आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए" , चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH

HEARING THROUGH: PHYSICAL MODE

श्री ललित कुमार, न्यायिक सदस्य एवं श्री कृणवन्त सहाय, लेखा सदस्य
BEFORE: SHRI. LALIET KUMAR, JM & SHRI. KRINWANT SAHAY, AM

आयकर अपील सं. / ITA No. 488/Chd/ 2024
निर्धारण वर्ष / Assessment Year : 2018-19

Shri Surjeet Singh H.No. 14/672, Baldev Singh Nambardar wali G Khairpur Sirsa 125055, Haryana	बनाम	The Pr. CIT Rohtak
स्थायी लेखा सं./PAN NO: DEGPS6997D		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

आयकर अपील सं. / ITA No. 494 /Chd/ 2024
निर्धारण वर्ष / Assessment Year : 2013-14

Shri Randhir Singh House No. 327, Baldev Singh Number Dar Wali Gali, Ward No. 4, Khairpur, Sirsa, Haryana, 125055	बनाम	The PCIT Rohtak
स्थायी लेखा सं./PAN NO: AQPPS9488M		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

आयकर अपील सं. / ITA No. 286 /Chd/ 2023
निर्धारण वर्ष / Assessment Year : 2018-19

Arvail Singh 142A, D.C. Colony, Barnala Road, Najdelan Kalan, Sirsa-125055, Haryana	बनाम	The Pr. CIT Rohtak
स्थायी लेखा सं./PAN NO: AAKPV9513H		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

आयकर अपील सं. / ITA No. 287/Chd/ 2023
निर्धारण वर्ष / Assessment Year : 2018-19

Ganesh Dass HUF 64, Dwarka Puri, NearPost Office Sirsa 125055, Haryana	बनाम	The Pr. CIT Rohtak,
स्थायी लेखा सं./PAN NO: AAEHG7940P		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

आयकर अपील सं. / ITA No. 288/Chd/ 2023
निर्धारण वर्ष / Assessment Year : 2018-19

Kashmir Singh Sandha	बनाम	The Pr. CIT

13/1107, Dispensary wali Khairpur Colony, Sirsa-125055, Haryana		Rohtak
स्थायी लेखा सं./PAN NO: AFUPS4760G		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

आयकर अपील सं./ ITA No. 289 /Chd/ 2023
निर्धारण वर्ष / Assessment Year : 2018-19

Duni Chand HUF 14/2314, Near DTO Office, Huda Road, Street No. 6, MITC Colony, Khairpur Sirsa-125055, Haryana	बनाम	The Pr. CIT Rohtak
स्थायी लेखा सं./PAN NO: AAFHD9845K		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

आयकर अपील सं./ ITA No. 290 /Chd/2023
निर्धारण वर्ष / Assessment Year : 2018-19

Paramjeet Singh 14/672, Baldev Singh Nambardar Wali Gali, Sirsa-125055, Haryana	बनाम	The Pr. CIT Rohtak
स्थायी लेखा सं./PAN NO: DEGPS6996C		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Lalit Mohan, C.A
राजस्व की ओर से/ Revenue by : Shri Manav Bansal, CIT, DR

सुनवाई की तारीख/Date of Hearing : 21/01/2026
उदघोषणा की तारीख/Date of Pronouncement : 24/02/2026

आदेश/Order

PER BENCH:

These appeals are filed by the different assessee against the separate orders passed by the Pr. CIT at various stations against the common legal ground mentioned in the respective appeals. Since all the appeals were heard together, they are being disposed of by this consolidated order for the sake of convenience and brevity.

2. **Assessee has raised following grounds in ITA No. 488/Chd/2024 for A.Y. 2018-19:**

1. That order dated 1.3.2024 u/s 263 of the Act by the learned Pr. Commissioner of Income Tax, Rohtak has been made without satisfying the statutory preconditions contained in the Act and is therefore without jurisdiction and thus, deserves to be quashed as such.

2. That since neither the initiation of proceedings u/s 143(3) of the Act and, nor of assessment u/s 143(3) of the Act was in accordance with law, therefore the impugned order made u/s 263 of the Act is also void-ab-initio.

3. That the learned Pr. Commissioner of Income Tax has failed to appreciate that once the learned Assessing Officer on examination of the facts on record then and after making all possible enquiries had accepted claim of the appellant then such an order of assessment could not be regarded as erroneous in as much as prejudicial to the interest of revenue merely because the learned Commissioner of Income Tax had a different opinion and that too, without having established in any manner that, view adopted by the learned Assessing Officer was an impossible or unsustainable view.

4. That the learned Principal Commissioner of Income Tax has failed to appreciate that action u/s 263 of the Act is otherwise too inapplicable on the factual matrix of the facts of the instant case since it is not a case of "lack of enquiry" or "lack of investigation" and therefore the invocation u/s 263 of the Act is not in accordance with law.

5. That the learned Principal Commissioner of Income Tax has erred both in law and on facts in invoking section 263 of the Act on vague cryptic contradictory, legally misconceived and factually error conclusion and therefore impugned order is unsustainable.

6. That the observation of the learned Principal Commissioner of Income Tax that "the assessment order dated 15.4.2021 passed by the Assessing Officer is erroneous in so far as it is prejudicial to the interests of the revenue in terms of clause (d) of Explanation 2 to section 263 of the Act which provides that an order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is prejudicial to the interest of the revenue" is based on fundamental misconception of facts and provisions of law and thus not in accordance with law and, therefore untenable.

7. That even otherwise the finding that order of assessment dated 15.4.2021 is held to be erroneous in so far as it is prejudicial to the interests of the revenue on the ground that "as per 26As, interest of Rs. 3,15,75,300/- was received by the assessee during the year under reference from the LAO after deduction of tax at source u/s 194A of the Income Tax Act, interest amounting to Rs. 1,57,87,650/- after allowing deduction @ 50% u/s 57(iv) of the Act, has not been brought to tax by the AO" is based on factually incorrect assumption, incorrect application to the provisions of law and therefore untenable.

8. That the learned Principal Commissioner of Income Tax has erred both in law and on facts in making an addition of Rs 1,57,87,650/- representing interest received on enhanced compensation on compulsory acquisition of agricultural land received u/s 28 of Land Compensation Act' 1894 and eligible for exemption u/s 10(37) of the Act.

8.1. That the learned Principal Commissioner of Income Tax has failed to appreciate that enhanced compensation for acquisition of agricultural land represents capital receipts not exigble to tax as such.

8.2 That the learned Principal Commissioner of Income Tax has further erred both in law and on fact in invoking section 56(2)(viii) read with sections 57(iv) and 145A(b) of the Act to make the impugned addition.

8.3 That the Principal Commissioner of Income Tax has also erred both in law and on fact in not following the binding judgments of Apex Court:

i) 315 ITR 1(SC) CIT vs. Ghanshyam (HUF)
ii) 367 ITR 498(SC) CIT vs. Govindbhai Mamaiya
iii) 400 ITR 23 (SC) PCIT vs. Chet Ram (HUF)
iv) 302 CTR 458 (SC) UOI vs. Hari Singh and Ors.
v) C.A.No. 18475/2017 dated 10.11.2017 ITO v. Muktanandgiri Maheshgiri

9. That invocation of provision of section 145A(b) of the Act is not in accordance with law as it is not applicable in year under consideration and therefore is without jurisdiction.

10. That the learned Principal Commissioner of Income Tax has also failed to appreciate that while passing an order u/s 263 of the Act he cannot travel beyond the show cause notice and therefore since his conclusion in the impugned order is at variance with the conclusion in the show cause notice, and thus such an order is not a valid order which deserves to be quashed as such.

11. That the learned Principal Commissioner of Income Tax has failed to appreciate that surmises, conjecture and suspicion could not be a basis much less a valid basis to invoke section 263 of the Act.

3. **Assessee has raised following grounds in ITA No. 494/Chd/2024 for A.Y. 2013-14:**

1. That order dated 1.3.2024 u/s 263 of the Act by the learned Pr. Commissioner of Income Tax, Rohtak has been made without satisfying the statutory preconditions contained in the Act and is therefore without jurisdiction and thus, deserves to be quashed as such.

2. That since neither the initiation of proceedings u/s 147 of the Act and, nor order of assessment u/s 147/143(3) of the Act was in accordance with law, therefore the impugned order made u/s 263 of the Act is also void-ab-initio.

2.1 That since the notice u/s 148 of the Act had been issued mechanically without application of mind much less independent application of mind and without having any tangible, relevant credible material to form a reason to believe that income of the appellant has escaped assessment therefore the order of assessment u/s 147/143(3) of the Act was without jurisdiction and as such the impugned order is also without jurisdiction.

3. That the learned Pr. Commissioner of Income Tax has failed to appreciate that once the learned Assessing Officer on examination of the facts on record and after making all possible enquiries had accepted claim of the appellant then such an order of assessment could not be regarded as erroneous in as much as prejudicial to the interest of revenue merely because the learned Commissioner of Income Tax had a different opinion and that too, without having established in any manner that, view adopted by the learned Assessing Officer was an impossible or unsustainable view.

4. That the learned Principal Commissioner of Income Tax has failed to appreciate that action u/s 263 of the Act is otherwise too inapplicable on the factual matrix of the facts of the instant case since it is not a case of "lack of enquiry" or "lack of investigation" and therefore the invocation u/s 263 of the Act is not in accordance with law.

5. That the learned Principal Commissioner of Income Tax has erred both in law and on facts in invoking section 263 of the Act on vague cryptic contradictory, legally misconceived and factually error conclusion and therefore impugned order is unsustainable.

6. That the observation of the learned Principal Commissioner of Income Tax that "the assessment order dated 12.09.2021 passed by the Assessing Officer is erroneous in so far as it is prejudicial to the interests of the revenue in terms of clause (d) of Explanation 2 to section 263 of the Act which provides that an order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is prejudicial to the interest of the revenue" is based on fundamental misconception of facts and provisions of law and thus not in accordance with law and, therefore untenable.

7. That even otherwise the finding that order of assessment dated 12.09.2021 is held to be erroneous in so far as it is prejudicial to the interests of the revenue on the ground that "as per 26As, interest of Rs. 17,82,529/- was received by the assessee during the year under reference from the LAO after deduction of tax at source u/s 194A of the Income Tax Act, interest amounting to Rs. 8,91,265/- after allowing deduction @ 50% u/s 57(iv) of the Act, has not been brought to tax by the AO" is based on factually incorrect assumption, incorrect application to the provisions of law and therefore untenable.

8. That the learned Principal Commissioner of Income Tax has erred both in law and on facts in making an addition of Rs 8,91,265/- representing interest received on enhanced compensation on compulsory acquisition of agricultural land received u/s 28 of Land Compensation Act' 1894 and eligible for exemption u/s 10(37) of the Act.

8.1. That the learned Principal Commissioner of Income Tax has failed to appreciate that enhanced compensation for acquisition of agricultural land represents capital receipts not exigble to tax as such.

8.2 That the learned Principal Commissioner of Income Tax has further erred both in law and on fact in invoking section 56(2)(viii) read with sections 57(iv) and 145A(b) of the Act to make the impugned addition.

8.3 That the Principal Commissioner of Income Tax has also erred both in law and on fact in not following the binding judgments of Apex Court:

vi) 315 ITR 1(SC) CIT vs. Ghanshyam (HUF)
vii) 367 ITR 498(SC) CIT vs. Govindbhai Mamaiya
viii) 400 ITR 23 (SC) PCIT vs. Chet Ram (HUF)
ix) 302 CTR 458 (SC) UOI vs. Hari Singh and Ors.
x) C.A.No. 18475/2017 dated 10.11.2017 ITO v. Muktanandgiri Maheshgiri

9. That invocation of provision of section 145A(b) of the Act is not in accordance with law as it is not applicable in year under consideration and therefore is without jurisdiction.

10. That the learned Principal Commissioner of Income Tax has also failed to appreciate that while passing an order u/s 263 of the Act he cannot travel beyond the show cause notice and therefore since his conclusion in the impugned order is at variance with the conclusion in the show cause notice, and thus such an order is not a valid order which deserves to be quashed as such.

11. That the learned Principal Commissioner of Income Tax has failed to appreciate that surmises, conjecture and suspicion could not be a basis much less a valid basis to invoke section 263 of the Act.

4. **Assessee has raised following grounds in ITA No. 286/Chd/2023 for A.Y. 2018-19:**

1. That order dated 25.03.2023 u/s 263 of the Act by the learned Pr. Commissioner of Income Tax, Rohtak has been made without satisfying the statutory preconditions contained in the Act and is therefore without jurisdiction and thus, deserves to be quashed as such.

2. That the learned Pr. Commissioner of Income Tax has failed to appreciate that once the learned Assessing Officer on examination of the facts on record and after making all possible enquiries had accepted claim of the appellant then such an order of assessment could not be regarded as erroneous in as much as prejudicial to the interest of revenue merely because the learned Commissioner of Income Tax had a different opinion and that too, without having established in any manner that, view adopted by the learned Assessing Officer was an impossible or unsustainable view.

3. That the learned Principal Commissioner of Income Tax has failed to appreciate that action u/s 263 of the Act is otherwise too inapplicable on the factual matrix of the facts of the instant case since it is not a case of "lack of enquiry" or "lack of investigation" and therefore the invocation u/s 263 of the Act is not in accordance with law.

4. That further more the learned Principal Commissioner of Income Tax has proceeded to set aside the order on mere speculation, generalized observations, theoretical allegations and assertions, without there being any supporting evidence and is therefore not in accordance with law.

5. That finding of the learned Principal Commissioner of Income Tax that "the AO had passed the order dated 03.02.2021 in a very causal manner without due diligence and without conducting proper enquiries and verification which should have been made with respect of amended provisions of the Finance Act, 2015 and binding decision of Jurisdictional Hon'ble Punjab & Haryana High Court and Hon'ble Apex Court on the taxability of interest on enhanced compensation" is factually incorrect, legally misconceived, contrary to facts on record and wholly untenable.

6. That even the conclusion that "interest on enhanced compensation during the assessment year under consideration ought to be treated as income from other sources u/s 56(2)(vii) of the Act" is not based on correct appreciation of facts and therefore untenable.

7. That the learned Pr. Commissioner of Income Tax has also failed to appreciate that, u/s 263 of the Act, an order of assessment cannot be set-aside to simply to make further enquiries and thereafter pass fresh order of assessment and as such, impugned order is contrary to law and hence, unsustainable

8. That various adverse findings and observations made by the learned Pr. Commissioner of Income Tax in order are based on fundamental misconception of facts and law, arbitrary and unjustified and therefore untenable.

5. **Assessee has raised following grounds in ITA No. 287/Chd/2023 for A.Y. 2018-19:**

1. That order dated 25.03.2023 u/s 263 of the Act by the learned Pr. Commissioner of Income Tax, Rohtak has been made without satisfying the statutory preconditions contained in the Act and is therefore without jurisdiction and thus, deserves to be quashed as such.

2. That the learned Pr. Commissioner of Income Tax has failed to appreciate that once the learned Assessing Officer on examination of the facts on record and after making all possible enquiries had accepted claim of the appellant then such an order of assessment could not be regarded as erroneous in as much as prejudicial to the interest of revenue merely because the learned Commissioner of Income Tax had a different opinion and that too, without having established in any manner that, view adopted by the learned Assessing Officer was an impossible or unsustainable view.

3. That the learned Principal Commissioner of Income Tax has failed to appreciate that action u/s 263 of the Act is otherwise too inapplicable on the factual matrix of the facts of the instant case since it is not a case of "lack of enquiry" or "lack of investigation" and therefore the invocation u/s 263 of the Act is not in accordance with law.

4. That further more the learned Principal Commissioner of Income Tax has proceeded to set aside the order on mere speculation, generalized observations, theoretical allegations and assertions, without there being any supporting evidence and is therefore not in accordance with law.

5. That finding of the learned Principal Commissioner of Income Tax that "the AO had passed the order dated 29.10.2020 in a very causal manner without due diligence and without conducting proper enquiries and verification which should have been made with respect of amended provisions of the Finance Act, 2015 and binding decision of Jurisdictional Hon'ble Punjab & Haryana High Court and Hon'ble Apex Court on the taxability of interest on enhanced compensation" is factually incorrect, legally misconceived, contrary to facts on record and wholly untenable.

6. That even the conclusion that "interest on enhanced compensation during the assessment year under consideration ought to be treated as income from other sources u/s 56(2)(vii) of the Act" is not based on correct appreciation of facts and therefore untenable.

7. That the learned Pr. Commissioner of Income Tax has also failed to appreciate that, u/s 263 of the Act, an order of assessment cannot be set-aside to simply to make further enquiries and thereafter pass fresh order of assessment and as such, impugned order is contrary to law and hence, unsustainable

8. That various adverse findings and observations made by the learned Pr. Commissioner of Income Tax in order are based on fundamental misconception of facts and law, arbitrary and unjustified and therefore untenable.

6. **Assessee has raised following grounds in ITA No. 288/Chd/2023 for A.Y. 2018-19:**

1. That order dated 27.03.2023 u/s 263 of the Act by the learned Pr. Commissioner of Income Tax, Rohtak has been made without satisfying the statutory preconditions contained in the Act and is therefore without jurisdiction and thus, deserves to be quashed as such.

2. That the learned Pr. Commissioner of Income Tax has failed to appreciate that once the learned Assessing Officer on examination of the facts on record and after making all possible enquiries had accepted claim of the appellant then such an order of assessment could not be regarded as erroneous in as much as prejudicial to the interest of revenue merely because the learned Commissioner of Income Tax had a different opinion and that too, without having established in any manner that, view adopted by the learned Assessing Officer was an impossible or unsustainable view.

3. That the learned Principal Commissioner of Income Tax has failed to appreciate that action u/s 263 of the Act is otherwise too inapplicable on the factual matrix of the facts of the instant case since it is not a case of "lack of enquiry" or "lack of investigation" and therefore the invocation u/s 263 of the Act is not in accordance with law.

4. That further more the learned Principal Commissioner of Income Tax has proceeded to set aside the order on mere speculation, generalized observations, theoretical allegations and assertions, without there being any supporting evidence and is therefore not in accordance with law.

5. That finding of the learned Principal Commissioner of Income Tax that "the AO had passed the order dated 25.12.2020 in a very causal manner without due diligence and without conducting proper enquiries and verification which should have been made with respect of amended provisions of the Finance Act, 2015 and binding decision of Jurisdictional Hon'ble Punjab & Haryana High Court and Hon'ble Apex Court on the taxability of interest on enhanced compensation" is factually incorrect, legally misconceived, contrary to facts on record and wholly untenable.

6. That even the conclusion that "interest on enhanced compensation during the assessment year under consideration ought to be treated as income from other sources u/s 56(2)(vii) of the Act" is not based on correct appreciation of facts and therefore untenable.

7. That the learned Pr. Commissioner of Income Tax has also failed to appreciate that, u/s 263 of the Act, an order of assessment cannot be set-aside to simply to make further enquiries and thereafter pass fresh order of assessment and as such, impugned order is contrary to law and hence, unsustainable

8. That various adverse findings and observations made by the learned Pr. Commissioner of Income Tax in order are based on fundamental misconception of facts and law, arbitrary and unjustified and therefore untenable.

7. **Assessee has raised following grounds in ITA No. 289/Chd/2023 for A.Y. 2018-19:**

1. That order dated 28.03.2023 u/s 263 of the Act by the learned Pr. Commissioner of Income Tax, Rohtak has been made without satisfying the statutory preconditions contained in the Act and is therefore without jurisdiction and thus, deserves to be quashed as such.

2. That the learned Pr. Commissioner of Income Tax has failed to appreciate that once the learned Assessing Officer on examination of the facts on record and after making all possible enquiries had accepted claim of the appellant then such an order of assessment could not be regarded as erroneous in as much as prejudicial to the interest of revenue merely because the learned Commissioner of Income Tax had a different opinion and that too, without having established in any manner that, view adopted by the learned Assessing Officer was an impossible or unsustainable view.

3. That the learned Principal Commissioner of Income Tax has failed to appreciate that action u/s 263 of the Act is otherwise too inapplicable on the factual matrix of the facts of the instant case since it is not a case of "lack of enquiry" or "lack of investigation" and therefore the invocation u/s 263 of the Act is not in accordance with law.

4. That further more the learned Principal Commissioner of Income Tax has proceeded to set aside the order on mere speculation, generalized observations, theoretical allegations and assertions, without there being any supporting evidence and is therefore not in accordance with law.

5. That finding of the learned Principal Commissioner of Income Tax that "the AO had passed the order dated 05.03.2021 in a very causal manner without due diligence and without conducting proper enquiries and verification which should have been made with respect of amended provisions of the Finance Act, 2015 and binding decision of Jurisdictional Hon'ble Punjab & Haryana High Court and Hon'ble Apex Court on the taxability of interest on enhanced compensation" is factually incorrect, legally misconceived, contrary to facts on record and wholly untenable.

6. That even the conclusion that "interest on enhanced compensation during the assessment year under consideration ought to be treated as income from other sources u/s 56(2)(vii) of the Act" is not based on correct appreciation of facts and therefore untenable.

7. That the learned Pr. Commissioner of Income Tax has also failed to appreciate that, u/s 263 of the Act, an order of assessment cannot be set-aside to simply to make further enquiries and thereafter pass fresh order of assessment and as such, impugned order is contrary to law and hence, unsustainable

8. That various adverse findings and observations made by the learned Pr. Commissioner of Income Tax in order are based on fundamental misconception of facts and law, arbitrary and unjustified and therefore untenable.

8. **Assessee has raised following grounds in ITA No. 290/Chd/2023 for A.Y. 2018-19:**

1. That order dated 27.03.2023 u/s 263 of the Act by the learned Pr. Commissioner of Income Tax, Rohtak has been made without satisfying the statutory preconditions contained in the Act and is therefore without jurisdiction and thus, deserves to be quashed as such.

2. That the learned Pr. Commissioner of Income Tax has failed to appreciate that once the learned Assessing Officer on examination of the facts on record and after making all possible enquiries had accepted claim of the appellant then such an order of assessment could not be regarded as erroneous in as much as prejudicial to the interest of revenue merely because the learned Commissioner of Income Tax had a different opinion and that too, without having established in any manner that, view adopted by the learned Assessing Officer was an impossible or unsustainable view.

3. That the learned Principal Commissioner of Income Tax has failed to appreciate that action u/s 263 of the Act is otherwise too inapplicable on the factual matrix of the facts of the instant case since it is not a case of "lack of enquiry" or "lack of investigation" and therefore the invocation u/s 263 of the Act is not in accordance with law.

4. That further more the learned Principal Commissioner of Income Tax has proceeded to set aside the order on mere speculation, generalized observations, theoretical allegations and assertions, without there being any supporting evidence and is therefore not in accordance with law.

5. That finding of the learned Principal Commissioner of Income. Tax that "the AO had passed the order dated 29.10.2020 in a very causal manner without due diligence and without conducting proper enquiries and verification which should have been made with respect of amended provisions of the Finance Act, 2015 and binding decision of Jurisdictional Hon'ble Punjab & Haryana High Court and Hon'ble Apex Court on the taxability of interest on enhanced compensation" is factually incorrect, legally misconceived, contrary to facts on record and wholly untenable.

6. That even the conclusion that "interest on enhanced compensation during the assessment year under consideration ought to be treated as income from other sources u/s 56(2)(vii) of the Act" is not based on correct appreciation of facts and therefore untenable.

7. That the learned Pr. Commissioner of Income Tax has also failed to appreciate that, u/s 263 of the Act, an order of assessment cannot be set-aside to simply to make further enquiries and thereafter pass fresh order of assessment and as such, impugned order is contrary to law and hence, unsustainable

8. That various adverse findings and observations made by the learned Pr. Commissioner of Income Tax in order are based on fundamental misconception of facts and law, arbitrary and unjustified and therefore untenable.

9. At the outset, the Ld. AR submitted that the arguments advanced by the various assessees in the connected matters, namely in the case of Baljinder Singh Vs. Pr. CIT & Others in ITA No. 167/Chd/2023 and others, are adopted and relied upon by the present assessee. In addition thereto, the following legal as well as factual submissions are being specifically raised for the kind consideration of the Hon'ble Bench.

10. The Ld. Counsel, Shri Lalit Mohan, made the following submissions before the Bench:

10.1 It was submitted that the first show cause notice issued by the Ld. PCIT was not signed and, therefore, the same is void ab initio and has no legal sanctity in the eyes of law. It was further contended that subsequent to the said notice, two more show cause notices were issued. Out of the said two notices, one notice was digitally signed, whereas the other notice was not digitally signed (refer page 35 of the paper book). Accordingly, it was argued that the initiation of proceedings itself is vitiated on account of defective and invalid show cause notices.

10.2 The Ld. AR further submitted that the Assessing Officer had merely forwarded a proposal to the Ld. PCIT, and on the basis of the said proposal alone, the Ld. PCIT issued the show cause notice to the assessee. It was contended that the Ld. PCIT has not independently applied his mind to the material on record and has mechanically initiated the proceedings solely on the recommendation of the Assessing Officer, thereby rendering the impugned action unsustainable in law.

10.3 The third contention raised on behalf of the assessee was that in the case of Randhir Singh, the assessment order passed by the Faceless Assessing Officer is non est in the eyes of law. It was submitted that once the very assessment order is void ab initio and without jurisdiction, the same cannot be

revised under section 263 of the Act. In other words, proceedings under section 263 cannot be initiated against an order which is itself non est, and therefore, the assumption of jurisdiction by the Ld. PCIT under section 263 is bad in law and liable to be quashed.

10.4 The Ld. AR had also filed the consolidated written submission in support of the appeals of the assessees which are taken on record and are reproduced hereinbelow:

In the matters of:
Shri Ganesh Dass (HUF) and others

Sr. No.	***Name of assessee***	***ITA No(s) (Assessee)***	***A.Y.***
i)	*Ganesh Dass HUF*	*287/CHD/2023*	*2018-19*
ii)	*Arvail Singh*	*286/CHD/2023*	
iii)	*Kashmir Singh Sandha*	*288/CHD/2023*	
iv)	*Dhuni Chand HUF*	*289/CHD/2023*	
v)	*Paramjeet Singh*	*290/CHD/2023*	
vi)	*Surjeet Singh*	*488/CHD/2024*	
vii)	*Randhir Singh*	*494/CHD/2024*	*2013-14*

Synopsis

MAY IT PLEASE YOUR HONOURS

1 These are batch of seven appeals preferred by the appellant against the separate order u/s 263 of the Act.

2 It is submitted that appellants has placed on record the following documents

Sr. No.	***Name of assessee***	***Notice u/s 263 of the Act Signed / Unsigned***	***Date Notice u/s 143(2) r.w.s 143(3A) & 143(3B) of the Act, NEAC and issued by***	***Date order of assessment u/s 143(3) r.w.s 143(3A) & 143(3B) of the Act, NEAC***	***Proposal by Assessing Officer at pages***	***Status of Paper Book (No. of pages)***	***Date of order u/s 263 of the Act***	***JPB***
i)	*Ganesh*	*Unsigned*	*28.09.2019*	*29.10.2020*	*465-466*	*Filed on*	*25.03.2023*	*JPB-1*

	Dass HUF		*AO (NEAC)*		*of JPB-III*	*15.01.2025* ***(1-107)***		***(1-419)***
ii)	*Arvail Singh*	*Unsigned*	*28.09.2019 AO (NEAC)*	*03.02.2021*	*469-470 of JPB*	*Filed on 15.01.2025* ***(1-176)***	*25.03.2023*	*JPB-II* ***(420-464)***
iii)	*Kashmir Singh Sandha*	*unsigned*	*28.09.2019 AO (NEAC)*	*25.12.2020*	*473-474 of JPB-III*	*Filed on 15.01.2025 (1-114)*	*27.03.2023*	*JPB-III* ***(465-751)***
iv)	*Dhuni Chand HUF*	*Unsigned*	*23.09.2019 ACIT (e-verification)*	*05.03.2021*	*477-478 of JPB-III*	*Filed on 15.01.2025* ***(1-198)***	*28.03.2023*	
v)	*Paramjeet Singh*	*Unsigned*	*28.09.2019 AO (NEAC)*	*29.10.2020*	*481-482 of JPB-III*	*Filed on 15.01.2025* ***(1-122)***	*27.03.2023*	
vi)	*Surjeet Singh**	*Signed*	*28.9.2019*	*15.04.2021*	*489-490 of JPB-III*	*Filed on 15.01.2025* ***(1-74)***	*01.03.2024*	
vii)	*Randhir Singh**	*Signed*	*21.10.2020 Ward 1, Sirsa*	*Dated 12.09.2021 u/s 143(3) r.w.s 147/144B of the Act*	*493-494 of JPB-III*	*Filed on 15.01.2025* ***(1-85)***	*01.03.2024*	

****Note: The appellant has also raised additional Ground of appeal, submission in respect of that is at pages 20-28 of this synopsis.***

3 Facts-in-brief in respect of ***ITA No. 287/Chd/2023*** *is as under:*

Sr. No.	***Date***	***Particulars (pages of Paper Book)***
i)	*25.07.2018*	*i) That appellant filed original return of income* ***(1-3)*** *declaring an income of 28,74,740/- (entirely reflected under the head 'Income from Other Sources'), details as under:* ***Particulars*** | ***Amount*** *Income from 'Other Sources'* | **30,34,741* *Less Deduction under Chapter VI-A* | *1,60,000* ***Total Income*** | ***28,74,740*** **Note: Income from other sources consist mainly interest from Union Bank i.e. Rs. 30,11,340/-* *ii) That further perusal of the return of income would show that appellant has declared Exempt income in 'Schedule EI' of Rs. 5,49,81,908, details as under:* ***S.no*** | ***Particulars*** | ***Amount*** *i)* | *Agriculture income* | *4,00,000* *ii)* | *Enhanced compensation claimed as exempt u/s 10(37) of the Act* | *54,88,448* *iii)* | *Enhanced compensation* | **4,90,93,460*

			interest as part of compensation claimed as exempt u/s 10(37) in view of the Apex Court decision in ***CIT vs Ghanshyam Dass HUF (2009) 315 ITR SC***	
			Total	***5,49,81,908***
		Note: TDS of Rs. 49,05,840/- was deducted by Land Acquisition office u/s 194LA on amount of enhanced compensation interest as part of compensation amounting to Rs. 4,90,93,460/-.* ***iii) Refund claimed by appellant of Rs. 44,61,990/-*		
ii)	*28.09.2019*	*The case of the appellant was selected scrutiny through CASS for verification of following issues:* *i) Income from Other sources.* *ii) Claim of Refund.* *Notice issued by National e-Assessment Centre (NeAC) u/s 143(2) read with S. 143(3A) and 143(3B) of the Act.* ***(4-8)***		
iii)	*12.02.2020*	*That notice issued u/s 142(1) of the Act by NeAC* ***(9-12)****, wherein amongst other information is also sought in respect of enhanced compensation of Rs. 5,45,81,908 as under:* *"6. It is found from your ITR for the AY 2018-19 that you have received Rs. 5,45,81,908/- as enhanced compensation for acquisition of agricultural land and interest thereon. In this regard you are requested to furnish the documentary evidence in support of your claim along with bank statement highlighting the receipt of money".*		
iv)	*25.02.2020*	*That detailed reply* ***(13-29)*** *filed during assessment proceedings submitting that* ***assessee received interest u/s 28 of the Land Acquisition Act 1894, which has been claimed as 'capital receipt'*** *in the return of income, keeping in view the Apex Court decision in* ***CIT vs Ghanshyam Dass HUF (2009) 315 ITR SC.*** *Photocopies of certificate issued by Land Acquisition officer confirming that interest has been awarded u/s 28 of the Land Acquisition Act were enclosed as under:*		

Certificate No	***Issuing Authority***	***Amount***	***Paper book Page No***
3961	*Land Acquisition officer*	*2,58,59,150*	***104***
3962		*1,65,14,270*	***105***
3959		*66,84,980*	***106***
85	*HSIIDC*	*35,060*	***107***

	Total	***4,90,93,460***

That appellant also referred to ***amendments made in*** *S.* ***56(2), 57 and 145A vide Finance (No.2) Act 2009*** *together with memorandum explaining Finance Bill 2009 as reported in* ***ITR 183(St) page 219-220****, Notes on clauses to Finance Bill 2009 reported on* ***314 ITR 126 (St) page 147.***

Reference is also made to ***explanatory circular no. 5/2010 dated 03.06.2010*** *to the provisions of Finance Act (No.2) of 2009 reported in* ***324 ITR 293 (St) at page 341,*** *provides as under:*

46. delayed compensation or on enhanced compensation

46.1 The existing provisions of Income Tax Act provide that income chargeable under the head "Profits and gains of business or profession" or "Income from other sources", shall be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee. Further, the ***Hon'ble Supreme Court in the case of Rama Bai vs. CIT (181 ITR 400)*** *has held that arrears of interest computed on delayed or enhanced compensation shall be taxable on accrual basis. This has caused undue hardship to the taxpayers.*

46.2 With a view to mitigate the hardship, section 145A is amended to provide that the interest received by an assessee on compensation or enhanced compensation shall be deemed to be his income for the year in which it was received, irrespective of the method of accounting followed by the assessee*.*

46.3 Further, clause (viii) is inserted in the sub-section (2) of the section 56 so as to provide that income by way of interest received on compensation or on enhanced compensation referred to in clause (b) of section 145A shall be assessed as "income from other sources" in the year in which it is received

46.4 Applicability - This amendment has been made applicable with effect from 1st April, 2010, and will accordingly apply in relation to assessment year 2010-11 and subsequent assessment years.

It was thus submitted by appellant that by making amendment in Section 56(2), 57 and 145A, legislature made the arrears of interest computed on delayed or enhanced compensation taxable in the year of receipt in order to mitigate the hardship that arrears of interest on delayed or enhanced compensation shall be taxable on accrual basis as held by ***Apex Court in the case of Rama***

		Bai vs. CIT reported in 181 ITR 400, however which do not effect on the binding decision of Apex court in the case of CIT vs Ghanshyam Das (HUF) reported in 315 ITR 1 further followed in CIT vs Govindhbhai Mamaiya reported in 367 ITR 498, *reference was also made to various favorable judgements of Hon'ble Punjab & Haryana High Court and Chandigarh Tribunal following the decision of Apex Court as aforesaid, details as under:* ***Punjab & Haryana High Court*** *i) CR no. 2509 of 2012 (P&H) HSIDC Ltd vs Savitri and another.* *ii) CR No. 7953 of 2013 (P&H) HUDA vs Mandir Nar Singh Puri and anothers* ***ITAT - CHD*** *i) ITA No. 405/CHD/2013 dated 2.8.2013 ITO vs. Pawan Giri* *ii) ITA No. 313/CHD/2015 dated 20.02.2016 Baldev Singh vs. ITO V* *iii) ITA No. 131/CHD/2016 dated 30.06.2016 The DCIT (TDS), Ludhiana vs. Dedicated Freight Corridor Corporation Ltd.* *It was also submitted that where more than one interpretation has been pronounced by Jurisdictional High Court then Interpretation which favors the assessee have to be adopted. Reliance placed on* ***CIT vs Vegetable Products Ltd in 88 ITR 192 (SC).***
v)	*29.10.2020*	*Assessment completed u/s 143(3) r.w.s 143(3A) & 143(3B) of the Act on 29.10.2020 accepting returned income.* ***(30-31)***
vi)	*23.02.2021*	*Order passed u/s 154 of the Act rectifying interest payable u/s 244A of the Act.* ***(33-34)***
vii)		*Proposal sent by ITO, Sirsa to initiate proceedings u/s 263 of the Act.* ***(Page 465-466 of JPB)***
viii)	*16.01.2023*	***Unsigned*** *notice issued for hearing u/s 263 of the Act from the office of Principal of Commissioner of Income Tax, Rohtak.* ***(35-36)***
ix)	*25.01.2023*	*Reply filed by appellant in response to notice dated 16.01.2023 issued for hearing u/s 263 of the Act.* ***(39-74)***
x)	*07.02.2023*	*Notice issued for hearing u/s 263 of the Act from the office of Principal of Commissioner of Income Tax, Rohtak.* ***(75)***
xi)	*10.02.2023*	*Reply filed by appellant in response to notice dated 07.02.2023 issued for hearing u/s 263 of the Act.* ***(76-78)***
xii)	*14.02.2023*	*That appellant again filed reply in response to notice dated 07.02.2023 issued for hearing u/s 263 of the Act.* ***(79-80)***

xiii)	*07.03.2023*	***Unsigned** notice issued for hearing u/s 263 of the Act from the office of Principal of Commissioner of Income Tax, Rohtak. **(81)***
xiv)	*09.03.2023*	*That assessee filed reply in response to notice dated 07.03.2023 issued for hearing u/s 263 of the Act stating that reply dated 25.01.23, 10.02.23 and 07.03.23 may be considered in response thereof. **(82)***
xv)	*25.03.2023*	*Order passed u/s 263 of the Act setting aside the order passed on 29.10.20 u/s 143(3) r.w.s 143(3A) & 143(3B) to pass an order afresh. **(Impugned Order)***
xvi)	*21.03.2024*	*Order of assessment passed u/s 143(3) read with S. 263 and S. 144B of the Act **(83-94)** assessing the income of appellant at Rs. 2,74,03,940/- as against the returned income of Rs. 28,74,740/-.* *An addition of Rs. 2,45,29,200/- is being made on account of 50% of Rs. 4,90,93,460 received on account of enhanced compensation interest as part of compensation u/s 56(2)(viii) rws 57(iv) in view of decision of Hon'ble Punjab & Haryana High Court in the case of Mahinder Pal Narang vs CBDT reported in **423 ITR 13** which is further endorsed by Hon'ble Supreme Court of India by dismissing the SLP in order dated 04.03.21.*

3.1 It is submitted that the Learned Principal Commissioner of Income Tax has passed the impugned order u/s 263 of the Act setting aside the order of assessment dated 29.10.20 with a direction to pass an order afresh. In order to hold that an order passed u/s 143(3) on 29.10.2020 is erroneous so far as it is prejudicial to the interest of revenue in terms of Explanation 2 of section 263 of the Act, the various observations of learned PCIT are as under:

i) ***Interest received on Enhanced Compensation u/s 28 of the Land Acquisition Act 1894 is taxable as 'Income From Other Sources' in view of amendment by Finance (No.2) Act, 2009 w.e.f 01.04.2010:*** *That the assessee has received interest on enhanced compensation during the assessment year under consideration which ought to be treated as "income from other sources" and should have been taxed accordingly, under the head "income from other sources" by way of amendment introduced through Finance (No.2) Act, 2009 w.e.f 01.04.2010. For the taxing treatment of interest on compensation/enhanced compensation, special provisions has been made by way of Finance (No.2) Act.2009 by introducing a clause (viii) in sub-section 2 of section 56, clause (iv) in section 57 and clause (b) in Section 145A w.e.f. 01.04.2010. From the assessment year 2010-11 onwards, the amount of compensation or enhanced compensation is taxable as "income from other sources" after allowing deduction of a sum equal to 50% of such income in the year of receipt.* ***(Please refer Para 5.1 on page 3 of Impugned Order)***

ii) ***That the binding decision of Jurisdictional Punjab & Haryana High Court has not been taken in to consideration at the time of passing order***

u/s 143(3) of the Act on 29.10.2020: *The A.O. failed to consider the judgement of the Jurisdictional High Court i.e. Hon'ble Punjab & Haryana High Court dated 19.02.2020 in the case of Mahender Pal Narang vs Central Board of Direct Taxes, New Delhi reported in* ***423 ITR 13*** *endorsed by the Hon'ble Supreme Court of India dismissing the SLP against the judgement of Hon'ble High Court in Mahender Pal Narang vs CBDT(2021) 279 Taxman 74(SC) vide its order dated 4th March 2021.* ***(Please refer Para 5.2 on page 3 of Impugned Order)***

3.2 That on the basis of above consideration the learned PCIT concluded as under:

> *Keeping in view of the facts and circumstances of the case as discussed above,* ***I am of the considered opinion that the AO had passed the order dated 29.10.2020 in a very casual manner without due diligence and without conducting proper enquiries & verification which should have been made with respect to amended provisions of the Finance Act. 2015 & binding decision of Jurisdictional Hon'ble Punjab & Haryana High Court & Hon'ble Apex Court on the taxability of interest on enhanced compensation.*** *Therefore, the assessment completed u/s 143(3) r.w.s 143(3A) & 143(3B)of the Act is erroneous so far as it is prejudicial to the interest of the revenue in terms of Explanation 2 of section 263 of the Act. Accordingly, the assessment order passed by the AO on 29.10.2020 u/s 143(3) r.w.s 143(3A) & 143(3B) of the Act for the A. Y. 2018-19 is set aside with the direction to pass an order afresh, after due consideration of the facts and in accordance with law after making requisite enquiries & proper verification with regard to issues mentioned above. The assessee is at liberty to adduce the facts as relevant before the AO at the time of assessment proceedings in consequence to this order. The AO shal allow the assessee, adequate & reasonable opportunity of being heard & make relevant submissions. It may b ensured that assessment order is passed within the prescribed time limit under the Income Tax Act.*

4 In the aforesaid background contentions of appellant(s) are as under:

4 In the aforesaid background contentions of appellant(s) are as under:

Sr. No	***Particular***	***Para***
i)	***At the outset it is submitted that the notice initiating instant proceedings u/s 263 of the Act dated 16.01.2023 is 'unsigned' and therefore initiation of proceedings itself is invalid*** *and therefore consequential order passed u/s 263 of the Act is untenable.* ***(please refer page 35-36 of paper book)***	***5***
ii)	*That action of the revision u/s 263 of the Act has been laid on*	*15-15.4*

	the bedrock of receipt of the proposal from the learned Assessing Officer ***(placed at page 465 – 468 of Paper Book)****, which vitiates the action u/s 263 of the Act.*	
iii)	*That on the date of order of assessment passed u/s 143(3) of the Act i.e. 29.10.2020 the learned Assessing officer was bound by the decision of Hon'ble Apex Court in the case of* ***CIT vs. Ghanshyam HUF reported in 315 ITR 1 dated 16.07.2009 (pages 1-15 of JPB) i.e.*** *law declared by the Supreme Court which was then continuingly followed by Jurisdictional High Court / Other High Court / Chandigarh Tribunal and Other Tribunal till date*	*6*
iv)	*That the judgement of the Jurisdictional High Court i.e. Hon'ble Punjab & Haryana High Court in the case of Mahender Pal Narang vs Central Board of Direct Taxes, New Delhi reported in* ***423 ITR 13 endorsed by the Hon'ble Supreme Court of India by dismissing the SLP as reported in 279 Taxman 74(SC) vide its order dated 4th March 2021 was post order of assessment dated 29.10.2020 and therefore on the date of order of Assessment the decision of Apex court in the case of CIT vs. Ghanshyam HUF reported in 315 ITR 1 dated 16.07.2009 (pages 1-15 of JPB) is binding.***	*----*
v)	*It is submitted that the decision of Hon'ble Apex Court in the case of* ***CIT vs. Ghanshyam HUF reported in 315 ITR 1 dated 16.07.2009 (pages 1-15 of JPB),*** *is law declared by the Supreme Court binding on all authorities under Article 141 of the Constitution.*	*7*
vi)	***'PRECEDENT SUB SILENTIO - APPEALS DISMISSSED IN LIMINE' are not binding under Article 141 of the Constitution:*** *: It is further submitted that the judgement of the Jurisdictional High Court in the case of Mahender Pal Narang vs Central Board of Direct Taxes, New Delhi reported in 423 ITR 13 is endorsed by the Hon'ble Supreme Court of India by 'dismissing the SLP' as reported in* ***279 Taxman 74(SC)*** *and* ***therefore not a 'speaking order' as envisaged under Article 141 of the Constitution.*** ***i) The Hon'ble Apex Court in respect of 'PRECEDENT SUB SILENTIO - APPEALS DISMISSSED IN LIMINE'****, has concluded in the case of* ***Khoday Distilleries Ltd. vs Mahadeshwara Sahakara Sakkare Karkhane Ltd reported in (2019) 262 Taxman 279 (SC)*** *that* ***'Where special leave petition was dismissed against High Court order in limine without giving any reasons, review petition filed by appellant, in High Court would be maintainable', and therefore such non speaking orders are not conclusive above speaking order of Apex Court*** *and are not binding under Article u/s 141 of the Constitution. '****It is only if the order refusing leave to appeal is a speaking order, i.e., gives reasons for refusing the grant of leave, then the order has two implications. Firstly, the statement of law contained in***	*8 – 8.2*

	***the order is a declaration of law by the Supreme Court within the meaning of Article 141 of the Constitution**. Secondly, other than the declaration of law'.* *ii) In the case of **V.M. Salgaocar & Bros. (P.) Ltd. v. CIT [2000] 110 Taxman 67/243 ITR 383 (SC),** the Hon'ble Supreme Court has held that an order dismissing the SLP at the threshold without detailed reasons does not constitute any declaration of law or a binding precedent*	
vii)	***That Hon'ble Delhi ITAT in the case of Gulshan Kumar v. PCIT reported in [2024] 159 taxmann.com 715** distinguished judgement of Hon'ble Punjab and Haryana High Court in the case of Mahender Pal Narang reported in 423 ITR 13 endorsed by the Hon'ble Supreme Court of India by dismissing the SLP as reported in 279 Taxman 74(SC) vide its order dated 4th March 2021 and **treated this issue as debatable issue and quashed the order of the Ld. PCIT passed u/s 263 of the Income Tax Act**, the observations of Tribunal are summarized as under:* *i) The amended provisions of section 56(2)(viii) of the Act r.w. section 145A were brought on the statute to nullify the effect of Hon'ble Supreme Court's ruling in the case of Rama Bai and not Ghanshyam HUF. **(Para 13)*** ***ii)** The position in Ghanshyam HUF'a case has been affirmed by the Hon'ble Supreme Court in UOI v. Hari Singh [2018] 91 taxmann.com 20/254 Taxman 126. **The decision of the Hon'ble Supreme Court in Hari Singh's case (supra) was not brought to the notice of Hon'ble P & H High Court while rendering decision in Mahender Pal Narang's case (supra) (para 14-15)*** ***iii)** That in **V.M. Salgaocar & Bros. (P.) Ltd. v. CIT [2000] 110 Taxman 67/243 ITR 383 (SC)**, the Hon'ble Supreme Court has held that an order dismissing the SLP at the threshold without detailed reasons does not constitute any declaration of law or a binding precedent. **(Para 15)*** *iv) The order of the Ld. AO is based on the decision of the Hon'ble Supreme Court in Ghanshyam HUF (supra) on the issue of taxability of interest received by the assessee under section 28 of Land Acquisition Act, **it can at best be said to be a debatable issue on which two views are possible and the Ld. AO accepts one of the views. In this view of the matter too, the Ld. PCIT cannot assume revisional jurisdiction as held by the Hon'ble Delhi High Court in CIT v. Hindustan Coca Cola Beverages (P.) Ltd. [2011] 9 taxmann.com 104/198 Taxman 104/331 ITR 192. (Para 16)***	*9 – 9.2*
viii)	*That decision in the case of CIT vs. Ghanshyam HUF reported in 315 ITR 1 was pronounced on 16.07.2009 i.e. post Finance Bill 2009 was proposed (i.e. in February 2009) and which also proves **that amendment vide Finance (No.2) Act was introduced to nullify the effect of Hon'ble Supreme Court's***	*10- 10.11*

	ruling in the case of Rama Bai reported in 181 ITR 400 *and not Ghanshyam HUF reported in 315 ITR 1;* ***That issue under consideration is no longer res integra as*** *'interest u/s 28 of the Land Acquisition Act' 1894 which is paid on enhanced compensation on compulsory acquisition of agricultural land, is accretion to the value of land, hence it is a part of enhanced compensation under consideration' even after the amendment made by Finance (No. 2) Act 2009. Reliance is placed upon following judgments wherein amendment in section 56 of the Act made by Finance (No. 2) Act 2009 was duly considered by Hon'ble High Courts:* *i) 388 ITR 343 (Guj) Movaliya Bhikhubhai Balabhai v. Income-tax Officer-TDS-1-Surat.* *ii) 417 ITR 169 (Bom) Rupesh Rashmikant Shah vs. UOI* *iii) 151 taxmann.com 62 (Bom) Balkrishna vs. State of Maharashtra* *iv) 457 ITR 777 (Orissa) Smt. Kuni Sahoo v. UOI*	
ix)	***That where more than one interpretation has been pronounced by Jurisdictional High Court then interpretation which favours the assessee have to be adopted:*** *Where two views are possible and the Assessing Officer has taken a view on accordance with the judgement of Hon'ble Apex Court in the case of CIT vs. Ghanshyam HUF reported in 315 ITR 1,* ***the said order cannot be treated as an erroneous order prejudicial to the interests of the revenue unless the view taken by the Assessing Officer is unsustainable in law as held by Hon'ble Delhi High Court in the case of CIT vs. DLF Ltd. reported in 350 ITR 555****.*	*11 – 11.7*
x)	*That order of assessment or reassessment cannot be said to erroneous in as much as prejudicial to the interest of revenue merely because the learned PCIT had a different opinion.*	*12 – 12.3*
xi)	*That non-consideration of a decision of Jurisdictional High Court by the learned Assessing officer at best can be treated as "mistake apparent from the record' rectifiable u/s 154 of the Act, and therefore revision u/s 263 of the Act by superior authority amounts to 'encroachment' on the powers of Assessing officer.*	*13 – 13.2*
xii)	***The Ld. CIT had no power of revision u/s 263 of the Act of the assessment order passed by the National E-Assessment Centre;*** *the order in the case of appellant is passed by NeAC, and not by 'Assessing officer' as provided u/s 263(1) rws 2(7A) of the Act and therefore the order passed by NeAc cannot be revised by the learned PCIT u/s 263 of the Act.*	*14 – 14.4*
xiii)	*Other Propositions*	*16*
xiv)	*That opinion of the Tribunal is contrary to the well settled judicial discipline which states that, another Division Bench of the same strength could not take a view contrary to an existing view unless the same is referred to a Larger Bench for adjudication.*	*17*

5 ***At the outset it is submitted that the notice initiating instant proceedings u/s 263 of the Act dated 16.01.2023 is 'unsigned' and therefore initiation of proceedings itself is invalid*** *and therefore consequential order passed u/s 263 of the Act is untenable.* ***(page 35-36 of Paper Book):*** *Reliance is placed on the following judicial pronouncements:*

I ***JURISDICTIONAL HIGH COURT***

i) ITA No. 91/2019 (P&H) dated 27.2.2020 Pr. CIT v. Prahalad Singh

II ***OTHER HIGH COURTS***

i) 451 ITR 27 (Bom) Prakash Kirshnavtar Bhardwaj v. ITO

ii) 161 taxmann.com 573 (Kar) Panjos Builders (P) Ltd. v. ITO

iii) 448 ITR 1 (All) Vikas Gupta v. UOI

III) ***INCOME TAX APPELLATE TRIBUNAL***

i) ***ITA No.5161/Del./2024 dated 23/09/2025 Avon Containners (P) Ltd. v. ACIT***

"7. Now we have to decide which approval out of the above-mentioned two is valid in the eyes of law. The first approval does not bear the signature including digital signature of the Ld. PCIT though it has been done with the help RSA Token issued by the Income Tax Department to the concerned officer. The RSA Token is used by the Officer concerned in person. We are unable to understand the reasoning on which the subsequent approval has been granted, under section 151 of the Act, by the Ld. PCIT. Normally, the Ld. PCIT would not grant subsequent approval under section 151 of the Act unless some inconsistency/illegality/mistake had not been noticed by him in the earlier approval under section 151 of the Act by the Ld. PCIT. We, therefore, are of the considered view that the subsequent approval overrides the initial approval granted, online, under section 151 of the Act by the Ld. PCIT as the initial approval contains incorrect forwarding of the Range Head, factual discrepancies mentioned above in para 4.3 and digitally unsigned by the Ld. PCIT (though approved by RSA Token). Therefore, we hold that the subsequent approval granted, communicated manually, under section 151 of the Act has to prevail upon the initial approval granted, online, under section 151 of the Act. Since the subsequent approval granted under section 151 of the Act has been communicated manually on 30.03.2019 after the issuance of notice under section 148 of the Act; therefore, the notice issued under section 148 of the Act is held invalid and ab-initio void. And, thus, consequential assumption of jurisdiction by the Ld. AO is also held invalid. We, therefore, hold that not only the assessment order but also the impugned appellate order is void abinitio. Hence, the orders of the Ld. AO and the Ld. CIT(A) are hereby quashed being without valid jurisdiction.

8. In view of the above, other grounds, being academic, are not being decided here."

ii) ITA No. 2305, 2306, 2038 and 2309 dated 15.10.2025 (Del) Deepak Agarwal v. DCIT

"11. Seventh issue concerns to AY 2021-22 only, as the ld. counsel has submitted that the foundation/approval of PCIT, Central, dated 28.06.2022 being admittedly, unsigned (without manual or digital signature) and only with a remark, 'approved' same makes the approval bad in law.

11.1 Ld. Counsel has submitted that approval of PCIT (Central) dated 28.06.2022 which is basis of initiating proceedings u/s 143(2) of the Act is admittedly without any manual or digital signature and same is only based on mere name/designation written on it. Further only remarks which are noted by approving authority are "APPROVED". The question that whether unsigned and mere "approved" remarks approval can be countenanced, is subject matter of intense judicial scrutiny and debate and is answered by the Hon'ble Supreme Court in M/s. M.M. Rubber and Company1992 Supp (1) SCC 471 by laying as follows:-

...

11.2 Then ld. Counsel relied Hon'ble Karnataka High Court decision in case of Smt. Janaki Aenuga Vs ITO WP. No. 24076 OF 2023 (T-IT) decision dated 8.1.2024, where in Hon'ble High Court has held has follws;

...

11.3 Reliance is then placed on Hon'ble Punjab & Haryana High court decision in case of PCIT vs Prahalad Singh dated 27.02.2020 (ITA No.91 of 2019), where in Hon'ble High Court has held as follows;

...

11.4 On mechanical approval aspect of PCIT Central dated 28.06.2022 with only remarks "approved", ld. Counsel again relied Hon'ble Delhi High court decision in case of SBC minerals Pvt Ltd vs ACIT 475 ITR 360, where the Hon'ble Court has held as follows;

...

11.5 Reliance is placed by ld. Counsel on Hon'ble Bombay High Court decision in case of Saraswat Cooperative Bank Ltd vs ACIT 473 ITR 205, where the Hon'ble Court has held as follows;

....

11.6 Hon'ble Delhi High Court decision in case of The Pr. Commissioner of Income Tax-7 vs. Pioneer Town Planners Pvt. Ltd. order dated 20 February 2024 in ITA 91/2019] u/s151 (465 ITR 356), is also relied by ld. Counsel for the same proposition that approval should not show non application of mind. As in this case where the copy of approval in PB at Page. No. 40 shows in remark Column, approval is granted by mere words "Approved"

iv) ITA No. 733/Del/2016 dated 4.3.2020 Taureg Properties & Security Services Ltd.

v) ITA No. 4696/D/2024 dated 9.4.2025 Ramesh Gandhi v. DCIT

vi) ITA No. 5749/DEL/2025 M/s Space Kraft Infrastructure (P) Ltd v ITO dated 06.11.2025

"3. The assessee's grievance is on account of legal ground to this effect that the notice under Section 148 of the Act was bad in law for the particular fact that the approval under Section 151 of the Act, appearing at pages 68-71 of the paper book ought to have been issued under the signatures of the "PCIT, Delhi-7" as entioned at the top of page 68. However, this approval is not signed by the said authority and in that view of the matter in the absence of any valid approval the entire proceedings are vitiated and thus liable to be quashed. On this particular ground was raised before the Learned CIT(A), as mentioned in para 7 page 32 of the CIT(A)'s order, wherein assessee also relied on several judgments in support of the case made out for invalid approval granted by the PCIT, but without any result.

4. Before us, the assessee placed reliance on very many judgments including the Order of the ITAT in the case of J Kumar Infraprojects Ltd. v. DCIT [ITA No. 4147/Mum/2024 dated 3.7.2025. On the identical facts and circumstances of the matter we find that considering the approval not being signed by the concerned authority particularly the PCIT herein the reassessment order passed under Section 147 of the Act is quashed. We note that the Learned DR has not been able to controvert the facts as raised by the assessee's Counsel Shri Lalit Mohan to controvert the finding of the Learned CIT(A) by relying upon the ratio laid down by very many judgments as relied upon by the learned AR.

5. Having heard the Learned Counsels appearing for the parties and having regard to the facts and circumstances of the matter and particularly keeping in view the approval granted by the PCIT not being signed the notice issued under Section 148 of the Act initiating reassessment proceedings against the assessee is found to be invalid, bad in law, arbitrary and illegal, having no legal foundation and thus quashed. Ordered accordingly."

vii) 205 ITD 31 (Mum) Reuters Asia Pacific Ltd. v. DCIT

viii) ***ITA No. 4147/Mum/2024 dated 3.7.2025***
J Kumar Infraprojects Ltd. vs. DCIT

13. The requirement of signature on the notice or document issued is not merely formality but is a mandatory requirement and if such notice or document is issued in paper form, the signature shall be done manually and if the notice or document is issued / communicated electronically, the same shall bear signature of the designated income-tax authority via Digital Signature Certificate (DSC) i.e. signed digitally. The DSC Policy of 2018 mandates that every letter, notice, order, etc. issued to Assessee or other addresses within the Department or outside the Department will have to be issued by using digital signature. The reason for the same is that when notice or document is communicated in electronic form bears valid digital signature, the recipient of the

same would believe that the notice or document is issued by known sender, which authenticates i.e. proves the genuineness of the notice or document issued and most importantly, neither the sender can deny having issued such notice or document nor such notice or document can be altered by any person.

....

15. Therefore, in our view the signing the notice or document before issuing the same is pre-requisite and after evolution of Eproceedings and issuing notices / documents / order, etc. in electronic form, the Legislature amended the provisions of Sec.282A(1) of the Act so that such notice or document can be issued in paper form OR communicated in electronic form, however, the requirement of signature is 'not dispensed' but remains and therefore, if such notice or document is issued in paper form, the same shall require manual signature and if such notice or document is communicated in electronic form, the same shall require to be signed digitally so as to make the notice or document authenticated. In this regard reliance is being placed upon the decision of the Hon'ble Allahabad High Court in the case of Daujee Abhushan Bhandar (P.) Ltd. v. Union of India [2022] 136 taxmann.com 246/286 Taxman 623/444 ITR 41 (Allahabad)/Writ Tax No. 78 of 2022, order dated 10.03.2022 wherein it has held that prior to communicate the notice or document, the same shall be digitally signed before complying with the procedural requirements as per Rule 127A of the Income tax Rules, 1962. The relevant part of the decision is reproduced as under:

...

21. In view of the above, it is held that the sanction granted u/s.151 of the Act without signing the same is invalid and therefore the Assessing Officer did not assumed jurisdiction to issue notice u/s.148 of the Act. Hence, the notice issued u/s.148 of the Act is held to be bad in law for want of valid assumption of jurisdiction and is hereby quashed. Consequently, the order passed u/s.143(3) r.w.s. 147 of the Act dated 31.03.2024 for AY 2016-17 is bad in law and quashed.

6 *It is submitted that on the date of order of Assessment passed u/s 143(3) of the Act i.e. 29.10.2020 the learned Assessing officer was bound by the decision of Hon'ble Apex Court in the case of* ***CIT vs. Ghanshyam HUF reported in 315 ITR 1 dated 16.07.2009 (pages 1-15 of JPB) i.e.*** *law declared by the Supreme Court which was then continuingly followed by Jurisdictional High Court / Other High Court / Chandigarh Tribunal and Other Tribunal till date.*

SUPREME COURT

i) ***315 ITR 1(SC) dated 16.07.2009 CIT vs. Ghanshyam HUF (pages 1-15 of JPB)***

ii) ***367 ITR 498(SC) dated 04.09.2014 CIT vs. Govindbhai Mamaiya (page 16-20 of JPB)***

iii) ***400 ITR 23 (SC) CIT vs. Chet Ram (HUF) (pages 21-22 of JPB)***

iv) C.A. No. 18475 of 2017 dated 10.11.2017 ITO Vs. Muktanandgiri Maheshgiri (pages 23-35 of JPB)

v) C.A. No. 15041 of 2017 dated 15.9.2017 UOI Vs. Hari Singh and Ors. (pages 26-37 of JPB)

PUNJAB AND HARYANA HIGH COURT

i) CR No. 2509 of 2012 (P&H) dated 29.11.2013 HSIDC Ltd. Vs. Savitri and another (pages 38-48 of JPB)

"Perusal of relevant provisions of Land Acquisition Act and Income Tax Act and law laid down in aforesaid judgments, it is clear that no tax is to be deducted at source from compensation awarded in lieu of acquisition of agricultural land. In respect of `interest' it has to be seen whether interest is a part of compensation. If answer is in affirmative then tax cannot be deducted at source.

If, however, it is for delay in making payment it does not form part of compensation and tax may be deducted at source.

Admittedly, in the instant case the land was agricultural land and enhanced compensation and interest was awarded under Section 28. Thus, in view of specific finding of Hon'ble Supreme Court in Ghanshyam's case (supra) that amount awarded under Section 28 of the Land Acquisition Act is accretion in value of land and interest therein forms part of compensation; income tax cannot be deducted at source since land acquired is agricultural land."

ii) CR No. 7953 of 2013 (P&H) dated 21.12.2013 HUDA vs. Mandir Nar Singh Puri and anothers (pages 49-58 of JPB)

"Considering the relevant provisions of Land Acquisition Act and Income Tax Act and law laid down in aforesaid judgments, this Court in C.R. No. 2509 of 2012 - Haryana State Industrial Development Corporation Ltd. vs. Savitri and another, decided on 29.11.2013 has held that no tax is to be deducted at source from compensation awarded in lieu of acquisition of agricultural land. In respect of `interest' it has to be seen whether interest is a part of compensation. If answer is in affirmative then tax cannot be deducted at source. If, however, it is for delay in making payment it does not form part of compensation and tax may be deducted at source. In view of specific finding of Hon'ble Supreme Court in Ghanshyam's case (supra) amount awarded under Section 28 of the Land Acquisition Act is accretion in value of land and interest thereon forms part of compensation; income tax cannot be deducted at source when land acquired is agricultural land.

Kumar Virender 2014.02.17 16:20 I attest to the accuracy and integrity of this document Admittedly, in the instant case the land was agricultural land and enhanced compensation and interest was awarded under Section 28 of the Act. The aforesaid three revision petitions are squarely covered by the decision of this Court in Savitri's case (supra).

In view of above, I do not find any illegality or perversity in the impugned order"

iii) ***ITA No. 160/ CHD/2015 dated 14.07.2015 CIT Hisar vs. Vaibhav Choudhary (pages 59-66 of JPB)***

iv) ***ITA No. 437/ CHD/2015 dated 14.07.2015 CIT Hisar vs. Nishant Choudhary (pages 67 of JPB)***

v) ***CR No. 3236/2014 dated 08.05.2014 Ajay Kumar v. State of Haryana and others (pages 68-70 of JPB)***

vi) ***CR No. 6784 /2016 dated 04.04.2018 The New India Assurance Co. Ltd. v. Savitri Devi and another (pages 71-77 of JPB)***

DELHI HIGH COURT

i) ***86 taxmann.com 121 dated 11.09.2017 Surjit Kumar Chetal v. CIT (pages 78-81 of JPB)***

GUJRAT HIGH COURT

i) ***388 ITR 343 dated 31.03.2016 Movaliya Bhikhubhai Balabhai v. ITO (pages 82-92 of JPB)***

BOMBAY HIGH COURT

ii) ***417 ITR 169 (Bom) Rupesh Rashmikant Shah vs. UOI***

ii) ***151 taxmann.com 62 (Bom) Balkrishna vs. State of Maharashtra***

ORRISSA HIGH COURT

i) ***457 ITR 777 (Orissa) Smt. Kuni Sahoo v.*** *UOI*

INCOME TAX APPELLATE TRIBUNAL

CHANDIGARH BENCH

i) ***ITA No. 405/CHD/2013 dated 2.8.2013 ITO vs. Pawan Giri (pages 93-95 of JPB)***

ii) ***ITA No. 313/CHD/2015 dated 20.02.2016 Baldev Singh vs. ITO (pages 96-105 of JPB)***

iii) ***ITA No. 131/CHD/2016 dated 30.06.2016 The DCIT (TDS), Ludhiana vs. Dedicated Freight Corridor Corporation Ltd. (pages 106-117 of JPB)***

iv) ***ITA No. 564/Chd/2014 dated 07.02.2018 ITO v. Sh. Nachhattar Singh (pages 118-135 of JPB)***

v) ***ITA No. 1413 to 1415/Chd/2016 dated 09.07.2018 Sh. Satbir Singh & others v. ITO (pages 136-143 of JPB)***

vi) *ITA No. 648/Chd/ 2018 dated 20.9.2018 Balwinder Singh vs. PCIT* ***(Page 144-161 of JPB)***

vii) *ITA No. 1591/Chd/2018 dated 30.9.2019 ITO v. Dhanender Kumar HUF.* ***(Page 162-173 of JPB)***

viii) *62 CCH 0130 (Chd-Trib) ITO vs. Chawli Devi.* ***(Page 328-332 of JPB)***

ix) *ITA No. 539/Chd/2016 dated 04.10.2018 Shri Surinder Kumar vs. DCIT,* ***(Page 333-342 of JPB)***

DELHI BENCH

(A) ***In respect of assessee's whose jurisdictional High Court is Punjab and Haryana High Court***

i) *ITA No. 1823/D/2016 dated 31.1.2019 Smt. Sushma Gupta vs. ITO.* ***(Page 174-178 of JPB)***

ii) *ITA No. 2970/D/2015 dated 8.3.2019 Shri Baldev Singh vs. ITO.* ***(Page 179-185 of JPB)***

iii) *ITA No. 2340/D/2018 dated 20.9.2018 Jagmal Singh vs. ITO.* ***(Page 186-194)***

iv) *ITA No. 2971/D/2015 Dated: 14.03.2019 Shri Opinder Singh Virk vs. ITO* ***(Page 260-266 of JPB)***

v) *ITA No. 5207/D/2017 dated 5.3.2020 Sumesh Kumar vs. ITO* ***(Page 211-215 of JPB)***

vi) *ITA No. 6508/D/2018 dated 30.1.2020 Shri Nitya Nand v. ITO* ***(Page 216-238 of JPB)***

vii) *ITA No. 7589/D/2018 Dtd: 27.04.2020 Surender, C/o Y.S.R & Associates vs ITO.* ***(Page 267-270 of JPB)***

viii) *ITA No. 473/D/2015 Dated 20.07.2018 Rajender Singh vs. ITO.* ***(Page 365-369 of JPB)***

ix) ***ITA No. 5206/D/2017 dated: 12.04.2021 Nariender Kumar V. ITO (Page 271-276 of JPB)***

"6. The Ld. DR submitted that as under:-

...

Apart the above, the undersigned humbly place reliance on the judgment of Jurisdictional High Court of Punjab and Haryana in case of ***Puneet Singh Vs. Pr. CIT(A) Karnal dated 19th November, 2018 ITA-132-2018 (O & M).***

7. We have heard both the parties and perused the material available on record. It is pertinent to note that the assessee had received Rs. 1.42 crore on account of enhanced compensation of land acquisition, which included compensation of Rs. 56.90 lakhs and interest of Rs. 85.32 Lakhs. The Assessing Office had made addition of Rs. 42.66 Lakhs being 50% of interest of Rs. 85.32 lakhs u/s 56(2)(viii) r.w. Section 57(iv) of the Income Tax Act, 1961. The capital receipt unless specifically taxable u/s 45 under the head capital gain, in principle, is outside the scope of income chargeable to tax and cannot be taxed as income unless it is in the nature of Revenue receipt or specifically brought within the ambit of income by way of specific provision of the Income Tax Act. Thus, the interest received on compensation to the assessee is nothing but a capital receipt and the addition is against the law. From the perusal of the order of the CIT(A), it can be seen that the CIT(A) has not given a separate finding as to why the Assessing Officer is justified in making the addition. This issue has been decided by the Hon'ble Apex Court in case of Union of India Vs. Hari Singh (Civil Appeal No. 15041/2017 order dated 15thSeptember 2017) wherein it is held that on agricultural Land no tax is payable when the compensation/enhanced compensation is received by the assessee as their land were agricultural land. The compensation was received in respect of agricultural land belonging to the assessee which had been acquired by the state government. The CIT(A) has not taken cognizance of the decision of the Apex Court in case of Hari Singh (supra). The ratio of the said decision is applicable in the present case. Thus, the appeal of the assessee is allowed.

x) *ITA No. 1393/D/2017 dated 16.04.2021 Paramjeeet Singh Vs ACIT* ***(Page 277-280 of JPB)***

B) ***Other***

i) *ITA No. 5391/D/2017 dated 2.12.2020 Ram Kishan v. ITO.* ***(Page 255-259 of JPB)***

ii) ***165 ITD 684 dated 21.04.2017 DCIT vs. Dinesh Sharma (pages 195-205 of JPB)***

*"**3.** The Revenue has filed this appeal against aforesaid order of Ld. CIT (A) dated 31.10.2012. The first ground in the appeal filed by the Revenue is in respect of the addition of Rs.20,60,810/-. This addition was made by the AO on the ground that this was interest income u/s 34 of the Land Acquisition Act. Ld. CIT (A) deleted this addition. The relevant portion of the order of Ld. CIT (A) is reproduced as under:—*

……

***3.1** At the time of hearing before us, the Ld. Departmental Representative (in short "DR") relied on the order of the AO. However, he was unable to point out any infirmity or defect or error in the order of Ld. CIT (A). On the other hand, the Ld. counsel appearing for the assessee strongly supported the order of the Ld. CIT (A). He also filed a copy of letter of Land Acquisition Officer Urban Estates, Faridabad, the relevant portion which is reproduced as under:—*

"It is informed that interest of enhanced compensation paid in the above noted case in the year 2007-08 has been calculated u/s 28 of the Land Acquisition Act. It is further submitted that interest in all enhancement cases is given under the provisions of section 28 of the Land Acquisition Act. No interest u/s 34 of the Land Acquisition Act, 1894 on enhanced compensation has been paid in the above said L.A. case No.84/99 during the year 2007-2008."

***3.1.1** We find that the order of Ld. CIT (A) is based on binding precedent in the case of CIT v. Ghanshyam HUF [2009] 315 ITR 1/182 Taxman 368 (SC). In view of the factual clarification issued by the Land Acquisition Officer, Urban Estate, Faridabad, as aforesaid and in view of the binding precedent of Hon'ble Apex Court in the case of Ghanshayama HUF (supra), we decline to interfere with the order of the Ld. CIT (A) as far as first ground of appeal before us, regarding addition of aforesaid Rs.20,60,810/- is concerned. Therefore, first ground of appeal in the appeal filed by the Revenue is dismissed."*

iii) ***ITA No 473/D/2015 dated 20.07.2018 Rajender Singh v. ITO (pages 206-210 of JPB)***

iv) *ITA No. 6508/D/2018 dated 30.1.2020 Shri Nitya Nand v. ITO.* ***(Page 216-238 of JPB)***

HYDERABAD BENCH

i) ***ITA No. 100/HYD/2016 dated 07.12.2016 Smt. P. Susheela v. ITO (pages 281-291 of JPB)***

"8.1. Respectfully following the principles laid down by the Hon'ble Gujarat High Court which considered the amended provisions of the Act (judgment was rendered after the order of Ld. CIT(A) on 31-03-2016) and the Hon'ble Supreme Court referred above, we have to hold that the interest received u/s. 28 of the Land Acquisition Act, 1894 is nothing but enhanced compensation on the lands acquired. Since the lands are agricultural lands originally, the compensation is exempt u/s. 10(37). In view of that, we uphold the claims of assessee and the grounds are considered allowed. AO is directed to grant exemption as claimed."

BANGALORE BENCH

i) ***95 taxmann.com 106 dated 01.06.2018 ITO v. Basavaraj M Kudarikannur (page 292-298 of JPB)***

Headnote

"Section 10(37) of the Income-tax Act, 1961 - Capital gain on compulsory acquisition of agricultural land (Interest) - Assessment year 2013-14 - Whether interest awarded under section 28 of Land Acquisition Act, 1894, on enhanced compensation paid for compulsory acquisition of agricultural land, would be eligible for exemption under section 10(37) - Held, yes"

ii) ***96 taxmann.com 541 dated 20.7.2018 ITO vs. Sangappa S. Kudarikannur (pages 299-304 of JPB)***

"14. *In the light of the aforesaid decision of the Hon'ble Gujarat High Court and in the light of the admitted factual position in the present case, we are of the view that the CIT(Appeals) was fully justified in allowing exemption u/s. 10(37) of the Act on the interest received by the assessee u/s. 28 of the Land Acquisition Act, 1894. We find no grounds to interfere with the impugned order of the CIT(Appeals)".*

iii) *ITA Nos. 1747 & 1750/Bang/2017 dated 1/6/2018 ITO Vs. Shri Basavaraja M Kudarikannur.* ***(pages 305-316 of JPB)***

PUNE BENCH

iv) 90 taxmann.com 285 Dnyanoba Shajirao Jadhav. (pages 327-324 of JPB)

7 *It is submitted that the decision of Hon'ble Apex Court in the case of* ***CIT vs. Ghanshyam HUF reported in 315 ITR 1 dated 16.07.2009 (pages 1-15 of JPB),*** *is law declared by the Supreme Court binding on all authorities under Article 141 of the Constitution. Reliance is placed on below mentioned judgement:*

i) ***86 taxmann.com 121 dated 11.09.2017 Surjit Kumar Chetal v. CIT (pages 82-85 of Paper Book)***

7. In the present case, the agricultural land of the Assessee that was acquired was situated within the Hisar municipality and, in terms of Section 2 (14) (iii) (a), was a capital asset, the transfer of which would attract capital gains tax under Section 45 of the Act. However, in terms of Section 10 (37) (i) income chargeable under the head 'capital gains', arising from transfer of such agricultural land located within the municipal limits, would not form part of the total income. Consequently, the impugned order of the CIT which holds to the contrary is both factually and legally erroneous.

8. The Court is also unable to accept the stand of the AO that the decision of the Supreme Court in Ghanshyam (HUF)'s (supra) was prospective and did not apply to the Assessee's case. The said decision is law declared by the Supreme Court which is binding on all authorities under Article 141 of the Constitution. For the purpose of Section 154 of the Act, the AO had to apply the said decision and permit the Assessee to exclude the interest component from the returned income. This was very

much within the purview of Section 154 of the Act as this would not require any adjudication of a disputed question on the part of the AO.

8 ***'PRECEDENT SUB SILENTIO - APPEALS DISMISSSED IN LIMINE' are not binding under Article 141 of the Constitution:*** *It is further submitted that the judgement of the Jurisdictional High Court in the case of Mahender Pal Narang vs Central Board of Direct Taxes, New Delhi reported in 423 ITR 13 is endorsed by the Hon'ble Supreme Court of India by 'dismissing the SLP' as reported in* ***279 Taxman 74(SC)*** *and* ***therefore not a 'speaking order' as envisaged under Article 141 of the Constitution.***

8.1 ***The Hon'ble Apex Court in respect of 'PRECEDENT SUB SILENTIO - APPEALS DISMISSSED IN LIMINE'****, has concluded in the case of* ***Khoday Distilleries Ltd. vs Mahadeshwara Sahakara Sakkare Karkhane Ltd reported in (2019) 262 Taxman 279 (SC)*** *that* ***'Where special leave petition was dismissed against High Court order in limine without giving any reasons, review petition filed by appellant, in High Court would be maintainable'****,* ***and therefore such non speaking orders are not conclusive above speaking order of Apex Court*** *and are not binding under Article u/s 141 of the Constitution. '****It is only if the order refusing leave to appeal is a speaking order, i.e., gives reasons for refusing the grant of leave, then the order has two implications. Firstly, the statement of law contained in the order is a declaration of law by the Supreme Court within the meaning of Article 141 of the Constitution.*** *Secondly, other than the declaration of law'. the relevant text from the judgement of Hon'ble Apex Court in the case of* ***Khoday Distilleries Ltd. vs Mahadeshwara Sahakara Sakkare Karkhane Ltd reported in (2019) 262 Taxman 279 (SC)*** *is reproduced as under:*

> *27. From a cumulative reading of the various judgments, we sum up the legal position as under:*
>
> *(a) The conclusions rendered by the three Judge Bench of this Court in Kunhayammed and summed up in paragraph 44 are affirmed and reiterated.*
>
> *(b) We reiterate the conclusions relevant for these cases as under:*
>
> *"(iv) An order refusing special leave to appeal may be a non-speaking order or a speaking one. In either case it does not attract the doctrine of merger. An order refusing special leave to appeal does not stand substituted in place of the order under challenge. All that it means is that the Court was not inclined to exercise its discretion so as to allow the appeal being filed.*
>
> *(v)* ***If the order refusing leave to appeal is a speaking order, i.e., gives reasons for refusing the grant of leave, then the order has two implications. Firstly, the statement of law contained in the order is a declaration of law by the Supreme Court within the meaning of Article 141 of the Constitution. Secondly, other than the declaration of law,*** *whatever is stated in the order are the findings recorded by the Supreme Court which would bind the parties thereto and also the court, tribunal or authority in any proceedings subsequent thereto by*

way of judicial discipline, the Supreme Court being the Apex Court of the country. But, this does not amount to saying that the order of the court, tribunal or authority below has stood merged in the order of the Supreme Court rejecting the special leave petition or that the order of the Supreme Court is the only order binding as res judicata in subsequent proceedings between the parties.

(vi) Once leave to appeal has been granted and appellate jurisdiction of Supreme Court has been invoked the order passed in appeal would attract the doctrine of merger; the order may be of reversal, modification or merely affirmation.

(vii) On an appeal having been preferred or a petition seeking leave to appeal having been converted into an appeal before the Supreme Court the jurisdiction of High Court to entertain a review petition is lost thereafter as provided by sub-rule (1) of Rule 1 of Order 47 CPC."

(c) Once we hold that law laid down in Kunhayammed is to be followed, it will not make any difference whether the review petition was filed before the filing of special leave petition or was filed after the dismissal of special leave petition. Such a situation is covered in para 37 of Kunhayammed case.

28. Applying the aforesaid principles, the outcome of these appeals would be as under:

Civil Appeal arising out of Special Leave Petition (Civil) No. 490 of 2012: ***In the instant case, since special leave petition was dismissed in limine without giving any reasons, the review petition filed by the appellant in the High Court would be maintainable and should have been decided on merits.*** *Order dated November 12, 2008 passed by the High Court is accordingly set aside and matter is remanded back to the High Court for deciding the review petition on merits. Civil Appeal disposed of accordingly.*

Civil Appeal arising out of Special Leave Petition (Civil) No. 13792 of 2013: In this case, we find that the special leave petition was dismissed with the following order passed on January 05, 2012:

"We find no ground to interfere with the impugned order. The special leave petition is dismissed."

Here also, special leave petition was dismissed in limine and without any speaking order. After the dismissal of the special leave petition, the respondent in this appeal had approached the High Court with review petition. Said review petition is allowed by passing order dated December 12, 2012 on the ground of suppression of material facts by the appellant herein and commission of fraud on the Court. Such a review petition was maintainable*. Therefore, the High Court was empowered to entertain the same on merits. Insofar as appeal of the*

appellant challenging the order dated December 12, 2012 on merits is concerned, the matter shall be placed before the regular Board to decide the same.

8.2 *Reliance is also placed on the decision of apex court in the case of **V.M. Salgaocar & Bros. (P.) Ltd. v. CIT [2000] 110 Taxman 67/243 ITR 383 (SC),** the Hon'ble Supreme Court has held that an order dismissing the SLP at the threshold without detailed reasons does not constitute any declaration of law or a binding precedent, relevant extracts are reproduced as under:*

> *……When appeal is dismissed, order of the High Court is merged with that of the Supreme Court. **We quote the following paragraph from the judgment of this Court in the case of Supreme Court Employees' Welfare Association v. Union of India [1989] 4 SCC 187**:*
>
> *"22. It has been already noticed that the special leave petitions filed on behalf of the Union of India against the said judgments of the Delhi High Court were summarily dismissed by this Court. **It is now a well-settled principle of law that when a special leave petition is summarily dismissed under article 136 of the Constitution, by such dismissal this Court does not lay down any law, as envisaged by article 141 of the Constitution**, as contended by the learned Attorney-General. In Indian Oil Corporation Ltd. v. State of Bihar [1986] 4 SCC 146, **it has been held by this Court that the dismissal of a special leave petition in limine by a non-speaking order does not justify any inference that, by necessary implication**, the contentions raised in the special leave petition on the merits of the case have been rejected by the Supreme Court. It has been further held that the effect of a non-speaking order of dismissal of a special leave petition without anything more indicating the grounds or reasons of its dismissal must, by necessary implication, be taken to be that the Supreme Court had decided only that it was not a fit case where special leave petition should be granted. **In Union of India v. All India Services Pensioners' Association [1988] 2 SCC 580, this Court has given reasons for dismissing the special leave petition. When such reasons are given, the decision becomes one which attracts article 141 of the Constitution which provides that the law declared by the Supreme Court shall be binding on all the courts within the territory of India. It, therefore, follows that when no reason is given, but a special leave petition is dismissed simpliciter, it cannot be said that there has been a declaration of law by this Court under article 141 of the Constitution**." (p. 206)*
>
> *5. It was, therefore, contended that once this Court in Civil Appeal No. 424 of 1999 has dismissed the appeal, it has upheld the order of the High Court in the case of assessment year 1980-81 and it cannot take a different view for the assessment year 1979-80. There appears to be subsistance in the submission of the assessee.*

9 *The appellant is also seeks to place reliance on the decision of Hon'ble Delhi Bench of Tribunal in the case of **Gulshan Kumar v. PCIT reported in 159 taxmann.com 715 distinguished** judgement of Hon'ble Punjab and Haryana*

High Court in the case of Mahender Pal Narang reported in ***423 ITR 13*** *endorsed by the Hon'ble Supreme Court of India by dismissing the SLP as reported in* ***279 Taxman 74(SC) vide its order dated 4th March 2021*** *and treated this issue as debatable issue and quashed the order of the Ld. PCIT passed u/s 263 of the Income Tax Act. Relevant extracts are reproduced as under:*

> ***11. Perusal of the order of the Ld. PCIT shows that he assumed the revisionary power under section 263 of the Act mainly on the ground that the Ld. AO failed to do the necessary inquiry about the taxability of the interest on enhanced compensation and passed the order not in accordance with the binding decision of Hon'ble Supreme Court in Mahender Pal Narang v. CBDT [2021] 126 taxmann.com 105/279 Taxman 74 against which SLP stands dismissed by the Hon'ble Supreme Court.*** *This is not so. During assessment proceedings in response to notice under section 143(2) and 142(1) of the Act, with reference to specific query on receipt of interest under section 28 of Land Acquisition Act, the assessee explained that interest received under section 28 of the Land Acquisition Act has been held to be part of compensation by Apex Court in the case of Ghanshyam (HUF) (supra), the same being exempt under section 10(37) of the Act has not been included in the total income of the assessee while filing return of income. The Ld. AO accepted the explanation of the assessee.*
>
> *12. The issue of amended provisions of section 56(2)(viii) by the Finance Act, 2009 and the decision of Hon'ble P & H High Court in Mahender Pal Narang v. CBDT [2020] 120 taxmann.com 400/275 Taxman 222/423 ITR 13 case was raised by the Ld. PCIT in notice under section 263 on the basis of the proposal submitted by the Ld. Successor AO.* ***Before the Ld. PCIT the assessee explained that the amended provisions were not in connection with the decision of Hon'ble Supreme Court in Ghanshyam HUF's case (supra) but to make simple the taxation of interest income as earlier it was taxable on accrual/cash basis on the basis of accounting principles as held by the decision of Hon'ble Supreme Court in Rama Bai v. CIT [1991] 54 Taxman 496/[1990] 181 ITR 400. It was also explained that insertion of section 145A, 145B, 56(2)(viii) and 57(iv) by the Finance (No.2) Act, 2009 did not change the character of interest under section 28 of the Land Acquisition Act from 'capital receipt' forming part of enhanced compensation as envisaged in section 45(5) of the Act to 'revenue receipt' chargeable to tax as 'income from other sources'.*** *It was also explained to the Ld. PCIT that after analysing the provisions of section 28 and 34 of Land Acquisition Act the Hon'ble Supreme Court held in the case of Ghanshyam (HUF) (supra) that interest is different from compensation. However, interest paid on the excess amount under section 28 depends upon a claim by a person whose land is acquired whereas interest under section 34 is for delay in making payment. This vital difference needs to be kept in mind in deciding this matter.* ***Interest under section 28 is part of the amount of compensation whereas interest under section 34 is only for delay in making payment after the compensation amount is determined.***

Interest under section 28 is a part of enhanced value of the land which is not the case in the matter of payment of interest under section 34. It is thus evident that the view taken by the Ld. AO that interest under section 28 of Land Acquisition Act received by the assessee is exempt under section 10(37) of the Act is not contrary to law.

13. We notice that in CBDT Circular No. 5 dated 3-6-2010 reported in (2010) 324 ITR (St.) 293, it is stated that the Hon'ble Supreme Court in the case of Rama Bai (supra) has held that arrears of interest computed on delayed or enhanced compensation shall be taxable on accrual basis. This has caused undue hardship to the taxpayers. With a view to mitigate the hardship section 145A has been substituted and clause (viii) in sub-section (2) of section 56 has been inserted by the Finance (No.2) Act, 2009 so as to provide that the interest received on compensation or on enhanced compensation referred to in clause (b) of section 145A shall be assessed as income from other sources in the year in which it is received. ***It is thus evident that the amended provisions of section 56(2)(viii) of the Act r.w. section 145A were brought on the statute to nullify the effect of Hon'ble Supreme Court's ruling in the case of Rama Bai and not Ghanshyam HUF****. Moreover, the decision in Ghanshyam HUF (supra) was pronounced in July, 2016 and the Finance Bill proposing amendment to section 56 was laid in February 2016. So the intention of the legislature could never be the overruling of the ratio laid down in Ghanshyam HUF case.* ***The issue in Rama Bai case involved the taxability in the year of receipt. The facts and questions for determination in Rama Bai's case were different from those of Ghanshyam HUF's case. The position in Ghanshyam HUF'a case has been affirmed by the Hon'ble Supreme Court in UOI v. Hari Singh [2018] 91 taxmann.com 20/254 Taxman 126.***

14. ***We have gone through the decision of the Hon'ble P & H High Court in the case of Mahender Pal Narang (supra). In that case the land of the assessee was acquired in AY 2007-08 and 2008-09****. The enhanced compensation was received on 21-3-2016. In his return filed for AY 2016-17 he treated the interest received under section 28 of the 1894 Act as income from other sources and claimed deduction for 50% as per section 57(iv) of the 1961 Act. The return was processed under section 143(1) of the Act. An application under section 264 was made claiming that by mistake the assessee treated the interest income as income from other sources whereas the same is part of enhanced compensation. The revisional authority rejected the application under section 264 on 30-1-2019. It was in this factual matrix that the assessee filed writ petition before the Hon'ble P & H High Court. The question for consideration was "whether after the insertion of section 56(2)(viii) and 57(iv) of the Act w.e.f. 1-4-2010, can the assessee claim that interest received under section 28 of the Land Acquisition Act, 1894 will partake the character of the compensation and would fall under the head "capital gain" and not "income from other sources" ? It was argued by the assessee that there is no amendment in section 10(37) and by insertion of sections 56(2)(viii) and 57(iv), the nature of interest*

under section 28 of the 1894 Act will remain that of compensation and decisions of the Hon'ble Supreme Court in the case of Ghanshyam (HUF) and the decision of Hon'ble Gujarat High Court in Movaliya Bhikhubhai Balabhai v. ITO TDS [2016] 70 taxmann.com 45/388 ITR 343 were relied upon.

***15. It may be mentioned that the Hon'ble Supreme Court has affirmed its view taken in Ghanshyam HUF's case and the decision of Gujrat High Court in Movaliya's case in its decision in Hari Singh's case (supra). The decision of the Hon'ble Supreme Court in Hari Singh's case (supra) was not brought to the notice of Hon'ble P & H High Court while rendering decision in Mahender Pal Narang's case (supra)**. Hon'ble P&H High Court has thus rendered the decision in Mahender Pal Narang's case in its peculiar facts and circumstances. Accordingly, the opinion of the Ld. PCIT that the Ld. AO should have passed the assessment in accordance with the amended law and binding decision in Mahender Pal Narang's case (supra) overlooking the decision of Hon'ble Supreme Court in Ghanshyam's HUF's case is not sustainable. Reliance by the Ld. PCIT on the decision in Mahender Pal Narang's case is misplaced. **Needless to emphasis that in V.M. Salgaocar & Bros. (P.) Ltd. v. CIT [2000] 110 Taxman 67/243 ITR 383 (SC), the Hon'ble Supreme Court has held that an order dismissing the SLP at the threshold without detailed reasons does not constitute any declaration of law or a binding precedent**. Therefore, overemphasising the fact of dismissal of SLP in limine by the Hon'ble Supreme Court in Mahender Pal's case by the Revenue is not of any legal assistance to it.*

16. Since the order of the Ld. AO is based on the decision of the Hon'ble Supreme Court in Ghanshyam HUF (supra) on the issue of taxability of interest received by the assessee under section 28 of Land Acquisition Act, it can at best be said to be a debatable issue on which two views are possible and the Ld. AO accepts one of the views. In this view of the matter too, the Ld. PCIT cannot assume revisional jurisdiction as held by the Hon'ble Delhi High Court in CIT v. Hindustan Coca Cola Beverages (P.) Ltd. [2011] 9 taxmann.com 104/198 Taxman 104/331 ITR 192

17. Accordingly, on the facts and in the circumstances of the case as set out above, we hold that the order of the Ld. PCIT is not sustainable. Accordingly, we allow the appeal of the assessee and quash the impugned order of the Ld. PCIT.

18. In the result, appeal of the assessee is allowed.

9.1 In this regard reliance is also placed on below mentioned decisions:

i) 206 ITD 53 (Delhi - Trib.) Pawan Kumar vs PCIT

ii) 161 taxmann.com 735 (Delhi - Trib.) Jai Parkash vs PCIT.

ii) ITA NO. 2406/Del/2014 (Delhi - Trib.) Mulkh Raj Mehta & Sons (HUF) vs PCIT. ***(Page 391-400 of JPB).***

9.2 That Hon'ble Delhi Tribunal is continuingly following CIT vs. Ghanshyam HUF reported in 315 ITR 1, reliance is placed on below mentioned judicial pronouncements:

i) ITA No. 5391/D/2017 dated 2.12.2020 Ram Kishan v. ITO. ***(Page 255-259 of JPB).***

ii) ITA No. 5206/D/2017 Dated: 12.04.2021 Nariender Kumar V. ITO. ***(Page 271-276 of JPB).***

iii) ITA No. 1393/D/2017 Dated: 16.04.2021 Paramjeeet Singh Vs ACIT. ***(Page 277-280 of JPB).***

iv) ITA N. 5084/D/2019 Dated: 06.07.2022 Girish Kumar vs. ITO ***(Page 343-348 of JPB).***

v) ITA No. 1418/D/2023 Dated 21.09.2022 Kamla Devi vs. ITO ***(Page 349-355 of JPB).***

vi) ITA No. 1539/D/2020 Dated 17.03.2023 ITO vs. Hari Singh Saini ***(Page 356-364 of JPB).***

vii) ITA No. 5074/D/2012 Dated 23.03.2023 Ashwani Kumar vs. CIT L/H of late Smt. Shanti Devi. ***(Page 370-376 of JPB).***

viii) ITA No. 1963/D/2024 dated __.11.2024 Jai Singh Karwal vs. PCIT. ***(Page 377-385 of JPB).***

ix) ITA No. 643/D/2023 dated 5.12.2024 Land Acquisition Officer vs. DCIT. ***(Page 386-390 of JPB).***

x) ITA No. 2406/D/2024 dated 10.12.2024 Mulkh Raj Mehta vs. PCIT. ***(Page 391-400 of JPB).***

xi) ITA No. 2741/D/2024 dated 8.1.2025 Babu Lal vs. ITO. ***(Page 401-419 of JPB).***

10 That further in the impugned order passed u/s 263 of the Act it is noted as under:

> *"5.1. I have carefully examined the facts of the case and It is evident that the assessee has received interest on enhanced compensation during the assessment year under consideration which ought to be treated as "income from other sources" and should have been taxed accordingly, under the head "income from other sources" by way of amendment introduced through Finance (No.2) Act, 2009 w.e.f 01.04.2010. For the taxing treatment of interest on compensation/enhanced compensation, special provisions has been made by way of Finance (No.2) Act.2009 by introducing a clause (viil) in sub-section 2 of section 56, clause(iv) in section 57 and clause (b) in Section 145A w.e.f. 01.04.2010. From the assessment year 2010-11 onwards, the amount of compensation or enhanced compensation is taxable as "income from other sources" after allowing deduction of a sum equal to 50% of such income in the year of receipt The Hon'ble Apex Court in the case of Malabar Industrial Co. Ltd V/s CIT in 243 ITR 83(SC) has held that both the pre requisites for invoking the provisions of Section 263 must be satisfied that order sought to be revised is erroneous and it must be prejudicial to the interest of revenue..*

*10.1 The provisions of section 56(2)(viii) of the Act as amended by Finance (No. 2) Act' 2009 reported **in 315 ITR 60 (St.) at page 80** provides as under:*

> *"(viii) income by way of interest received on compensation or on enhanced compensation referred to in clause (b) of section 145A";*

*10.2 The provisions of section 145A of the Act as amended by Finance (No. 2) Act' 2009 reported **in 315 IR 60 (St.) at page 95** provides as under:*

> *"145A(b) interest received by an assessee on compensation or on enhanced compensation, as the case may be, shall be deemed to be the income of the year in which it is received.*

*10.3 The provisions of section 57 of the Act as amended by Finance (No. 2) Act 2009 reported in **315 ITR 60 (St.) at page 80** provide as under:*

> *"57. (iv) in the case of income of the nature referred to in clause (viii) of sub-section (2) of section 56, a deduction of a sum equal to fifty per cent of such income and no deduction shall be allowed under any other clause of this section."*

*10.4 Further, memorandum explaining the Finance Bill' 2009 reported in **314 ITR 183 (St.) at pages 219-220** reads as under:*

> ***"Rationalization of provisions for taxation of interest received on delayed compensation or enhanced compensation***
>
> *The existing provisions of Income-tax Act provide that income chargeable under the head "Profits and gains of business or profession" or "Income from other sources", shall be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee. Further, the Hon'ble Supreme Court, in the case of Rama Bai v. CIT (181 ITR 400) has held that **arrears of interest computed on delayed or enhanced compensation shall be taxable on accrual basis**. This has caused undue hardship to taxpayers.*
>
> *With a view to mitigating the hardship, it is proposed to amend section 145A to provide that the interest received by an assessee on compensation or enhanced compensation shall be deemed to be his income for the year in which it is received, irrespective of the method of accounting followed by the assessee.*
>
> *Further, it is proposed to insert clause (viii) in sub-section (2) of section 56 to provide that income by way of interest received on compensation or on enhanced compensation referred to in sub-section (2) of section 145A shall be assessed as "income from other sources" in the year in which it is received.*

This amendment will take effect from 1st April, 2010 and shall accordingly apply in relation to assessment year 1998-99 and subsequent assessment years."

10.5 Also Notes on Clauses to ***Finance Bill, 2009 reported in 314 ITR 126 (St.) at page 147*** *reads as under:*

"It is also proposed to amend sub-section (2) of said section so as to insert a clause which provides that income by way of interest received on compensation or on enhanced compensation referred to in sub-section (2) of section 145A shall be chargeable to Income-tax under head income from other sources.

This amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-11 and subsequent years.

Clause 27 of the Bill seeks to amend section 57 of the Income-tax Act, which relates to deductions.

The existing provisions contained in the said section provides that the income chargeable under the head "Income from other sources" shall be computed after making the deductions specified therein.

It is proposed to amend section 57 of the said Act so as to provide that in the case of income of the nature referred to in clause (viii) of sub-section (2) of section 56, a deduction of a sum equal to fifty per cent of such income and no deduction shall be allowed under any other clause of the said section.

This amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-11 and subsequent years.

Clause 56 of the Bill seeks to substitute section 145A of the Income-tax Act, which relates to method of accounting in certain cases.

The existing provisions contained in said section 145A provides that while computing the value of the inventory as on the 1st and the last day of the previous year, the computation according to the method of accounting regularly employed by the assessee shall be adjusted to include the amount of any tax, duty, cess or fees paid or liability incurred for the same under any law in force.

It is proposed to amend the said section so as to provide that the interest received by an assessee on compensation or on enhanced compensation, as the case may be, shall be deemed to be the income of the year in which it is received.

This amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-11 and subsequent years."

10.6 The explanatory circular no. 5/2010 date 3.6.2010 to the provisions of the Finance Act (No. 2) of 2009 reported ***in 324 ITR 293 (St.) at page 341*** *provide as under:*

> ***"46. delayed compensation or on enhanced compensation***
> ***46.1*** *The existing provisions of Income Tax Act provide that income chargeable under the head "Profits and gains of business or profession" or "Income from other sources", shall be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee. Further, the Hon'ble Supreme Court in the case of Rama Bai vs. CIT (181 ITR 400) has held that arrears of interest computed on delayed or enhanced compensation shall be taxable on accrual basis. This has caused undue hardship to the taxpayers.*
> ***46.2*** *With a view to mitigate the hardship, section 145A is amended to provide that the interest received by an assessee on compensation or enhanced compensation shall be deemed to be his income for the year in which it was received, irrespective of the method of accounting followed by the assessee.*
> ***46.3*** *Further, clause (viii) is inserted in the sub-section (2) of the section 56 so as to provide that income by way of interest received on compensation or on enhanced compensation referred to in clause (b) of section 145A shall be assessed as "income from other sources" in the year in which it is received.*
> ***46.4 Applicability*** *- This amendment has been made applicable with effect from 1st April, 2010, and will accordingly apply in relation to assessment year 2010-11 and subsequent assessment years.*

10.7 From the reading of aforesaid provisions, memorandum and notes to clause it is evident that aforesaid amendments are introduced to mitigate the hardship that arrears of interest computed on delayed or enhanced compensation shall be taxable on accrual basis as held by Apex Court in the case of ***Rama Bai vs. CIT reported in 181 ITR 400****,* ***(pages 184-185 of JPB****) wherein it had been held as under:*

> *"1. Tax Ref. Case No. 3 of 1976,Tax Ref.Case Nos. 1 to 3 of 1978, C.A. No. 810 of 1974, Civil Appeal No. 3027 of 1988 - The question involved in these cases is regarding the point of time at which the interest payable under sections 28 and 34 of the Land Acquisition Act, 1894 accrues or arises, where such interest is paid on enhanced compensation awarded on reference under section 18 of the said Act or further appeal to the High Court and/or the Supreme Court. Some of the matters before us are appeals and some are references under section 257 of the Income-tax Act, 1961. These references were made directly to this Court in view of the fact that there was a conflict of decisions among the*

High Courts on the above issue. We do not think it is necessary to refer to those decisions because we find that the question at issue isnow concluded by the decision of this Court in CIT v. T.N.K. Govindarajulu Chetty [1987] 165 ITR 231 . Though the judgment is a short one, it deals directly with the point in issue. It is also clear from a perusal of the judgment of the High Court in T.N.K. Govindarajulu Chetty v. CIT [1973] 87 ITR 22 (Mad.), which was upheld by the Supreme Court in this matter, that the issue has been considered by this Court in all its aspects. The principle of the decision also derives support from the earlier decision of this Court in Mrs. Khorshed Shapoor Chenai v. ACED [1980] 122 ITR 21. In these circumstances, we are of the opinion that the appeals before us [Civil Appeal Nos. 810 of 1974 and 3027 of 1988] have to be allowed and the references made under section 257 [Tax Reference Case Nos. 3 of 1976 and 1 to 3 of 1978] have to be answered by saying that the question of accrual of interest will have to be determined in accordance with the above decision of this Court. The effect of the decision, we may clarify, is that the interest cannot be taken to have accrued on the date of the order of the Court granting enhanced compensation but has to be taken as having accrued year after year from the date of delivery of possession of the lands till the date of such order."

10.8 *That from the reading of the aforesaid memorandum it is evident that amendment are for arrears of interest computed on delayed or enhanced compensation shall be taxable on accrual basis. Thus by making amendment in section 56(2), 57 and 145A, legislation makes the arrear of interest computed on delayed or enhanced compensation shall be taxable in the year of receipt, which does not have any effect on the binding decision of Apex court in the case of* ***CIT Vs. Ghanshyam Dass (HUF) reported in 315 ITR 1 (pages 1-15 of JPB)*** *further affirmed in* ***CIT vs. Govindbhai Mamaiya reported in 367 ITR 498 (SC) (pages 16-20 of JPB)****, wherein it has been held that the interest earned under Section 28 of Land Acquisition Act, which is on enhanced compensation, is treated as a accretion to the value and therefore, part of the enhanced compensation.* ***It is although relevant to note that Finance Bill 2009 was proposed in February 2009, however Apex Court in the case of CIT vs. Ghanshyam HUF reported in 315 ITR 1 has pronounced the decision on 16.07.2009 (i.e post amendment is proposed), which also proves that amended provisions of section 56(2)(viii) of the Act r.w. section 145A were brought on the statute to nullify the effect of Hon'ble Supreme Court's ruling in the case of Rama Bai and not Ghanshyam HUF.***

10.9 ***That issue under consideration is no longer res integra as*** *'interest u/s 28 of the Land Acquisition Act' 1894 which is paid on enhanced compensation on compulsory acquisition of agricultural land, is accretion to the value of land, hence it is a part of enhanced compensation under consideration'* ***even after the***

amendment made by Finance (No. 2) Act 2009. *Reliance is placed upon following judgments wherein amendment in section 56 of the Act made by Finance (No. 2) Act 2009 was duly considered by Hon'ble High Courts:*

i) ***388 ITR 343 (Guj) Movaliya Bhikhubhai Balabhai v. Income-tax Officer-TDS-1-Surat (pages 82-92 of JPB)***

"11. It has been vehemently contended on behalf of the first respondent that the above decision has been rendered prior to the substitution of section 145A of the I.T. Act by Finance (No.2) Act, 2009 with effect from 1st April, 2010, and hence, would have no applicability to the facts of the present case. The scope and effect of the substitution (with effect from 1st April, 2010) of section 145A, as also amendment made in section 56(2) by Act 33 of 2009 have been elaborated in the following portion of the departmental circular No.5/2010, dated 3.6.2010, as follows:

"Rationalizing the provisions for taxation of interest received on delayed compensation or on enhanced compensation.-

46.1 The existing provisions of Income Tax Act, 1961, provide that income chargeable under the head "Profits and gains of business or profession" or "Income from other sources", shall be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee. Further the Hon'ble Supreme Court in the case of Smt. Rama Bai v. CIT (1990) 84 CTR (SC) 164 : (1990) 181 ITR 400 (SC) has held that arrears of interest computed on delayed or enhanced compensation shall be taxable on accrual basis. This has caused undue hardship to the taxpayers.

46.2 With a view to mitigate the hardship, section 145A is amended to provide that the interest received by an assessee on compensation or enhanced compensation shall be deemed to be his income for the year in which it was received, irrespective of the method of accounting followed by the assessee.

46.3 Further, clause (viii) is inserted in sub-section (2) of the section 56 so as to provide that income by way of interest received on compensation or enhanced compensation referred to in clause (b) of section 145A shall be assessed as "income from other sources" in the year in which it is received.

46.4 Applicability.- This amendment has been made applicable with effect from 1st April, 2010, and it will accordingly apply in relation to assessment year 2010-11 and subsequent assessment years."

Thus, the substitution of section 145A by Finance (No.2) Act, 2009 was not in connection with the decision of the Supreme Court in Ghanshyam (HUF) (supra) but was brought in to mitigate the hardship caused to the assessee on account of the decision of the Supreme Court in Smt. Rama Bai v. CIT, (1990) 181 ITR 400 (SC) whereby it was held that arrears of interest computed on delayed or enhanced compensation shall be taxable on accrual basis. Therefore, when one reads the words "interest received on compensation or enhanced compensation" in section 145A of the I.T. Act, the same have to be construed in the manner interpreted by the Supreme Court in Ghanshyam (HUF) (supra).

ii) ***417 ITR 169 (Bom) Rupesh Rashmikant Shah vs. UOI***

*"**24**. The Gujarat High Court in the case of MovaliyaBhikhubhaiBalabhai v. ITO (TDS) [2016] 70 taxmann.com 45/388 ITR 343 considered the effect of this amendment on the question of charging tax on the interest payable to a claimant under section 28 of the Land Acquisition Act. We may recall, the decision of the Supreme Court in the case of Ghanshyam (HUF) (supra), was rendered when section 145A was not so amended and the Court had held that interest under section 28 of the Land Acquisition Act payable to a claimant is part of compensation. The question before the Gujarat High Court, therefore, was does the amendment in section 145A and the corresponding amendments in section 56(2) of the Act change the position of law laid down by the Supreme Court in the case of Ghanshyam (HUF)(supra). The Division Bench of the Gujarat High Court noticed the distinction between interest payable under section 28 and one payable under section 34 of the Land Acquisition Act. It was observed that the interest under section 28 and, therefore, part of the enhanced compensation or consideration making it exigible to capital gain tax under section 45(5) of the Act. The Court noticed the Departmental Circular explaining the said amendment in section 145A of the Act and observed as under:*

"Thus, the substitution of section 145A by the Finance (No.2) Act, 2009 was not in connection with the decision of the Supreme Court in Ghanshyam (HUF) (supra) but was brought in to mitigate the hardship caused to the assessee on account of the decision of the Supreme Court in Rama Bai v. CIT [1990] 181 ITR 400 (SC) whereby it was held that arrears of interest computed on delayed or enhanced compensation shall be taxable on accrual basis. Therefore, when one reads the words "interest received on compensation or enhanced compensation" in section 145A of the Income-tax Act, the same have to be construed in the manner interpreted by the Supreme Court in Ghanshyam (HUF) (supra)."

***25**. The Court eventually held as under:*

"The upshot of the above discussion is that since interest under section 28 of the Act of 1894, partakes the character of compensation, it does not fall within the ambit of the expression "interest" as contemplated in section 145A of the Income-tax Act. The first respondent - Income-tax Officer was, therefore, not justified in refusing to grant a certificate under section 197 of the Income-tax Act to the petitioner for non-deduction of tax at source, in as much as, the petitioner is not liable to pay any tax under the head "Income from other sources" on the interest paid to it under section 28 of the Act of 1894."

iii) ***151 taxmann.com 62 (Bom) Balkrishna vs. State of Maharashtra***

iv) ***457 ITR 777 (Orissa) Smt. Kuni Sahoo v.*** *UOI*

***7.1** It may be stated that prior to substitution for sections 145A and 145B, with retrospective effect from 1-4-2017 by virtue of the Finance Act, 2018, at the material period section 145A stood thus:*

"145A.Method of accounting in certain cases.—

Notwithstanding anything to the contrary contained in Section 145,—

(b) interest received by an assessee on compensation or on enhanced compensation, as the case may be, shall be deemed to be the income of the year in which it is received."

8. *The MV Act makes detailed provisions for awarding compensation for death or disablement of any person resulting from an accident arising out of the use of a motor vehicle. Essentially, such claim is in the nature of tortious liability. The concept of compulsory third party insurance has been statutorily introduced. The relationship between the insurer and the insured is basically a contractual relationship but interjected by a range of statutory provisions. Under such contract of insurance, the insurer undertakes to indemnify the insured to the extent agreed. The statutory provisions contained in the MV Act make third party insurance compulsory and limit the defences which the insurance company may raise to repudiate its liability.*

8.1 *Chapters X and XI of the MV Act provide for grant of compensation to the victims of a vehicular accident. The purpose of granting compensation under the MV Act is to ameliorate the sufferings of the victims so that they may be saved from social evils and starvation, and that the victims get some sort of help as early as possible. It is just to save them from sufferings, agony and to rehabilitate them. The Court in Court on its Own Motion (supra) observed that:*

.....

8.2 *In Managing Director, Tamil Nadu State Transport Corporation (Salem) Ltd. (supra) it has been held as follows:*

.....

8.3 *In New India Assurance Co. Ltd. v. Savitri Devi [C.R. No. 6784 of 2016, dated 4-4-2018], the Hon'ble Punjab and Haryana High Court vide Judgment observed as follows:*

....

8.4 *Section 171 of the MV Act provides that where a Tribunal allows the claim for compensation, such Tribunal may direct that in addition to the amount of compensation, simple interest shall also be paid at such rate and from such date, not earlier than the date of making the claim as it may specify in this behalf.*

8.5 *The Courts award compensation for loss of dependency benefit, loss of estate, loss of consortium in case of a spouse, loss of love and affection for the family members and funeral charges in the circumstances where the death is caused due to road accident. In case of injury, the compensation is computed under the heads of actual loss of income, future loss of income, pain, shock and suffering, loss of enjoyment of amenities of life, medical treatment, past and future, miscellaneous heads such as attendant charges, special diet, transportation, etc.*

8.6 *The multiplier method has been accepted to be sound and legally well-established principle videGeneral Manager, Kerala S.R.T.C. v. Mrs. Susamma Thomas [1994] 2 SCC 176. In Sarla Verma v. DTC [2009] 6 SCC 121 and Reshma Kumari v. Madan Mohan [2013] 9 SCC 65, it has been propounded that for achieving degree of uniformity in awarding compensation in motor accident claim cases, the multiplier method is required to be standardized.*

8.7 *Thus, be it a fatal case or an injury case, compensation includes future loss. The computation of such future loss is on the basis of the income of the deceased or the injured on the death or accident. This is adjusted by a reasonable future rise in income. Multiplier is applied to ascertain future loss. The method of multiplier takes into account various factors and imponderables of life and, therefore, the multiplier is not equivalent to the full length of the remainder of the expected life of the deceased. The multiplier theory proceeds on the basis that with interest that may be earned on the compensation and a portion drawn from the capital should be equivalent to what the deceased would have contributed to his family. At the end of the period, the capital should be completely utilised. While awarding compensation, though the Claims Tribunal awards future loss in praesenti, interest is awarded for the period between filing of the application for claim till passing of the award for compensation.*

.....

9. *The Hon'ble Bombay High Court in the case of Rupesh Rashmikant Shah (supra) (Bom) after taking into consideration the decisions of other High Courts taken in the context, which are cited before this Court during the course of hearing of present writ petition by the counsel for the petitioners, analysed section 56, 145A vis-a-vis other related provisions of IT Act and came to observe as follows:*

…

10. *Turning to IT Act, Section 194A, being not a charging provision, deals with deduction of tax at source in respect of "interest other than interest on securities". Said provision is attracted only when the payment of interest is in the nature of income in the hands of the recipient. Clause (ix) of sub-section (3) of section 194A prior to amendment pertains to income credited or paid by way of interest on the compensation amount awarded by the Motor Accident Claims Tribunal where such amount did not exceed Rs. 50,000/-. On substitution of this provision by virtue of the Finance Act, 2015, while clause (ix) provides that the provision of sub-section (1) does not apply to such income credited by way of interest on the compensation awarded by the Motor Accident Claims Tribunal, clause (ixa) virtually retains the original provision of unamended clause (ix).*

10.1 *Section 145A(b) as it existed prior to amendment by virtue of the Finance Act, 2018 stood as follows:*

"Notwithstanding anything to the contrary contained in Section 145,—

(b) Interest received by an assessee on compensation or on enhanced compensation, as the case may be, shall be deemed to be the income of the year in which it is received".

Said provision now finds place in sub-section (1) of Section 145B of the IT Act.

10.10 In view of the aforesaid it is thus submitted that claim of the assessee is in accordance with law further allowance of claim by Learned Assessing Officer is also in accordance with the binding authority on the date of order.

11 THAT WHERE MORE THAN ONE INTERPRETATION HAS BEEN PRONOUNCED BY JURISDICTIONAL HIGH COURT THEN

INTERPRETATION WHICH FAVOURS THE ASSESSEE HAVE TO BE ADOPTED:

11.1 In a case, where two views are possible and the Assessing Officer has taken a view on accordance with the judgement of Hon'ble Apex Court in the case of CIT vs. Ghanshyam HUF reported in 315 ITR 1, the said order cannot be treated as an erroneous order prejudicial to the interests of the revenue unless the view taken by the Assessing Officer is unsustainable in law which cannot be the case more particularly when even subsequently the Apex Court has accepted the above proposition :

SUPREME COURT

i) ***315 ITR 1(SC) dated 16.07.2009 CIT vs. Ghanshyam HUF (pages 1-15 of JPB)***

ii) ***367 ITR 498(SC) dated 04.09.2014 CIT vs. Govindbhai Mamaiya (page 16-20 of JPB)***

iii) ***400 ITR 23 (SC) CIT vs. Chet Ram (HUF) (pages 21-22 of JPB)***

iv) ***C.A. No. 18475 of 2017 dated 10.11.2017 ITO Vs. Muktanandgiri Maheshgiri (pages 23-35 of JPB)***

v) ***C.A. No. 15041 of 2017 dated 15.9.2017 UOI Vs. Hari Singh and Ors. (pages 26-37 of JPB)***

PUNJAB AND HARYANA HIGH COURT

i) ***CR No. 2509 of 2012 (P&H) dated 29.11.2013 HSIDC Ltd. Vs. Savitri and another (pages 38-48 of JPB)***

ii) ***CR No. 7953 of 2013 (P&H) dated 21.12.2013 HUDA vs. Mandir Nar Singh Puri and anothers (pages 49-58 of JPB)***

iii) ***ITA No. 160/ CHD/2015 dated 14.07.2015 CIT Hisar vs. Vaibhav Choudhary (pages 59-66 of JPB)***

iv) ***ITA No. 437/ CHD/2015 dated 14.07.2015 CIT Hisar vs. Nishant Choudhary (pages 67 of JPB)***

v) ***CR No. 3236/2014 dated 08.05.2014 Ajay Kumar v. State of Haryana and others (pages 68-70 of JPB)***

vi) ***CR No. 6784 /2016 dated 04.04.2018 The New India Assurance Co. Ltd. v. Savitri Devi and another (pages 71-77 of JPB)***

DELHI HIGH COURT

i) ***86 taxmann.com 121 dated 11.09.2017 Surjit Kumar Chetal v. CIT (pages 78-81 of JPB)***

GUJRAT HIGH COURT

i) ***388 ITR 343 dated 31.03.2016 Movaliya Bhikhubhai Balabhai v. ITO (pages 82-92 of JPB)***

INCOME TAX APPELLATE TRIBUNAL

CHANDIGARH BENCH

i) ***ITA No. 405/CHD/2013 dated 2.8.2013 ITO vs. Pawan Giri (pages 93-95 of JPB)***

ii) ***ITA No. 313/CHD/2015 dated 20.02.2016 Baldev Singh vs. ITO (pages 96-105 of JPB)***

iii) ***ITA No. 131/CHD/2016 dated 30.06.2016 The DCIT (TDS), Ludhiana vs. Dedicated Freight Corridor Corporation Ltd. (pages 106-117 of JPB)***

iv) ***ITA No. 564/Chd/2014 dated 07.02.2018 ITO v. Sh. Nachhattar Singh (pages 118-135 of JPB)***

v) ITA No. 1413 to 1415/Chd/2016 dated 09.07.2018 Sh. Satbir Singh & others v. ITO (pages 136-143 of JPB)

vi) *ITA No. 648/Chd/ 2018 dated 20.9.2018 Balwinder Singh vs. PCIT* ***(Page 144-161 of JPB)***

vii) *ITA No. 1591/Chd/2018 dated 30.9.2019 ITO v. Dhanender Kumar HUF.* ***(Page 162-173 of JPB)***

viii) *62 CCH 0130 (Chd-Trib) ITO vs. Chawli Devi.* ***(Page 328-332 of JPB)***

ix) *ITA No. 539/Chd/2016 dated 04.10.2018 Shri Surinder Kumar vs. DCIT,* ***(Page 333-342 of JPB)***

x) ***ITA No. 264/Chd/2021 dated 24.2.2022 Sawarn Singh vs. ITO [Misc. application filed by revenue is still pending] [Page 644-668 of JPB)***

"*4. Being aggrieved the assessee carried the matter to the Ld. CIT(A) who sustained the addition by observing in para 6.1 of the impugned order as under:*

6.1 After considering the submission of the appellant, I do not find any reason to interfere with the findings of the Ld. AO. In Para 4.8 the Ld. AO has also placed reliance on the Hon'ble Jurisdictional High Court of Punjab & Haryana in the case of Manjeet Singh (HUF) Karta Manjeet Singh Vs. Union of India & Others in CWP No. 155506 of 2014, Puneet Singh Vs. Commission of Income Tax, Karnal In ITA 132- 2018 (O & M) vide judgement dated 19.11.2018 &Naresh Kumar Jain & Others Vs. State of Haryana & Others reported as (2017) 188 PLR 193 has held that the interest component on enhanced compensation under section 28 is liable to be taxed u/s. 56 of the IT Act, 1961. In view of the above, no interference is called for with the addition made by the Ld. AO and addition is hereby confirmed.

5. Now the assessee is in appeal.

...

7. It was further submitted that the issue under consideration is squarely covered by the decision of the ITAT, Chandigarh Bench "A", Chandigarh in ITA No. 63 & 64/Chd/2020 in the case of ITO, Ward-1, Panchkula Vs. Smt. Chawli Devi, Vill-Ramgarh, Panchkula order dt. 17/05/2021, copy of the said order was furnished which is placed on record.

8. In her rival submissions the Ld. Sr. DR strongly supported the impugned order passed by the Ld. CIT(A) and reiterated the observation made in the impugned order.

9. We have considered the submissions of both the parties and perused the material available on the record. After considering the submissions of both the parties, it is noticed that a similar issue has already been adjudicated by the ***ITAT, Chandigarh Bench "A", Chandigarh vide order dt. 17/05/2021 in the aforesaid referred to case of ITO Vs. Smt. Chawli Devi (supra)*** *wherein the relevant findings have been given in para 7 which read as under:*

.....

So respectfully following the aforesaid referred to order dt. 17/05/2021 the impugned addition made by the A.O. and sustained by the Ld. CIT(A) is deleted.

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

DELHI BENCH

i) ITA No. 1823/D/2016 dated 31.1.2019 Smt. Sushma Gupta vs. ITO. ***(Page 174-178 of JPB)***

ii) ITA No. 2970/D/2015 dated 8.3.2019 Shri Baldev Singh vs. ITO. ***(Page 179-185 of JPB)***

iii) ITA No. 2340/D/2018 dated 20.9.2018 Jagmal Singh vs. ITO. ***(Page 186-194)***

iv) *165 ITD 684 dated 21.04.2017 DCIT vs. Dinesh Sharma (****pages 195-205 of JPB)***

v) ***ITA No 473/D/2015 dated 20.07.2018 Rajender Singh v. ITO (pages 206-210 of JPB)***

vi) ITA No. 5207/D/2017 dated 5.3.2020 Sumesh Kumar vs. ITO ***(Page 211-215 of JPB)***

vii) ITA No. 6508/D/2018 dated 30.1.2020Shri Nitya Nand v. ITO. ***(Page 216-238 of JPB)***

viii) ITA No. 2971/D/2015 Dated: 14.03.2019 Shri Opinder Singh Virk vs. ITO ***(Page 260-266 of JPB)***

ix) ITA No. 7589/D/2018 Dtd: 27.04.2020 Surender, C/o Y.S.R & Associates vs ITO. ***(Page 267-270 of JPB)***

x) *ITA No. 473/D/2015 Dated 20.07.2018 Rajender Singh vs. ITO.* ***(Page 365-369 of JPB)***

HYDERABAD BENCH

v) ***ITA No. 100/HYD/2016 dated 07.12.2016 Smt. P. Susheela v. ITO (pages 281-291 of JPB)***

BANGALORE BENCH

xii) ***95 taxmann.com 106 dated 01.06.2018 ITO v. Basavaraj M Kudarikannur (page 292-298 of JPB)***

ii) ***96 taxmann.com 541 dated 20.7.2018 ITO vs. Sangappa S. Kudarikannur (pages 299-304 of JPB)***

iii) ITA Nos. 1747 & 1750/Bang/2017 dated 1/6/2018 ITO Vs. Shri Basavaraja M Kudarikannur. ***(pages 305-316 of JPB)***

PUNE BENCH

iv) *90 taxmann.com 285 Dnyanoba Shajirao Jadhav****. (pages 327-324 of JPB)***

11.2 Reliance is placed on ***CIT vs. Vegetable Products Ltd. reported in 88 ITR 192 (SC)*** *where in it has held as under;*

> *"There is no doubt that the acceptance of one or the other interpretation sought to be placed on section 271(1)(a)(i) by the parties would lead to some inconvenient result, but the duty of the court is to read the section, understand its language and give effect to the same. If the language is plain, the fact that the consequence of giving effect to it may lead to some absurd result is not a factor to be taken into account in interpreting a provision. It is for the legislature to step in and remove the absurdity. On the other hand,* ***if***

two reasonable constructions of a taxing provision are possible, that construction which favours the assessee must be adopted. This is a well-accepted rule of construction recognised by this court in several of its decisions*. Hence, all that we have to see is, what is the true effect of the language employed in section 271(1)(a)(i). If we find that language to be ambiguous or capable of more meanings than one, then we have to adopt that interpretation which favours the assessee, more particularly so because the provision relates to imposition of penalty."*

*11.3 That where two views are possible and the learned Assessing Officer has taken a view with which the PCIT does not agree, the said order cannot be treated as an erroneous order prejudicial to the interests of the revenue unless the view taken by the Assessing Officer is unsustainable in law as held by Hon'ble Delhi High Court in the case of CIT vs. DLF Ltd. reported in **350 ITR 555** whereby Hon'ble court has held as under:*

"11.** In this case, the record reveals that the AO had issued notice, and held proceedings on several dates (of hearing) before proceeding to frame the assessment. He added nearly Rs. 2 crores to the income at that time. The Commissioner took the view that the assessment order disclosed an error, in that the deduction under Section 14-A had not been made. Now, while the statutory direction to the Assessing Officer to calculate, proportionately, the expenditure which an assessee may incur to obtain dividend income, for purposes of disallowance, cannot be lost sight of, equally, such a requirement has to be viewed in the context and circumstances of each given case. In the present case, it was repeatedly emphasized that the assessee's dividend income was confined to what it received from investment made in a sister concern, and that only one dividend warrant was received. These facts, in the opinion of this court, were material, and had been given weightage by the Tribunal in its impugned order. There is no dispute that the investment to the sister concern, was not questioned; even the Commissioner has not sought to undermine this aspect. Equally, there is no material to say that apart from that single dividend warrant, any other dividend income was received. Furthermore, there is nothing on record to say that the assessee had to expend effort, or specially allocate resources to keep track of its investments, especially dividend yielding ones. **In these circumstances, it can be said that whether the deduction under Section 14-A was warranted, was a debatable fact. In any event, even if it were not debatable, the error by the AO is not "unsustainable". Possibly he could have taken another view; yet, that he did not do so, would not render

his opinion an unsustainable one, warranting exercise of Section 263.

11.4 It is submitted that in the instant case learned Assessing Officer has taken the view on the basis of judgment of Apex Court and thereafter also there are various judgments supporting the view of learned Assessing Officer thus by no stretch of imagination could be said to erroneous. It is thus submitted that once learned Assessing Officer has adopted once of the view which is otherwise permissible in law then even it resulted in loss to the revenue cannot be treated as erroneous. Reliance in support of the above submission is placed on decision of Hon'ble Kolkata Tribunal in the case of ***Garg Brothers (P) Ltd. vs. DCIT in ITA No. 2519/D/2017 dated 18.4.2018****, whereby Hon'ble Tribunal held as under:*

> *65. In any event, we note that the Assessing Officer has adopted one of the courses permissible in law and even if it has resulted in loss to the revenue, the said decision of the Assessing Officer cannot be treated as erroneous and prejudicial to the interest of the revenue as held by Hon'ble Supreme Court in Malabar Industries Ltd. vs. CIT (supra). Since the order of the Assessing Officer cannot be held to be erroneous as well as prejudicial to the interest of the revenue, in the facts and circumstances narrated above, the usurpation of jurisdiction exercising revisional jurisdiction by the Principal CIT is ''null'' in the eyes of law and, therefore, we are inclined to quash the very assumption of jurisdiction to invoke revisional jurisdiction u/s 263 by the Principal CIT. Therefore, we quash all the orders of the Principal CIT dated 15.03.2017 being ab initio void.*

11.5 It is submitted thus that, if either of the two conditions does not exist or are found not satisfied, the learned PCIT cannot initiate proceedings to set aside otherwise an unfavourable order, as has been held in following cases:

a) ***163 ITR 129 (Mad) Venkat Krishna Rice Company v. CIT***

b) ***243 ITR 83 (SC) Malabar Industrial Co. Ltd. v. CIT (PAGES 265-270 of JPB)***

c) ***350 ITR 555 (Del) CIT vs. DLF Ltd. (pages 271-276 of JPB)***

> *"It is not mere prejudice to the Revenue, or a mere erroneous view which can be revised, under section 263 of the Income-tax Act, 1961. There should be the added element of "unsustainability" in the order of the Assessing Officer, which clothes the Commissioner with jurisdiction to issue notice, and proceed to make appropriate orders."*

11.6 Reliance is also placed on the following judicial pronouncements:

i) ***171 ITR 698 (All) CIT vs. Goyal Private Family Specific Trust***

ii) ***170 ITR 28 (All) CIT V. Kashi Nath & Company***

iii) ***171 ITR 141 (MP) CIT V. Ratlam Coal Asn. & Co.***

iv) ***341 ITR 537 (Del) CIT v Vikas Polymers (pages 277-285 of JPB)***

> *"10. As regards the scope and ambit of the expression "erroneous", a Division Bench of the Bombay High Court in CIT vs. Gabriel India Ltd., (1993) 203 ITR 108 (Bombay), held with reference to Black's Law*

Dictionary that an "erroneous judgment" means "one rendered according to course and practice of Court, but contrary to law, upon mistaken view of law; or upon erroneous application of legal principles" and thus it is clear that an order cannot be terms as "erroneous" unless it is not in accordance with law. If an Income-tax Officer acting in accordance with law makes a certain assessment, the same cannot be branded as "erroneous" by the Commissioner simply because, according to him, the order should have been written differently or more elaborately. ***The Section does not visualize the substitution of the judgment of the Commissioner for that of the Income-tax Officer, who passed the order unless the decision is not in accordance with law.***

11. Then again, any and every erroneous order cannot be the subject matter of revision because the second requirement also must be fulfilled. There must be material on record to show that tax which was lawfully exigible has not been imposed [See Gabriel India Ltd. (supra)]. However, the expression "prejudicial to the interest of the revenue", as held by the Supreme Court in the Malabar Industrial Co. Ltd.'s case, is not an expression of art and is not defined in the Act and, therefore, must be understood in its ordinary meaning. It is of wide import and is not confined to the loss of tax [see Dawjee Dadabhoy and Co. (supra), CIT vs. T. Narayana Pai (1975) 98 ITR 422 (KAR), CIT vs. Gabriel India Ltd. (supra) and CIT vs. Smt. Minalben S. Parikh, (1995) 215 ITR 81 (Guj)]. Ltd. (supra) and CIT vs. Smt. Minalben S. Parikh, (1995) 215 ITR 81 (Guj)].

13. It is also trite that there is a fine though subtle distinction between "lack of inquiry" and "inadequate inquiry". It is only in cases of "lack of inquiry" that the Commissioner is empowered to exercise his revisional powers by calling for and examining the records of any proceedings under the Act and passing orders thereon*. In Gabriel India Ltd. (supra), it was expressly observed:-*

"The Commissioner cannot initiate proceedings with a view to starting fishing and roving enquiries in matters or orders which are already concluded. Such action will be against the well-accepted policy of law that there must be a point of finality in all legal proceedings, that stale issues should not be reactivated beyond a particular stage and that lapse of time must induce repose in and set at rest judicial and quasi-judicial controversies as it must in other spheres of human activity [see Parashuram Pottery Works Co. Ltd. vs. ITO, (1977) 106 ITR 1 (SC)].

It was further observed as under:-

"From the aforesaid definitions as it is clear that an order cannot be termed as erroneous unless it is not in accordance with law. If an Income-tax Officer acting in accordance with law makes a 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 visualize a case of substitution of the judgment of the Commissioner for that of the Income-tax Officer, who passed the order unless the decision is held to be erroneous. Cases may be visualized where the Income-tax Officer 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 estimate 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 figure higher than the one determined by the Income-tax Officer. 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 Income-tax Officer has exercised the quasi-judicial power vested in him in accordance with law and arrived at conclusion and such a conclusion cannot be termed to be erroneous simply because the Commissioner does not feel satisfied with the conclusion.

x x x x

There must be some prima facie material on record to show that tax which was lawfully exigible has not been imposed or that by the application of the relevant statute on an incorrect or incomplete interpretation a lesser tax than what was just has been imposed.

x x x x

We may now examine the facts of the present case in the light of the powers of the Commissioner set out above. The Income-tax Officer in this case had made enquiries in regard to the nature of the expenditure incurred by the assessee. The assessee had given detailed explanation in that regard by a letter in writing. All these are part of the record of the case. Evidently, the claim was allowed by the Income-tax Officer on being satisfied with the explanation of the assessee. Such decision of the Income-tax Officer cannot be held to be "erroneous" simply because in his order he did not make an elaborate discussion in that regard ....."

14. From the above, in our considered opinion, it is clear that in the ultimate analysis ***it is a pre-requisite that the Commissioner must give reasons to justify the exercise of suo moto revisional powers by him to re-open a concluded assessment. A bare reiteration by him that the order of the Income-tax Officer is erroneous insofar as it is prejudicial to the interest of the revenue, will not suffice. The exercise of the power being quasi-judicial in nature, the reasons must be such as to show that the enhancement or modification of the assessment or cancellation of the assessment or directions issued for a fresh assessment were called for, and must irresistibly lead to the conclusion that the order of the Income-tax Officer was not only erroneous but was prejudicial to the interest of the revenue.*** *Thus, while the Income-tax Officer is not called upon to write an elaborate judgment giving detailed reasons in respect of each and every disallowance, deduction, etc.,* ***it is incumbent upon the Commissioner not to exercise his suo moto revisional powers unless supported by adequate reasons for doing so.***

v) ***332 ITR 167 (Del) CIT vs. Sunbeam Auto Ltd.***

"12. We have considered the rival submissions of the counsel on the other side and have gone through the records. The first issue that arises for our consideration is about the exercise of power by the Commissioner of Income Tax under Section 263 of the Income Tax Act. As noted above, the

submission of learned counsel for the Revenue was mat while passing the assessment order, the AO did not consider this aspect specifically whether the expenditure in question was revenue or capital expenditure. This argument predicates on the assessment order, which apparently does not give any reasons while allowing the entire expenditure as Revenue expenditure. However, that by itself would not be indicative of the fact that the AO had not applied his mind on the issue. There are judgments galore laying down the principle that the AO in the assessing order is not required to give detailed reason 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. Learned counsel for the assessee is right in his submission that 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 of the Act, 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."

vi) ***320 ITR 674 (Del) CIT vs. Ashish Rajpal***

11.7 The assessee also seeks to place reliance on the judgment of Hon'ble Delhi High Court in the case of ***DIT vs. Jyoti Foundation reported in 357 ITR 388 (Del) wherein it has been held as under:***

> ***"4.*** *Revisionary power under Section 263 of the Act is conferred by the Act on the Commissioner/Director of Income-tax when an order passed by the lower authority is erroneous and prejudicial to the interest of the Revenue. Orders which are passed without inquiry or investigation are treated as erroneous and prejudicial to the interest of the Revenue, but orders which are passed after inquiry/investigation on the question/issue are not per se or normally treated as erroneous and prejudicial to the interest of the Revenue because the revisionary authority feels and opines that further inquiry/investigation was required or deeper or further scrutiny should be undertaken. In ITO v. D.G. Housing Projects Ltd. [2012] 343 ITR 329/20 taxmann.com 587/[2013] 212 Taxman 132 (Mag.) it has been observed:*
>
> *'11. The Assessing Officer is both an investigator and an adjudicator. If the Assessing Officer as an adjudicator decides a question or aspect and makes a wrong assessment which is unsustainable in law, it can be corrected by the Commissioner in exercise of revisionary power. As an investigator, it is incumbent upon the Assessing Officer to investigate the facts required to be examined and verified to compute the taxable income. If the Assessing Officer fails to conduct the said investigation, he commits an error and the word 'erroneous' includes failure to make the enquiry. In*

such cases, the order becomes erroneous because enquiry or verification has not been made and not because a wrong order has been passed on merits.

12. Delhi High Court in Gee Vee Enterprises v. Additional Commission of Income-Tax, Delhi-I, [1975] 99 ITR 375, has observed as under:—

"The reason is obvious. The position and function of the Income-tax Officer is very different from that of a Civil Court. The statements made in a pleading proved by the minimum amount of evidence may be accepted by a Civil Court in the absence of any rebuttal. The Civil Court is neutral. It simply gives decision on the basis of the pleading and evidence which comes before it. The Income-tax Officer is not only an adjudicator but also an investigator. He cannot remain passive in the face of a return which is apparently in order but calls for further inquiry. It is his duty to ascertain the truth of the facts stated in the return when the circumstances of the case are such as to provoke an inquiry. The meaning to be given to the word "erroneous" in section 263 emerges out of this context. It is because it is incumbent on the Income- tax Officer to further investigate the facts stated in the return when circumstances would make such an inquiry prudent that the word "erroneous" in section 263 includes the failure to make such an inquiry. The order becomes erroneous because such an inquiry has not been made and not because there is anything wrong with the order if all the facts stated therein are assumed to be correct."

13. In the said judgment, Delhi High Court had referred to earlier decisions of the Supreme Court in Rampyari Devi Saraogi v. CIT (1968) 67 ITR 84 and Tara Devi Aggarwal v. CIT [1973] 88 ITR 323, wherein it has been held that where Assessing Officer has accepted a particular contention/issue without any enquiry or evidence whatsoever, the order is erroneous and prejudicial to the interest of the Revenue. After reference to these two decisions, the Delhi High Court observed:—

"These two decisions show that it is not necessary for the Commissioner to make further inquiries before cancelling the assessment order of the Income-tax Officer. The Commissioner can regard the order as erroneous on the ground that in the circumstances of the case the Income-tax Officer should have made further inquiries before accepting the statements made by the assessee in his return."

14. The aforesaid observations have to be understood in the factual background and matrix involved in the said two cases before the Supreme Court. In the said cases, the Assessing Officer had not conducted any enquiry or examined evidence whatsoever. There was total absence of

enquiry or verification. These cases have to be distinguished from other cases (i) where there is enquiry but the findings are incorrect/erroneous; and (ii) where there is failure to make proper or full verification or enquiry.

15. In the case of Commissioner of Income-tax v. Sunbeam Auto Ltd. [2011] 332 ITR 167 (Delhi), Delhi High Court was considering the aspect, when there is no proper or full verification, and it was held as under:—

"We have considered the rival submissions of the counsel on the other side and have gone through the records. The first issue that arises for our consideration is about the exercise of power by the Commissioner of Income-tax under section 263 of the Income-tax Act. As noted above, the submission of learned counsel for the Revenue was that while passing the assessment order, the Assessing Officer did not consider this aspect specifically whether the expenditure in question was revenue or capital expenditure. This argument predicates on the assessment order, which apparently does not give any reasons 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 on the issue. There are judgments galore laying down the principle that the Assessing Officer in the assessment order is not required to give detailed reason 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. Learned counsel for the assessee is right in his submission that 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 of the Act, merely because he has a different opinion in the matter. It is only in cases of "lack of inquiry" that such a course of action would be open. In Gabriel India Ltd. [1993] 203 ITR 108 (Bom.), law on this aspect was discussed in the following manner (page 113):

"... From a rending of sub-section (1) of section 263, it is clear that the power of suo motu revision can be exercised by the Commissioner only if, on examination of the records of any proceedings under this Act, he considers that any order passed therein by the Income-tax Officer is erroneous insofaras it is prejudicial to the interests of the Revenue". It is not an arbitrary or unchartered power, it can be exercised only on fulfilment of the requirements laid down in sub- section (1). The consideration of the Commissioner

as to whether an order is erroneous insofaras it is prejudicial to the interests of the Revenue, must be based on materials on the record of the proceedings called for by him. If there are no materials on record on the basis of which it can be said that the Commissioner acting in a reasonable manner could have come to such a conclusion, the very initiation of proceedings by him will be illegal and without jurisdiction. The Commissioner cannot initiate proceedings with a view to starting fishing and roving enquiries in matters or orders which are already concluded. Such action will be against the well-accepted policy of law that there must be a point of finality in all legal proceedings, that stale issues should not be reactivated beyond a particular stage and that lapse of time must induce repose in and set at rest judicial and quasi-judicial controversies as it must in other spheres of human activity. (SeeParashuram Pottery Works Co. Ltd. v. ITO [1977] 106 ITR 1 (SC) at page 10)... From the aforesaid definitions it is clear that an order cannot be termed as erroneous unless it is not in accordance with law. If an Income-tax Officer acting in accordance with law makes a 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 the judgment of the Commissioner for that of the Income-tax Officer, who passed the order unless the decision is held to be erroneous. Cases may be visualised where the Income-tax Officer 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 estimate 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 figure higher than the one determined by the Income-tax Officer. 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 Income-tax Officer has exercised the quasi-judicial power vested in him in accordance with law and arrived at a conclusion and such a conclusion cannot be formed to be erroneous simply because the Commissioner does not feel satisfied with the conclusion...There must be some prima facie material on record to show that tax which was lawfully exigible has not been imposed or that by the application of the relevant statute on an incorrect or incomplete interpretation a lesser tax than what was just has been imposed...We may now

examine the facts of the present case in the light of the powers of the Commissioner set out above. The Income-tax Officer in this case had made enquiries in regard to the nature of the expenditure incurred by the assessee. The assessee had given detailed explanation in that regard by a letter in writing. All these are part of the record of the case. Evidently, the claim was allowed by the Income-tax Officer on being satisfied with the explanation of the assessee. Such decision of the Income-tax Officer cannot be held to be erroneous" simply because in his order he did not make an elaborate discussion in that regard.""

16. Thus, in cases of wrong opinion or finding on merits, the CIT has to come to the conclusion and himself decide that the order is erroneous, by conducting necessary enquiry, if required and necessary, before the order under Section 263 is passed. In such cases, the order of the Assessing Officer will be erroneous because the order passed is not sustainable in law and the said finding must be recorded. CIT cannot remand the matter to the Assessing Officer to decide whether the findings recorded are erroneous. In cases where there is inadequate enquiry but not lack of enquiry, again the CIT must give and record a finding that the order/inquiry made is erroneous. This can happen if an enquiry and verification is conducted by the CIT and he is able to establish and show the error or mistake made by the Assessing Officer, making the order unsustainable in Law. In some cases possibly though rarely, the CIT can also show and establish that the facts on record or inferences drawn from facts on record per se justified and mandated further enquiry or investigation but the Assessing Officer had erroneously not undertaken the same. However, the said finding must be clear, unambiguous and not debatable. The matter cannot be remitted for a fresh decision to the Assessing Officer to conduct further enquiries without a finding that the order is erroneous. Finding that the order is erroneous is a condition or requirement which must be satisfied for exercise of jurisdiction under Section 263 of the Act. In such matters, to remand the matter/issue to the Assessing Officer would imply and mean the CIT has not examined and decided whether or not the order is erroneous but has directed the Assessing Officer to decide the aspect/question.

17. This distinction must be kept in mind by the CIT while exercising jurisdiction under Section 263 of the Act and in the absence of the finding that the order is erroneous and prejudicial to the interest of Revenue, exercise of jurisdiction under the said section is not sustainable. In most cases of alleged "inadequate investigation", it will be difficult to hold that the order of the Assessing Officer, who

had conducted enquiries and had acted as an investigator, is erroneous, without CIT conducting verification/inquiry. The order of the Assessing Officer may be or may not be wrong. CIT cannot direct reconsideration on this ground but only when the order is erroneous. An order of remit cannot be passed by the CIT to ask the Assessing Officer to decide whether the order was erroneous. This is not permissible. An order is not erroneous, unless the CIT hold and records reasons why it is erroneous. An order will not become erroneous because on remit, the Assessing Officer may decide that the order is erroneous. Therefore CIT must after recording reasons hold that the order is erroneous. The jurisdictional precondition stipulated is that the CIT must come to the conclusion that the order is erroneous and is unsustainable in law. We may notice that the material which the CIT can rely includes not only the record as it stands at the time when the order in question was passed by the Assessing Officer but also the record as it stands at the time of examination by the CIT [see CIT v. Shree Manjunathesware Packing Products, [1998] 231 ITR 53 (SC)]. Nothing bars/prohibits the CIT from collecting and relying upon new/additional material/evidence to show and state that the order of the Assessing Officer is erroneous.'

***5.** In the present case, inquiries were certainly conducted by the Assessing Officer. It is not a case of no inquiry. The order under Section 263 itself records that the Director felt that the inquiries were not sufficient and further inquiries or details should have been called. However, in such cases, as observed in the case of DG Housing Projects Limited (supra), the inquiry should have been conducted by the Commissioner or Director himself to record the finding that the assessment order was erroneous. He should not have set aside the order and directed the Assessing Officer to conduct the said inquiry."*

12 ***That order of assessment or reassessment cannot be said to erroneous in as much as prejudicial to the interest of revenue merely because the learned PCIT had a different opinion.***

12.1 *It is well settled principle that a particular case cannot be heard twice by the same authority on same facts and issue as it gets hit by the* ***Principle of Res-Judicata***. ***Therefore, it is submitted that the learned officer had conducted proper enquiries before framing the assessment. Infact, the learned Assessing Officer had made all necessary enquiries provided in law and thereafter alone had accepted claims of the assessee. Hence, by no justification, it could be alleged that, the order of assessment framed by the learned officer is erroneous within the meaning of Section 263 of the Act and as such, notice is without jurisdiction.*** *Reliance is also placed on the following judicial pronouncements:*

i) ***171 ITR 698 (All) CIT vs. Goyal Private Family Specific Trust***

iii) ***170 ITR 28 (All) CIT V. Kashi Nath & Company***

iii) ***171 ITR 141 (MP) CIT V. Ratlam Coal Asn. & Co.***

12.2 Moreover, it is submitted, in any case, it is not a case where conditions for exercise of power u/s 263 of the Act stand satisfied since at best it is a case, where two view are possible (one view of the learned Assessing Officer and other of the learned PCIT who issued the notice and passed order dated 29.10.20). It is submitted that order of assessment is not erroneous in as much as prejudicial to interest of revenue since it is not based on;

- *Either incorrect application of law; or*
- *Incorrect application of fact; or*
- *Non-application of mind*
- *There is nothing to show that the income assessed is not in accordance with law. The learned Commissioner of Income Tax has not even specified what is settled position of law, the findings and, therefore untenable.*

12.3 It is submitted that the findings and observations made by the learned PCIT in order are vague, verbose, based on irrelevant and extraneous considerations and fundamental misconceptions of facts and law, arbitrary, unjustified and therefore untenable.

13 That non-consideration of a decision of Jurisdictional High Court by the learned Assessing officer at best can be treated as "mistake apparent from the record' rectifiable u/s 154 of the Act, and therefore revision u/s 263 of the Act by superior authority amounts to 'encroachment' on the powers of Assessing officer.

13.1 *It is submitted that Hon'ble Punjab & Haryana High Court in the case of CIT vs Smt Aruna Luthra reported in 252 ITR 76 has held that 'the power under section 154 can be invoked even when an issue is decided by the jurisdictional High Court or a superior court after the order has been passed.', the headnote from the judgement is reproduced as under:*

> *If the issue of error is to be examined only with reference to the date on which it was passed, it may be possible to legitimately contend that it was legal on the date on which it was passed.* ***The subsequent decision has only rendered it erroneous or illegal****.* ***However, there was no error much less than an apparent error on the date of its passing. Thus, the provisions of section 154 would not be applicable. However, such a view shall be possible only if the provisions were to provide that the error has to be seen in the order with reference to the date on which it was passed. Such words are not there in the statute****. Resultantly, such a restriction cannot be introduced by the Court.*
>
> *In a given case, on interpretation of a provision,* ***an authority can take a view in favour of one of the parties. Subsequent to the order, the jurisdictional High Court or the Supreme Court interpret the same provision and take a contrary view****. The apparent effect of the judgment interpreting the provision is that the view taken by the authority is rendered erroneous. It is not in conformity with the provisions of the statute. Thus, there is a mistake. If it is still perpetuated, the result*

would be that even though the order of the authority is contrary to the law declared by the highest court in the State or country, still the mistake could not be rectified for the reason that the decision is subsequent to the date of order. ***Section 154 appears to have been enacted to enable the authority to rectify the mistake. The legislative intent is not to allow it to continue.*** *This purpose has to be promoted. The Legislature's will has to be carried out. By placing a narrow construction, the object of the legislation shall be defeated. Such a consequence should not be countenanced.*

The Parliament has prescribed a period of 4 years for correction of the mistake. While assessment order under section 143 or 144 has to be normally made within a period of one or two years, the mistake can be rectified at any time during the period of 4 years. The obvious intention of the Legislature is that if the mistake has come to the notice of the authority within the prescribed time, it should not be allowed to continue. It should be rectified regardless of the fact that the limitation for passing an order of assessment or filing an appeal has elapsed. The provision has in-built safeguards. It provides for the issue of notice. It ensures the grant of an opportunity. It limits the jurisdiction of the authority. ***The action can benefit the assessee as well as the revenue. In this situation, there appears to be no ground for placing an unduly restricted interpretation of the provision. When a court interprets a provision, it decides as to what is the meaning and effect of the words used by the Legislature. It is a declaration regarding the statute. The judgment declares as to what the Legislature had said at the time of the promulgation of the law. The declaration is - This was the law. This is the law. This is how the provision shall be construed. The issue of judge-made law being prospective or retrospective is not free from difficulty. However, the system as followed in Indian Courts ensures a suitable legal order. It promotes 'dignity and good repute of judicial institutions'. It is only equitable and fair that similar cases lead to identical results.***

The basic principle is the certainty of law. Even though considerations of justice, equity and fair play sometimes compel courts to deviate from a view expressed in an earlier case, yet the common law principle of stare decisis has been followed with the avowed object of ensuring that the litigant must be able to act on the view expressed by a court. ***Further, section 154 provides for rectification only when mistake in the order is detected. The mistake has to be on the record of the case. The record would include everything on the case file. The return, the evidence and the order are a part of the record.*** *The mistake can be detected from anything on the file. Thus, even in the case of an assessment order under section 143(1), it has not to be assumed that there can be no error apparent from the record.*

What deserves notice is that the right, if any, is subject to the provisions of law. Section 154 clearly provides for the intervention of the authority within the specified time - subject to the condition that

> ***the mistake is apparent. The issue is not debatable. Thus, any right under an order is subject to the provision of the statute. That being so, there is no vested right which could be said to have been taken away in the instant case.***
>
> ***In view of the above, the power under section 154 can be invoked even when an issue is decided by the jurisdictional High Court or a superior court after the order has been passed.*** *However, it was found that the parties had been litigating for more than 13 years and ultimate tax effect was limited. Therefore, though question was answered in favour of the revenue, the order passed by the Tribunal should not be interfered with.*

13.2 Reliance is further placed on below mentioned judgement wherein it has been held that ***non-consideration of a decision of Jurisdictional Court (in this case a decision of the High Court of Gujarat) or of the Supreme Court can be said to be a "mistake apparent from the record" rectifiable u/s 254 of the Act.***

i) (2008) 173 Taxman 322 (SC) ACIT vs Saurashtra Kutch Stock Exchange Ltd.

> *40. The core issue - whether* ***non-consideration of a decision of Jurisdictional Court (in this case a decision of the High Court of Gujarat) or of the Supreme Court can be said to be a "mistake apparent from the record"?*** *In our opinion, both - the Tribunal and the High Court - were right in holding that such a mistake can be said to be a "mistake apparent from the record" which could be rectified under section 254(2).*

ii) ***(2024) 162 taxmann.com 201 (Gujarat) Uttar Gujarat Vij Co. Ltd vs ITO***

iii) ***265 ITR 445 (Gujarat) CIT vs Subodhchandra S. Patel***

14 The Ld. CIT had no power of revision u/s 263 of the Act of the assessment order passed by the National E-Assessment Centre.

14.1 *In this regard it is submitted that S. 263(1) reads as under:*

> *263. (1) The Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may call for and examine the record of any proceeding under this Act, and* ***if he considers that any order passed therein by the Assessing Officer or the Transfer Pricing Officer, as the case may be, is erroneous in so far as it is prejudicial to the interests of the revenue,*** *he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify…….*

14.2 In view of S. 263(1) of the Act the order of 'Assessing officer' or 'Transfer pricing' officer can be revised.

14.3 That S. 2(7A) of the Act defines 'Assessing Officer as under:

> *(7A) "Assessing Officer" means the Assistant Commissioner or Deputy Commissioner or Assistant Director or Deputy Director or the Income-tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (1) or sub-section (2) of section 120 or any other provision of this Act, and the Additional Commissioner or Additional Director or Joint Commis-sioner or Joint Director who is directed under clause (b) of sub-section (4) of that section to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer under this Act ;*

14.4 It is submitted that since the order in the case of appellant is passed by NeAC, and not by Assessing officer as provided u/s 263(1) rws 2(7A) of the Act and therefore the order passed by NeAc cannot be revised by the learned PCIT u/s 263 of the Act.

15 That action of the revision u/s 263 of the Act has been laid on the bedrock of receipt of the proposal from the learned Assessing Officer, which vitiates the action u/s 263 of the Act

15.1** It is submitted that action of the revision u/s 263 of the Act has been laid on the bedrock of receipt of the proposal from the learned Assessing Officer, which is made on the basis of 'Audit objection' as informed by assessee on the basis of inspection conducted. **A copy of said proposal is placed at page 465 – 468 of Paper Book.

***15.2** It is thus submitted that in these circumstances action u/s 263 of the Act is not in accordance with law in view of decision of Hon'ble Calcutta High Court in the case of PCIT vs. Reeta Lakhmani reported in 457 ITR 503 **(Page 499 – 501 of JPB),** wherein it has been held as under:*

> *7. On going through the order passed by the learned Tribunal we find that the learned Tribunal had granted relief to the assessee on two grounds firstly as to whether the exercise of jurisdiction by the Principal Commissioner of Income-tax under section 263 was justified and in accordance with law.*
>
> ***8. This aspect was considered by the learned Tribunal and after going through the facts of the case it was found that the initiation of the proceedings under section 263 of the Act was based on a proposal given by the assessing officer and not at the behest of the PCIT.** It may be true that the PCIT may have information from the assessment file or through other sources. Nevertheless while exercising powers under section 263 of the Act the PCIT has to bear in mind the twin conditions are to be conjointly fulfilled. **Therefore, before exercise of power under section 263 it is the PCIT who has to apply its mind to the issue and thereafter record reasons as to how the twin conditions are satisfied and then issue a show-cause notice to the assessee. In the cases on hand there is***

nothing on record to show that such an exercise was done by the PCIT. *Therefore, learned Tribunal after noting several decisions on the subject rendered by the Coordinate Benches of the Tribunal had allowed the assessee's appeal and set aside the order passed by the PCIT under section 263 of the Act. Thereafter, the learned Tribunal has proceeded to examine the merits of the matter and granted relief. It is the submission of Mr. Mitra that so far as the merit of the cases are concerned similar issue was tested by this Court in the case of Pr. CIT v. Swati Bajaj [2022] 139 taxmann.com 352/288 Taxman 403/446 ITR 56. Though such may be the issue, as pointed out earlier the learned Tribunal had granted relief to the assessee on two grounds the first of which being that the exercise of power under section 263 of the Act was not in accordance with law. As could be seen from the substantial questions of law suggested by the revenue, the revenue has not raised any question on the said finding of the Tribunal which goes to show that the revenue had reconciled with the reasoning given by the learned Tribunal in that record. Therefore, a piecemeal challenge to the order passed by the learned Tribunal on one of the grounds on which relief was granted to the assessee is not maintainable.*

9. In more or less identical circumstances in the case of Pr. CIT v. Sinforte (P.) Ltd. [ITAT No. 104 of 2019, dated 7-1-2022] the court had dismissed the appeal filed by the revenue on the ground that the PCIT in order to exercise jurisdiction under section 263 of the Act exercised jurisdiction at the instance of the assessing officer which is against the provisions of the law*. This decision supports the case of the respondent assessee. Hence, for the above reasons, we are of the view that the order passed by the learned tribunal on the first ground, namely with regard to the correctness of the exercise of power under section 263 of the Act has to be affirmed and, accordingly, the appeal filed by the revenue is dismissed and the substantial questions of law suggested by the revenue are not required to be decided in the instant case.*

15.3 *That appellant further places reliance on the decision of Pune bench of Tribunal in case of* ***Alfa Laval Lund AB vs. CIT in ITA No. 1287/PUN/2017 dated 2.11.2021 (Page 586-588 of JPB)****, wherein Hon'ble Court has held as under:*

"3. We have heard both the sides through Virtual Court and gone through the relevant material on record. It can be seen from para 4 of the ld. CIT's order that: "A proposal for revision u/s 263 of the IT Act, 1961 was received from DCIT(IT)-1, Pune through the Jt.CIT(IT), Pune vide letter No. Pn/Jt.CIT(IT)/263/2016-17/61 dated 23.05.2016". It is thus manifest that the edifice of the revision in the extant case has been laid on the bedrock of receipt of the proposal from the AO. At this stage, it would be worthwhile to have a glance at sub-section (1) of section 263 of the Act, which runs as under:-
"The Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by the Assessing Officer is erroneous

in so far as it is prejudicial to the interests of the revenue, he, may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment."

4. Sub-section (1) of section 263 of the Act is an enabling provision which confers jurisdiction on the CIT to revise an assessment order which he considers erroneous and prejudicial to the interests of revenue. The process of revision u/s 263 of the Act initiates only when the CIT calls for and examines the record of any proceeding under this Act and considers that any order passed by the AO is erroneous and prejudicial to the interests of the revenue. The twin conditions of - (i) the CIT calling for and examining the record; succeeded by (ii) his considering the assessment order as erroneous etc. - are sine qua non for the exercise of power under this section. The use of the word "and' between the expression call for and examine the record ....' and the expression if he considers that any order ... is erroneous ...' abundantly demonstrates that both these conditions must be cumulatively fulfilled by the CIT and in the same order, that is, the first followed by the second. ***In other words, the kicking in point for invoking jurisdiction u/s 263 is calling for and examining the record of any proceedings under the Act by the CIT leading him to consider the assessment order erroneous etc. A communication from the AO is not "the record of any proceedings under this Act'. To put it simply, the consideration that the assessment order is erroneous and prejudicial to the interests of the revenue should flow from and be the consequence of his examination of the record of proceedings. If such a consideration is not preceded by the examination of record of the proceedings under the Act, the condition for revision does not get magnetized.***

5. It is trite that a power which vests exclusively in one authority, can't be invoked or cause to be invoked by another, either directly or indirectly. Section 263 of the Act confers power on the CIT to revise an assessment order, subject to certain conditions. Instantly, we are confronted with a situation in which the revision was initiated on the basis of the AO sending a proposal to the CIT and not on the CIT suomotu calling for and examining the record of the assessment proceedings and thereafter considering the assessment order erroneous and prejudicial to the interests of the revenue. ***The AO recommending a revision to the CIT has no statutory sanction and is a course of action***

unknown to the law. ***If AO, after passing an assessment order, finds something amiss in it to the detriment of the Revenue, he has ample power to either reassess the earlier assessment in terms of section 147 or carry out rectification u/s 154 of the Act. He can't usurp the power of the CIT and recommend a revision***. *No overlapping of powers of the authorities under the Act can be permitted. As the revision proceedings in this case have triggered with the AO sending a proposal to the ld. CIT and then the latter passing the order u/s 263 of the Act on the basis of such a proposal, we hold that it became a case of jurisdiction deficit resulting into vitiating the impugned order. Without going into the merits of the case, we quash the impugned order on this legal issue itself. 6. In the result, the appeal is allowed."*

15.4 In this regard appellant further places reliance on below mentioned judicial pronouncements:

HIGH COURTS

i) *455 ITR 736 (Cal) PCIT vs. Sinhotia Metals and Minerals (P) Ltd.* ***(Page 497 – 498 of JPB).***

ii) CIT Mumbai vs Maharashtra Hybrid Seeds Co. Ltd in Income Tax Appeal No. 47 of 2002 dated 4.9.2018

9. As rightly held by the Tribunal, this note firstly shows that all the explanations and arguments of the Assessee have been considered by the Assessing Officer and secondly that the action taken under Section 263 is only on the basis of the audit party's note or report, who it would appear, ultimately did not approve of the Assessing Officer's view regarding the allowability of the deduction. Admittedly, the CIT has not referred to any audit objection but in the light of the note, the Tribunal held that it would be a fair inference that his action under Section 263 was consequent upon the audit objection. Be that as it may, this office note clearly shows that the Assessing Officer had taken all explanations and arguments of the Assessee into consideration before allowing deduction. This being the case, the CIT could not have merely substituted his own views for that of the Assessing Officer by invoking Section 263 of the I. T. Act.

ITAT – Chandigarh

i) *ITA No. 398/Chd/ 2022 dated 30.12.2022 Surender Kumar vs. PCIT (Para 8 to 16)* ***(Page*** *632 – 643* ***of JPB).***

ITAT – Delhi

i) *ITA No. 1132/Del/2022 dated 10.11.2023 Shri Raghuvir Singh vs. PCIT.* ***(Page 516-539 of JPB)***

27. Coming back to the facts of the case, the root cause for initiation of the impugned proceedings is the audit objection by the audit party, order dated 29.12.2019. The operative part reads as under:

……

28. In his reply dated 14.02.2022, which is placed at pages 199 to 201 of the Paper Book, the Assessing Officer himself has recommended to the PCIT to initiate proceedings u/s 263 of the Act.

29. A plain reading of section 263 of the Act would show that the PCIT may call for and examine the record of any proceedings under this Act whereas in the case in hand, we find that it was the Assessing Officer who recommended the PCIT to initiate proceedings u/s 263 of the Act for which it can be safely concluded that the PCIT did not apply his mind. Even the recommendation of the Assessing Officer is based upon the audit objection when the Assessing Officer was well aware of the questions raised during the assessment proceedings which have been duly verified and examined by him before framing the impugned assessment order.

30. Considering the facts of the case in totality in light of judicial decisions discussed hereinabove, we do not find any error or infirmity in the assessment order which could make it erroneous and prejudicial to the interest of the Revenue. Therefore, we set aside the order of the PCIT and restore that of the Assessing Officer dated 29.12.2019.

We order accordingly.

ii) *ITA No. 3250/Del/2018 dated 01.05.2024 Jagbir Singh vs. PCIT* ***(Page 540-547 of JPB)***

4. This assessment was sought to be revised by the learned Pr. CIT by invoking revisional jurisdiction u/s 263 of the Act based on the proposal received from Additional CIT, Range-38, New Delhi, *stating that the assessment was completed in haste without looking or properly verifying the purchases, rent expenses, labour charges and also other expenses. The learned Pr. CIT had justified his revisional jurisdiction by verification of the order-sheet noting dated 19.02.2018 from the case records and found that these expenses were not subjected to any examination by the learned AO during the course of assessment proceedings. Accordingly, he proceeded to cancel the assessment order and directed the learned AO to make assessment afresh after making appropriate enquiries and verification.*

5. At the outset, it is not in dispute that initiation of revision proceedings u/s 263 of the Act by the learned Pr. CIT has been carried out in the instant case not on his own volition, or on examination of the records of the assessee by him by independently applying his mind. Instead, the revisional proceedings had been initiated based on a proposal received from the Additional CIT, which fact is also mentioned in para 2 of the order of learned Pr. CIT. Hence, it is a clear case of borrowed satisfaction by the learned Pr. CIT, which is in complete violation of provisions of Section 263 of the Act. *In the case before us, it is not in dispute that the Pr. CIT invoked the proceedings u/s 263 of the Act on the request of the ld. Addl. CIT. Under section 263(1) of the Act, it clearly*

says, "The Commissioner may call for and examine the records of any proceedings under this Act, and if he considers ... ", which means that proposal for initiation of revision proceedings must be initiated by the ld. CIT, because, it is the ld. CIT who has to call for and examine the records. Whereas in the instant case, the ld. PCIT did not initiate the proceedings himself but initiated the proceedings on the proposal received from the ld. Addl. CIT. Only on receipt of proposal from the ld. Addl. CIT, the Pr. CIT initiated revision proceedings. ***As mentioned above, that the proposal for initiation of revision proceedings must be initiated by the CIT, which is not the case at present, therefore, the initiation of proceedings u/s 263 of the Act at the instance of the ld. Addl. CIT are invalid****. This view of ours is further fortified by the following decisions:-*

a) Decision of Mumbai Tribunal in the case of Vinay Pratap Thacker in ITA No. 2939/Mum/2011 dated 27.2.2013 ……..

b) Decision of Kolkata Tribunal in the case of Rupayan Udyog Vs. CIT in ITA No. 1073/Kol/2012 dated 28.11.2018……..

c) Decision of Ahmedabad Tribunal in the case of Shanti Exim Ltd Vs CIT reported in (2017) 88 taxmann.com 361 (Ahd. Tribunal)……..

d) Decision of Mumbai Tribunal in the case of Adishwar K. Jain Vs. CIT in ITA No. 3389/Mum/2014 dated 12.03.2018 ……..

e) Decision of Mumbai Tribunal in the case of Ashok kumar Shivpuri v. CIT in ITA No.631 (M) of 2014 dated 7.11.2014……..

f) Decision of Pune Tribunal in the case of Span Overseas Ltd. Vs. CIT, Pune in ITA No. 1223/PN/2013 dated 21.12.2015

g) Decision of Hon'ble Bombay High Court in the case of CIT Mumbai vs Maharashtra Hybrid Seeds Co. Ltd in Income Tax Appeal No. 47 of 2002 dated 4.9.2018

9. As rightly held by the Tribunal, this note firstly shows that all the explanations and arguments of the Assessee have been considered by the Assessing Officer and secondly that the action taken under Section 263 is only on the basis of the audit party's note or report, who it would appear, ultimately did not approve of the Assessing Officer's view regarding the allowability of the deduction. Admittedly, the CIT has not referred to any audit objection but in the light of the note, the Tribunal held that it would be a fair inference that his action under Section 263 was consequent upon the audit objection. Be that as it may, this office note clearly shows that the Assessing Officer had taken all explanations and arguments of the Assessee into consideration before allowing deduction. This being the case, the CIT could not have merely substituted his own views for that of the Assessing Officer by invoking Section 263 of the I. T. Act.

6. In view of the above observations and respectfully following the various judicial precedents relied upon hereinabove, we have no hesitation to quash the revision order u/s 263 of the Act, passed by the learned Pr. CIT. Accordingly grounds raised by the assessee are allowed.

iii) *ITA No. 4051/Del/2018 dated 16.07.24 Sanjay Sawhney vs. ITO* ***(Page 548-562 of JPB)***

6. At the outset, we find that the entire initiation of proceedings by the ld. PCIT u/s 263 of the Act was not based on independent examination of

the records by him or independent application of mind by him as mandated in Sec.263(1) of the Act. In the present case, the proceedings u/s 263 of the Act stood triggered based on the proposal received from ld. JCIT, Range-34, Delhi which fact is duly confirmed by ld. PCIT himself in his revision order vide para 2 & 4 of his order. Hence, this is a clear cut case of borrowed satisfaction by the ld. PCIT resulting in direct violation of provisions of Sec. 263(1) of the Act. *The law is now very well settled that based on borrowed satisfaction by the ld. PCIT, the revision proceedings u/s 263 of the Act deserve to be quashed as void-ab-initio. The provisions of section 263(1) of the Act clearly says -"The Commissioner may call for and examine the records of any proceedings under this Act, and if he considers ... ", which means that proposal for initiation of revision proceedings must be initiated by the ld. PCIT, because, it is the ld. PCIT who has to call for and examine the records.* ***In the case at present, the ld. PCIT did not initiate the proceedings himself but initiated the proceedings on the proposal received from the ld. JCIT. Only on receipt of proposal from the JCIT, the ld.PCIT initiated revision proceedings.*** *It is not the case where ld. PCIT called for the record and after examining the same, initiated the proceedings u/s 263 of the Act. This clearly proves that there is no independent application of mind on the part of ld. PCIT while invoking jurisdiction u/s 263 of the Act. Therefore, the initiation of proceedings u/s 263 at the instance of the ld. JCIT are invalid.*

This view of ours is further fortified by the following decisions:-

(i) Decision of Mumbai Tribunal in the case of Ashok kumar Shivpuri v. CIT in ITA No.631 (M) of 2014 dated 07-11-2014.

ii) Decision of Kolkata Tribunal in the case of Rupayan Udyog Vs. CIT in ITA No. 1073/Kol/2012 dated 28.11.2018

iii) Decision of Ahmedabad Tribunal in the case of Shanti Exim Ltd Vs CIT reported in 88 taxmann.com 361 (Ahd. Tribunal).

iv) Decision of Mumbai Tribunal in the case of Adishwar K. Jain Vs. CIT in ITA No. 3389/Mum/2014 dated 12.03.2018.

v) Decision of Mumbai Tribunal in the case of VinayPratap Thacker in ITA No. 2939/Mum/2011 dated 27.02.2013.

(vi) Decision of Pune Tribunal in the case of Span Overseas Ltd. Vs. CIT, Pune in ITA No. 1223/PN/2013 dated 21.12.2015.

(vii) Decision of Hon'ble Bombay High Court in the case of CIT Mumbai vs Maharashtra Hybrid Seeds Co. Ltd in Income Tax Appeal No. 47 of 2002 dated 4.9.2018

7. Further, we find that adequate inquiries were indeed conducted by the ld. Assessing Officer in the instant case which is evident from notice u/s 142(1) of the Act dated 18.05.2015 enclosed at page 12 of the paper book, wherein the ld. Assessing Officer had indeed asked for the parties to whom interest was paid along with ledger account with their PAN and address. The ld. Assessing Officer had also sought for tax deduction at source made on the said interest payments. Further the ld. Assessing Officer had also sought for entire ledger for all expenses debited to profit and loss account. This questionnaire was duly replied by the assessee from time to time vide letters dated 22.04.2015, 28.05.2015, 02.06.2015 and 14.06.2015 before the ld. Assessing Officer which are enclosed in pages 13 to 16 of the paper

book. The assessee had indeed given complete explanation for the interest expenditure , explanation for interest income earned, confirmation of interest from the parties, confirmation of commission paid to the parties together with the details thereon. ***Hence we hold that the ld. PCIT is factually incorrect in stating that no enquiries were made by the ld. Assessing Officer in the scrutiny assessment proceedings qua the issue of commission payment and interest payment. Hence order passed u/s 263 of the Act deserve to be quashed on this count itself.***

iv) *ITA No. 769/D/2021 dated 21.05.2024 Ahlcon Parenterals (India) Ltd. vs. PCIT* ***(Page 602-605 of JPB)***

ITAT - Other

i) ITA No. 147 & 148/PUN/2019 dated 19.10.23 Volkswagen India Private Limited vs. PCIT ***(Para 4 to 8) (Page 502-515 of JPB)***
ii) ITA No. 953/Mum/2021 dated 27.04.2022 Multi Commodity Exchange of India Ltd. vs. PCIT ***(Page 563-575 of JPB)***
iii) ITA No. 634/Mum/2022 dated 24.02.2023 Thalia Akshar Developers vs. PCIT ***(Page 576-585 of JPB)***
iv) ITA No. 1223/PN/2013 dated 21.12.2015 Span Overseas Ltd. vs. CIT ***(Page 589-601 of JPB)***
v) ITA No. 273/JP/2020 dated 18.01.2021 Swami Keshwanand Sikshan Sansthan vs. CIT ***(Page 606-620 of JPB)***
vi) ITA No. 164/CTK/2019 dated 18.12.2019 Aakash Ganga Promoters & Developers vs. ACIT ***(Page 621-631 of JPB)***

16 OTHER PROPOSITIONS:

PROPOSITION I: THAT PROCEEDINGS U/S 263 CANNOT BE INITIATED FOR INADEQUATE ENQUIRY BUT ONLY FOR LACK OF ENQUIRY WHICH IS DISTINCT FROM INADEQUATE ENQUIRY

i) 384 ITR 200 (SC) CIT vs. Amitabh Bachchan.
ii) 357 ITR 388 (Del) DIT vs. Jyoti Foundation
iii) 332 ITR 167 (Del) CIT vs. Sunbeam Auto Ltd.
iv) *343 ITR 329 (Del) ITO vs. D.G. Housing Projects Ltd. at pages 339*
v) 341 ITR 166 (Del) CIT vs. Leisure Wear Exports Ltd.
vi) 212 Taxman 184 (Del) CIT vs. Vodafone Essar South Ltd.
vii) 341 ITR 180 (Del) CIT vs. Hindustan Marketing and Advertising Co. Ltd.
viii) 360 ITR 44 (Del) CIT vs. New Delhi Television Ltd.
ix) 236 CTR 476 (Del), CIT vs. Vikas Polymers

"10. As regards the scope and ambit of the expression "erroneous", a Division Bench of the Bombay High Court in CIT vs. Gabriel India Ltd., (1993) 203 ITR 108 (Bombay), held with reference to Black's Law Dictionary that an "erroneous judgment" means "one rendered according to course and practice of Court, but contrary to law, upon mistaken view of law; or upon erroneous application of legal principles" and thus it is clear that an order cannot be terms as "erroneous" unless it is not in accordance with law. If an Income-tax Officer acting in accordance with law makes a certain assessment, the same cannot be branded as "erroneous" by the Commissioner simply because, according to him, the

order should have been written differently or more elaborately. ***The Section does not visualize the substitution of the judgment of the Commissioner for that of the Income-tax Officer, who passed the order unless the decision is not in accordance with law.***

11. Then again, any and every erroneous order cannot be the subject matter of revision because the second requirement also must be fulfilled. There must be material on record to show that tax which was lawfully exigible has not been imposed [See Gabriel India Ltd. (supra)]. However, the expression "prejudicial to the interest of the revenue", as held by the Supreme Court in the Malabar Industrial Co. Ltd.'s case, is not an expression of art and is not defined in the Act and, therefore, must be understood in its ordinary meaning. It is of wide import and is not confined to the loss of tax [see Dawjee Dadabhoy and Co. (supra), CIT vs. T. Narayana Pai (1975) 98 ITR 422 (KAR), CIT vs. Gabriel India Ltd. (supra) and CIT vs. Smt. Minalben S. Parikh, (1995) 215 ITR 81 (Guj)]. Ltd. (supra) and CIT vs. Smt. Minalben S. Parikh, (1995) 215 ITR 81 (Guj)].

13. It is also trite that there is a fine though subtle distinction between "lack of inquiry" and "inadequate inquiry". It is only in cases of "lack of inquiry" that the Commissioner is empowered to exercise his revisional powers by calling for and examining the records of any proceedings under the Act and passing orders thereon."

PROPOSTION II: WHERE THERE IS INADEQUATE ENQUIRY BUT NOT LACK OF ENQUIRY THE CIT MUST RECORD FINDING THAT ORDER IS ERRONEOUS AND HE MUST ESTABLISH THAT ERROR ON MISTAKE BY AO IS UNSUSTAINABLE

i) 343 ITR 329 (Del) ITO vs. D.G. Housing Projects Ltd. at pages 339
ii) 350 ITR 555 (Del) CIT vs. DLF Ltd.
iii) ITA No. 705/2017 PCIT vs. Delhi Airport Metro Express (P) Ltd.

PROPOSITION III: WHERE TWO VIEWS ARE POSSIBLE NOTICE U/S 263 CANNOT BE INVOKED

i) 243 ITR 83 (SC) Malabar Industrial Co. Ltd. vs. CIT
ii) 259 ITR 502 (Guj) CIT vs. Arvind Jewellers
iii) 332 ITR 167 (Del) CIT vs. Sunbeam Auto Ltd.
iv) 329 ITR 289 (Del) CIT vs. DLF Power Ltd
v) 295 ITR 282 (SC) CIT vs. Max India Ltd.
vi) 323 ITR 632 (Bom) CIT vs. Design and Automation Engineers (Bombay) Pvt. Ltd.
vii) 294 ITR 121 (Chennai) CIT vs. Mepco Industries Ltd.
viii) 303 ITR 23 (P&H) CIT vs. Munjal Castings
ix) 321 ITR 92 (Bom) Grasim Industries Ltd. vs. CIT
x) 325 ITR 343 (P&H) CIT vs. Tek Chand Saini
xi) 333 ITR 547 (Del) CIT vs. Honda Siel Power Products Ltd.
xii) 263 ITR 255 (SC) CIT vs. G.M. Mittal Stainless Steel Ltd.

PROPOSITION IV: THAT IT IS NECESSARY FOR COMMISISONER OF INCOME TAX TO POINT OUT THE MATERIAL ON

RECORD AS TO HOW THE ORDER OF AO IS PREJUDICIAL TO THE INTEREST OF REVENUE

i) 142 ITR 778 (Pat) CIT vs. Shanti Lal Aggarwala
ii) 96 ITR 310 (All) CIT vs. Late Sunder Lal
iii) 111 ITR 326 (All) J.P. Srivastava & Sons v. CIT
iv) 170 ITR 28 (All) CIT vs. Kashi Nath & Co.

PROPOSITION V: THAT COMMISSIONER OF INCOME TAX CANNOT SIMPLY ASK THE ASSESSING OFFICER TO RE-EXAMINE THE MATTER, HE CAN DO SO ONLY AFTER FINDING ORDER OF ASSESSMENT IS ERRONEOUS AND PREJUDICIAL TO INTERST OF REVENUE

i) 203 ITR 108 (Bom) CIT vs. Gabriel India Ltd. at page 117
ii) 341 ITR 240 (Del) CIT vs. Software Consultants ***(pages 181-186 of JPB)***

PROPOSITION VI: ERROR SHOULD BE ONE WHICH DEPENDED ON FACT OR LAW AND NOT MERE POSSIBLITY OR GUESS WORK

i) 167 ITR 129 (Jaipur) CIT vs. Trustees Anupam Charitable Trust

PROPOSITION VII: ORDER OF COMMISSIONER OF INCOME TAX MERELY SETTING ASIDE THE ORDER OF ASSESSMENT WITHOUT GIVING REASONS IS A VITIATED ORDER

i) 96 ITR 310 (All) CIT vs. Sunder Lal
ii) 111 ITR 326 (All) J. P. Srivastava & Sons Ltd. vs. CIT
iii) 170 ITR 28 (All) CIT vs. Kashi Nath & Co

PROPOSITION VIII: REVISION ORDER CANNOT BE PASSED U/S 263, UNLESS THERE IS TOTAL NON APPLICATION OF MIND BASED ON COGENT MATERIAL

i) 100 ITD 173 (Mum) Mrs. Khatiza S. Oomerbhoy vs. ITO
ii) 100 ITD 441 (Kol) Al-Haz Amir Hasan Properties Pvt. Ltd. vs. Asst. CIT
iii) 203 ITR 108 (Bom) CIT vs. Gabriel India Ltd.
iv) 171 ITR 141 (MP) CIT vs. Ratlam Coal Ash Co.

PROPOSITION IX: ALL PARTICULARS ARE FURNISHED BEFORE THE LEARNED ASSESSING OFFICER AND HE HAS APPLIED HIS MIND THEN REVISION IS NOT VALID U/S 263 OF THE ACT

i) 130 TTJ 669 (Del) Regency Park Property Management Services Pvt. Ltd. vs. CIT
ii) 125 TTJ 428 (Del) Rajiv Agnihotri vs. CIT
iii) 131 ITD 58 (Jai) Rajiv Arora vs. CIT
iv) 137 TTJ 67 (Pat) Ramakant Singh vs. CIT
v) ITA No. 771/Chd/2017 dated 9.4.2018 Shri Abhimanyu Gupta v. PCIT
vi) ITA No. 574/Del/2018 dated 19.6.2018 Vidya Prakashan Mandir (P) Ltd. PCIT

PROPOSITION X: MERELY BECAUSE THERE IS NO ELABORATES DISCUSSION, ORDER CANNOT BE SAID TO BE ERRONEOUS

i) 162 Taxman 39 (Mum) (MAG) Anil Shah vs. Asst. CIT
ii) 13 SOT 184 (Del) Leisure Wear Exports Ltd. vs. ITO
iii) 81 ITD 36 (Hyd) Srinivasa Hatcheries Pvt. Ltd. vs. DCIT
iv) 107 Taxman 205 (Mum) (MAG) Indian Hotels Co. Ltd. vs. DCIT
v) 263 ITR 437 (P&H) Hari Iron Trading Co. vs. CIT
vi) 74 TTJ 67 (All) Sahara India Mutual Benefit Co. Ltd. vs. Asst. CIT
vii) 53 TTJ 432 (Ind) Vidisha Tractors vs. Asst. CIT
viii) 34 SOT 241 (Mum) Reliance Communications Infrastructure Ltd. vs. CIT
ix) 236 CTR 476 (Del) CIT vs. Vikas Polymers

PROPOSITION XI: THAT EXPLANATION 2 TO SECTION 263 OF THE ACT DOES NOT AUTHORISE OR GIVE UNFETTERED POWER TO COMMISSIONER TO REVISE EACH AND EVERY ORDER AND, IS NOT A SUBSTITUTE TO THE PRECONDITION U/S 263(1) OF THE ACT.

i) 70 taxmann.com 227 (Mum – Trib.) Narayan Tatu Rane v. ITO
ii) 390 ITR 292 (Bom) CIT v. Nirav Modi affirmed by Apex Court in the case of CIT vs. Nirav Modi reported in [2017] 77 taxman.com 78 (SC)
iii) ITA No. 3205/Del/2017 M/s Amira Pure Foods (P) Ltd. v. PCIT

PROPOSITION XII: THAT NO MECHANICAL SET ASIDE PERMISSIBLE IN ABSENCE OF ENQUIRY BY PCIT

i) 394 ITR 758 (Del) PCIT v. Vinita Chaurasia
ii) ITA No. 705/Del/2017 PCIT vs. Delhi Airport Metro Express (P) Ltd.
iii) 96 ITR 310 (All) CIT v. Sunder Lal
iv) 111 ITR 326 (All) J.P. Srivastava & Sons Ltd. v. CIT
v) 170 ITR 28 (All) CIT v. Kashi Nath & Co.
vi) ITA No. 3205/Del/2017 M/s Amira Pure Foods (P) Ltd. v. PCIT
vii) 343 ITR 229 (Del) ITO v. D.G. Housing Projects Ltd. at page 339
viii) 350 ITR 555 (Del) CIT v. DLF Ltd.

17 It is submitted, this opinion of the Tribunal is contrary to the well settled judicial discipline which states that, another Division Bench of the same strength could not take a view contrary to an existing view unless the same is referred to a Larger Bench for adjudication. This submission is supported by the following judgments

a) 306 ITR 271 (Delhi) DLF Universal Ltd. vs. CIT
b) 186 ITR 722 (SC) Union of India and Or. Vs. Paras Laminates Pvt. Ltd.
c) 212 ITR 395 (SC) Assistant Controller of Estate Duty vs. Smt. V. Devaki Ammal

*18 Thus, it is submitted that the conditions or the factors enabling the learned PCIT to invoke his jurisdiction u/s 263 have not been satisfied. It is submitted that there must be positive material for the Commissioner to consider objectively and not subjectively that the order of the Assessing Officer was erroneous, in so far as it was prejudicial to the interest of revenue. The Hon'ble Bombay High Court in the case of **CIT vs. Gabriel India Ltd., reported in 203 ITR 108** has held that there must be some prima facie material on record to show that the tax which was lawfully eligible has not been imposed or that by application of the relevant statute on an incorrect or an incomplete interpretation, a lesser tax than what was*

just, has been imposed. It is submitted on an application of the aforesaid rule, it will be seen that the order made u/s 263 of the Act was entirely without any jurisdiction as there was absolutely no material to justify such an assumption nor has any material been brought on record or the materials which are on record have been disputed justifying such an assumption that the tax lawfully eligible has not been imposed.

19 *In the final analysis, in view of the foregoing, it is respectfully submitted that, since in the instant case, the Commissioner has not satisfied the twin conditions required for invoking the provisions of section 263 of the Act, the instant order is without jurisdiction and, therefore the same is illegal, untenable and, unsustainable.*

20 *Submission on additional ground in in the case of* ***Randhir Singh in ITA No. 94/Chd/2024*** *is as under:*

> *"That the order of assessment dated 12.9.2021 u/s 143(3) read with 147/144B of the Act passed by the National Faceless Assessment Centre is without jurisdiction as the faceless regime for income escaping assessment stood notified only on 29-3-2022 therefore consequently impugned order dated 1.3.2024 u/s 263 of the Act deserves to be quashed as such."*

21 *It is submitted that the order of assessment sought to be revised u/s 263 of the Act was passed on 12.9.2021 framed u/s 143(3) read with section 147/144B of the Act by the learned National Faceless Assessment Centre, Delhi on the contrary faceless regime for income escaping assessment has been notified on 29.3.2022 under provision of section 151A of the Act.*

22 *It is submitted that Provisions of Section 151A of the Act reads as under:*

> *"**Faceless assessment of income escaping assessment.***
> ***151A.** (1) The Central Government may **make a scheme**, by notification in the Official Gazette, for the purposes of assessment, reassessment or re-computation under section 147 or issuance of notice under section 148 or conducting of enquiries or issuance of show-cause notice or passing of order under section 148A or sanction for issue of such notice under section 151, so as to impart greater efficiency, transparency and accountability by—*
> *(a) eliminating the interface between the income-tax authority and the assessee or any other person to the extent technologically feasible;*
> *(b) optimising utilisation of the resources through economies of scale and functional specialisation;*
> *(c) introducing a team-based assessment, reassessment, re-computation or issuance or sanction of notice with dynamic jurisdiction.*
> *(2) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (1), **by***

***notification in the Official Gazette**, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:*
***Provided** that no direction shall be issued after the 31st day of March, 2022.*
(3) Every notification issued under sub-section (1) and sub-section (2) shall, as soon as may be after the notification is issued, be laid before each House of Parliament."

*22.1 It is submitted that pursuance to the aforesaid notification has been issued on **29.03.2022 by CBDT**, which reads as under:*

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)
NOTIFICATION
*New Delhi, the **29th March, 2022***

***S.O. 1466(E).**—In exercise of the powers conferred by sub-sections (1) and (2) of section 151A of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby makes the following Scheme, namely:-*

***1. Short title and commencement.**—*

(1) This Scheme may be called the e-Assessment of Income Escaping Assessment Scheme, 2022.
(2) <u>It shall come into force with effect from the date of its publication in the Official Gazette</u>.

***2. Definitions.**—*

(1) In this Scheme, unless the context otherwise requires, —
(a) ―Act‖ means the Income-tax Act, 1961 (43 of 1961);
(b) ―automated allocation‖ means an algorithm for randomised allocation of cases, by using suitable technological tools, including artificial intelligence and machine learning, with a view to optimise the use of resources.
(2) Words and expressions used herein and not defined, but defined in the Act, shall have the meaning respectively assigned to them in the Act.

***3. Scope of the Scheme.**—For the purpose of this Scheme,––*

(a) assessment, reassessment or recomputation under section 147 of the Act,
(b) issuance of notice under section 148 of the Act,
shall be through automated allocation, in accordance with risk management strategy formulated by the Board as referred to in section 148 of the Act for issuance of notice, and in a faceless manner, to the extent provided in section

144B of the Act with reference to making assessment or reassessment of total income or loss of assessee.

[Notification No. 18/2022/F. No. 370142/16/2022-TPL(Part1]

SHEFALI SINGH, Under Secy."

22.2 *It is submitted that only after issuance of aforesaid notification dated **29.03.2022 by CBDT,** amendment has been made in provisions of section 144B of the Act wherein reassessment or recomputation under section 147 of the Act has been inserted in section 144B of the Act, to be made in faceless manner.*

22.3 *In support of the aforesaid contention appellant relied upon following decisions of Hon'ble Income tax Appellate Tribunal, which are placed in Paper Book filed by appellant:*

i) *ITA No. 4110/D/2024 dated 30.7.2025 Suresh Chand v. ITO*

"6. The Revenue has drawn strong support from the learned lower authorities respective findings framing the faceless assessment herein in the assessee's case . We find no reason to express our concurrence to the Revenue's foregoing arguments. A perusal o f the case file indicates that this tribunal recent learned co-ordinate bench order in ITA No . 1328/Kol/2024 dated 15 .10 .2024 in Nabiul Industrial Metal Pv t. Ltd. Vs. ITO has decided the very issue against the department as under:

"1 .1 . The brie f fact s o f the case of the appellant are tha t the assessee Nabiul Industrial Metal Pv t. Ltd. did not file the return o f income for the AY 2017-18 as a result of which case o f the assessee was re-opened u/s 147 o f the Act . The Assessing Officer (hereinafter referred to as ld . 'AO') received information from the investigation wing , Kolkata wherein i t was mentioned that in course of the investigation in the case of M/s . Dar sh Coke Trading Pvt. Ltd ., it was revealed that the said company is a paper company through which entry operators provide bogus entries and layer money in exchange of commission. It was also found that the one o f the beneficiaries is the assessee company which has received Rs . 15 ,00,000/- from a paper concern namely Tanishi Commotrades Pvt. Ltd . During the course of re-assessment , the assessee was asked to explain the transactions with Tanishi Commotrades Pvt . Ltd. In response , the assessee submitted tha t in the current year i .e . FY 2016-17 the assessee took a loan/ advance from this party against sale of goods and in the immediately succeeding year i .e. FY 2017-18 sales were made to Tanishi Commotrades Pvt. Ltd and said sale was duly credited in the Pro fit and Loss account of the company and tax was duly paid . However , the AO was not convinced with the submission filed by the assessee and accordingly, added the sum of Rs. 15 ,00 ,000/- to the income o f the assessee u/s 68 of the Ac t. The said assessment order has been challenged before the ld. CIT(A) wherein in absence o f any response from the appellant the case o f the assessee has been dismissed.

Being aggrieved and dissatisfied with the impugned order , the present appeal has been pre ferred.

1.2 . The ld . Counsel for the assessee challenges the impugned order by taking several grounds but he, in course of hearing, took an additional

ground being the legal ground and he pressed only legal ground which are as follows:

"That the National Faceless Assessment Centre erred in having assumed jurisdiction u/s 151A r.w.s 144B of the Ac t from 29 .11 .2021 when they were not empowered under any notification about the applicability o f the faceless scheme for making assessment in faceless manner prior to 29 .03 .2022 ."

1 .3 . Ld . Counsel for the assessee submitted that the provisions o f Section 151A of the Act came in the statute on 01 .11 .2021 but i t was notified with effect from 29 .03.2022 .But in the present case , assessment proceedings to the NFAC star ted on 29 .11 .2021 which is evident from the notice u/s 142(1) of the Act. Ld . Counsel for the assessee further submits that the show cause notice has also been issued and the date has been mentioned as 28 .03 .2022 that is prior to 29 .03 .2022 . Ld . Counsel for the assessee further submits that the assumption of jurisdiction by the NFAC was without jurisdiction. Consequently, the whole assessment is without jurisdiction and unsustainable in law. Ld . Counsel for the assessee further drew the attention of this Bench on the issuance of show cause notice and submitted that it was served on 29 .03 .2022 and asked the asses see to furnish explanation on or before 29 .03 .2022 ,it means without giving the assessee any opportunity before framing of the assessment order . Ld . Counsel for the assessee has filed the following papers:

a) Notification f Minis try o f Finance dated 29 .03 .2022 .

b) Notice issued u/s 142(1) of the A ct.

c) Show cause notice dated 28 .03 .2022 .

1 .4 . Ld . D/R though supports the impugned order but did not raise any objection on the legal ground.

2 . We have perused the records and the papers filed by the assessee. It appears that Notification with respect to Section 151A o f the Act has been made with effec t from 29 .03 .2022 which is as under:

"S .O. 1466(E).—In exercise o f the powers conferred by sub-sections (1) and (2) of section 151A of the Incometax Ac t, 1961 (43 of 1961), the Central Government hereby makes the following Scheme, namely:-

1 . Short title and commencement.—(1) This Scheme may be called the e-Assessment o f Income Escaping Assessment Scheme , 2022 . (2)It shall come into force with e ffect from the da te of its publication in the Official Gazette .

2 .Definitions.—(1) In this Scheme, unless the context otherwise requi res, —

(a) "Ac t" means the Income-tax Ac t, 1961 (43 of 1961);

(b) "automated allocation" means an algorithm for randomised allocation of cases, by using suitable technological tool s, including artificial intelligence and machine learning , with a view to optimise the use of resources.

(2)Words and expressions used herein and not defined , but de fined in the Ac t, shall have the meaning respectively as signed to them in the Act .

3 . Scope of the Scheme .—For the purpose of this Scheme ,—

(a)assessment , reassessment or re-computation under section 147 of the Act ,
(b)issuance of notice under section 148 of the Ac t, shall be through automated allocation, in accordance with risk management strategy formulated by the Board as referred to in section 148 of the Act for issuance of notice , and in a faceless manner, to the extent provided insection 144B of the Ac t with reference to making assessment or reassessment of total income or loss of assessee."
2 .1 . We have also gone through the notice u/s 142(1) o f the Ac t da ted 29 .11 .2021 which is as follows:
……
2 .2 . We further find the show cause notice issued that also reflects the date 28 .03 .2022 which is as follows:
2 .3 . It appears from the show cause notice issued on 28 .03.2022 that at the bottom o f the page it was digitally signed thereby giving date 29 .03 .2022 a t 00:20:37 IST .
2 .4 . We further find that in the show cause notice the assessee has been directed to furnish explanation on or before 29 .03 .2022 . It is surprising that when it was issued on 29 .03 .2022 at 00:20:37 IST and directed the assessee to explain the explanation be fore 29 .03 .2022.
3 . Keeping in view the entire facts and discussions made above , we find substance in the argument of the ld. CIT(A) that assumption of jurisdiction prior to 29 .03.2022 by the ld. AO is to be held to be without jurisdiction. Accordingly, the assessment order , passed , is to be deemed without jurisdiction. Subsequently, all the orders passed are hereby held to be without jurisdiction."
7. We adopt the above detailed discussion mutatis mutandis to accept the assessee's instant additional/legal ground in very terms to quash the assessing authority's assessment framed in his case on 21 .03.2022. Ordered accordingly.
8. All other pleadings on merits stand rendered academic.
9. This assessee's appeal is allowed.

ii) *ITA No. 1328/Kol/2024 dated 15.10.2024 Nabiul Industrial Metal (P) Ltd. vs. ITO*
iii) *ITA No. 716/Pat/2024 dated 2.4.2025 Kashyap Constructions & Developers vs. ACIT*
iv) *ITA No. 186/D/2025 dated 20.8.2025 Atar Singh vs. ITO*
v) *ITA No. 400/Kol/2025 dated 2.12.2025 Albatross Investments (P) Ltd. v. ITO*

23 *Submission on additional ground in in the case of* ***Surjeet Singh in ITA No. 488/Chd/2024*** *is as under:*

"That the order of assessment dated 15.4.2021 u/s 143(3) read with 143(3A) and 143(3B) of the Act is barred by limitation therefore consequently impugned order dated 1.3.2024 u/s 263 of the Act deserves to be quashed as such."

24 Section 153 of the Act reads as under:

> ***[Time limit for completion of assessment, reassessment and recomputation.***
> ***153.*** *(1) No order of assessment[85] shall be made under section 143 or section 144 at any time after the expiry of twenty-one months from the end of the assessment year in which the income was first assessable:*
> *[86][**Provided** that in respect of an order of assessment relating to the assessment year commencing on the 1st day of April, 2018, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "eighteen months" had been substituted:"*

25 It is evident from the proviso of section 153(1) of the Act that order of assessment for assessment year 2018-19 shall be made under section 143 or section 144 on or before the expiry of eighteen months from the end of the assessment year in which the income was first assessable. Therefore the order of assessment should be made on or before 30.9.2020, however the order of assessment has been made on 15.4.2021 and, as such the same is time barred.

*26 The appellant further submits that the once an order dated 12.9.2021 u/s 143(3) read with 147/144B of the Act is a nullity and without jurisdiction then even an order u/s 263 of the Act is also nullity. The issue is no longer res-integra and is covered by the decision of Mumbai Bench of Hon'ble Tribunal in the case of **M/s Westlife Development Ltd v. Pr. CIT reported in 49 ITR (T) 406** wherein it has been held as under:*

> ***"8.*** *Challenging the jurisdictional defects of assessment order for assailing the jurisdictional validity of the revision order passed u/s 263:*
> *The first issue that arises for our consideration is - whether the assessee can challenge the jurisdictional validity of order passed u/s 143(3) in the appellate proceedings taken up for challenging the order passed u/s 263? If we analyse the nature of both of these proceedings, which are under consideration before us, we find that the original assessment proceedings can be classified in a way as 'primary proceedings'. These are, in effect, basic/foundational proceedings and akin to a platform upon which any subsequent proceedings connected therewith can rest upon. The proceedings initiated u/s 263 seeking to revise the original assessment order is off shoot of the primary proceedings and therefore, these may be termed as 'collateral proceedings' in the legal framework. The issue that arises here is whether any illegality/invalidity in the order passed in the 'primary proceedings' can be set up in the 'collateral proceedings' and if yes, then of what nature?*

***8.1**. We have analysed this issue carefully. There is no doubt that after passing of the original assessment order, the primary (i.e. original proceedings) had come to an end and attained finality and, therefore, outcome of the same cannot be disturbed, and therefore, the original assessment order framed to conclude the primary proceedings had also attained finality and it also cannot be disturbed at the instance of the assessee, except as permitted under the law and by following the due process of law. Under these circumstances, it can be said that effect of the original assessment order cannot be erased or modified subsequently. In other words, whatever tax liability had been determined in the original assessment order that had already become final and that cannot be sought to be disturbed by the assessee. But, the issue that arises here is that if the original assessment order is illegal in terms of its jurisdiction or if the same is null & void in the eyes of law on any jurisdictional grounds, then, whether it can give rise to initiation of further proceedings and whether such subsequent proceedings would be valid under the law as contained in Income Tax Act? It has been vehemently argued before us that the subsequent proceedings (i.e. collateral proceedings) derive strength only from the order passed in the original proceedings (i.e. primary proceedings). Thus, if order passed in the original proceedings is itself illegal, then that cannot give rise to valid revision proceedings. Therefore, as per law, the validity of the order passed in the primary (original) proceedings should be allowed to be examined even at the subsequent stages, only for the limited purpose of examining whether the collateral (subsequent) proceedings have been initiated on a valid legal platform or not and for examining the validity of assumption of jurisdiction to initiate the collateral proceedings. If it is not so allowed, then, it may so happen that though order passed in the original proceedings was illegal and thus order passed in the subsequent proceedings in turn would also be illegal, but in absence of a remedy to contest the same, it may give rise to an 'enforceable' tax liability without authority of law. Therefore, the Courts have taken this view that jurisdictional aspects of the order passed in the primary proceedings can be examined in the collateral proceedings also. This issue is not res integra. This issue has been decided in many judgments by various courts, and some of them have been discussed by us in followings paragraphs.*

…….

***8.10** Thus, on the basis of aforesaid discussion we can safely hold that as per law, the assessee should be permitted to challenge the validity of order passed u/s 263*

on the ground that the impugned assessment order was non est and we hold accordingly.[Emphasis supplied]

27 Infact, in the aforesaid decision reliance has been placed on the following judgments of the Hon'ble Apex Court:

i) AIR 1954 SC 340 Kiran Singh and Others v. Chaman Pawan and Others
ii) (1990) 1 SCC 193 Sushil Kumar Mehta v. Gobind Ram Bohra
iii) (2015) 3 SCC 712. Indian Bank v. Manilal Govindji Khona
iv) AIR 1975 SC 2065 Superintendent of Taxes v. Onkarmal Nathmal Trust
v) AIR 1974 SC 2089 Dasa Muni Reddy v. Appa Rao
vi) (2004) 8 SCC 706 Balwant N. Viswamitra and Others v. Yadav Sadashiv Mul (dead) through IRS and Others

28 The appellant also seeks to place reliance on the following judgments:

i) 284 ITR 80 (SC) CIT vs. Varas International (P) Ltd.
ii) 424 ITR 1 (SC) Basir Ahmed Sisodia v. ITO
iii) 341 ITR 240 (Del) CIT v. Software Consultants

> ***"14.** For exercise of power under Section 263 of the Act, it is mandatory that the order passed by the Assessing Officer should be erroneous and prejudicial to the interest of the Revenue. In the present case, the Assessing Officer did not make any addition for the reasons recorded at the time of issue of notice under Section 148 of the Act. This position is not disputed and disturbed by the Commissioner of Income Tax in his order under Section 263 of the Act. Sequitur is that the Assessing Officer could not have made an addition on account of share application money in the assessment proceedings under Section 147/148. Accordingly, the assessment order is not erroneous. Thus, the Commissioner of Income Tax could not have exercised jurisdiction under Section 263 of the Act." [Emphasis supplied]*

iv) ITA No. 448/Chd/202 dated 16.4.2025 Indo Pacific Finlease Ltd. v. PCIT ***(pages 972-106 of JPB)***
v) ITA No. 466/2017 dated 2.5.2017. Pr. CIT v. Kaizen Products (P Ltd. presently known as Aas Research & Solutions (P) Ltd.
vi) ITA.No.2857/Del./2017 dated 10.12.2018 in the case of M/s. SPJ Hotels Pvt. Ltd. vs The PCIT-8
vii) ITA No. 2269/D/2017 dated 10.12.2018 M/s Supersonic Technologies (P) Ltd. vs. PCIT
viii) I.T.A. No.50/DEL/2021 Assessment year: 2017-18 Mikado Realtors (P) Ltd. vs. Pr. CIT (Central)
ix) ITA.No.2527/Del./2017 dated 10.12.2018 M/s. Shiv Sai Infrastructure (P) Ltd., New Delhi.
x) ITA.No.3216/Del./2017 dated 09.01.2019 M/s. Sri Balaji Forgings (P) Ltd vs The PCIT.
xi) ITA No. 2622/D/2024 dated 27.2.2025 Shobit Goel (HUF) v. PCIT
xii) ITA No. 2595/D/2018 dated 25.7.2025 Pamela Bhardwaj v. ITO
xiii) ITA No. 844/D/2024 dated 12.9.2025 Rahul Rastogi v. PCIT

11. The Ld. DR, controverting the submissions advanced by the Ld. AR, made the following submissions:

11.1 It was submitted that as per the provisions of section 282A of the Act read with Rule 127 of the Income Tax Rules, any notice, order or communication issued electronically through the CBDT portal or by e-mail does not mandatorily require a physical signature. In the present case, the notice issued under section 263 was generated electronically and contained a valid DIN (Document Identification Number). Therefore, the notice cannot be said to be invalid merely on the ground that it was not physically or digitally signed.

11.2 It was further submitted that the assessee not only received the said notice but also filed detailed replies thereto on three different occasions. Hence, there is no dispute regarding service of notice. The judgments relied upon by the assessee pertain to reopening proceedings where the plea was non-service of notice before the Hon'ble High Court. In the present case, the assessee has admittedly received the notice and responded to the same. Therefore, no prejudice has been caused to the assessee. The technical objection raised is not sustainable in law, particularly when the notice was issued in accordance with the statutory procedure. It was also emphasized that the appeal before the Tribunal arises out of the order passed under section 263 and not against the show cause notice itself.

11.3 On the contention that the assessment order was a nullity and hence could not be revised under section 263, the Ld. DR submitted that any order passed by the Assessing Officer under the Act continues to remain on record unless it is set aside, annulled, quashed or modified in accordance with law. The Act provides specific remedies, namely section 154 for rectification, section 250 for appeal before the CIT(A), and section 264 for revision. In the present case, none of these remedies were availed by the assessee.

Consequently, the assessment order remains part of the assessment record and squarely falls within the ambit of "record" as contemplated under section 263. Therefore, the Ld. PCIT was fully justified in invoking jurisdiction under section 263.

11.4 It was further argued that the statute prescribes a limitation period for challenging the assessment order. Once the assessee chose not to file an appeal against the assessment order within the prescribed time and accepted the same, the order attained finality. The assessee cannot now, in proceedings under section 263, challenge the validity of the original assessment order on the ground that it is a nullity. What cannot be done directly cannot be permitted to be done indirectly.

11.5 The Ld. DR also submitted that the principle of estoppel would apply. Having accepted the assessment order and participated in the proceedings, the assessee cannot now turn around and contend that the very same order is non est in the eyes of law.

With regard to the issue relating to taxability of interest on enhanced compensation, the Ld. DR submitted that although the Ld. AR relied upon certain decisions of Coordinate Benches in favour of various assessees, the Delhi Bench of the Tribunal has recently decided the issue against the assessee in the case of Mohinder Pal Narang in proceedings under section 263, thereby supporting the action of the Ld. PCIT.

12. We have heard the rival contention of the parties and perused the material available on the record.

12.1 One of the primary contentions raised by the assessee is that the show cause notice issued under section 263 of the Act was not signed and, therefore, the very assumption of jurisdiction by the Ld. PCIT is bad in law.

We have heard the rival submissions and perused the material available on record. The limited issue for our consideration in this ground is whether the notice issued under section 263, generated electronically and containing a valid DIN, can be held to be invalid merely for want of a physical or digital signature.

12.2 The provisions of section 282A of the Act deal with authentication of notices and other documents. Sub-section (1) provides that where any notice or other document is required to be issued by any income-tax authority, such notice or document shall be signed and issued in paper form or communicated in electronic form in accordance with such procedure as may be prescribed. Rule 127 of the Income Tax Rules prescribes the mode of service of notice, including service through electronic means in the registered account of the assessee or through e-mail.

12.3 A conjoint reading of section 282A and Rule 127 makes it clear that where a notice or communication is issued electronically in accordance with the prescribed procedure, the requirement of physical signature is dispensed with. The statutory scheme recognizes electronic issuance and service of notices as a valid mode of communication.

12.4 In the present case, it is an admitted position that the notice under section 263 was generated through the Income Tax Business Application (ITBA) system and bore a valid DIN (Document Identification Number). The generation of DIN itself establishes that the notice was issued through the official electronic system of the Department in conformity with the CBDT instructions governing issuance of communications. The assessee has not disputed the receipt of such notice and, in fact, has filed detailed replies thereto.

12.5 In these facts, we are unable to accept the contention of the assessee that the notice is invalid merely because it did not bear a physical or separate digital signature. Once the notice is issued electronically in terms of section 282A read with Rule 127 and contains a valid DIN, the same cannot be held to be non est on technical grounds.

12.6 We further observe that the assessee has participated in the proceedings pursuant to the said notice and has not demonstrated any prejudice caused on account of the alleged defect. It is well settled that procedural irregularities which do not go to the root of jurisdiction and do not cause prejudice cannot invalidate the proceedings.

12.7 In view of the foregoing discussion, we hold that the show cause notice issued under section 263 was validly issued in accordance with law. Consequently, the assumption of jurisdiction by the Ld. PCIT under section 263 cannot be faulted on this ground.

12.8 Accordingly, the ground raised by the assessee challenging the validity of the notice under section 263 is dismissed.

12.9 The remaining legal as well as factual grounds raised by the assessee in the present appeal are identical and similar to the grounds raised in the case of Baljinder Singh and others (supra), wherein this Tribunal has dealt with the issues elaborately and dismissed the legal and factual grounds raised by the respective assessees. Since the issues involved are pari materia and the facts are materially similar, respectfully following our own decision rendered in the case of Baljinder Singh and others, we dismiss all the legal and factual grounds raised by the assessee in the present appeal.

12.10 In the said appeal of Baljinder Singh and others in ITA 167/Chd/2023 decided on 11/02/2026, this Tribunal has held as under:

66. We have carefully considered the rival submissions, perused the material placed on record and examined the voluminous written submissions filed by the assessee. The controversy before us concerns the validity of the order passed by the Ld. Principal Commissioner of Income-tax under section 263 of the Act, whereby the assessment order dated 11.12.2020, passed under section 143(3), was set aside on the ground that it was erroneous and prejudicial to the interests of the Revenue.

67. The facts, in brief, are that the assessee received enhanced compensation along with interest awarded under section 28 of the Land Acquisition Act, 1894 pursuant to orders of the court. During the course of assessment proceedings, the Assessing Officer issued notice under section 142(1) dated 03.12.2020 seeking details in respect of the enhanced compensation. In response, the assessee furnished a copy of the relevant court order. Thereafter, the Assessing Officer completed the assessment under section 143(3) on 11.12.2020, accepting the returned income and holding the receipt, including interest on enhanced compensation, as not taxable, without any discussion or examination of the statutory provisions governing taxability of such interest.

68. Subsequently, the Ld. PCIT initiated revision proceedings under section 263 by issuing a show-cause notice on the ground that the interest received on enhanced compensation was taxable under section 56(2)(viii) of the Act and that the Assessing Officer had failed to apply the correct legal position. After considering the reply of the assessee and the material on record, the Ld. PCIT concluded that the assessment order was erroneous and prejudicial to the interests of the Revenue and directed the Assessing Officer to reframe the assessment in accordance with law.

69. At the outset, it is well settled that for invoking jurisdiction under section 263, the twin conditions must be satisfied, namely that the order of the Assessing Officer must be erroneous and that such error must be prejudicial to the interests of the Revenue. An order is erroneous not only when it is passed on an incorrect assumption of facts or incorrect application of law, but also when it is passed without making inquiries or verification which should have been made, or without proper application of mind. Explanation 2 to section 263 further clarifies that an order shall be deemed to be erroneous and prejudicial to the interests of the Revenue where it is passed without making requisite inquiries or not in accordance with decisions rendered by the jurisdictional High Court or the Supreme Court.

70. In the present case, though the Assessing Officer issued a notice under section 142(1) and obtained a copy of the court order, a perusal of the assessment order reveals that there is no discussion whatsoever on the issue of taxability of interest on enhanced compensation. The assessment order does not refer to section 56(2)(viii) or section 57(iv), nor does it examine the effect of the amendments introduced by the Finance (No.2) Act, 2009. The order is also completely silent on the judicial precedents governing the issue. Mere calling for information and placing it on record does not constitute an enquiry under the law. What is required is a conscious examination of the issue, application of the relevant statutory provisions and formation of a reasoned view. The absence of any such exercise clearly shows a lack of proper enquiry and non-application of mind on the part of the Assessing Officer.

71. The Finance (No.2) Act, 2009, with effect from 01.04.2010, inserted section 56(2)(viii) which specifically provides that income by way of interest

received on compensation or enhanced compensation shall be chargeable to tax under the head "Income from other sources", subject to deduction under section 57(iv). The legislative intent behind this amendment is explicit and leaves no scope for ambiguity. Once the statute clearly mandates taxability of such interest, the Assessing Officer was duty-bound to apply the said provision. Failure to do so renders the assessment order erroneous in law.

4. STATUTORY SCHEME AFTER FINANCE (NO.2) ACT, 2009

The Finance (No.2) Act, 2009 inserted section 56(2)(viii) and section 57(iv) with effect from 01.04.2010. Section 56(2)(viii) expressly provides that:

income by way of interest received on compensation or enhanced compensation shall be chargeable to income-tax under the head "Income from other sources".

72. This amendment was brought in to settle the controversy relating to the taxability of interest on compensation, irrespective of the nomenclature or the provision under which such interest is awarded.

73. Once the statute itself deems such interest to be taxable as "Income from other sources", the Assessing Officer had no discretion to treat it as exempt unless supported by binding authority holding otherwise.

74. Further, the Hon'ble Punjab & Haryana High Court in the cases of Puneet Singh v. CIT and Mahender Pal Narang v. CBDT has categorically held that interest received on enhanced compensation under section 28 of the Land Acquisition Act does not partake the character of compensation and is taxable as income from other sources under section 56(2)(viii). These decisions were binding on the Assessing Officer. Non-consideration of binding jurisdictional High Court judgments squarely attracts Explanation 2(d) to section 263 and renders the assessment order erroneous and prejudicial to the interests of the Revenue.

75. The contention of the assessee that the issue is debatable and therefore outside the scope of section 263 cannot be accepted. The principle that revision cannot be invoked where two views are possible applies only where the Assessing Officer has adopted one of the permissible views after due enquiry and application of mind. In the present case, the assessment order does not disclose adoption of any view based on reasoning or legal analysis. It does not apply where statutory provisions are ignored and binding judicial precedents are not followed. In fact assessment order is a non-speaking order on a crucial issue involving substantial tax implications. Accordingly, the protection available in cases of debatable issues is inapplicable.

76. The argument advanced by the assessee that the Delhi High Court should be treated as the jurisdictional High Court merely because the assessment was framed under the faceless assessment scheme is also without merit. The faceless assessment scheme is a procedural mechanism and does not alter the territorial jurisdiction of High Courts. Jurisdiction continues to be determined with reference to the location of the jurisdictional Assessing Officer. Accordingly, the decisions of the Punjab & Haryana High Court were binding and required to be followed by the Assessing Officer. Furthermore, in the return of income, the assessee has given the details of the Assessing Officer and at page 16 of the paper book it is mentioned as under :-

Designation of Assessing Officer(ward/circle)	*WARD-2(3) CHANDIGARH*

77. From a perusal of the return of income and the relevant column reproduced hereinabove, it is evident that the assessee himself had declared that the Assessing Officer, Ward 2(3), Chandigarh, had jurisdiction over his case. Therefore, the reliance placed by the assessee on the decision in RKKR Foundation v. NFAC is wholly misconceived. In that case, the Hon'ble Delhi High Court was concerned only with the exercise of writ jurisdiction in circumstances involving an alleged violation of the principles of natural justice by the Faceless Assessing Officer.

78. Furthermore, it is necessary to briefly notice the statutory framework governing faceless assessments. Under section 144B of the Act, assessment proceedings are conducted through the National Faceless Assessment Centre, which may allocate different functions to specialized units such as the Assessment Unit, Verification Unit, Technical Unit and Review Unit. Where factual verification, examination of records, or legal analysis on specific issues is required, the Assessment Unit is empowered to seek assistance through the faceless mechanism, and the reports so generated form part of the assessment record.

79. In the present case, the issue sought to be revised under section 263 pertains to the taxability of interest on enhanced compensation. On a perusal of the assessment order, we find that there is no discussion whatsoever on the nature of such interest, its taxability under the Act, or the applicability of sections 56(2)(viii), 57(iv), 145A(b) or the judicial position governing interest on enhanced compensation. The assessment order does not record the issuance of any query, consideration of any reply of the assessee, or examination of the legal and factual aspects relevant to the said issue. In a faceless regime, where all enquiries and responses are mandatorily recorded in the electronic record, the absence of discussion clearly indicates that the issue was not verified or examined at the assessment stage.

80. The faceless assessment scheme is designed to ensure that all material issues having a bearing on the computation of income are examined in a transparent and traceable manner. When an issue involving substantial tax effect, such as the taxability of interest on enhanced compensation, is not subjected to any enquiry or application of mind, the assessment order cannot be said to be the result of a conscious and informed decision by the Assessing Officer.

81. We further note that the Assessing Officer, in the course of the same faceless assessment proceedings, had the institutional capability to seek verification or legal inputs through the specialized units provided under section 144B of the Act. The absence of any such exercise in relation to the issue of interest on enhanced compensation, despite its settled statutory treatment and recurring litigation history, supports the conclusion that the assessment was completed without making the requisite enquiry on this aspect.

82. In such circumstances, the contention of the assessee that the Principal Commissioner exceeded his jurisdiction under section 263 cannot be accepted. The revisional authority is empowered to step in where the assessment order is passed without making enquiries or verification which ought to have been made. The exercise of revisional jurisdiction in the present case is thus founded

not on a mere difference of opinion, but on a clear case of lack of enquiry on a material issue.

83. The reliance placed by the assessee on decisions of the Hon'ble Delhi High Court is also misplaced. The assessee in the present case does not fall within the territorial jurisdiction of the Hon'ble Delhi High Court and, therefore, the said decisions do not have binding force in the present proceedings. In any event, the revisional action herein is justified on the basis of the statutory framework and the absence of enquiry evident from the assessment record itself.

84. In view of the above discussion, we hold that the assessment order, to the extent it relates to interest on enhanced compensation, was passed without proper enquiry and application of mind, rendering it erroneous insofar as it is prejudicial to the interests of the Revenue. The assumption of jurisdiction by the Ld. Principal Commissioner under section 263 of the Act is therefore upheld.

85. Even otherwise, the decision in RKKR Foundation has itself been doubted by the Hon'ble Delhi High Court in GPL-RKTCPL v. NFAC by order dated 17.11.2022, wherein the matter was referred to a larger Bench with a request to authoritatively determine the issue of territorial jurisdiction of the High Court in cases where the jurisdictional Assessing Officer is situated outside the NCT of Delhi.

86. Moreover, in the present case, the assessee has not challenged the assessment order passed by the NFAC. It is only the Revenue which has expressed doubt regarding the correctness of the said order by invoking proceedings under section 263 of the Act. Significantly, the assessee has not questioned the jurisdiction of the PCIT to invoke section 263 on territorial or jurisdictional grounds. The revision proceedings under section 263 are not for the benefit of the assessee but are a power conferred on the Revenue to correct the order passed by the Assessing Officer in case the same is found to be erroneous and prejudicial to the interest of the Revenue.

87. The plea relating to the jurisdiction of the Hon'ble Delhi High Court has been raised only with a view to contend that, at the time of passing of the assessment order, there was no binding decision of the jurisdictional High Court applicable to the NFAC at Delhi. This contention is clearly an afterthought and does not go to the root of the jurisdiction of the PCIT under section 263 of the Act.

88. The further contention of the assessee that the Assessing Officer had followed the decision of the Hon'ble Gujarat High Court in Movaliya Bhikhubhai Balabhai v. ITO (TDS) is wholly misplaced and deserves outright rejection. A bare perusal of the assessment order itself , which is as under :

The case was selected for Complete Scrutiny assessment under the E-assessment Scheme, 2019 on the following issues:-

S. No.	*Issues*
i.	*Increase in TDS in Revised Return*
ii.	*Winnings from Lottery/Crossword Puzzle/Horse Races*
iii.	*Refund Claim*

i. Sales Turnover/Receipts

The assessee, Sri Baljinder Singh is an individual filed his original return of income on 21-07-2018 declaring taxable income of Rs.7,62, 120/- and revised return on 19-01-2019 declaring total income of Rs.7,81,321/-. The case was selected for scrutiny on revised return of income to verify (1) Winnings from Lottery/Crossword Puzzle/ Horse Races (ii) Increase in TDS in Revised Return (Refund Claim (iv) Sales Turnover/ Receipts. Accordingly, Notice u/sec. 143(2) was issued on 28-09-2019. Subsequently. Notices u/sec.142(1) were issued on 05-02-2020, 30-07-2020 and 03-12-2020. In response to these notices, the assessee submitted the information called for. On verification of the information submitted the assessment is completed accepting the return of income.

Hence no modification to the returned income has been made.

The sum payable or refund of any amount due on the basis of the assessment is determined as per the notice of demand."

89. The assessment order clearly demonstrates that the Assessing Officer has neither examined nor discussed the issue relating to the taxability of interest on enhanced compensation, nor has he made any reference whatsoever to the aforesaid decision of Movaliya Bhikhubhai Balabhai (supra). Therefore, relying upon the decision of the Hon'ble Supreme Court in the case of Vegetable Product (supra) is of no help to the assessee as there is no formation of opinion by relying upon the decision in the case of Movaliya Bhikhubhai Balabhai (supra) by the Assessing Officer.

90. In our view, what is crucial is that the Punjab & Haryana High Court, whose jurisdiction governs the assessee, has in the cases of Puneet Singh v. CIT and Mahender Pal Narang v. CBDT had categorically held that interest received on enhanced compensation is taxable under section 56(2)(viii) and does not form part of compensation. Once such binding judgments exist, the Assessing Officer is obliged to follow them. Non-consideration or non-application of binding jurisdictional High Court decisions renders the order erroneous within the meaning of section 263 read with Explanation 2(d).

91. The contention of the assessee that certain earlier judgments of the Hon'ble Supreme Court were not considered by the Hon'ble High Court does not advance its case at the stage of proceedings under section 263 of the Act. As noted hereinabove, the Legislature has consciously amended the Income-tax Act by the Finance Act, 2010, whereby interest on enhanced compensation has been specifically brought to tax. In view of this statutory amendment, judicial pronouncements rendered prior to the Finance Act, 2010, cannot be regarded as determinative or binding while examining issues arising in the post-amendment regime. The legal position governing the taxability of interest on enhanced compensation stands altered by legislative mandate, and, therefore, reliance on pre-amendment decisions is misplaced in the context of the present proceedings.

92. The Assessing Officer is not at liberty to disregard the law laid down by the jurisdictional High Court on the premise that an alternative view may ultimately prevail, as judicial discipline mandates strict adherence to binding precedents. The reliance placed by the assessee on decisions of the Delhi Bench and the Chandigarh Bench of the Tribunal, in cases arising within the territorial jurisdiction of the State of Haryana, while simultaneously overlooking the binding judgments of the Hon'ble Punjab and Haryana High Court, is wholly misplaced and does not advance its case. Firstly, no decision

has been brought to our notice which deals with the invocation of section 263 of the Act in the specific context of the taxability of interest on enhanced compensation. Secondly, in the hierarchy of precedents, the decisions of the Hon'ble High Court carry binding precedential value, whereas decisions of Coordinate Benches of the Tribunal have only persuasive authority; consequently, where there is a conflict between the law declared by the jurisdictional High Court and the view taken by a Coordinate Bench, the former must necessarily prevail. Any contention that the Tribunal is nonetheless bound to follow a contrary view of a Coordinate Bench, despite the existence of a binding judgment of the jurisdictional High Court, would be contrary to settled principles of judicial discipline and would undermine the doctrine of precedent, and is impermissible in law.

93. Judicial discipline, certainty, and predictability in the administration of justice mandate that the decisions of the jurisdictional High Court are scrupulously followed by all Tribunals functioning within its territorial jurisdiction under Article 227 of the Constitution of India. Any deviation from, or disregard of, such binding precedent is wholly impermissible within the scheme of law and strikes at the very foundation of judicial propriety.

94. The alternative plea of the assessee that interest on enhanced compensation is exempt under section 10(37) of the Act is wholly untenable. Section 10(37) grants exemption only in respect of income chargeable under the head "Capital gains" arising from the compulsory acquisition of agricultural land.

95. The statutory scheme post insertion of sections 56(2)(viii), 145A(b), and 57(iv) clearly demarcates the tax treatment of interest received on enhanced compensation. Section 56(2)(viii) specifically brings such interest to tax under the head "Income from other sources". Section 145A(b) mandates the year of taxability of such interest on receipt basis, and section 57(iv) provides for a standard deduction of fifty per cent of such income, thereby constituting a complete and self-contained code governing the taxation of interest on enhanced compensation.

96. Once the legislature has consciously classified interest on enhanced compensation as income from other sources through a specific charging provision, such income loses the character of capital gains and, consequently, falls outside the ambit of exemption under section 10(37) of the Act. Permitting the assessee to invoke section 10(37) in such circumstances would render the specific charging and computation provisions otiose, which is impermissible in law.

97. It is a settled principle of statutory interpretation, consistently affirmed by the Hon'ble Supreme Court of India, that where a statute contains both a specific provision and a general provision, the specific provision must prevail. A general exemption provision cannot override an express and specific charging mechanism enacted by Parliament. Therefore, the reliance placed by the assessee on section 10(37), a general exemption provision, in the face of the specific charging framework under sections 56(2)(viii), 145A(b), and 57(iv), is legally unsustainable and deserves to be rejected.

98. The reliance placed by the assessee on CBDT correspondence, dismissal of SLPs in limine and certain decisions of non-jurisdictional courts does not advance its case. It is well settled that dismissal of an SLP in limine does not amount to declaration of law under Article 141 of the Constitution, and

administrative instructions cannot override statutory provisions or binding judicial precedents.

99. By accepting the claim of exemption without examining the statutory provisions and binding judicial precedents, the Assessing Officer failed to bring to tax income which was clearly chargeable under the Act, thereby causing definite prejudice to the interests of the Revenue. Both the conditions for invocation of section 263 are thus satisfied in the present case.

100. In view of the foregoing discussion and the totality of facts and circumstances, we hold that the assessment order dated 11.12.2020 passed under section 143(3) was erroneous and prejudicial to the interests of the Revenue and that the Ld. PCIT was fully justified in invoking jurisdiction under section 263 of the Act. Accordingly, the revisionary order passed by the Ld. PCIT is upheld and the appeal filed by the assessee is dismissed.

101. Having dismissed the lead appeal, now we will deal with the individual cases argued by different AR representing different assessee.

102. ITA No. 233/Chd/2023, ITA No. 328/Chd/2023, ITA No. 575/Chd/2024 and ITA No. 576/Chd/2024, have more or less argued on the same line as mentioned in the lead appeal and therefore we do not feel it appropriate to repeat the submissions of parties and the findings of the Tribunal. We are of the opinion that the findings given in the lead matter would mutis mutandis will apply to ITA No. 233/Chd/2023, ITA No. 328/Chd/2023, ITA No. 575/Chd/2024 and ITA No. 576/Chd/2024 and accordingly, all the appeals are dismissed.

103. In ITA No. 455/Chd/2024 & 456/Chd/2024 Ld. AR had argued the matter and had adopted the argument made in the lead case. We are of the considered opinion that the reasoning given by us in the lead matter would be applicable to these appeals also and accordingly these appeals are required to be dismissed on the common grounds.

104. Besides that the core issue for our consideration in addition to the argument raised in the lead case, the Ld. AR has raised the several technical and legal submission which are delat hereinbelow.

105. With respect to the argument of the assessee that Ld. Pr. CIT had granted the approval under section 151 of the Act and therefore no 263 proceedings can take place is without any basis. We find no merit in the contention of the assessee that once approval under section 151 has been granted by the Ld. PCIT for reopening of assessment, the revisional jurisdiction under section 263 stands impliedly barred.

106. In our view, the scope and object of sections 148/151 and section 263 are distinct and independent statutory fields. Approval for reopening is only a prima facie administrative / quasi judicial exercise to enable assumption of jurisdiction by the Assessing Officer and does not amount to a final or conclusive determination of the issue on merits. We further note that mere acceptance of the returned income by the Assessing Officer does not, by itself, confer immunity from revision under section 263. An assessment order can be revised if it is passed without making proper enquiries or without applying the correct legal provisions, resulting in prejudice to the interests of the Revenue.

107. In the present case, the assessment order is conspicuously silent on the applicability of sections 145A(b), 56(2)(viii) and 57(iv) of the Act, which specifically govern the taxability of interest on enhanced compensation. There

is nothing on record to demonstrate that the Assessing Officer examined the issue in the light of the statutory framework applicable for the assessment year under consideration. A mere reference to judicial decisions in the reasons for reopening, without application of the relevant statutory provisions at the stage of assessment, cannot be regarded as a conscious or reasoned view taken by the Assessing Officer. Similarly, the plea of "change of opinion" raised by the assessee is also devoid of merit. For the doctrine of change of opinion to apply, there must be a conscious formation of opinion by the Assessing Officer after due examination of facts and law. In the absence of any discussion or reasoning in the assessment order, it cannot be said that the Assessing Officer had formed any such opinion. Lack of enquiry or non-application of mind cannot be protected under the guise of a possible view.

108. In view of the above facts and legal position, we are of the considered opinion that the assessment order suffered from a clear error due to non-consideration of mandatory statutory provisions, and such error has resulted in prejudice to the interests of the Revenue. The twin conditions required for invocation of section 263, namely that the order is erroneous and prejudicial to the interests of the Revenue, stand duly satisfied in the present case. Accordingly, we uphold the order passed by the Ld. PCIT under section 263 of the Act. The grounds raised by the assessee in ITA No. 455/Chd/2024 is dismissed.

109. With respect to ITA No. 456/Chd/2024 besides following the decision in the lead case whereby se have dismissed the contention of the assessee we have also considered the rival submissions and perused the material available on record of the specific issue raised by the assessee in the present appeal. It is a settled position of law that an order passed by the Assessing Officer can be regarded as non est in the eyes of law only when it is so declared either by the Assessing Officer himself or by a competent superior authority in appropriate proceedings. In the absence of any such declaration, the order continues to subsist on record and remains operative for all legal purposes.

110. In the present case, it is not the claim of the assessee that the assessment order has been set aside or declared nonest by any appellate or supervisory authority. It is also not the case of the assessee that the said order has been challenged before any judicial forum seeking a declaration that it is void ab initio. Merely alleging certain errors or infirmities in the order passed by the Assessing Officer does not, ipso facto, render the order non est in the eyes of law. In our view an order, howsoever erroneous it may be, continues to have legal existence unless it is annulled or declared void by a competent authority in accordance with law and within the time period prescribed. Further, the legality or validity of the assessment order cannot be examined in a collateral/ incidental/ revisional proceeding before the Tribunal. Such validity can be tested only when the assessment order itself is directly under challenge before us. Any observation on the assessment order when it is not the subject matter of the proceedings would amount to travelling beyond the scope of the lis and the jurisdiction vested in the Tribunal. Therefore, the contention of the assessee that the assessment order is non est merely on account of alleged defects is devoid of merit and cannot be accepted. Accordingly, the argument advanced by the assessee on this issue stands rejected. In the light of the above, the ITA No. 456/Chd/2024 is dismissed.

111. With respect to ITA No. 335/Chd/2023 besides respectfully following the decision rendered in the case of Baljinder Singh Vs. Pr. CIT in ITA No. 167/Chd/2023 (lead case), we have independently examined the submissions

advanced before us. In our considered view, the statutory expression "prejudicial to the interests of the Revenue" must be understood in its correct legal context. The decision of the Hon'ble Supreme Court in Ghanshyam Dass (HUF), having been rendered prior to the Finance Act, 2010, was, during the relevant assessment year, favourable to the assessee and, therefore, cannot be said to have caused any prejudice to the assessee or to the Revenue at that point of time.

112. On the contrary, the decisions of the Hon'ble jurisdictional High Court in the cases of Mahinder Singh Narang and Manjit Singh, which squarely dealt with the issue of taxability of interest on enhanced compensation, were holding the field and were binding on the Assessing Officer at the time of passing the assessment order. The failure of the Assessing Officer to follow the binding precedents of the jurisdictional High Court, while framing the assessment, renders the order erroneous insofar as it is prejudicial to the interests of the Revenue. Accordingly, the conditions for invocation of jurisdiction under section 263 of the Act stood satisfied. In the result ITA No. 335/Chd/2023 is dismissed.

113. Now we will deal with the ITA No. 780/Chd/2025 besides respectfully following the decision rendered in the case of Baljinder Singh Vs. Pr. CIT in ITA No. 167/Chd/2023 (lead case), we have independently examined the submissions advanced before us and perused the material available on record, and examined the impugned order passed by the Ld. Principal Commissioner under section 263 of the Act. The core issue requiring adjudication is whether the Ld. PCIT validly assumed revisionary jurisdiction under section 263 of the Act in the facts and circumstances of the present case.

114. The primary objections raised by the assessee are twofold: firstly, that the revisionary proceedings were initiated merely on the basis of an audit objection, and secondly, that the show cause notice issued by the Ld. PCIT is a verbatim reproduction of the proposal forwarded by the Assessing Officer, allegedly evidencing non-application of independent mind. Ancillary arguments were also advanced regarding the binding nature of CBDT circulars and the invalidity of revision proceedings initiated on the proposal of the Assessing Officer.

115. As regards the first limb of the assessee's argument that the assumption of jurisdiction under section 263 is vitiated as it was triggered by an audit objection, we find that mere receipt of an audit objection does not, by itself, invalidate the exercise of revisionary powers. What is relevant for the purposes of section 263 is whether the Ld. PCIT, upon examination of the record, independently arrived at a satisfaction that the assessment order is erroneous insofar as it is prejudicial to the interests of the Revenue. An audit objection may constitute information or a trigger point, but the jurisdiction under section 263 flows from the Commissioner's own satisfaction and not from the audit objection per se.

116. In the present case, the record reveals that the Ld. PCIT issued a detailed show cause notice specifying the precise error in the assessment order, namely, the failure of the Assessing Officer to apply the mandatory statutory provisions governing taxation of interest on enhanced compensation. The impugned order also demonstrates that the Ld. PCIT examined the assessment records and the applicable legal provisions before arriving at his conclusion. Therefore, the contention that the revision was initiated mechanically or solely at the behest of the audit party cannot be accepted.

117. Coming to the second limb of the assessee's objection, namely that the show cause notice issued under section 263 is a verbatim reproduction of the proposal sent by the Assessing Officer, we are unable to persuade ourselves to accept this contention as fatal to the assumption of jurisdiction by the Ld. PCIT. Mere similarity or overlap in reasoning between the proposal of the Assessing Officer and the show cause notice issued by the Ld. PCIT does not, by itself, lead to an inevitable inference of non-application of mind. What is material and determinative is whether the Ld. PCIT has independently examined the assessment records and formed a prima facie satisfaction that the assessment order is erroneous in so far as it is prejudicial to the interests of the Revenue.

118. On a careful and close scrutiny of both the proposal of the Assessing Officer and the show cause notice issued by the Ld. PCIT, we find a clear and discernible distinction between the two. The allegation of the assessee that the show cause notice is a verbatim reproduction of the proposal is factually incorrect and devoid of merit. Accordingly, the assessee's objection is rejected.

119. Section 263 does not prohibit the Commissioner from acting on information received from the Assessing Officer or any other source. The statutory requirement is that the Commissioner must "call for and examine the record" and thereafter form the requisite satisfaction. In the present case, the assessment records were before the Ld. PCIT, and the impugned order reflects due consideration of the same. Therefore, the mere fact that the proposal originated from the Assessing Officer does not render the proceedings void or jurisdictionally infirm.

120. The reliance placed by the Ld. AR on various decisions holding that revision proceedings cannot be initiated merely on the basis of an audit objection or proposal from the Assessing Officer is distinguishable on facts. In those cases, the courts found a complete absence of independent application of mind by the Commissioner. In the present case, however, the impugned order clearly brings out the reasons for which the Ld. PCIT found the assessment order to be erroneous in law.

121. On merits, we find substantial force in the submissions of the Ld. DR. The assessment order dated 11.12.2020 is conspicuously silent on the applicability of sections 145B(1), 56(2)(viii) and 57(iv) of the Act, which constitute a complete statutory scheme for taxation of interest received on compensation or enhanced compensation with effect from A.Y. 2011-12. These provisions mandatorily require such interest to be taxed in the year of receipt under the head "Income from Other Sources" with a deduction restricted to 50 percent.

122. The assessment order does not record any enquiry or consideration of these provisions, nor does it indicate the head under which the interest income was assessed or exempted. This omission cannot be characterised as a mere case of inadequate enquiry; rather, it is a case of complete lack of enquiry on a vital and mandatory statutory issue. Such an order squarely falls within the deeming fiction contained in Explanation 2(a) to section 263(1).

123. The reliance placed by the assessee on decisions rendered in the context of section 45(5), including Ghanshyam (HUF), is misplaced in view of the subsequent legislative amendments. Post insertion of sections 145B and 56(2)(viii), the legal position stands materially altered, and the Assessing Officer was duty-bound to apply the amended provisions. Failure to do so renders the assessment order erroneous in law.

124. The contention that interest on enhanced compensation is exempt under section 10(37) is also untenable. Section 10(37) grants exemption only in respect of capital gains arising from compulsory acquisition of agricultural land. Interest on enhanced compensation has been statutorily classified as "Income from Other Sources" and therefore lies outside the scope of the said exemption. The Assessing Officer's failure to appreciate this fundamental distinction has resulted in prejudice to the Revenue.

125. In view of the foregoing discussion, we hold that both the jurisdictional conditions for invoking section 263 are satisfied in the present case. The assessment order is erroneous as it is contrary to express statutory provisions, and the error has caused definite prejudice to the interests of the Revenue. The Ld. PCIT has not substituted his own view but has merely set aside the assessment with a direction to the Assessing Officer to make proper enquiries and pass a fresh order in accordance with law.

126. Accordingly, we find no infirmity in the impugned order passed under section 263 of the Act. The same is upheld and the grounds raised by the assessee are dismissed.

127. The remaining Counsels, who appeared on behalf of the others, merely followed the arguments of the Ld. luminaries and have not made and have not made any other submissions. Therefore our findings given in the lead case shall apply mutatis mutandis in all the other case and therefore all the appeals filed by the respective assessees are dismissed.

128. In the result, all the above appeals filed by the respective assessee's are dismissed.

13. In the light of the above all the appeals of the assessee are dismissed.

Order pronounced in the open Court on 24/02/2026

Sd/-	**Sd/-**
कृणवन्त सहाय	**ललित कुमार**
(KRINWANT SAHAY)	**(LALIET KUMAR)**
लेखा सदस्य/ ACCOUNTANT MEMBER	**न्यायिक सदस्य /JUDICIAL MEMBER**

AG

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar