

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"I" BENCH MUMBAI**

**BEFORE HON'BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &  
HON'BLE SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No.3689/Mum/2025  
(Assessment Year: 2018-19)**

Mondelez India Foods Private Limited Unit No. 2001, 20 <sup>th</sup> Floor, Tower-3 (Wing C), One International Centre (formerly Indiabulls Finance Centre) Parel, Mumbai- 400013	Vs.	Principal Commissioner of Income-tax, Mumbai- 8 611, 6 <sup>th</sup> floor, Aayakar Bhavan, Maharshi Karve Road, Mumbai- 400020
PAN/GIR No. AAACC0460H		
(Applicant)		(Respondent)

Assessee by	Shri Nishant Thakker & Hiten Thakkar
Revenue by	Shri Krishna Kumar (SR. DR.)

Date of Hearing	19.02.2026
Date of Pronouncement	27.03.2026

आदेश / ORDER

**PER SANDEEP GOSAIN, JM:**

The present appeal has been filed by the assessee challenging the impugned order dated 20.03.2025 passed u/s 263 of the Income Tax Act, 1961 ('the Act'), by the Principal Commissioner of Income Tax – PCIT, Mumbai-8 ('the Ld. PCIT') for the assessment year 2018-19. The following grounds are reproduced below:

*“Based on the facts and in the circumstances of the case and in law, the learned PCIT has:*

**Validity of order passed under section 263 of the Act**

*1. erred in initiating the revision proceedings under section 263 of the Act, when the Assessment order sought to be revised was passed beyond the period of limitation and was therefore non est in law.*

*2. erred in initiating the revision proceedings under section 263 of the Act merely based on audit objections.*

*3. erred in passing an order under section 263 of the Act without appreciating that the assessment order sought to be revised was passed pursuant to directions issued by the Hon'ble Dispute Resolution Panel ('DRP') under section 144C of the Act, which is a collegiate body comprising of three Commissioners of Income-tax, being officers of coordinate rank with the revisional authority, and hence outside the scope of revision under section 263 of the Act.*

*4. erred in not appreciating that the assessment order passed by jurisdictional Assessing Officer ('learned AO') under section 143(3) read with section 144C(13) of the Act was neither erroneous nor prejudicial to the interest of the revenue.*

*5. erred in initiating revision proceedings under section 263 of the Act despite the fact that the learned AO had conducted an enquiry on the relevant issues, and it is settled law that the power under section 263 of the Act cannot be exercised in cases of inadequate enquiry, but only in cases of complete lack of enquiry.*

*6. erred in not appreciating that assessment order passed by the learned AO is not erroneous as there is no material to show that there was non-application of mind on part of the learned AO or that the learned AO has committed any mistake/ error of fact or law.*

*7. erred in initiating revision proceedings under section 263 of the Act without appreciating the fact that the absence of mention in the assessment order of the aspects examined cannot serve as a valid ground for initiating revisionary proceedings.*

*8. 8. erred in passing an order under section 263 of the Act without demonstrating that assessment order is erroneous*

*which has caused prejudice to revenue, thereby initiating proceedings under section 263 of the Act for making roving inquiries.*

*9. erred in passing an order under section 263 of the Act invoking explanation 2 of section 263 of the Act without invoking the said explanation in the show cause notice issued under section 263 of the Act.*

*10. erred in invoking explanation 2 of section 263 of the Act holding that the assessment order was passed without making inquiries or verification without appreciating that Appellant furnished details upon inquiry made by the learned AO during assessment proceedings which was duly verified, and no adverse inference was drawn.*

*11. erred in passing order under section 263 of the Act without taking cognizance of submissions made by Appellant and providing no reason for deeming such submissions as unacceptable.*

*12. erred in remanding the issues for verification by the learned AO without dealing with the submissions of the Appellant and without pointing out an error in the claim made by the Appellant.*

**No under assessment of income**

*13. Erred in alleging underassessment of income of Rs 73,85,49,436 pertaining to exception items termination cost, without pointing an error and based on mere conjunctures and surmises ignoring the factual matrix of the case as well as the nature of the transaction undertaken by Appellant.*

*14. Erred in alleging underassessment of income of Rs 23,77,25,251 pertaining to voluntary retirement scheme expenses, without pointing an error and based on mere conjunctures and surmises ignoring the factual matrix of the case as well as the nature of the transaction undertaken by Appellant*

*15. Erred in alleging underassessment of income of Rs 11,59,66,731 pertaining to employee stock option expenses, without pointing an error and based on mere conjunctures and surmises ignoring the factual matrix of the case as well as the nature of the transaction undertaken by Appellant.*

*16. Erred in alleging underassessment of income of Rs 5,61,54,212 pertaining to cocoa grant received from Mondelez Europe GmbH, without pointing an error and based on mere*

*conjunctures and surmises ignoring the factual matrix of the case as well as the nature of the transaction undertaken by Appellant*

*17. Erred in alleging underassessment of income of Rs 27,19,35,938 pertaining to unrealized gains on forward contracts accrued during the captioned AY, without pointing an error and based on mere conjunctures and surmises ignoring the factual matrix of the case as well as the nature of the transaction undertaken by Appellant.*

*18. Erred in alleging underassessment of income of Rs 45,40,10,518 pertaining to unrealized losses on forward contracts disallowed in the preceding AY and claimed in the captioned AY, without pointing an error and based on mere conjunctures and surmises ignoring the factual matrix of the case as well as the nature of the transaction undertaken by Appellant.*

*The above grounds are independent and without prejudice to one another.”*

2. First of all, we take up Ground No. 3, which involves a legal issue going to the very root of the case. This ground raised by the assessee relates to challenging the order passed under Section 263 of the Act.

3. We have heard the learned counsel for both parties, perused the material placed on record, examined the judicial precedents cited before us, and carefully considered the orders passed by the Revenue authorities. From the records, it is observed that the impugned order has been challenged by the assessee on the ground that the assessment order, which is now sought to be revised by invoking the provisions of Section 263 of the Act, was originally passed pursuant to the directions issued by the Dispute Resolution Panel (DRP) under Section 144C of the Act.

The DRP is a superior body comprising three Commissioners of Income Tax, individually equivalent in rank to the CIT.

4. Having heard the parties at length and upon perusal of the documents placed on record, we find that the issue raised by the assessee is squarely covered by the decision of the Coordinate Bench of the ITAT in the case of **Barclays Bank PLC vs. Commissioner of Income-Tax (Internationa Taxation), Mumbai [2022] 139 taxmann.com 503 (Mumbai –Trib.)**, the operation portion of the same is reproduced herein below:

*12. We have carefully gone through the submissions in the case laws and the records.*

*13. First, we note that in this case, the assessment order was passed after transfer pricing adjustment were made by the TPO. These have been detailed in the assessment order para "7" of the assessment order referred above. The TP adjustment made by TPO were in total Rs. 83,045,395/-. Assessee had made objection before the DRP and pursuant to DRP direction, the assessment was framed as per section 144C(13)*

*14. As against the above, Ld.CIT has noted that in this case TPO has not proposed any adjustment. This is contrary to the facts in this case, the above shows that Ld.CIT has exercised his jurisdiction u/s 263 without properly appreciating the assessment order passed. He also seems to be ignoring the fact that assessee has chosen to file objection before the DRP. When the assessment order has been passed pursuant to the direction of DRP, the appeal from the said assessment order does not lie with the Id.CIT(A), but lies directly to the ITAT as per provision of section 253(d). Now, the issue to be addressed in this case is whether, the Ld.CIT has erred in initiating proceedings u/s. 263 of the Act, when the original assessment order has been passed us. 143(3) r.w.s. 144C(13), on the basis of the directions of the Dispute Resolution Panel(DRP).*

*15. We may gainfully refer to the provision of section 263 in this regard.*

*"263. (1) The 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 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.*

*Explanation 1. For the removal of doubts, it is hereby declared that, for the purposes of this sub-section,-*

*(a) an order passed [on or before or after the 1st day of June, 1988] by the Assessing Officer shall include*

*(i) an order of assessment made by the Assistant Commissioner [or Deputy Commissioner] or the Income-tax officer on the basis of the directions issued by the [Joint] Commissioner under section 144A.*

*(ii) an order made by the [Joint] Commissioner in exercise of the powers or in the performance of the functions of an Assessing officer conferred on, or assigned to, him under the orders or directions issued by he Board or by the [Principal] Chief Commissioner or] Chief Commissioner or [Principal Director General or] Director General or[Principal Commissioner or] Commissioner authorized by the Board in this behalf under section 120.*

*(b) "record [shall include and shall be deemed always to have included] all records relating to any proceeding under this Act available in the time of examination by the [Principal (Chief Commissioner or Chief Commissioner of Principal) Commissioner or] Commissioner,*

*(c) where any order referred to in this sub-section and pased by the Assessing Officer had been the subject matter of any appeal [filed on or before or after the 1st day of June, 1988] the powers of the [Principal Commissioner of Commissioner under this sub-section shall extend (and shall be deemed always to have extended to such matters as had not been considered and decided in such appeal*

*16. A reading of the above shows that the Principal Chief Commissioner or Chief commissioner may revise Lender passed by the AO, if the same is erroneous in so far at prejudicial to the interest of the revenue. The Explanation 1(a) of the Act referred above explains the order passed by the AG which can be subject matter of section 263 revision. The above explanation explains clarifies that order of the AO in certain cases passed on the direction of certain superior officers can also be subject matger sol action. 263, The above explanation does not include the order passed under the direction of DRP ws 144C(13) the Act. The legislature in its wisdom has thought it appropriate to include orders passed by the AQ-tider direction u/s 144A, but not tider direction us. 144C(13) This is also in accordance with the provisions of the Act contained in section 144C, which we shall detailed at a later stage. The Ld.CIT in this case seems to be quiet conscious of this fact as he has mentioned on one of the issues, that AO has not properly followed the direction u's. 144A. But, he is quipe silent and has nowhere mentioned that the final assessment*

*order is passed after the direction of DRP Admittedly, this is not a case, where draft assessment order is being revised. This is a case where final assessment order passed pursuant to the direction of DRP ws. 144(3) is being revised by Ld.CIT. Ld. Counsel of the assessee in this regard submits that from the Finance Act, 2009, memorandum explaining the rationale behind the insertion of section 144C of the Act by the Finance Bill, 2009 as also the CBDT Circular No. 5 of 2010 dated 3 June 2010 issued explaining the said insertion, the notes on clauses, etc., it can be seen that consequential amendments have been made to various provisions of the Act as a result of insertion of section 144C in the act. Such consequential amendments have been made to section 13 1, section 246A and section 253 of the Act. That however, no amendment is made in section 263 of the Act as a consequence of insertion of section 144C of the Act to deem such orders being capable of being revised. That therefore, the memorandum, Circular, etc. support the Assessor's stand that once the Assessing Officer passes an order in accordance with the Directions issued by a superior authority (being DRP) the same cannot be revised by the CIT under section 263 of the Act. The above submission has sufficient cogency as our following discussion will further oxygenate the same.*

*17. It will also be gainful to refer to the provision of section 144C dealing with the reference to DRP*

*(1) The Assessing Officer shall, notwithstanding anything to the contrary contained in this Act, in the first instance, forward a draft of the proposed order of assessment (hereafter in this section referred to as the draft order) to the eligible assessee if he proposes to make, on or after the 1st day of October, 2009, any variation in the income or loss returned which is prejudicial to the interest of such assessee.*

*(2) On receipt of the draft order, the eligible assessee shall, within thirty days of the receipt by him of the draft order-*

*(a) file his acceptance of the variations to the Assessing Officer, or*

*(b) file his objections, if any, to such variation with,*

*(i) the Dispute Resolution Panel; and*

*(ii) the Assessing Officer.*

*(3) The Assessing Officer shall complete the assessment on the basis of the draft order, if*

*(a) the assessee intimates to the Assessing Officer the acceptance of the variation, or*

*(b) no objections are received within the period specified in sub-section (2)*

*(4) The Assessing Officer shall, notwithstanding anything contained in section 149, pass the assessment order under sub-section (3) within one month from the end of the month in which*

*(a) the acceptance is received; or*

*(b) the period of filing of objections under sub-section (2) expires.*

*(5) The Dispute Resolution Panel shall, in a case where any objection is received under sub-section (2), issue such directions, as it thinks fit, for the guidance of the Assessing Officer to enable him to complete the assessment.*

*(6) The Dispute Resolution Panel shall issue the directions referred to in sub-section (5), after considering the following, namely:-*

*(a) draft order;*

*(b) objections filed by the assessee,*

*(c) evidence furnished by the assessee;*

*(d) report, if any, of the Assessing Officer, Valuation Officer or Transfer Pricing Officer or any other authority,*

*(e) records relating to the draft order,*

*(f) evidence collected by, or caused to be collected by, it, and*

*(g) result of any enquiry made by, or caused to be made by, it.*

*(7) The Dispute Resolution Panel may, before issuing any directions referred to in sub-section (5)-*

*(a) make such further enquiry, as it thinks fit; or*

*(b) cause any further enquiry to be made by any income-tax authority and report the result of the same to it.*

*(8) The Dispute Resolution Panel may confirm, reduce or enhance the variations proposed in the draft order so, however, that it shall not set aside any proposed variation or issue any direction under sub-section (5) for further enquiry and passing of the assessment order.*

*[Explanation. For the removal of doubts, it is hereby declared that the power of the Dispute Resolution Panel to enhance the variation shall include and shall be deemed always to have included the power to*

*consider any matter arising out of the assessment proceedings relating to the draft order, notwithstanding that such matter was raised or not by the eligible assessee.]*

*(9) If the members of the Dispute Resolution Panel differ in opinion on any point, the point shall be decided according to the opinion of the majority of the members*

*(10) Every direction issued by the Dispute Resolution Panel shall be binding on the Assessing Officer.*

*(11) No direction under sub-section (5) shall be issued unless an opportunity of being heard is given to the assessee and the Assessing Officer on such directions which are prejudicial to the interest of the assessee or the interest of the revenue, respectively*

*(12) No direction under sub-section (5) shall be issued after nine months from the end of the month in which the draft order is forwarded to the eligible assessee.*

*(13) Upon receipt of the directions issued under sub-section (5), the Assessing Officer shall, in conformity with the directions, complete, notwithstanding anything to the contrary contained in section 153 [or section 153B], the assessment without providing any further opportunity of being heard to the assessee, within one month from the end of the month in which such direction is received.*

*(14) The Board may make rules for the purposes of the efficient functioning of the Dispute Resolution Panel and expeditious disposal of the objections filed under sub-section (2) by the eligible assessee.*

*(14A) The provisions of this section shall not apply to any assessment or reassessment order passed by the Assessing Officer with the prior approval of the Commissioner as provided in sub-section (12) of section 144BA.*

*(14B) The central Government may make a scheme, by notification in the Official Gazette, for the purposes of issuance of directions by the dispute resolution panel, so as to impart greater efficiency transparency and account ability by-*

*(a) eliminating the interface between the dispute resolution panel and the eligible assessee or any other person to the extent technologically feasible,*

*(b) optimizing utilization of the resources through economies of scale and functional specialization;*

*(c) introducing a mechanism with dynamic jurisdiction for issuance of directions by dispute resolution panel.*

*(14C) The Central Government may, for the purpose of giving effect to the scheme made under sub-section(148), by notification in the Official Gazette direct that the provisions of this act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notifications.*

*Provided that no direction shall be issued after the 31st day of March, 2022*

*(14D) Every notification issued under sub-section(148) and sub-section (14C) shall, as soon as may be after the notification issued, be laid before each House of parliament)*

*(15) For the purposes of this section,-*

*(a) "Dispute Resolution Panel" means a collegium comprising of three Commissioners of Income-tax constituted by the Board for this purpose,*

*(b) "eligible assessee" means,*

*(i) any person in whose case the variation referred to in sub-section (1) arises as a consequence of the order of the Transfer Pricing Officer passed under sub-section (3) of section 92CA; and*

*(ii) any non-resident not being a company, or any foreign company)*

*18. A reading of the said section brings to the fore following:-*

*The assessee has option to go to the DRP by filing objection before it. As per the provisions of section 144C(5) of the Act, the Dispute Resolution Panel (DRP) shall in a case where any objection is received under sub-section (2), issue such directions, as it thinks fit, for the guidance of the Assessing Officer to enable him to complete the assessment.*

*Further, the provisions of sub-section (7) of section 144C empowers the DRP to make any further enquiry or cause any further enquiry to be made by the Income-tax authority as it thinks fit. Explanation to sub-section (8) of section 144C duly provides that DRP has power to enhance the variation and the power includes to consider any matter arising out of the assessment proceedings relating to the draft order, notwithstanding that such matter was raised or not by the eligible assessee. Section 144C(13) provides that upon receipt of the directions issued by DRP, the Assessing Officer shall, in conformity with the directions, complete the assessment without providing any further opportunity of being heard to the Appellant. As noted above, it is now nobody's case that the Assessing Officer has not followed the direction of the DRP and completed the assessment not in conformity with the direction of the DRP. Therefore, the final Assessment order cannot be said to be erroneous. In fact, if the Assessing Officer had made any addition in the final assessment order which were not as per the*

*direction of the DRP, the said assessment order would be held to be invalid and contrary to law.*

*After the direction of the DRP, if the Assessing Officer would have made any addition or even any enquiry on the issues raised by the PCIT, the same would be contrary to law as being contrary to section 144C(13) of the Act. Therefore, there is no question of the PCIT holding that the final assessment Order is erroneous so as to come within the ambit of 263. Hence the final assessment order can only be erroneous only when the Assessing Officer has not followed the mandate of section 144C(13) of the Act.*

*"Further, it is a settled legal principle that one cannot do indirectly what one cannot do directly [ Quand aliquidprohibetur ex directo, prohibetur etper obiiquum]*

*If the AO could not have directly made any change in the final assessment order after the direction of the DRP, then the PCIT also cannot indirectly make any change so as to circumvent the provision of section 144C(13) of the Act. Reliance in this regard is placed on the decision of the Apex Court in the case of Supertech Ltd. v Emerald Court Owner Resident Welfare Association [Misc Application No. 1572 of 2021, dated 4-10-2021].*

*19. Further, the scheme of the Act itself does not provide any interference in the direction of the DRP as the law containing section 144C(13) directs that the AO shall pass an order in conformity with the directions of the DRP without providing any further opportunity of being heard to the assessee. When the Act itself provide, that order has to be passed by the AO without providing any opportunity to the assessee pursuant to the direction of the DRP, the direction given in this order u/s. 263 by the Ld.CIT to the AO to call for the details of allowability of various deductions claimed by the assessee, in light of the observations discussed by him is quiet contrary to the sanguine provisions of law. Even otherwise, the order passed by the Ld.CIT is an exercise in futility inasmuch as, if the AO proceeds to pass an order by giving the assessee an opportunity of being heard, the same will be against the mandate of section 144C(13). Furthermore, it is also settled law that in assessment u/s. 144C, AO has to invariably pass a draft assessment order and give the same to the assessee for filing objection before DRP. Hence, the direction by the Ld.CIT to the AO to pass an order by-passing the provisions of passing the draft assessment order is also not sustainable in law.*

*20. Now, we examine the constitution of DRP. As evident from the above, the DRP constitutes a collegium comprising of three Principal Commissioners or Commissioners of Income-tax, the direction given by them is binding upon by the AO. Hon'ble Bombay High Court in the case of Vodafone India Services (P) Lul. v. Union of India [2013] 39 taxmann.com 201/[2014] 221 Taxman 116/361 ITR 531 has expounded upon the proceedings at DRP as under:-*

*"The proceeding before the DRP is not an appeal proceeding but a correcting mechanism in the nature of a second look at the proposed assessment order by high functionaries of the revenue keeping in mind the interest of the assessee. It is a continuation of the Assessment proceedings till such time a final order of assessment which is appealable is passed by the Assessing Officer. This also finds support from section 144C(6) which enables the DRP to collect evidence or cause any enquiry to be made before giving directions to the Assessing Officer under section 144C(5). The DRP procedure can only be initiated by an assessee objecting to the draft assessment order. This would enable correction in the proposed order (draft assessment order) before a final assessment order is passed. Therefore, we are of the view that in the present facts this issue could be agitated before and rectified by the DRP."*

*[Underline Ours]*

*21. The above exposition duly elaborates upon the provisions of the Act contained under section 144C*

*22. From the above, it is also apparent that members of the DRP are three in numbers and are individually equivalent in rank to the CIT, who is initiating proceedings u/s. 263 against the order passed by the AO pursuant to their direction. Now as far as equivalence of single CIT to a 'colliguum of 3 CIT is concerned, it is settled law that bench comprising single persons is not higher/superior than a collegiums of three persons Hence, it is abundantly clear that the DRP stands at a higher pedestal than the CIT passing an order alone*

*23. Furthermore, we may refer to the decision of Hon'ble Bombay High court in the case of Virendra Kumar Jhamb v. N.K. Vohra [2009] 176 Taxman 11. In this case, the Jurisdictional High Court held that the assessee had approached the DDIT (investigation) under the Direct tax Amnesty Scheme. The CIT had accepted that the taxable income be computed at 8 percent of the total receipts. A second CIT, on scrutiny and verification of the assesses records, found the decision of the earlier CIT to be fair and justifiable. A subsequent CIT sought to revise the order under section 263, and tax income at 9 percent of the receipts. The Bombay High Court inter alia held that the assessment orders were solely based on the directives of the earlier CITs, and the same could not be revised by the subsequent CIT under section 263.*

*24. In light of the above discussion and case laws, the case laws referred by the Ld.CIT-DR are not applicable on the facts of the case. As, we have already noted that the submission of Ld.CIT-DR are at variance with the exposition by Hon'ble Bombay High Court in Vodafone India Services (P) Ltd. (supra). The L&CIT-DR in his submission has emphasized that proceeding before DRP is akin to appeal before Lid.CIT(A). This is quiet contrary to the Hon'ble Bombay High Court exposition noted above and the other decisions of Hon'ble Jurisdictional High court referred above.*

25 *The case of Devas Multimedia (P.) Ltd. v. Pr. CIT [2019] 111 taxmann.com 494/[2020] 268 Taxman 150/[2019] 419 ITR 391 by the Hon'ble Karnataka High Court was in connection with the writ petition filed by the assessee, where assessee has objected to the notice issued u/s. 263 of the Act. Furthermore, Hon'ble High Court has expounded that writ court cannot examine the validity of notice on merits. Furthermore, the said decision has distinguished following decision of Hon'ble Bombay High Court, i) Vodafone India Services (P.) Ltd. (supra) wherein Hon'ble Bombay Court has expounded that proceedings before the DRP is not an appeal proceedings, but correction mechanism in the nature of a second look at the proposed assessment order by high functionaries of revenue (ii) Vodafone India Services (P.) Ltd. v. Union of India [2014] 50 taxmann.com 300/[2015] 228 Taxman 25/[2014] 368 ITR 1 (Bom.). In the present case, this Tribunal is under the jurisdiction of Hon'ble Bombay High Court. Hence, we do not have any authority whatsoever to deviate from the exposition of the Hon'ble jurisdictional High Court that the proceedings at DRP is not an appeal proceedings, but a correcting mechanism. Furthermore, the ratio from the Hon'ble Bombay High Court in the case of Virendra Kumar Jhamb (supra) also support this view. Hence, the submission of Ld. DR that subject under discussion here has not been subject matter of Hon'ble jurisdictional High Court elaboration is not acceptable. Once, this is accepted, that the assessment order having been corrected by colligium of three commissioner of income tax, the same can by no stretch of imagination be subject to revision by commissioner of income tax sitting alone. More so, in light of provision of section 144C(13) which clearly mandates that AO has to pass an order in accordance with the direction of the DRP without giving any opportunity to the assessee to so in the present case. If this order passed by the Ld.CIT is upheld and AO starts giving opportunity of hearing to the AO in accordance with the direction of the CIT, the same will be in violation of the sanguine provision of section 144C(13).*

26. *Hence, in light of the aforesaid discussions and precedents from Hon'ble jurisdictional High Court, we set aside the orders of Ld.CIT and hold that he cannot legally assume jurisdiction u/s. 263 of the act on an order passed by the AO pursuant to the direction of DRP. This is over and above our other observations in para '14' of this order, where we have noted that Ld.CIT has passed this order without properly appreciating the assessment order. Since, we have quashed assessment order on jurisdiction itself, we are not dealing with the merits of the case.*

27. *In the result, the appeal by the assessee stands partly allowed.*

4.1 This issue is also covered by various other decisions of the Coordinate Bench of the ITAT, as detailed below:

- **Accenture Solutions Private Limited vs The Principal Commissioner of Income-tax Circle, Mumbai ITA No 3457/Mum/2025 (AY 2017-18)**

- ***Birla Carbon India Private Limited vs The Principal Commissioner of Income-tax Circle, Mumbai - ITA No 3768/Mum/2025 (AY 2018-19)***
- ***M/s Cambridge Technology Enterprises Limited vs Deputy Commissioner of Income-tax Circle-1(2). Hyderabad ITA No 536/Hyd/2019 (AY 2012-13)***

5. Thus considering the totality of facts and circumstances and also keeping in view the series of decisions on this fact we are also of the view that once an Assessing Officer passes an order in accordance with the directions issued by a superior authority, viz., the DRP, in that eventuality, the same cannot be revised by the Ld. CIT(A) by invoking the provisions of Section 263 of the Act. Therefore, we set aside and quash the impugned order passed under Section 263 of the Act. Since we have already allowed Ground No. 3, the other grounds raised by the assessee have become infructuous and do not require any adjudication.

6. In the result, the appeal filed by the assessee stands partly allowed.

Order pronounced in the open court on 27.03.2026

Sd/-

**(PRABHASH SHANKAR)**  
**ACCOUNTANT MEMBER**

Sd/-

**(SANDEEP GOSAIN)**  
**JUDICIAL MEMBER**

Mumbai, Dated 27/03/2026

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई/ DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/BY ORDER,

उप/सहायक पंजीकार ( Asst. Registrar)  
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai