of operation.

8. We have carefully considered all the relevant facts of the case, perused the records and have also gone through the relevant provisions of the Act.The sole question arises for determination in this case iswhether impugned expenses incurred by the assessee are revenue expenses or could be amortized u/s 35D of the Act and whether provisions of section 263 of the Act could be invoked on the facts and the circumstances of the case? We reproduce the provisions contained u/s 35D of the Act for ready reference:-

> *"35D. (1) Where an assessee, being an Indian company or a person (other than a company) who is resident in India, incurs, after the 31st day of March, 1970, any expenditure specified in sub-section (2),--*
> *(i) before the commencement of his business, or*
> *(ii) after the commencement of his business, in connection with the extension of his undertaking or in connection with his setting up a new unit, the assessee shall, in accordance with and subject to the provisions of this section, be allowed a deduction of an amount equal to one-tenth of such expenditure for each of the ten successive previous years beginning with the previous year in which the business commences*

or, as the case may be, the previous year in which the extension of the undertaking is completed or the new unit commences production or operation :
Provided that where an assessee incurs after the 31st day of March, 1998, any expenditure specified in sub- section (2), the provisions of this sub-section shall have effect as if for the words "an amount equal to one-tenth of such expenditure for each of the ten successive previous years", the words "an amount equal to one- fifth of such expenditure for each of the five successive previous years" had been substituted.
(2) The expenditure referred to in sub-section (1) shall be the expenditure specified in any one or more of the following clauses, namely :--
(a) expenditure in connection with--
(i) preparation of feasibility report;
(ii) preparation of project report;
(iii) conducting market survey or any other survey necessary for the business of the assessee;
(iv) engineering services relating to the business of the assessee :
Provided that the work in connection with the preparation of the feasibility report or the project report or the conducting of market survey or of any other survey or the engineering services referred to in this clause is carried out by the assessee himself or by a concern which is for the time being approved in this behalf by the Board"

8.1 Bare perusal of the provisions contained u/s 35D of the Act invoked by the ld.PCIT to amortize expenses incurred on impugned expenses, provides that the expenses must be incurred **before commencement of the business or after commencement of the business but where there is an extension of undertaking or setting up of a new unit.**Both these conditions are not fulfilled here. So, we are of the considered view that the expenses cannot be amortized by invoking the provisions contained u/s 35D of the Act.The AO has taken a reasonable view by allowing the deduction claimed u/s 37(1) of the Act to which the ld.PCIT does not concur with as he holds a different view of the impugned issues. In this connection, reference is made to the decision of Hon'ble Bombay High Court in the case of **CIT vs. Gabrial**

India Ltd (1993) 203 ITR 108 (Bom) where the hon'ble Bombay High Court held as under:-

> *"An order cannot be termed as erroneous unless it is not in accordance with law. If an ITO acting in accordance with law makes certain assessment, the same cannot be branded as erroneous by the Commissioner simply because according to him the order should have been written more elaborately. This section does not visualise a case of substitution of judgment of the Commissioner for that of the ITO, who passed the order, unless the decision is held to be erroneous. Cases may be visualised where ITO while making an assessment examines the accounts, makes enquiries, applies his mind to the facts and circumstances of the case and determines the income either by accepting the accounts or by making some estimates himself. The Commissioner, on perusal of the records, may be of the opinion that the estimate made by the officer concerned was on the lower side and, left to the Commissioner, he would have estimated the income at a higher figure than the one determined by the ITO. That would not vest the Commissioner with power to re-examine the accounts and determine the income himself at a higher figure. It is because the ITO has exercised the quasi-judicial power vested in him in accordance with law and arrived at a conclusion and such a conclusion cannot be termed to be erroneous simply because the Commissioner does not feel satisfied with the conclusion. It may be said in such a case that in the opinion of the Commissioner the order in question is prejudicial to the interest of the Revenue. But that by itself will not be enough to vest the Commissioner with the power of suo motu revision because the first requirement, namely, the order is erroneous, is absent. Similarly if an order is erroneous but not prejudicial to the interest of the Revenue, then also the power of suo motu revision cannot be exercised. Any and every erroneous order cannot be subject-matter of revision because the second requirement also must be fulfilled."*

8.2 Further,we find that Hon'ble Apex Court in the case of **CIT vs. Max India Ltd. 295 ITR 282 (SC)** had held that where two views are possible and ITO has taken one view which ld. CIT does not agree the order of A.O cannot be treated as erroneous order prejudicial to the interest of Revenue unless the view taken by the A.O is unsustainable in law. Hon'ble Bombay High Court in the case of **CIT v. Nirav**

Modi reported in [2017] 390 ITR 292 (Bom.) in the light of provisions of Sec.263 of the Act, held as under:

> *"It is a settled position of law that powers under section 263 of the Act can be exercised by the Commissioner on satisfaction of twin conditions viz. the assessment order should be erroneous and prejudicial to the revenue. By erroneous is meant contrary to law. Thus, this power cannot be exercised unless the Commissioner is able to establish that the order of the Assessing Officer is erroneous and prejudicial to the revenue.* ***Thus, where there are two possible views and the Assessing Officer has taken one of the possible views, no occasion to exercise powers of revision can arise.*** *Nor can revisional power be exercised for directing a fuller inquiry to find out if the view taken is erroneous, when a view has already been taken after inquiry. This power of revision can be exercised only where no inquiry as required under the law is done. It is not open to enquire in cases of inadequate inquiry. [Para 6] In this case, during the assessment proceedings, the Assessing Officer issued a query memos to the assessee, calling upon him to justify the genuineness of the gifts. The assessee responded to the same by giving evidence of the communications received from his father and his sister i.e. the donors of the gifts along with the statement of their bank accounts.*
> *On perusal, the Assessing Officer was satisfied about the identities of the donors, the source from where these funds have come-and also the creditworthiness/ capacity of the donor. Once the Assessing Officer was satisfied with regard to the same, there was no further requirement on the part of the Assessing Officer to disclose his satisfaction in the assessment order passed thereon. Thus, this objection on the part of the revenue, cannot be accepted. It is next submitted that the donor had not been examined by the Assessing Officer. It is not in every case that every evidence produced has to be tested by cross examination of the person giving the evidence. It is only in cases where the evidence produced gives rise to suspicion about its veracity that further scrutiny is called for. If there is nothing on record to indicate that the evidence produced is not reliable and the Assessing Officer was satisfied with the same, then it is not open to the Commissioner to exercise his powers of revision without the Commissioner recording how and why the order is erroneous due to not examining the donors. Thus, this objection to the impugned order by the revenue is also not sustainable. It was next submitted that no enquiry was done by the Assessing Officer to find out whether the donor had received money from one 'C' as claimed. Nor any inquiry was done to find out whether the sister had in fact earned amounts on account of foreign exchange transactions as claimed by her. The enquiry of a source of source is not the requirement of law. Once the Assessing Officer is satisfied with the explanation offered on inquiry, it is not open to the Commissioner in exercise of his revisional power to direct that further enquiry has to be done. At the very highest, the case of the revenue is that this is a case of inadequate inquiry and not of 'no enquiry. It is well settled that the jurisdiction under section 263 can be exercised by the Commissioner only when it is a case of lack enquiry and not one of inadequate enquiry."*

8.3 In the instant case, the AO was satisfied of the correctness of the claim of the assessee consequent to making an enquiry and examining the evidence produced by assessee. The ld.PCIT did not indicate any doubt in respect of the genuineness of the evidence produced by the assesses. The satisfaction of the AO on the basis of the documents produced was not shown to be erroneous in the absence of making a further enquiry. Even if this view, in the opinion of the ld.PCIT is not correct, it would not permit him to exercise power under section 263 of the Act.

8.4 Further, the hon'ble Delhi High Court in the case of **CIT vs Sunbeam Auto Ltd** 332 ITR 167 (Delhi) held that if the AO while making assessment has made an inadequate enquiry, that would not, by itself, give rise to the PCIT to pass order u/s 263, merely because he has different opinion in the matter. The relevant observations of the hon'ble Court are as under:-

> "The submission of the revenue was that while passing the assessment order, the Assessing Officer did not consider the aspect specifically whether the expenditure in question was revenue or capital expenditure. That argument predicated on the assessment order, which apparently did not give any reason while allowing the entire expenditure as revenue expenditure. However, that, by itself, would not be indicative of the fact that the Assessing Officer had not applied his mind to the issue. There are judgments galore laying down the principle that the Assessing Officer in the assessment order is not required to give detailed reasons in respect of each and every item of deduction, etc. Therefore, one has to see from the record as to whether there was application of mind before allowing the expenditure in question as revenue expenditure.

> **One has to keep in mind the distinction between 'lack of inquiry' and 'inadequate inquiry'. If there was any inquiry, even inadequate, that would not, by itself, give occasion to the Commissioner to pass orders under section 263 merely because he has different opinion in the matter.** It is only in cases of 'lack of inquiry' that such a course of action would be open. In the instant case, the Assessing Officer had called for explanation on items in question from the assessee and the assessee had furnished his explanation.

9. In view of the above discussion, we are of the considered opinion that the revision order passed u/s 263 of the Act is not sustainable as the ld. PCIT lacked jurisdiction to invoke the provisions which is therefore, quashed. The grounds of appeal of the assessee are therefore, allowed.

10. In the result, the appeal of **the assessee is allowed.**

Order pronounced in the open court on 14/10/2025.

Sd/-	**Sd/-**
SANDEEP GOSAIN	**PRABHASH SHANKAR**
(न्यायिकसदस्य /JUDICIAL MEMBER)	**(लेखाकारसदस्य/ACCOUNTANT MEMBER)**

Place: मुंबई/Mumbai
दिनांक /Date 14.10.2025
Lubhna Shaikh / Steno

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT

4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT, Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench, Mumbai.