आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES,"B" JAIPUR

डा॰ एस. सीतालक्ष्मी, न्यायिक सदस्य एवं श्री राठोड कमलेश जयन्तभाई, लेखा सदस्य के समक्ष
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI RATHOD KAMLESH JAYANTBHAI,

आयकर अपील सं./ITA No. 63/JP/2021
निर्धारण वर्ष/Assessment Years : 2015-16

Pinkcity Jewelhouse Pvt. Ltd., 76, Dhuleshwar Gardens, Jaipur	बनाम Vs.	Principal Commissioner of Income Tax, Central Circle, Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAACF 8368 D		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/ Assessee by : Sh. Siddharth Ranka, Adv. & Sh. Saurav Harsh, Adv.
राजस्व की ओर से/ Revenue by : Sh. Ajey Malik, CIT

सुनवाई की तारीख/ Date of Hearing : 28/02/2024
उदघोषणा की तारीख/Date of Pronouncement: 07/03/2024

आदेश/ ORDER

PER: RATHOD KAMLESH JAYANTBHAI, AM

This appeal filed by assessee is arising out of the order of the Principal Commissioner of Income Tax (Central), Jaipur dated 17/03/2021 [here in after ld. PCIT] for assessment year 2015-16 which in turn arise from the order dated 17.12.2018 passed under section 147 r.w.s 143(3) of the Income Tax Act, by ACIT, Circle-2, Jaipur.

2. In this appeal, the assessee has raised following grounds: -

"1. That on the facts and in the circumstances of the case, the ld. Principal Commissioner of Income-tax grossly erred in passing an order u/s 263 of the Act and in holding that the reassessment order passed by the ld. Assessing Officer u / s 147 r.w.s. 143(3) of the Act is found to be erroneous in so far as it is prejudicial to the interest of the revenue.

1.1. That on the facts and in the circumstances of the case, the ld. Principal Commissioner of Income-tax grossly erred in passing the impugned order u/s. 263 of the Income-tax Act and in holding that "the ld. AO has failed to make necessary inquiries regarding eligibility & allowability of the deductions u/s. 10AA of the IT Act, 1961" which is wholly unjustified, bad in law and deserve to be quashed.

1.2. That the ld. Principal Commissioner of Income-tax failed to appreciate that the ld. Assessing Officer had passed the assessment order after appreciating all supporting documents and evidences and past history of the assessee and therefore the assessment order passed by the ld. Assessing Officer is neither erroneous nor is prejudicial to the interest of the revenue.

1.3. That the ld. Principal Commissioner of Income-tax grossly erred in ignoring the detailed submissions made by the assessee in response to notice u/s. 263 and in passing the impugned order on assumptions, presumptions, conjectures and surmises which is bad in law.

1.4. That the ld. Principal Commissioner of Income-tax grossly erred in ignoring that the assessee's appeal was pending with Commissioner of Income-tax (Appeals) on account of additions made by the ld. Assessing Officer, thus the initiation of proceedings is wholly barred beyond jurisdiction.

2. The appellant craves leave to add, alter, modify or amend any ground on or before the date of hearing."

3. At the outset of hearing, the Bench observed that there is delay of 58 days in filing of the present appeal by the assessee for which the ld. AR of

the assessee filed an application for condonation of delay with following prayers:

> Application for condonation of delay u/s 253(5) of the I.T. Act, 1961 read with section 5 of Limitation Act in filing of appeal
>
> Hon'ble Sir(s),
>
> The humble assessee appellant applicant respectfully prays for the condonation of delay in the filling of Appeal for the following reason:
>
> 1. That the ld. PCIT (Central), Jaipur passed his order on 17.03.2021 which was served upon the assessee appellant applicant 20.03.2021.
>
> 2. That due to COVID-19 Pandemic, the said appeal is within limitation of 120 days as prescribed by the Act read with order passed by the Hon'ble Supreme Court in Suo Moto Writ Petition (Civil) No.(s) 3/2020 dated 27.04.2021.
>
> 3. An Affidavit duly sworn in this regard is also enclosed herewith.
>
> With this background, we request your honour to take stock of the situation in totality, take a lenient and human approach towards the humble assessee appellant as the delay was not intentional and due to unavoidable circumstances.
>
> That in these circumstances we request your honour's to kindly condone the delay and oblige."

4. During the course of hearing, the ld. DR not objected to assessee's application for condonation of delay and prayed that Court may decide the issue as deem fit in the interest of justice as delay is of 58 days and that too pertains in the covid period.

5. We have heard the contention of the parties and perused the materials available on record. The prayer by the assessee for condonation of delay of 58 days has merit and we concur with the submission of the assessee that due to Covid-19 Pandemci, the said appeal is withing the limitation fo 120 days as prescribed by the Act read with order passed by the Hon'ble apex court in suo moto Write petition (Civil) no. 3/2020 dated 27.04.2021. Thus the delay of 58 days filing the appeal by the assessee is condoned as the assessee is prevented by sufficient cause.

6. Succinctly, the fact as culled out from the records is that the assessee filed his income tax return for A.Y. 2015-16 on 30.11.2015 declaring total income of Rs. 4,68,02,540/-. The assessee company claimed deduction of Rs. 3,90,12,873/- u/s. 10AA. The assessment u/s. 143(1) was completed on 05.08.2016 at total income of Rs. 4,68,02,540/-.

6.1 A survey u/s. 133A of the Income-tax Act was carried out at the business premises of the assessee on 17th & 18th August, 2017. During the course of survey proceedings, it was gathered that another group concern of the assessee i.e. M/s. Pinkcity Colorstone Pvt. Ltd. was having strong

profits but later on the same was closed and the Plant and Machinery as well as building was rented over to the assessed company i.e. M/s. Pinkcity Jewelhouse Pvt. Ltd. The management and shareholders of both the companies were/are same. This arrangement has been done for only motive to avoid legitimate taxes. Accordingly, the case was reopened u/s. 147/148 after recording reasons and getting necessary approval of the Addl.CIT, Range-2, Jaipur.

6.2 A notice u/s. 148 was issued to the assessee on 29/12/2017, which was duly served upon the assessee through e-file portal as well as through personal service on same day by the notice server. The assessee made no compliance as per the time provided in the notice for furnishing of return of income. The assessee filed his income tax return on 31/03/2018 declaring income of Rs. 4,68,02,540/- . The assessee through the submission dated 25.04.2018 submitted a copy of acknowledgement of return of income filed on 31.03.2018 and requested to provide copy of reasons along with necessary approval.

6.3 The assessment pursuant to the notice u/s. 148 was completed on 17.12.2018 determining the income at Rs. 7,05,65,857/- as against the

returned income of Rs. 4,68,02,540/-. The assessment order dated 1712.2018 was further rectified u/s. 154 on 25.02.2019 and the income was determined at Rs. 5,86,84,200/-.

6.4 On culmination of the assessment proceeding the ld. PCIT(Central), Jaipur called for the assessment record for examination and he noted that among other thing that the AO has not made any inquiries regarding the specific information mentioned in the reasons recorded being para 2 on page 2 of the reasons recorded wherein it was noted that M/s Pinkcity Color stone Pvt. Ltd. was having strong profits but later on the same was closed and the plant & Machinery as well as building was rented over to the assessee company i.e. Pinkcity Jewel House Pvt. Ltd. The employees of M/s Pinkcity Colour Stones Pvt Ltd. were also absorbed in M/s Pinkcity Jewel House Pvt. Ltd. The management and shareholders of both the companies were/are same. This arrangement has been done for only motive to avoid due legitimate taxes. It is pertinent to state that the buyers as well as sellers of manufactured/ semi finished/ raw materialgoods of assessee company i.e. M/s Pinkcity JewelhousePvt Ltd remained same as the items weretransferred from its Mahapura Unit to the_Sitapura_SEZ unit. It was found that assessee istransferring semi-finished goods from the

Mahapura Unit (Non-deduction claiming unit) to Sitapura Unit(SEZ Unit deduction claiming u/s.10AA) for onwards sale/exports from SEZ Unit. During survey proceedings it was learnt that SEZ Unit did not make any value addition on thesame. This fact was clearly admitted by the General Manager Shri Rajeev Gupta at the survey premises located at Sitapura SEZ Unit and further accepted by ShriManujGoyal, Director ofassessee company. It was also admitted by the Sr. Employee of the assesseeShri Hanuman PrasadSharma in his statements recorded at Sitapura SEZ Unit that during the F.Y. 2010-11 and 2011-12 there was no casting facility at Sitapura Unit and the finished goods were transferred JromMahapura Unit." Thus, ld. PCIT noted that the AO has failed to make necessary inquiries regarding eligibility & allowability of the deduction u/s 10AA of the IT Act, 1961. Therefore, a Show Cause Notice u/s 263 dated 12.03.2021 was issued and hearing fixed on 15.03.2021. In reply of the above Show Cause Notice u/s 263 of the IT Act, 1961 the AR of the Assessee submitted his written submission on 15.03.2021. The ld. PCIT based on the written submission held that ;

> I have examined the facts at hand. I have studied the reply of the assessee. From the matrix of facts and events, it is noted that the case was reopened under section 148 based upon information gathered specifically in a survey carried out under section 133A, whereby it was found that the assessee is not eligible for claiming, and being granted, benefit under section 10AA of the Income Tax Act 1961. In the assessment order dated 17.12.2018, pursuant to this reopening, it is

noted that the Assessing Officer has not given any finding with regard to this specific state of affairs, whether the assessee is eligible for benefit of exemption under section 10AA or not?. This lack of inquiry and consequent non-deriving of inference by the Assessing Officer, has prima facie caused prejudice to the interests of revenue. Accordingly, I hereby set aside the assessment carried out under section 147/143(3) dated 17.12.2018, and the merged order dated 25.02.2019 u/s 154 of IT Act, 1961 and direct a fresh assessment to be made in accordance with provisions of law."

7. Feeling dissatisfied with the finding recorded by the ld. PCIT, Central, Jaipur in an order passed u/s. 263 of the Act, the assessee preferred the present appeal challenging the order of the PCIT. Apropos to the ground so taken by the assessee the ld. AR of the assessee submitted the following written submission :

"Ground of Appeal No. 1 to 1.4 LD. PCIT grossly erred in passing the order u/s 263 of the Act and in holding that he ld. AO failed to make necessary enquiry, without appreciating the past history of the assessee appellant.

1. That the assessee appellant M/s. Pinkcity Jewelhouse Pvt. Ltd. is a Private Limited Company engaged in the business of export of Gemstones & Jewellery and is regularly filing its Income-tax return from time to time.

2. That assessee company is having two-manufacturing units, i.e., Sitapura Industrial Area Unit (SEZ unit), which is inside Special Economic Zone and is involved in manufacturing of Jewellery and Mahapura Unit which is a DTA Unit and is involved in manufacturing & trading of Jewellery & Gemstones.

3. That at the Mahapura Unit earlier the manufacturing work was being undertaken by M/s. Pink City Colorstones Pvt. Ltd. The existing Building and Plant & Machinery owned by M/s. Pink City Colorstones Pvt. Ltd. was given on lease to M/s. Pinkcity Jewelhouse Pvt. Ltd. (Mahapura Unit).

4. That Letter of Permission was granted to Sitapura SEZ Unit on 02.01.2006. The manufacturing facility commenced thereafter during assessment year 2010-2011. The assessee appellant has claimed deduction u/s 10AA of the Act with regards to income earned from the said SEZ unit only from assessment year 2010-2011 till 2019-2020. NO part of Building and Plant & Machinery owned by M/s. Pink City Colorstones Pvt. Ltd. was given on lease/sold to M/s. Pinkcity

Jewelhouse Pvt. Ltd. (SEZ Unit). SEZ Unit constructed its own Building on land owned by it and purchased the necessary Plant & Machinery required for the purpose of manufacturing.

5. That scrutiny assessment u/s. 143(3) of the Act for assessment year 2010-2011 to 2014-2015 was consistently carried out of the assessee appellant. That reassessment for assessment year 2011-2012 was initiated and assessed. Benefit of deduction u/s.10AA was granted.

6. That during the year under consideration assessee appellant had filed its income tax return on 30.11.2015 at Rs 4,68,02,540/- PB-I, Pg. 165-202.

7. That survey proceeding u/s 133A of the Act was carried out against the assessee appellant on 17-18.08.2017 and in consequence, reassessment proceedings u/s. 148 of the Act was initiated for the Assessment Years 2012-2013 to 2015-2016. That scrutiny assessment u/s. 143(3) of the Act for assessment year 2016-2017 & 2017-2018 was also initiated.

8. That in the reasons recorded for initiating reassessment proceedings initiated for the Assessment Years 2012-2013 to 2015-2016 it was alleged that assessee is transferring semi-finished goods from the Mahapura Unit (DTA unit) to SEZ unit and that SEZ unit did not make any addition on the goods, ratio of expenses incurred at DTA unit is more than SEZ Unit, etc. That disallowance was made by the Assessing Officer as per reasons recorded for initiating 148 proceedings. The assessment/re-assessment proceeding were decided vide assessment orders dated 17/19.12.2018 passed for A.Y. 2012-2013 to 2016-2017. The assessment proceeding u/s 143(3) was decided vide assessment order dated 30.12.2019 for A.Y. 2017-2018.

9. That in the assessment/re-assessment orders dated 17/19.12.2018 & 30.12.2019 passed for A.Y. 2012-2013 to 2017-2018, the ld. Assessing Officer after considering the facts and circumstances of the case, the past history, the provision of law and the reasons for which reassessment proceedings were initiated, has allowed the claim of deduction u/s 10AA as claimed by the assessee appellant, however, by allowing the expenses claimed on proportionate basis between DTA (Mahapura unit) and SEZ (Sitapura unit). The assessee appellant is in appeal before the CIT(A) for the disallowance of deduction u/s 10AA made. The said appeals are pending.

10. That the following chart will clarify the position of assessment / reassessment undertaken against the assessee appellant pre-survey and post survey.

Sno.	A.Y.	Return Income	Deduction claimed by Assessee u/s. 10AA	Deduction allowed by AO u/s. 143(3) & Date of Assessment Order		Deduction allowed by AO u/s. 148/154 & Date of Assessment Order		Assessed Income	Net Addition
1	2010-2011	NIL	1,17,71,042.00	28.03.2013 **PB-I [42-43]**	1,17,71,042.00			Nil	-
2	2011-2012	NIL	3,35,49,933.00	07.03.2014 **PB-I [44-45]**	3,35,49,933.00	18.12.2017 **PB-II [203-217]**	3,35,49,933.00	3,17,170.00	3,17,170.00
3	2012-2013	35,63,950.00	4,30,30,163.00	27.03.2015 **PB-I [46-57]**	4,30,30,163.00	**17.12.2018 PB-I [58-73]**	2,74,04,764.00	2,14,56,689.00	1,78,92,739.00
4	2013-2014	20,48,030.00	8,14,33,841.00	21.03.2016 **PB-I [74-89]**	8,14,33,841.00	**17.12.2018 PB-I [90-106]**	6,17,64,673.00	2,52,62,800.00	2,32,14,770.00
5	2014-2015	1,43,61,050.00	4,03,38,194.00	25.11.2016 **PB-I [107-121]**	3,61,10,941.00	**17.12.2018 PB-I [122-139]**	1,83,19,875.00	3,76,11,190.00	2,32,50,140.00
6	**2015-2016**	**4,68,02,540.00**	**3,90,12,873.00**			**17.12.2018 PB-I [20-35] 22.02.2019 (154 order)**	**2,71,31,212.00**	**7,05,65,860.00**	**1,18,81,660.00**
7	2016-2017	4,08,10,500.00	3,34,52,232.00	**19.12.2018 PB-I [140-154]**	1,38,65,057.00			6,03,97,670.00	1,95,87,170.00
8	2017-2018	5,57,64,320.00	4,59,27,499.00	**30.12.2019 PB-I [155-**	4,38,96,065.00			5,77,95,760.00	20,31,440.00

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11. That the case of the assessee appellant prior to and subsequent to the survey proceeding was regularly selected for the scrutiny assessment / reassessment and details of additions / disallowances made vide assessment orders prior to survey and post survey are as under:

Assessment Year	Issue under Scrutiny	Particulars	Paper Book Detail
2010-2011 AO: 28.03.13	Claiming Deduction U/s 10AA	Income Accepted	SCN: 36-37 [PBI] Reply: 38-41 [PBI] Order: 42-43 [PBI]
2011-2012 AO: 07.03.14	Claiming Deduction U/s 10AA	Income Accepted	Order: 44-45 [PBI]
2011-2012 (Reassessment) AO: 18.12.17	Bogus Purchase	Deduction u/s 10AA is allowed. Addition made on account of Bogus Purchase	Order: 203-217 [PBII]
2012-2013 AO: 27.03.15	Bogus Purchase	Deduction u/s 10AA is allowed. Addition made on account of Bogus Purchase and ESI/PF	Order: 46-57 [PBI]
2012-2013 (Reassessment) AO: 17.12.18	Claiming Deduction U/s 10AA	Deduction allowed by dividing expenses at proportionate basis	SCN: 218-221 [PBII] Reply: 222-225 [PBII] Order: 58-73 [PBI]
2013-2014 AO: 21.03.16	Bogus Purchase	Deduction u/s 10AA is allowed. Addition made on account of Bogus Purchase and ESI/PF	Order: 74-89 [PBI]
2013-2014 (Reassessment) AO: 17.12.18	Claiming Deduction U/s 10AA	Deduction allowed by dividing expenses at proportionate basis	SCN: 226-239 [PBII] Reply: 240-243 [PBII] Order: 90-106 [PBI]
2014-2015 AO: 25.11.16	Bogus Purchase	Deduction u/s 10AA is allowed. Addition made on	Order: 107-121 [PBI]

		account of Bogus Purchase and ESI/PF	
2014-2015 (Reassessment) AO: 17.12.18	Claiming Deduction U/s 10AA	Deduction allowed by dividing expenses at proportionate basis	SCN: 244-247 [PBII] Reply: 248-251 [PBII] Order: 122-139 [PBII]
2015-2016 (Reassessment) AO: 17.12.18	Claiming Deduction U/s 10AA	Deduction allowed by dividing expenses at proportionate basis	Notice: 252-255[PBII] Reply: 256-259 [PBII] Order: 20-35 [PBI]
2016-2017 AO: 19.12.18	Claiming Deduction U/s 10AA	Deduction allowed by dividing expenses at proportionate basis	Order: 140-154 [PBI]
2017-2018 AO: 30.12.19	Claiming Deduction U/s 10AA	Deduction allowed by dividing expenses at proportionate basis	Order: 155-164 [PBI]

12. That surprisingly and shockingly, proceedings for A.Y. 2015-2016 were initiated against the assessee appellant by the ld. PCIT by invoking the powers u/s 263 of the Act and show cause notice dated 12.03.2021 was issued to the assessee appellant [PB-I, Pg. 1-14] proposing revision of assessment order dated 17.12.2018 passed by the Assessing Officer. SCN dated 12.03.2021 was issued on the basis of Audit Objection dated 17.11.2020 & 19.02.2021 [PB-III, Pg. 267-271, 272-274].

13. That ld. PCIT issued the impugned show cause notice dated 12.03.2021 u/s. 263 on the ground that:

- the assessing officer has failed to carry out proper inquiries.
- the assessing officer has not made any inquiries regarding statements recorded during the course of survey proceedings u/s 133A of the Act wherein it was gathered that M/s Pinkcity Colorstones Pvt. Ltd was having strong profits but later on the same was closed and the plant & Machinery as well as building was rented over to the assessee appellant company i.e. Pinkcity Jewel House Pvt Ltd.
- the employees of M/s. Pinkcity Colorstones Pvt Ltd were also absorbed in M/s Pinkcity Jewel House Pvt Ltd.

- the management and shareholders of both the companies are same. This arrangement has been done for only motive to avoid due legitimate taxes.
- the buyers as well as sellers of manufactured/ semi-finished/ raw material goods of assessee company i.e. M/s Pinkcity Jewel House Pvt Ltd remained same as the items were transferred from its Mahapura Unit to the Sitapura SEZ unit.
- the assessee is transferring semi-finished goods from the Mahapura Unit (Non-deduction claiming unit) to Sitapura Unit (SEZ Unit deduction claiming u/s.10AA) for onwards sale/exports from SEZ Unit.
- SEZ Unit did not make any value addition on the same.
- there was no casting facility at Sitapura Unit and the finished goods were transferred from Mahapura Unit.
- Claim of exemption is barred as per section 10AA(iv)(iii) of the Act.

14. That the assessee appellant filed detailed reply dated 15.03.2021 [PB-I, Pg. 15-19] and objected to the show cause notice issued u/s 263 of the Act and highlighted that:

- the issue was considered in detail in the regular assessment, reassessments from the A.Y. 2010-2011 to 2017-2018.
- entire basis for issuing notice u/s. 263 is factually wrong,
- all issues relevant for scrutiny assessment have been considered by the Assessing Officer and all relevant enquiries were carried out.
- Rental of plant & machinery and building by M/s Pinkcity Colorstones Pvt. Ltd. was to its DTA Unit, i.e., Mahapura Unit and not to Sitapura SEZ Unit.
- SEZ Rules do not permit to take Building / Plant & Machinery on rent, without prior permission of the Development Commissioner and no such permission was taken.
- No statement by any Director or Employee that plant & machinery and building have been given on rent by M/s Pinkcity Colorstones Pvt. Ltd. to Sitapura SEZ Unit.
- SEZ unit has constructed its own Building and purchased Plant & Machinery.

- M/s Pinkcity Colorstones Pvt. Ltd. has not sold any plant & machinery to Sitapura SEZ Unit.
- M/s Pinkcity Colorstones Pvt. Ltd. was not having strong profits but on the contrary was incurring regular losses.
- Employees of M/s Pinkcity Colorstones Pvt. Ltd. were absorbed by its DTA Unit, i.e., Mahapura Unit and not by Sitapura SEZ Unit.
- There is no bar that deduction u/s. 10AA will not be permitted if the management of two companies is similar.
- Items were not transferred from its Mahapura Unit to Sitapura SEZ unit, even otherwise, some raw-materials (gemstones) were sold which were used for manufacturing by SEZ unit, even otherwise there is no bar under the Act in order to claim deduction u/s. 10AA.
- In initial years casting machine were not available in Sitapura SEZ unit, hence, casted components were purchased from Pink City Color Stones Pvt Ltd.
- Complete note of manufacturing activity carried out at each stage of process was also enclosed during assessment proceedings as well as survey proceedings.
- The Company is maintaining complete records of stock movement at each stage of production process.
- In assessment year 2010-2011, i.e., the first year in which deduction u/s. 10AA was claimed the Assessing Officer had issued notice dated 12.03.2013 proposing disallowing the benefit by referring to section 80IA(10) of the Act. Detailed reply was filed by the assessee appellant vide its letter dated 18.03.2013 and the Assessing Officer was satisfied with the submissions made and thereafter accepted the returned Income vide order dated 28.03.2013. [PB-I, Pg 36-43].
- The status of 263 invoked by PCIT for all the years which were undertaken for scrutiny assessment / reassessment is as follows:

Assessment Year	Order u/s 143(3)	263 Invoked	Order u/s 147	263 Invoked
2010-2011	28.03.13	NO		NO
2011-2012	07.03.14	NO	18.12.17	NO
2012-2013	27.03.15	NO	17.12.18	NO
2013-2014	21.03.16	NO	17.12.18	NO
2014-2015	25.11.16	NO	17.12.18	NO

2015-2016			17.12.18	YES
2016-2017	19.12.18	NO		
2017-2018	30.12.19	NO		

15. The ld. PCIT without appreciating the response submitted by the assessee appellant and with predetermined mind invoked the powers conferred u/s 263 of the Act vide order dated 17.03.2021 by holding that the assessee appellant has violated the proviso (iii) of sub clause 4 of section 10AA of the Act. For ready reference relevant provisions of section 10AA(4)(iii) of the Act are reproduced as follows:

(4) This section applies to any undertaking, being the Unit, which fulfils all the following conditions, namely:—

(i) …..

(ii) …..

(iii) it is not formed by the transfer to a new business, of machinery or plant previously used for any purpose.

16. That the ld. PCIT failed to appreciate and consider that the assessee appellant's SEZ Unit at Sitapura Industrial Area started manufacturing activity from the financial year 2009-10 pertaining to Assessment Year 2010-11 and that the SEZ Unit has neither purchased nor taken on lease any Plant & Machinery from Pinkcity Colorstones Pvt. Ltd. The fact of Plant & Machinery taken on rent by its Mahapura Unit which is a DTA unit has been mixed up with the SEZ unit.

17. That the ld. PCIT failed to appreciate and consider that the Plant & Machinery was purchased by Pinkcity Jewelhouse Pvt. Ltd. Mahapura Unit that too last time in the financial year 2012-13 PB-II, Pg. 262 and Mahapura Unit does not claim any deduction u/s 10AA of the Act and therefore provisions of section *10AA(4)(iii)* are wrongly invoked.

18. That the observation that Semi Finished Goods were transferred from Mahapura Unit to Sitapura Unit during the AY 2015-16 is based on wrong facts, as during survey proceedings as well also statements recorded after survey proceedings it was made clear that the initially Sitapura SEZ unit was not having casting machine accordingly in A.Y. 2010-2011 to A.Y. 2012-

2013, company was purchasing casted component from Pink City Color Stones Pvt Ltd and thereafter these casted component are further processed by SEZ unit. Manufacturing process at this unit mainly involves Filling process, Pre Polish, Gem Stone Bagging, Stone Setting, Polishing, Plating, Quality Control and Packaging.

19. That the ld. PCIT failed to appreciate and consider that entire process of making jewellery from metal & stones is done at SEZ unit only and after July 2011 no Semi Finished Goods were transferred from DTA Unit (Mahapura) or from Pinkcity Colorstones Pvt. Ltd. to SEZ Unit (Sitapura).

20. That the ld. PCIT failed to appreciate and consider that only loose Gem Stones & Diamonds were being transferred from Mahapura Unit to Sitapura SEZ Unit after July 2011 and not semi-finished jewellery as claimed. That during A.Y. 2015-16 out of Purchases of about Rs 52.20 Crores the loose gemstones which has been transferred from Mahapura Unit is of Rs 4.80 Crores only and no semi-finished goods were transferred from DTA unit to SEZ Unit. The Mahapura Unit has transferred only Precious and Semi-Precious Gem Stones which are raw material for the SEZ Unit and the SEZ Unit is not in the business of exporting of Gem Stones but SEZ Unit exports only Jewellery whether Studded or not.

21. That when the issue has been examined in detail in the 1st year when the SEZ Unit started its was manufacturing activities, then in any subsequent years a different view cannot be taken. Moreover the provisions of section *10AA(4)(iii)* are applicable only when the unit is formed and whereas the case of the assessee appellant for all the years from AY 2010-11 to AY 2017-18 have been completed u/s 143(3) / 148 after due verification and scrutiny and in none of these years the deduction was not disallowed for the reason that some plant & machinery have been transferred from domestic unit to SEZ Unit (*which itself is factually wrong*).

22. That it is to be highlighted that on identical facts & backdrop, no proceeding were initiated u/s 263 of the Act in any other assessment year other than the A.Y. 2015-2016. Neither for A.Y. 2010-11 nor for 2011-12, nor for 2012-13, nor for 2013-14, nor for 2014-15, nor for 2016-17 nor for 2017-18. It may be noted that survey was carried out on 17-18.08.2017 and thereafter the assessment / reassessment orders for A.Y. 2012-13, 2013-14,

2014-15, 2015-16, 2016-17 & 2017-18 were passed on 17/18.12.2018 & 30.12.2019. In the assessment orders passed for A.Y. 2012-13, 2013-14, 2014-15, 2015-16, 2016-17 & 2017-18 statements & other facts recorded at the time of survey are also referred in detail and thereafter the benefit of exemption u/s. 10AA has been granted.

23. That it is trite that the exercise of power u/s. 263 of the Act is ousted in case of a debatable issue. An assessment order can be termed as erroneous and prejudicial to the interest of the Revenue, if the Assessing Officer has taken a view which is not legally tenable. Per contra, if two views are available on a particular issue and the AO adopts one of such views, the case goes outside the purview of revisional power exercisable by the PCIT u/s. 263 of the Act. Proceedings u/s. 263 cannot be sustained where the ld. CIT holds a view which was different from that of the Assessing Officer. Section 263 of the Act does not visualize a case of substitution of the judgment of the Revisional Commissioner for that of AO unless the decision of the AO is found to be erroneous.

24. The language used by the legislature in section 263 is to the effect that the CIT may interfere in revision, if he considers that the order passed by the Assessing Officer is erroneous insofar as it is prejudicial to the interest of the revenue. It is quite clear that two conditions must coexist in order to give jurisdiction to the CIT to interfere in revision. The order of the Assessing Officer in question must not only be erroneous but also it must be prejudicial to the interest of the revenue. In other words, merely because the assessment order is erroneous, the CIT cannot interfere. Again, merely because the order of the Assessing Officer is prejudicial to the interest of the revenue, then that is not enough to confer jurisdiction on the CIT to interfere in revision. The CIT cannot assume jurisdiction u/s 263, if the two conditions prescribed under the provisions of Act, viz. (i) the order is erroneous; and (ii) the same is also prejudicial to the interest of the revenue is not satisfied. Each and every erroneous order cannot be the subject matter of revision because the second requirement also must be fulfilled. 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. If the assessment / reassessment orders for A.Y. 2010-11, 2011-12, 2012-13, 2013-14, 2014-15, 2016-17 & 2017-18 are not

erroneous and prejudicial to the interest of the revenue then how come the assessment order for 2015-16 is erroneous and prejudicial to the interest of the revenue.

25. The phrase "*prejudicial to the interest of the revenue*" has to be read in conjunction with an erroneous order passed by the Assessing Officer. Every loss of revenue has to be read in conjunction with an erroneous order passed by the Assessing Officer. Every loss of revenue has a consequence of an order of Assessing Officer cannot be treated as prejudicial to the interest of the revenue. For example, when an Assessing Officer adopted one of the courses permissible in law and it has resulted in loss of revenue or where two views are possible and the Assessing Officer has taken one view with which the CIT did not agree with, it cannot be treated as an erroneous order prejudicial to the interest of the revenue because the view taken by the Assessing Officer is unsustainable in law.

26. Thus, ld. AO has examined that issue as it is evident form the finding recorded in the assessment order. The ld. PCIT evidently did not place on record any apparent error on the part of the AO so as to substantiate that order passed by the ld. AO is prejudicial to the interest of revenue. He only mentioned that the AO has not applied his mind to the issue in proper manner. He has not pin pointed any of the enquiry which is required to be made is not made by the ld. AO and he has to examine the issue on merits. Since, in this case ld. AO has clearly conducted the enquiry and revenue did not pin point the error on the part of the assessing officer the order passed after due application of mind cannot be subjected to proceeding u/s. 263 of the Act. The ITAT Mumbai bench in the case of Khatiza S. Oomerbhoy has addressed this issue elaborately.

27. The AO while framing the assessment had taken a possible view, and revenue did not demonstrate the error remain on the part of the ld. AO. In fact, when the ld. AO has conducted the required enquiry and not violated any of the conditions mentioned for revision of order as required by Explanation 2 of Section 263 of the Act, the order passed by the Assessing Officer could not be deemed to be erroneous so as to be prejudicial to the interests of the revenue.

- Hon'ble Rajasthan High Court in PCIT v. Manna Trust (2022) 1 TMI 693 [Compilation 42-44] has held: *We are broadly in agreement*

with the view of the Tribunal. It is well settled through a series of judgments that power under Section 263 of the Act can be exercised only when twin conditions of the order of assessing officer being erroneous and prejudicial to the interest of revenue are satisfied. The Jurisdiction of the Commissioner under Section 263 of the Act is restricted and cannot be equated with the appellate jurisdiction. The Commissioner does not sit in appeal.

- Hon'ble ITAT Jaipur Bench in Gayatri Devi v. PCIT (2023) 10 TMI 23 [Compilation 45-78] has held:
  It is well settled that the prerequisites to exercise of jurisdiction by the ld PCIT under s. 263 of the Act is that to establish order of the AO is to be erroneous insofar as it is prejudicial to the interest of the Revenue, the PCIT has to satisfy of twin conditions simultaneously, namely (i) the order of the AO sought to be revised is erroneous; and (ii) it is prejudicial to the interests of the Revenue. If any one of them is absent, s. 263 cannot be invoked. This provision cannot be invoked to correct each and every type of mistake or error committed by the AO; it is only when an order is erroneous as also prejudicial to Revenue's interest, that the provision will be attracted. An incorrect assumption of the fact or an incorrect application of law will satisfy the requirement of the order being erroneous. The phrase 'prejudicial to the interest of the Revenue' has to be read in conjunction with an erroneous order passed by the AO. However, every loss of revenue as a consequence of the order of the AO cannot be treated as prejudicial to the interest of the Revenue. For example, if the AO has adopted one of the two or more courses permissible in law and it has resulted in loss of revenue, or where two views are possible and AO has taken one view with which the PCIT does not agree, it cannot be treated as an erroneous order and it is prejudicial to the interest of the Revenue, unless the view taken by the AO is totally unsustainable in law. We draw strength from case of Malabar Industrial Co. Ltd. vs. CIT (2000) 243 ITR 83 (SC) and also from the case of CIT vs. Max India Ltd. (2007) 295 ITR 282 (SC).

28. Further it is settled law that initiation of 263 proceedings <u>at the instance of Revenue Audit is impermissible</u>. Reliance is placed upon:

- Hon'ble Punjab & Haryana High Court in CIT v. Sohana Woolen Mills (2006) 9 TMI 157 [Compilation 1-3] has held: *A reference to the provisions of section 263 of the Act shows that jurisdiction thereunder can be exercised if the Commissioner of Income-tax finds that the order of the Assessing Officer was erroneous and prejudicial to the interests of the Revenue. Mere audit objection and because a different view could be taken, are not enough to say that the order of the Assessing Officer was erroneous or prejudicial to the interests of the Revenue. The jurisdiction could be exercised if the Commissioner of Income-tax was satisfied that the basis for exercise of jurisdiction existed. No rigid rule could be laid down about the situation when the jurisdiction can be exercised. Whether satisfaction of the Commissioner of Income-tax for exercising jurisdiction was called for or not, has to be decided having regard to a given fact situation*.
- Hon'ble ITAT Amritsar Bench in Rajinder Kaur v. ITO (2023) 4 TMI 565 [Compilation 4-13] has held:
  Admittedly, the proceedings were initiated u/s 263 of the Act on the basis of audit objection and consequent order passed u/s 263 of the Act is opposed to judgment of SOHANA WOOLLEN MILLS [2006 (9) TMI 157 - PUNJAB AND HARYANA HIGH COURT]
  From the record, it is established that the Ld. PCIT has initiated the proceedings u/s 263 of the Act by invoking provisions contained in clause (a) of explanation 2 to sub section 1 of section 263 of the Act. In our view, the subject proceeding initiated by the Ld. PCIT u/s 263 of the Act, is illegal and bad in law, since the provisions contained in clause (a) of explanation 2 below to section of section 263 of the Act were introduced by Finance Act 2015 are not applicable retrospectively and therefore, clause (a) of explanation 2 to sub section 1 of section 263 is not applicable to Assessment Year (2011-12), under consideration.
  We hold that the order of the CIT passed u/s 263 is bad in law and as such it is quashed. Appeal of assessee allowed.
- Hon'ble ITAT Delhi Bench in Majestic Properties Pvt. Ltd. v. PCIT (2023) 8 TMI 673 [Compilation 14-17] has held:
  8.1 As regards the issue of non-disallowance of loss on sale of tower, it is duly emanating that this aspect was raised on the basis of audit objection. The case laws cited by the ld. Counsel of the

assessee duly establish that revisionary power u/s 263 cannot be initiated on the basis of audit objection. Hence, we set aside the order passed by the ld. Pr.CIT on this issue.

- Hon'ble ITAT Chandigarh Bench in Paramjit Singh v. PCIT (2016) 12 TMI 799 [Compilation 18-28] has held:
  No factual error has been pointed out by the audit party in this case because case was selected for scrutiny for cash deposits in the bank accounts of the assessee. The audit party did not agree with the findings of the Assessing officer, therefore, it could not be said that the assessment order was erroneous in so far as the prejudicial to the interest of the Revenue. The Ld. Counsel for the assessee therefore, rightly contended that the contents of the show cause notice u/s.263of the I.T. are similarly worded as have been noted in the audit objection. Therefore, subsequently on mere audit objection, the Ld. Principal CIT, was not justified in initiating the proceedings u/s.263of the I.T. Act. The Principal CIT was, therefore, not justified in holding that Assessing officer did not make necessary enquiry into the matter. The Ld. Principal CIT merely disagree with the findings of the Assessing officer, therefore, it could not be termed as assessment order to be erroneous and prejudicial to the interest of Revenue. Therefore, we do not subscribe to the view of the Principal CIT in exercising jurisdiction u/s.263 - Decided in favour of assessee.
- Hon'ble ITAT Chennai Bench in Refex Industries Ltd. v. DCIT (2014) 11 TMI 653 [Compilation 29-34] has held:
  Rather, CIT without independent application of mind has replicated audit objections in the show cause notice issued u/s.263 - In SHRI JASWINDER SINGH Versus COMMISSIONER OF INCOME TAX-II [2012 (6) TMI 543 - ITAT CHANDIGARH] it has been held that exercise of revisional power on the basis of audit objection is not tenable in law – thus, the CIT without examining the records and proper application of mind has invoked the provisions of section 263 in disallowing the advertisement expenditure claimed by the assessee - There is nothing on record to suggest that the order of AO is not sustainable in law – the order of the CIT is set aside – Decided in favour of assessee.

29. Further it is settled law that initiation of 263 proceedings should be at the instance of PCIT itself and it cannot be initiated on borrowed satisfaction. Reliance is placed upon:

- Hon'ble ITAT Pune Bench in Volkswagen India Pvt. Ltd. v. PCIT (2023) 11 TMI 794 [Compilation 79-84] has held:

  Revision u/s 263 - taxability of Government grants - As per CIT grants received by the assessee in such year were wrongly taken as capital receipt - HELD THAT:- The entire show cause notice that the initiation of revision is premised only on the report submitted by the AO requesting for the revision of the assessment order. During an earlier hearing, the ld. DR was directed to produce the said report of the AO forming part of the show cause notice. DR produced the file in original containing the AO's letter dated 22-03-2018 requesting for the revision of the assessment order and such request having been routed through the range JCIT with his own letter dated 27-03-2018. Pursuant to such letter of the AO, the ld. PCIT issued the above show cause notice on 29-05-2018. It is apparent that the entire foundation of the revision is based on the AO requesting the ld. PCIT to revise the assessment order.

  Both the conditions, namely, the CIT calling for and examining the record and then considering the assessment order passed by the AO to be erroneous and prejudicial to the interest of the Revenue are to be cumulatively satisfied by the CIT alone.

  The use of the word `and' between the two expressions amply demonstrates that the calling for and examining the record by the CIT should precede and his such examination should culminate in getting satisfied that the order passed by the AO is erroneous and prejudicial to the interest of the Revenue. If one of these conditions gets negated, that is, either he does not call for and examine the record or such examination does not lead him to satisfying the assessment order erroneous etc., the jurisdiction u/s. 263 is not activated.

  Revision u/s. 263 is concerned, it is the sole prerogative of the Pr. CIT, who needs to take suo motu action on calling for and examining the record of any proceedings under this Act and on the basis of such examination considering the assessment order erroneous and prejudicial to the interest of the Revenue. It is evident from the show cause notice that the ld. PCIT initiated

revisionary proceedings just on the basis of the AO's report without carrying out any independent examination of the record followed by independently satisfying himself that the assessment order required revision.

Thus we are satisfied that the ld. PCIT exercised his jurisdiction to initiate the revision proceedings in a wrongful manner, which, ergo, cannot be accorded our imprimatur.

Assessee created the bedrock for challenging the revision through the additional ground, on the basis of the show cause notice issued by the ld. PCIT, which is part of the assessee's paper book. Our decision of quashing the revision on this legal issue is based on such show cause notice - The additional ground raises a pure question of law, for which no fresh investigation of facts is required. That is raison d'etre for our admitting the additional ground and then espousing it for consideration.

It is, therefore, ultimately held that the ld. Pr. CIT was not justified in invoking the revision jurisdiction. Decided in favour of asses

- Hon'ble ITAT Indore Bench in DBL Betul Sarni Tollways Ltd. v. PCIT (2023) 10 TMI 1187 [Compilation 85-89] has held:

  Validity of Revision u/s 263 - prescription and requirement of revision u/s 263 - objection raised by Ld. AR that the show-cause notice issued on the very same day on which proposal is mooted before PCIT - Revenue submitted that there are multiple communications and in-house working in department before show-cause notice is actually issued to assessee and that the draft-notice was prepared by AO at the behest of PCIT - HELD THAT:- PCIT received proposal for revision from AO and the AO has even placed draft-notices before PCIT for signature. AR is successfully able to demonstrate that the revision in these cases had been conducted on the bedrock of AO's proposal and draft-notice. That means, the conditions prescribed in section 263 are not fulfilled

  As relying on Alfa Laval Lund AB [2021 (11) TMI 327 - ITAT PUNE] the present case is having a jurisdictional deficit resulting into vitiating the impugned order. Therefore, we quash the impugned order on legality aspect itself and restore the original assessment-order passed by AO - Decided in favour of assessee.

- Hon'ble ITAT Pune Bench in Alfa Laval Lund AB v. CIT (2021) 11 TMI 327 [Compilation 90-92] has held:

Revision u/s 263 by CIT - HELD THAT:- 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 suo motu 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. 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.

30. While invoking provisions of section 263 in the instant case, the rules of consistency has been given a complete bypass which is impermissible. Reliance is placed upon:

- Hon'ble Supreme Court in Radha Soami Satsang v. CIT (1991) 11 TMI 2 [Compilation 35-41] has observed:

  We are aware of the fact that, strictly speaking, res judicata does not apply to income-tax proceedings. Again, each assessment year being a unit, what is decided in one year may not apply in the following year but where a fundamental aspect permeating through the different assessment years has been found as a fact one way or the other and parties have allowed that position to be sustained by not challenging the order, it would not be at all appropriate to allow the position to be changed in a subsequent year.

  On these reasonings, in the absence of any material change justifying the Revenue to take a different view of the matter and, if there was no change, it was in support of the assessee-we do not think the question should have been reopened and contrary to what

> *had been decided by the Commissioner of Income-tax in the earlier proceedings, a different and contradictory stand should have been taken. We are, therefore, of the view that these appeals should be allowed and the question should be answered in the affirmative, namely, that the Tribunal was justified in holding that the income derived by the Radhasoami Satsang was entitled to exemption under sections 11 and 12 of the Income-tax Act of 1961.*

31. That the updated Written Submissions is being filed in lieu of the directions of the Hon'ble Bench dated 16.01.2024 triggered due to subsequent developments which took place after the matter was argued by the A/R of the assessee appellant at length on 31.10.2023 and after the arguments were over, the ld. D/R sought time to seek clarification from the Assessing Officer about the status with regards to other assessment years other than A.Y. 2015-2016, accordingly, the matter was adjourned for 07.11.2023. On 07.11.2023, at the request of ld. D/R it was adjourned for 05.12.2023. On 05.12.2023 again an adjournment was sought by ld. D/R, however, due to non-availability of Hon'ble Judicial Member, the matter was adjourned to 03.01.2024. On 03.01.2024 again an adjournment was sought by ld. D/R and matter was listed for final hearing on 16.01.2024. On 16.01.2024 again an adjournment was sought by ld. D/R. At one end, the ld. D/R has been seeking adjournment since 31.10.2023, however, at the other side the ld. D/R vide its letter dated 08.11.2023 PB-IV, Pg. 309 has asked the ld. PCIT (Central) to take remedial action u/s. 148 / 263 for the remaining years. On the basis of ld. D/R's letter, the department though has not initiated proceedings u/s. 263 for A.Y. 2010-11, 2011-12, 2012-13, 2013-14, 2014-15, 2016-17 & 2017-18 since the same is barred by limitation, however, on the basis of the same, the ld. CIT(A) has issued notices dated 04.01.2024 PB-IV, Pg. 276-305 proposing enhancement of income for appeals pending before him for A.Y. 2012-13, 2013-14, 2014-15, 2015-16, 2016-17 & 2017-18. Interestingly the enhancement notices have been issued mechanically on the basis of letters written by the AO PB-IV, Pg. 306-308 / D/R, without even any submission being made by the assessee appellant before him. Despite directions of the Hon'ble Bench given vide its order dated 16.01.2024, copy of report, if any, to be submitted by the Assessing Officer on the pretext of which adjournment has been sought from 31.10.2023 has not provided to the assessee appellant.

We thus humbly submits that the impugned order dated 17.12.2018 passed by the ld. PCIT is completely illegal, devoid of any merits, passed with predetermined motive, on the basis of assumption and presumption, ignoring the correct factual position, on wrong understanding of statutory provision, is bad in law and therefore the same is deserves to be quashed & set-aside."

8. To support the contention so raised in the written submission reliance was also placed on the following evidence / records / decisions:

COMPILATION

SNo.	Particulars	Page No.	
		From	To
	263 INITIATED AT THE INSTANCE OF AUDIT		
1.	CIT v. Sohana Wollen Mills {2006 (9) TMI 157} Punjab & Haryana High Court	01	03
2.	Rajinder Kaur v. ITO {2023 (4) TMI 565} ITAT – Amritsar	04	13
3.	Majestic Properties Pvt. Ltd. v. PCIT {2023 (08) TMI 673} ITAT - New Delhi	14	17
4.	Paramjit Singh v. PCIT {2016 (12) TMI 799} ITAT -Chandigarh	18	28
5.	Refex Industries Ltd. v. DCIT {2014 (11) TMI 653} ITAT -Chennai	29	34
	RULE OF CONSISTENCY		
6.	Radha Soami Satsang v. CIT {1991 (11) TMI 2} Supreme Court	35	41
	SCOPE OF REVISION U/S. 263		
7.	CIT v. Manna Trust {2022 (01) TMI 693} Rajasthan High Court	42	44

8.	Gayatri Devi v. PCIT {2023 (10) TMI 23} ITAT - Jaipur	45	78

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	263 INITIATED AT THE INSTANCE OF ASSESSING OFFICER		
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10.	DBL Betul Sarni Tollways Ltd. v. PCIT {2023 (10) TMI 1187} ITAT - Pune	85	89
11.	Alfa Laval Lund AB v. CIT {2021 (11) TMI 327} ITAT - Pune	90	92

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	142(1) of the Act for the A.Y. 2013-2014		
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10.	Copy of ledger of Plant & Machinery of Pinck City Jewel House SEZ Unit for the A.Y. 2015-2016.	260	261
11.	Copy of ledger of Plant & Machinery of Pinck City Jewel House Mahapura Unit for the A.Y. 2013-2014 & 2015-2016	262	264

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3.	Copy letter dated 19.02.2021 to the ld. PCIT issued by the ld. ACIT.	274	276
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Compilation of Case Law(s)

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2	[2017] 85 taxmann.com 10 (Bombay) Commissioner of Income-tax, Nagpurv.Ballarpur Industries Ltd.	7-17
3	[2016] 69 taxmann.com 170 (SC) Commissioner of Income-tax, Mumbai v.Amitabh Bachchan	18-32
4	[2012] 24 taxmann.com 215 (Gauhati) Commissioner of Income-taxv.Jawahar Bhattacharjee	33-46
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6	[2014] 47 taxmann.com 61 (Kerala) P.V. Sreenijinv.Commissioner of Income-tax (Central)	91-99
7	[2020] 116 taxmann.com 965 (Mumbai - Trib.) Kirtidevi S. Tejwaniv.Principal Commissioner of Income-tax 22 Mumbai	100-109
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10	[2021] 127 taxmann.com 243 (Pune - Trib.) Jalgaon People's Co-op Bank Ltd. v.Principal Commissioner of Income Tax - 2, Nashik	124-130

9. The ld. AR of the assessee in addition to the written submission vehemently argued that the ld. PCIT has not considered the fact that pursuant to the survey conducted assessment was re-opened for A. Y. 2011-12 to 2015-16 and even the assessment for A. Y. 2016-17 was also completed. The issue arose on account of the survey has not only subject matter of this year but was also of the previous other years too. On this aspect he relied upon the just filed by him and reproduce here in above. The assessee has replied all the queries that has been raised by the assessing officer for all these years which are re-opened by the assessing officer. There is no proceeding of 148 or 263 in other years but only in this year the order has been passed u/s. 263 of the Act based on the audit objection filed at page 267 of the paper book filed by the assessee which is

based on the audit objection raised by the ACIT,(Audit) Jaipur suggesting the remedial action wherein the audit party has relied on the para 2 of the reply filed by the assessee and the same is even relied upon by the ld. DR. This is nothing but the rebuttal of the assessee and not admission as alleged by the audit party and the ld. DR. Thus, considering the various judicial precedent cited the ld. PCIT cannot invoke the provision of 263 merely on the audit objection. The ld. AR of the assessee reading para 9 of the order of the PCIT argued that the even the PCIT has not given his finding and he merely suggested that there is lack of enquiry and non deriving of inference in the order. Even he has not invoked explanation 2 of the section 263 and thus the order passed is just based on the audit objection is not sustainable based on the legal decision on the same issue of audit objection decided by the Punjab and Haryana High Court where in the court held that based on the audit objection jurisdiction u/s. 263 of the Act cannot be invoked. Similar view is taken by the Delhi bench of ITAT in the case of Majestic Properties Pvt Ltd., and case laws cited in the case law compilation on the issue. The ld. AR of the assessee also relied upon the decision of Radhasoami Satsang Vs. CIT stating that the revenue should take one stand on the similar set of facts and where in the earlier year there the claim has been accepted the same should be accepted in this year to

maintain the consistent view. The ld. AR of the assessee also submitted that in the re-opened assessment the assessing officer has examined the claim of the assessee and added some of the amount for which the separate proceeding is going on and therefore, there is no meaning to again invoke the provision of section 263 of the Act in this case merely based on the audit objection.

10. On the other hand, the ld. DR representing the revenue has relied upon the finding recorded in the order of the ld. PCIT. The ld. DR submitted that though the case of the assessee was re-opened based on the reasons recorded and there is clear cut absence of the enquiry of the issue based upon the re-opening was made. The ld. DR further relied upon the para 2 of the submission of the assessee dated 29.10.2018 made in the 148 Proceeding wherein the assessee confessed the allegation made in the 148 notice;

> In para 2 of the reasons it has been alleged that another Company M/s Pinkcity Color Stones Pvt. Ltd. Was having strong profits but later on the same was closed and building, plant and machinery were on rent by assessee company and the employees of Pinkcity Color Stones Pvt. Ltd. Were also absorbed by assessee company. This arrangement has been done for only motive to avoid legitimate taxes. This finding is very vague. M/s Pinkcity color Stone Pvt. Ltd. Is a legal entity established under the Companies Act, 1956, and has all right with it to decide the business on its closure or renting of its assets etc. and the assessee company is a separate legal entity. Both the Companies work as per their ethic of business and try to earn better income. It is wrong to say that M/s Pinkcity Color Stone was closed as an arrangement avoid legitimate taxes.

> It has alleged that the items transferred from Mahapura Unit remained the same and no value addition was made at Sitapura Unit. As disclosed during the survey proceedings as well as during the course of assessment proceedings the Sitapura Unit had no casting unit till July – Aug, 2012, but this do not mean that no manufacturing activity was carried out at Sitapura. In fact the items transferred from Mahapura Unit were only the first stage of the jewellery production and was actually a rough design of the jewellery carted which required several other process to be undergone before the items of jewellery becomes finished good to be exported. The observation that items remained the same as SEZ Unit did not make any value addition on the same is not correct. In his statement recorded during survey Shri Hanuman Sharma clearly mentioned the various process of production undertaken at SEZ Unit to make the items received from Mahapura Unit as saleable/exportable finished goods. The value to the jewellery is always added with every step of manufacturing and reaches its ultimate value after the stone is studded and the item is finally polished. Thus the very concept on which the proceedings have been initiated are vague. The issue was also raised and explained during the course of assessment proceedings and being satisfied no adverse view was taken and thus reopening of assessment on this ground is merely a change of opinion which is not permissible under section 147.

Thus, the view of the PCIT is based on the averment confirmed by the assessee in 148 proceeding so there is clear absence of finding in the order of the assessing officer and therefore, ld. DR supported the order of the ld. PCIT.

11. The ld. AR of the assessee in the rejoinder submitted that there is no confirmation of the assessee, but it is rebuttal to the notice issued and objection of the assessee denying the allegation and thus, in fact it self-shows that the ld. AO has examined this issue and has applied his mind.

Though there is no finding recorded in the order this does not made the order automatically erroneous or prejudicial order.

12. We have heard the rival contentions and perused the material placed on record and have also gone through the various judicial decisions cited by both the parties to drive home to the contentions raised. The bench noted that a survey u/s. 133A of the Income-tax Act was carried out at the business premises of the assessee on 17th & 18th August 2017. While survey proceedings, it was gathered that another group concern of the assessee i.e. M/s. Pinkcity Colorstone Pvt. Ltd. was having strong profits but later on the same was closed and the Plant and Machinery as well as building was rented over to the assessed company i.e. M/s. Pinkcity Jewelhouse Pvt. Ltd. The management and shareholders of both the companies were/are same. This arrangement has been done for only motive to avoid legitimate taxes. Based on these set of facts case for A. Y. 11-12 onwards was reopened u/s. 147/148 after recording reasons and getting necessary the approval of the competent authority. The assessment pursuant to the notice u/s. 148 was completed on 17.12.2018 determining the income at Rs. 7,05,65,857/- as against the returned income of Rs.

4,68,02,540/- wherein the addition of Rs. 1,52,49,551/- made by observing as under :

> "3.17 Therefore, there is no dispute over the computation of profit of SEZ as per the provisions of section 10AA. It is most reasonable to work out the overload of expenses on Mahapura unit, which can only be worked out on the basis of bifurcation of expenses in the ratio of turnover of both the units as also allowed for as per the proviso to section 80IA(8) r.w.s. 10AA(9) the Assessing Officer may compute such profits and gains on such reasonable basis as he may deem fit, as already reproduced above. The assessee through the note sheet entry dated 04.12.2018 again informed that the submission made on even date are not sustainable but assessee required no further submission, accordingly, the assessment is completed as per the provisions of section 10AA(9) r.w.s. 80IA(8).
>
> 3.18 In the case of the assessee company, it has one existing unit in Mahapura for years in the manufacturing of Gems & Jewellery; the assessee put another unit in same manufacturing activity in SEZ, Sitapura which enjoy deduction u/s.10AA of the Act. It got benefited by the technologies, brands of the company, access to the market by existing buyers, brand value and other expert abilities of the management and directors. It has not made any expenditure on goodwill, advertisements, selling & marketing as the company by its Mahapura unit has Brand name and existing buyers from years. The role of directors and management of the company cannot be limited to the non deduction claiming company but also they are equally responsible for all the decisions of SEZ unit which is deduction claiming unit. The assessee has not debited the proportionate salary of directors, head office/ registered office expenses between the deduction claiming and non-deduction claiming unit. If, all the transaction are to be transferred at market rate between deduction claiming and non deduction claiming unit; then there should also be price/ value of hidden benefits which enjoyed by the deduction claiming SEZ unit. No expenses debited on account of use of brand value created by non deduction claiming unit which exists for number of years and/ or use of marketing network. Heavy expenses incurred over the years on technologies, research on new productions and marketing. The new undertaking SEZ unit profit derived from exploitation of inherent value of self generated brand as well as profit derived from the usage of the marketing network owned by the Mahapura unit. Without getting these Marketing Rights (intangible asset), the assessee cannot sell its products in the market. Thus; the SEZ, Sitapura deduction claiming unit received intangible benefits without cost.

3.19 The statement recorded in the case and the impounded documents revealed that the assessee company has loaded maximum expenditure on non deduction claiming unit and transferred goods from non deduction claiming unit to deduction claiming unit at lower than market value to shift maximum profit in deduction claiming unit so as to avoid the taxes. The deduction claiming unit was newly set up and started production from AY 2009-10. For setting up a new unit, it requires management of the company to see the feasibility of surviving, expected profits compare to investments, government benefits, access of market, launching brand value and marketing, arrangement of sources of funds, technological requirements, research and development in the improvisation of quality of production, expertise of selling and marketing, etc for which the SEZ unit got benefitted by the existing Mahapura unit.

3.20 From the table it shows that Sitapura unit has shown net profit ratio @ 10.84% whereas the Mahapura unit has shown net profit ratio @ 1.11%. Therefore, to arrive at correct profit of Mahapura unit the following expenses to be bi- furcate in ratio of the turnover of the unit:

X X X X

3.21 Therefore, Rs. 2,37,63,322/- is the minimum amount which have excess loaded on Mahapura unit and which must be related to the SEZ unit. The income to be added by an amount of Rs.2,37,63,322/-. Accordingly deduction claimed u/s 10AA is also reduced by this amount of Rs. 2,37,63,322/- and deduction under section 10AA is now remains at Rs. 1,52,49,551/- (39012873-23763322) as against claimed by the assessee of Rs. 3,90,12,873/-."

13. The assessment order so passed was rectified u/s. 154 on 25.02.2019 and the income was determined at Rs. 5,86,84,200/-. The ld. PCIT based on the assessment records noted that among other thing that the AO has not made any inquiries regarding the specific information mentioned in the reasons recorded being para 2 on page 2 of the reasons recorded wherein it was noted that M/s Pinkcity Color stone Pvt. Ltd. was having strong profits but later on the same was closed and the plant & Machinery as well as building was rented over to the assessee company

i.e. Pinkcity Jewel House Pvt. Ltd. The employees of M/s Pinkcity Colour Stones Pvt Ltd. were also absorbed in M/s Pinkcity Jewel House Pvt. Ltd. The management and shareholders of both the companies were/are same. This arrangement has been done for only motive to avoid due legitimate taxes. The also noted that the buyers as well as sellers of manufactured/ semi finished/ raw materialgoods of assessee company i.e. M/s Pinkcity JewelhousePvt Ltd remained same as the items were transferred from its Mahapura Unit to the_Sitapura_SEZ unit. It was found that assessee is transferring semi-finished goods from the Mahapura Unit (Non-deduction claiming unit) to Sitapura Unit(SEZ Unit deduction claiming u/s.10AA) for onwards sale/exports from SEZ Unit. During survey proceedings it was learnt that SEZ Unit did not make any value addition on the same. This fact was clearly admitted by the General Manager Shri Rajeev Gupta at the survey premises located at Sitapura SEZ Unit and further accepted by Shri Manuj Goyal, Director of assessee company. It was also admitted by the Sr. Employee of the assessee Shri Hanuman Prasad Sharma in his statements recorded at Sitapura SEZ Unit that during the F.Y. 2010-11 and 2011-12 there was no casting facility at Sitapura Unit and the finished goods were transferred Jrom Mahapura Unit." Therefore, ld. PCIT observed that the ld. AO has failed to make necessary inquiries regarding eligibility &

allowability of the deduction u/s 10AA of the IT Act, 1961. Therefore, a Show Cause Notice u/s 263 dated 12.03.2021 was issued and hearing fixed on 15.03.2021. In reply of the above Show Cause Notice u/s 263 of the IT Act, 1961 the AR of the Assessee submitted his written submission on 15.03.2021, contending that

- the issue was considered in detail in the regular assessment, reassessments from the A.Y. 2010-2011 to 2017-2018.
- entire basis for issuing notice u/s. 263 is factually wrong,
- all issues relevant for scrutiny assessment have been considered by the Assessing Officer and all relevant enquiries were carried out.
- Rental of plant & machinery and building by M/s Pinkcity Colorstones Pvt. Ltd. was to its DTA Unit, i.e., Mahapura Unit and not to Sitapura SEZ Unit.
- SEZ Rules do not permit to take Building / Plant & Machinery on rent, without prior permission of the Development Commissioner and no such permission was taken.
- No statement by any Director or Employee that plant & machinery and building have been given on rent by M/s Pinkcity Colorstones Pvt. Ltd. to Sitapura SEZ Unit.
- SEZ unit has constructed its own Building and purchased Plant & Machinery.
- M/s Pinkcity Colorstones Pvt. Ltd. has not sold any plant & machinery to Sitapura SEZ Unit.
- M/s Pinkcity Colorstones Pvt. Ltd. was not having strong profits but on the contrary was incurring regular losses.
- Employees of M/s Pinkcity Colorstones Pvt. Ltd. were absorbed by its DTA Unit, i.e., Mahapura Unit and not by Sitapura SEZ Unit.
- There is no bar that deduction u/s. 10AA will not be permitted if the management of two companies is similar.
- Items were not transferred from its Mahapura Unit to Sitapura SEZ unit, even otherwise, some raw-materials (gemstones) were

sold which were used for manufacturing by SEZ unit, even otherwise there is no bar under the Act in order to claim deduction u/s. 10AA.

- In initial years casting machine were not available in Sitapura SEZ unit, hence, casted components were purchased from Pink City Color Stones Pvt Ltd.
- Complete note of manufacturing activity carried out at each stage of process was also enclosed during assessment proceedings as well as survey proceedings.
- The Company is maintaining complete records of stock movement at each stage of production process.
- In assessment year 2010-2011, i.e., the first year in which deduction u/s. 10AA was claimed the Assessing Officer had issued notice dated 12.03.2013 proposing disallowing the benefit by referring to section 80IA(10) of the Act. Detailed reply was filed by the assessee appellant vide its letter dated 18.03.2013 and the Assessing Officer was satisfied with the submissions made and thereafter accepted the returned Income vide order dated 28.03.2013. [PB-I, Pg 36-43].
- The status of 263 invoked by PCIT for all the years which were undertaken for scrutiny assessment / reassessment is as follows:

Assessment Year	Order u/s 143(3)	263 Invoked	Order u/s 147	263 Invoked
2010-2011	28.03.13	NO		NO
2011-2012	07.03.14	NO	18.12.17	NO
2012-2013	27.03.15	NO	17.12.18	NO
2013-2014	21.03.16	NO	17.12.18	NO
2014-2015	25.11.16	NO	17.12.18	NO
2015-2016			17.12.18	YES
2016-2017	19.12.18	NO		
2017-2018	30.12.19	NO		

14. The bench noted that the ld. PCIT without dealing with the contention summarily passed an order by holding that the assessee is not eligible to claim benefit u/s. 10AA of the Act and he hold that there is lack of enquiry by the ld. AO on the points upon which the assessment was reopened. The

ld. Counsel representing the assessee objected to the order of the ld. PCIT where in he could not point out any mistake / error in order which is prejudicial to the interest of the revenue. The AO while framing the assessment had taken a possible view, and revenue did not demonstrate the error remain on the part of the ld. AO. In fact, when the ld. AO has conducted the required enquiry and not violated any of the conditions mentioned for revision of order as required by Explanation 2 of Section 263 of the Act, the order passed by the Assessing Officer could not be deemed to be erroneous so as to be prejudicial to the interests of the revenue and to support the view he relied on the decision Hon'ble Rajasthan High Court in PCIT v. Manna Trust (2022) 1 TMI 693 [Compilation 42-44] wherein it has been held that "*We are broadly in agreement with the view of the Tribunal. It is well settled through a series of judgments that power under Section 263 of the Act can be exercised only when twin conditions of the order of assessing officer being erroneous and prejudicial to the interest of revenue are satisfied. The Jurisdiction of the Commissioner under Section 263 of the Act is restricted and cannot be equated with the appellate jurisdiction. The Commissioner does not sit in appeal*."

15. The bench also noted from the assessee's paper book page 267 to 271 wherein the assessee submitted that the reasons for taking the proceeding u/s. 263 is not an independent view of the ld. PCIT but it is borrowed from the audit memo issued by the internal audit party wherein the audit party in the audit memo based on the para 2 of the assessee's submission dated 29.10.2018 countered the contentions of the ld. AO which the audit party made a base that the ld. AO has not looked at the aspect of the matter and taken a view that benefit of section 10AA is not available to the assessee and they submitted that the claim should not be allowed by the ld. AO. Thus, it is undisputed that the action u/s. 263 based on the audit objection and it has been held in various case law cited by the ld. AR of the assessee holding that proceedings u/s. 263 at the instance of Revenue Audit is impermissible. This view is taken by the Hon'ble Punjab & Haryana High Court in CIT v. Sohana Woolen Mills (2006) 9 TMI 157 [Compilation 1-3] wherein the court held that "*A reference to the provisions of section 263 of the Act shows that jurisdiction thereunder can be exercised if the Commissioner of Income-tax finds that the order of the Assessing Officer was erroneous and prejudicial to the interests of the Revenue. Mere audit objection and because a different view could be taken, are not enough to say that the order of the Assessing Officer was*

erroneous or prejudicial to the interests of the Revenue. The jurisdiction could be exercised if the Commissioner of Income-tax was satisfied that the basis for exercise of jurisdiction existed. No rigid rule could be laid down about the situation when the jurisdiction can be exercised. Whether satisfaction of the Commissioner of Income-tax for exercising jurisdiction was called for or not, has to be decided having regard to a given fact situation."

16. Even the co-ordinate bench of Amritsar in Rajinder Kaur v. ITO (2023) 4 TMI 565 [Compilation 4-13] has held that "*Admittedly, the proceedings were initiated u/s 263 of the Act on the basis of audit objection and consequent order passed u/s 263 of the Act is opposed to judgment of SOHANA WOOLLEN MILLS [2006 (9) TMI 157 - PUNJAB AND HARYANA HIGH COURT] From the record, it is established that the Ld. PCIT has initiated the proceedings u/s 263 of the Act by invoking provisions contained in clause (a) of explanation 2 to sub section 1 of section 263 of the Act. In our view, the subject proceeding initiated by the Ld. PCIT u/s 263 of the Act, is illegal and bad in law, since the provisions contained in clause (a) of explanation 2 below to section of section 263 of the Act were*

introduced by Finance Act 2015 are not applicable retrospectively and therefore, clause (a) of explanation 2 to sub section 1 of section 263 is not applicable to Assessment Year (2011-12), under consideration. We hold that the order of the CIT passed u/s 263 is bad in law and as such it is quashed.

17. The bench also noted that similar issue was involved in all the years starting from 2011-12 and what is the status of the issue on the other years and the revenue was directed to update the status. Thereafter the event that has happened has been strongly opposed by the counsel and he has submitted as under :

> That the updated Written Submissions is being filed in lieu of the directions of the Hon'ble Bench dated 16.01.2024 triggered due to subsequent developments which took place after the matter was argued by the A/R of the assessee appellant at length on 31.10.2023 and after the arguments were over, the ld. D/R sought time to seek clarification from the Assessing Officer about the status with regards to other assessment years other than A.Y. 2015-2016, accordingly, the matter was adjourned for 07.11.2023. On 07.11.2023, at the request of ld. D/R it was adjourned for 05.12.2023. On 05.12.2023 again an adjournment was sought by ld. D/R, however, due to non-availability of Hon'ble Judicial Member, the matter was adjourned to 03.01.2024. On 03.01.2024 again an adjournment was sought by ld. D/R and matter was listed for final hearing on 16.01.2024. On 16.01.2024 again an adjournment was sought by ld. D/R. At one end, the ld. D/R has been seeking adjournment since 31.10.2023, however, at the other side the ld. D/R vide its letter dated 08.11.2023 PB-IV, Pg. 309 has asked the ld. PCIT (Central) to take remedial action u/s. 148 / 263 for the remaining years. On the basis of ld. D/R's letter, the department though has not initiated proceedings u/s. 263 for A.Y. 2010-11, 2011-12, 2012-13, 2013-14, 2014-15, 2016-17 & 2017-18 since the same is barred by limitation, however, on the basis of the same, the ld. CIT(A) has issued notices dated 04.01.2024 PB-IV, Pg. 276-305 proposing

enhancement of income for appeals pending before him for A.Y. 2012-13, 2013-14, 2014-15, 2015-16, 2016-17 & 2017-18. Interestingly the enhancement notices have been issued mechanically on the basis of letters written by the AO PB-IV, Pg. 306-308 / D/R, without even any submission being made by the assessee appellant before him. Despite directions of the Hon'ble Bench given vide its order dated 16.01.2024, copy of report, if any, to be submitted by the Assessing Officer on the pretext of which adjournment has been sought from 31.10.2023 has not provided to the assessee appellant.

18. Thus, the bench noted the action for the year under consideration is based on the revenue audit objection for the year under consideration got confirmed and thus we note that the provisions of section 263 in the instant case, the rules of consistency has been given a complete by pass the ld. PCIT which is impermissible. The Hon'ble Supreme Court in Radha Soami Satsang v. CIT (1991) 11 TMI 2 observed that

> *We are aware of the fact that, strictly speaking, res judicata does not apply to income-tax proceedings. Again, each assessment year being a unit, what is decided in one year may not apply in the following year but where a fundamental aspect permeating through the different assessment years has been found as a fact one way or the other and parties have allowed that position to be sustained by not challenging the order, it would not be at all appropriate to allow the position to be changed in a subsequent year.*
> *On these reasonings, in the absence of any material change justifying the Revenue to take a different view of the matter and, if there was no change, it was in support of the assessee-we do not think the question should have been reopened and contrary to what had been decided by the Commissioner of Income-tax in the earlier proceedings, a different and contradictory stand should have been taken. We are, therefore, of the view that these appeals should be allowed and the question should be answered in the affirmative, namely, that the Tribunal was justified in holding that the income derived by the Radhasoami Satsang was entitled to exemption under sections 11 and 12 of the Income-tax Act of 1961.*

19. Even on merits the claim was already allowed from the assessment year 2011-12 and the issue based on the survey has already been examined for all the years in the reassessment proceeding from the A.Y. 2010-2011 to 2017-2018. The entire basis of the proceeding u/s. 263 is based on the revenue audit objection. All the issues relevant for scrutiny assessment have been considered by the Assessing Officer and all relevant enquiries were carried out and there is no fault found the PCIT in other years also and thus it is nothing but a change of opinion when the assessment pursuant to notice u/s. 148 has already been completed and there is no error or fault in the order passed by the assessee and the other issue raised in the reasons recorded for reopening wherein the assessee contented that Rental of plant & machinery and building by M/s Pinkcity Colorstones Pvt. Ltd. was to its DTA Unit, i.e., Mahapura Unit and not to Sitapura SEZ Unit. Even the SEZ Rules do not permit to take Building / Plant & Machinery on rent, without prior permission of the Development Commissioner and no such permission was taken. No statement by any Director or Employee that plant & machinery and building have been given on rent by M/s Pinkcity Colorstones Pvt. Ltd. to Sitapura SEZ Unit. SEZ unit has constructed its own Building and purchased Plant & Machinery. M/s Pinkcity Colorstones Pvt. Ltd. has not sold any plant & machinery to

Sitapura SEZ Unit. M/s Pinkcity Colorstones Pvt. Ltd. was not having strong profits but on the contrary was incurring regular losses. Employees of M/s Pinkcity Colorstones Pvt. Ltd. were absorbed by its DTA Unit, i.e., Mahapura Unit and not by Sitapura SEZ Unit. There is no bar that deduction u/s. 10AA will not be permitted if the management of two companies is similar. Items were not transferred from its Mahapura Unit to Sitapura SEZ unit, even otherwise, some raw-materials (gemstones) were sold which were used for manufacturing by SEZ unit, even otherwise there is no bar under the Act in order to claim deduction u/s. 10AA. The assessee already submitted that in the initial years casting machine were not available in Sitapura SEZ unit, hence, casted components were purchased from Pink City Color Stones Pvt Ltd.

20. Based on the discussion so recorded we are of the considered view that the proceeding initiated u/s. 263 is merely based on the audit objection and there is no independent view of the ld. PCIT and even on merits when the claim has been accepted by re-opening the case after survey which has been completed there cannot be third inning to the revenue. To drive home to this contention drive strength from the finding of the Hon'ble apex court in case of **Parashuram Pottery Works Co. Ltd Vs ITO [1977] 106 ITR 1** at page 10 "*At the same time, we have to bear in mind that the policy of law is*

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".

21. Ergo, we quash the order passed by the PCIT, Central, Jaipur.

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

Order pronounced in the open court on 07/03/2024.

Sd/-	Sd/-
(डा॰ एस. सीतालक्ष्मी)	(राठोड कमलेश जयन्तभाई)
(Dr. S. Seethalakshmi)	(Rathod Kamlesh Jayantbhai)
न्यायिक सदस्य / Judicial Member	लेखा सदस्य / Accountant Member

जयपुर / Jaipur
दिनांक / Dated:- 07/03/2024
*Ganesh Kumar, PS
आदेश की प्रतिलिपि अग्रेशित / Copy of the order forwarded to:

1. The Appellant- Pinkcity Jewelhouse Private Limited, Jaipur
2. प्रत्यर्थी / The Respondent- PCIT, Central Circle, Jaipur
3. आयकर आयुक्त / The ld CIT
4. आयकर आयुक्त(अपील) / The ld CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 63/JP/2021)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar