आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर
IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR
श्री पार्थ सारथी चौधरी, न्यायिक सदस्य **एवं** श्री अवधेश कुमार मिश्र, लेखा सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM &
SHRI AVDHESH KUMAR MISHRA, AM

आयकर अपील सं. / ITA No: 419/RPR/2026
(**निर्धारण वर्ष** Assessment Year: 2018-19)

Maa Kudargarhi Steels Private Limited, Near Ring Road No.2, Opposite Bajrang Alloys, Village Sarona, Raipur-493221,	vs	Principal Commissioner of Income Tax, (Central), Bhopal, Aayakar Bhawan, 48, Arera Hills, Hoshangabad Road, Bhopal-462011, MP
PAN: AAECM1143R		
(**अपीलार्थी/Appellant**)	:	(**प्रत्यर्थी / Respondent**)
निर्धारिती की ओर से / Assessee by	:	Shri G. S. Agrawal, CA
राजस्व की ओर से / Revenue by	:	Shri Rituparna Namdeo, CIT-DR
सुनवाई की तारीख / Date of Hearing	:	08/09/2026
घोषणा की तारीख / Date of Pronouncement	:	15/10/2026

आदेश / O R D E R

Per Avdhesh Kumar Mishra, AM:

This appeal for Assessment Year ('AY') 2018-19 filed by the assessee is directed against the order dated 24.03.2026 of Principal Commissioner of Income Tax, (Central), Bhopal ['PCIT'] passed under section 263 of the Income Tax Act, 1961 ('Act').

2. Vide three grounds, the assessee has challenged the validity of impugned order on the reasoning that the assessment order was neither erroneous nor

prejudicial to the interests of the revenue as the Ld. Assessing Officer ('AO'), after carrying out detailed inquiry by issuing notices to the third parties under section 133(6) of the Act and two notices to the assessee under section 142(1) of the Act and considering the assessee's submissions, explanations, etc., applied profit rate @ 2% on purchases of Rs.3,47,42,785/-.

3. The relevant facts giving rise to this appeal are that the assessee, a steel manufacturer, has filed its original Income Tax Return ('ITR') of the relevant year on 08.08.2018 declaring income of Rs.4,13,35,460/-. The case was picked up for limited scrutiny. The original assessment order accepting the returned income was passed under section 143(3) of the Act on 24.06.2021. Later, based on the information that the assessee had taken accommodation entries in the garb of bogus purchases, the Ld. AO reopened the assessment under section 148 of the Act following due procedure under section 148A of the Act. In response to the notice under section 148 of the Act, the assessee filed its ITR on 21.11.2022 declaring same income as in the original ITR (Rs.4,13,35,460/-). During the course of reassessment proceedings, the Ld. AO issued notices, under section 133(6) of the Act, to the following four parties from whom the assessee had claimed to have done purchases of Rs.3,47,42,785/-:

Sr. No.	Particulars	Amount
1.	Jai Guru Steels	Rs.85,92,317/-
2.	Sunil Enterprises	Rs.1,29,17,733/-
3.	Ganapati Trading	Rs.79,55,035/-
4.	Basanta Traders	Rs.55,77,700/-

However, the above mentioned four parties did not respond to the notice under section 133(6) of the Act. Based on the information received from the GST Department, the Ld. AO opined that these four parties were fictitious and were engaged in the business of providing bogus bills (para 7 of the assessment order). The Ld. AO therefore, show-caused the assessee to explain the genuineness of purchases of Rs.3,47,42,785/- made from the above mentioned four parties and also submit following details/documents etc. with respect to such purchases:

i. Copy of Purchase Invoices along with photo of goods Purchased.

ii. Copy of Inward register maintained at registered premises with Date, Name of Suppliers, GST number, Taxable Value, GST, Way bridge Receipt, Inward time when goods taken in factory, signature of transporter, Vehicle Number.

iii. Copy of Confirmation from the seller of goods stating that the goods are sold by him along with income tax return and statement of income.

iv. Copy of Bank account statement duly reflecting the transaction to seller.

v. Despatch details i.e. Bilty/Lorry Receipt of the transporter of goods.

vi. Copy of Statement of Fast Tag vindicating the actual movement of vehicle from your seller to your location.

vii. Detail of Stock Register reflecting the quantity of material purchased and subsequently sold

viii. In case GST number of seller is cancelled or suspended, Appeal filled by seller or action taken by seller to activate that GST number

ix. Details of payment made to the transporter for supply of goods with supporting documents reflecting payment.

3.1 In response to the above queries raised vide show-cause notice during the reassessment proceedings, the assessee submitted/furnished following documents as mentioned in para 9 of the reassessment order:

> *"9. In reply, assessee furnished copy of ledger account of purchase parties, transport bill, tax invoice raised by the sellers and on some occasion weighment slip. Assessee failed to provide any confirmation from seller, supporting documents corroborating actual movement of vehicle and payment detail of transporter.*"

3.2 The Ld. AO was not satisfied with the submission of the assessee. Hence, the Ld. AO, observing as under, taxed 2% of purchases of Rs.3,47,42,785/-:

> *"10.* ***Submission of the assessee is examined with facts of the case but found not satisfactory in absence of supporting documents as discussed in above para. Assessee has been failed to provide confirmation of account of their seller parties, status of taxes paid by the supplier on account of sales also. On the other hand seller parties also failed to substantiate their sales by not providing supporting documents despite availing sufficient time.***
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> *11.* ***However, considering the reply of the assessee and various other aspect of the case relevant to determine the purchase as bogus, profit element of 2% as prevailing in the similar business is determined to the income of assessee from above transactions of Rs.3,47,42,785/- (85,92,317 + 1,29,17,733 + 79,55,035 + 52,77,700)****. Accordingly, an amount of Rs.6,94,856/- is added to the business income of assessee of A.Y.2018-19. Penalty u/s 270A of the Act is initiated separately for under reporting of income."*
>
> [Emphasis supplied]

3.3 Later, the assessment record was examined by the PCIT. Thereafter, he issued show-cause notice under section 263 of the Act to the assessee to explain that why the said assessment order should not be treated erroneous and prejudicial to the interests of revenue. The relevant part of notice under section 263 of the Act reads as "…*the AO completed assessment by not enquiring and verifying the whole transactions amounting to Rs.3,47,42,785/- and whether provisions of sections 69C rws 115BBE of the Act are applicable and whether the initiation of penalty u/s 271AAC(1) is applicable or not. Despite the above mentioned facts and circumstances, the issue was not adequately enquired into by the AO and she failed to carry out verifications expected of her in view of the provisions of the IT Act.*"

3.4 In response to the show-cause notice under section 263 of the Act, the assessee filed a submission stating that the Ld. AO had carried out detailed inquiry not only from the assessee vide show-cause notices under section 142(1) of the Act but also from third parties/suppliers under section 133(6) of the Act. Based on the submissions, inquiries and material available on the record, the Ld. AO passed the assessment order after due application of mind and adherence to settle legal principles. The Ld. AO had taken a conscious and reasonable decision to tax 2% of purchases of Rs.3,47,42,785/- and the same was a plausible view. Thus, it was not a case of lack of inquiry as the Ld. AO had carried out requisite inquiries/verifications and thereafter, she had taken a conscious and reasonable decision to tax 2% of purchases of Rs.3,47,42,785/-. No assessment order could be revised under Section 263 of the Act solely on the ground of inadequate inquiry if the Ld. AO had applied his/her mind and conducted a basic investigation. The show-cause notice issued

under section 263 of the Act by the PCIT showed nothing but the change of opinion as evident from the facts of the case and the material available on record. The assessment order, due to change of opinion, could not be held as erroneous and prejudicial to the interests of revenue. Reliance was placed on Tribunal decisions in cases of Vaghasiya Exports in ITA No. 2288/Mum/2019; Ocean Sparkle Ltd. in ITA No. 744/Hyd/2025; Sharmanji Yarns Pvt. Ltd. in ITA No. 340 & 331/Chandi/2025 and Axis Infoline Pvt. Ltd. in ITA No. 2613/Del/2025. The assessee, therefore, requested the Ld. PCIT for dropping the proceedings initiated under Section 263 of the Act as the said assessment order was not erroneous and prejudicial to the interests of revenue. However, the Ld. PCIT, placing reliance on the decisions in the cases of Ram Pyari Devi Saraogi vs. CIT (1968) 67 ITR 84 (SC), CIT vs. Seshasayee Paper & Boards Ltd. (2000) 108 taxman 464 (Madras), CIT vs. Bhagwan Das (2005) 272 ITR 367 (All.), Pratap Footwear vs ACIT (2003) SOT 638 (Jabalpur) (Trib) and Malabar Industry Co. Ltd. vs. CIT(2000) 109 taxman 66 (SC), held that that the assessment order passed under section 147 of the Act on 24.03.2024 was erroneous and prejudicial to the interests of revenue and thus, he set-aside the assessment order and remitted the matter back to the file of the Ld. AO to reframe the assessment denovo to the extent of issue of purchases of Rs.3,47,42,785/-. The relevant part of the order under section 263 of the Act reads as under:

> *"3.1 During the assessment proceedings, the assessee made bogus purchase of Rs. 3,47,42,785/- and the AO has made the addition of Rs.6,94,856/-considering the profit element @2% of the bogus purchase.*
>
> *3.2 During the assessment proceedings, the assessee has failed to establish genuineness of fictitious/bogus and the assessee has failed to offer*

any satisfactory reply or explanation to the show cause notice. However, the AO given benefit of profit element @2% on whole transaction amounting to Rs.3,47,42,785/- on assumption basis was not justifiable, once the whole purchase transaction was treated as fictitious/bogus purchase.

3.3 In absence of any evidences, it could not be ascertained that there was a profit element in the whole transaction. The entire amount of Rs.3,47,42,785/- should have enquired into and whether the provisions of section 69C r.w.s. 115BBE of the Income Tax Act are applicable. And further the AO has also failed to inquire into and verify whether the initiation of penalty u/s 271AAC(1) is applicable /required or not.

4. Thus, it is concluded that the assessment order has been passed by the AO:

- *without conducting requisite inquiries and verifications of the whole transaction amounting to Rs. 3,47,42,785/- and whether provisions of sections 69C r.w.s. 115BBE of the Act are applicable;*
- *without conducting requisite inquiries and verifications whether the initiation of penalty u/s 271AAC(1) is applicable / required or not;*

which any prudent AO would have done. Not having done so, this makes the assessment order dated 24.03.2024 erroneous in so far as it is prejudicial to the interest of revenue.

4. Before us, Shri G.S. Agrawal, Ld. Authorised Representative ('AR') of the assessee reiterated the submission filed before the Ld. PCIT during the course of proceedings under section 263 of the Act and contended that the assessment order passed under section 147 of the Act on 24.03.2024 was not erroneous and prejudicial to the interests of the revenue; hence, the same should have not been set aside and

remitted back to the Ld. AO to reframe the assessment denovo to the extent of purchases of Rs.3,47,42,785/- after conducting proper inquiries in the light of directions and discussion mentioned in the impugned order.

5. The Ld. AR contended that Ld. AO had carried detailed inquiry not only from the assessee vide show-cause notices issued under section 142(1) of the Act but also from third parties/suppliers under section 133(6) of the Act. The Ld. AR further contended that the inference drawn by the Ld. PCIT that the requisite inquiries and verification of purchases of Rs.3,47,42,785/- in accordance with the provisions of section 69C rws 115BBE of the Act and initiation penalty proceedings under section 271AAC(1) of the Act not carried out by the Ld. AO did not get covered by the Explanation-2(a) of section 263(1) of the Act as it was not a case where the Ld. AO had not carried out any inquiry or verification. It was not a case of lack of inquiry as the Ld. AO had carried out requisite inquiries/verifications and thereafter, she had taken a conscious and reasonable decision. No assessment order could be revised under section 263 of the Act solely on the ground of inadequate inquiry if the AO had applied his/her mind and conducted a basic investigation. The Ld. AR further submitted that the Ld. AO after considering the submissions, outcome of inquiries and material available on the record, passed the assessment order after due application of mind and adherence to settle legal principles. Thus, the Ld. AO had taken a conscious and reasonable decision to tax 2% of purchases of Rs.3,47,42,785/- and the same was a plausible view sustainable in the law. It was submitted by the Ld. AR that there was no new material brought on the assessment

record after the completion of assessment; therefore, the Ld. PCIT's view was nothing but the change of opinion on the same sets of facts.

6. To buttress his arguments/contentions/submissions, the Ld. AR placed reliance on the following decisions:

(i) CIT v. Nirav Modi [2017] 390 ITR 292 (Bom) (SLP of Revenue dismissed)

(ii) CIT v. Fine Jewellery (india) Ltd. [2015] 373 ITR 303 (Bom)

(iii) CIT v. Gabriel India Ltd. [1993] 203 ITR 108 (Bom)

(iv) CIT v. Sunbeam Auto Ltd. [2011] 332 ITR 167 (Del)

(v) Chandani Jain v. PCIT [2025] 171 taxmann.com 614 (Raipur ITAT)"

(vi) Reliance Payment Solutions Ltd. [2022] 136 taxmann.com 277 (Mum Trib)

(vii) Malabar Industrial Co. Ltd. [2000] 243 ITR 83 (SC)

(viii) Greenworld Corporation [2009] 314 ITR 81 (SC)

(ix) Kwality Steel Suppliers Complex [2017] 395 ITR 1 (SC)

(x) Anil Agrawal [2026] 183 taxmann.com 286 (Raipur Trb)

(xi) PCIT Vs. Pramod Kumar Tekriwal, (2023) 154 taxmann.com 142 (SC).

(xii) PCIT Vs. Pramod Kumar Tekriwal (2023) 153 taxmann.com 761 (Calcutta)

(xiii) ITO Vs. Shilphy Steels (P) Ltd. (2025) 174 taxmann.com 751 (HC-CG)

(xiv) Arun Industries Vs. ACIT (2025) 17 taxmann.com 607 (HC of Madras)

7. The propositions/contentions of the Ld. AR, for brevity, are categorized into following heads:

(i) It is not a case of lack of inquiries by the AO,

(ii) The AO has taken a plausible view based on the outcome of inquiries/ verification and material available on the assessment record,

(iii) It is a case of change of opinion.

8. On the other hand**,** Shri Rituparna Namdeo, Ld. CIT-DR placed emphasis on the Explanation-2(a) of section 263(1) of the Act and submitted that an assessment order passed without making inquiries or verification which should have been done was nothing but erroneous and prejudicial to the interests of revenue. The Ld. CIT-DR, after narrating the bare facts of the case, submitted that Ld. AO did not make the requisite inquiries or verification with respect to the issues highlighted by Ld. PCIT. Therefore, in terms of Explanation 2(a) of section 263(1) of the Act, the assessment order had to be deemed to be erroneous insofar as prejudicial to the interests of revenue. He relied on the case laws mentioned in the impugned order. It was further submitted that the Ld. AO had failed to make requisite inquiries/verification with respect to the genuineness of purchases which she should have done particularly when she did not get any response from four parties from whom the purchases of Rs.3,47,42,785/- claimed to have been done and the assessee's failure (a) to explain the genuineness of such purchases and (b) to furnish (i) copy of confirmation from the suppliers of goods stating that the goods had been sold by them along with their income tax returns and statements of income and (ii) details of payments made to the transporters for supply of goods with supporting documents reflecting payment. The Ld. CIT-DR therefore, contended that the Ld. AO did not investigate the issues highlighted by the PCIT in the impugned order. The Ld. AO's findings in para 11 of the assessment order as under:

> *"11.* ***However, considering the reply of the assessee and various other aspect of the case relevant to determine the purchase as bogus,*** *profit element of 2% as prevailing in the similar business is determined to the income of assessee from above transactions of Rs.3,47,42,785/- (85,92,317 + 1,29,17,733 + 79,55,035 + 52,77,700). Accordingly, an amount of Rs.6,94,856/- is added to the business income of assessee of A.Y.2018-19. Penalty u/s 270A of the Act is initiated separately for under reporting of income."*
>
> [Emphasis supplied]

clearly showed that Ld. AO has not accepted the genuineness of purchases. The said profit rate of 2% applied by the Ld. AO was on estimate basis having no legal basis for the same. Thus, the Ld. AO's finding was contrary to the law and judicial precedent in this regard. The Ld. CIT-DR vehemently argued that the assessment order was erroneous and prejudicial to the interests of revenue. He, placing reliance on the decision of Hon'ble Supreme Court in the case of N.K. Proteins Ltd. [2017] 245 taxmann 29 and the decision of Hon'ble Bombay High Court in the case of Kanak Impex 349 ITR 523 [SLP dismissed (2025) 474 ITR 175], prayed for dismissal of appeal of the assessee.

9. We have heard both parties and have perused the material available on record. We perused (i) various show-cause notices issued during the assessment proceedings and corresponding replies/submissions of the assessee and (ii) the show-cause notice under section 263 of the Act and the assessee's submission thereof.

10. The first proposition of the Ld. AR is that it is not a case of no-inquiry and no-verification which should have been made [Explanation 2(a) to section 263(1) of the

Act]. We perused the assessment order and impugned order very carefully. We have also taken note of the fact that the Ld. AO was having information from the GST Department that the above mentioned four parties were fictitious and were indulged in providing bogus bills. In view of this input, the Ld. AO issued notices under section 133(6) of the Act to the above mentioned four parties from whom the purchases of Rs.3,47,42,785/- claimed to have been done by the assessee. However, these parties did not ensure any specific response. The Ld. AO had also show-caused the assessee (a) to explain the genuineness of purchases of Rs.3,47,42,785/- and (b) to furnish (i) copy of confirmation from the suppliers of goods stating that the goods had been sold by them along with their income tax returns and statements of income and (ii) details of payments made to the transporters for supply of goods along with supporting documents reflecting payment. However, the assessee failed to file any submission in this regard with corroborating documentary evidence.

11. We have also taken note of the fact the assessee has submitted self-serving material during the course of assessment proceedings, such as (i) Ledger account of suppliers in its books of account, (ii) transport bills, (iii) tax invoice raised by the sellers (iv) few weighment slips. However, crucial documents demonstrating physical movement of goods, payment made to transporters, confirmations of suppliers, etc. specifically called for were not furnished/submitted during the assessment proceedings (para 9 and 10 of the assessment order).

12. It is evident from para 11 of the assessment order that the Ld. AO at most has considered various aspects of the case relevant to determine the purchases as

bogus. However, it is evident from the foregoing paras that no inquiry/verification have been carried out from the suppliers as they have not specifically responded to the notices issued under section 133(6) of the Act. Similarly, the assessee has not filed the crucial evidence explaining the genuineness of the said purchases.

13. The Hon'ble Supreme Court in the case of PCIT v. M/s. Nya International (Special Leave Petition (Civil) Diary No. 1845/2025, decided on February 17, 2025), looking into the factual aspects of inquiry and verification done by the Ld. AO has held that it is not a case of no investigation but it is a case of no addition after investigation. However, it is not so in the case in hand. Non-compliance to specific queries either by the suppliers of goods or by the assessee and no further follow-up to conclude the issue by the Ld. AO can not be termed as inquiries and verification which should have been made. That is why, the word "inquiry" has been used as plural in the Explanation 2(a) of section 263(1) of the Act. According to us, the word "inquiries" used in the Explanation 2(a) of section 263(1) of the Act means inquiries leading to conclusion and not one or two step of inquires leading nowhere as in the case in hand. Just issuance of show-cause notices, if not complied with or selectively complied with cannot be termed as 'inquiries'. In view of facts and circumstances of the present case, we are of the considered opinion that the Ld. AO has not done inquiries/verification for ascertaining the genuineness of purchases after non-compliance of notices issued under section 133(6) of the Act to suppliers of goods of Rs.3,47,42,785/- and non-compliance on the part of the assessee to the specific queries raised vide statutory notices/order sheet during the course of assessment

proceedings. Thus, the case in hand is a case of no investigation with respect to ascertaining the genuineness of purchases is concerned.

14. The 2nd proposition of the Ld. AR is that the Ld. AO has taken the plausible view based on the outcome of inquiries/verification and material available on the assessment record. However, we are not convinced with the 2nd proposition of the Ld. AR for simple reason that the plausible view must be in accordance with the law. As mentioned above, the Ld. AO has not done any conclusive inquiry or verification except issuance of statutory notices which were either un-complied with or part/ selective complied with no follow-up action. Further, we do not come across any decision of the Hon'ble Courts and provisions of law based on which the Ld. AO's finding can be said sustainable in the eyes of law particularly when the Ld. AO has not conclusively verified the genuineness of purchases. Thus, we are of the considered view that the Ld. AO has not taken a plausible view sustainable in the eyes of law.

15. As far as the Ld. AR's 3rd proposition of maintainability of the impugned order on the argument that this is a case of change of opinion, we find that it is nowhere borne out from the record that the Ld. AO has done conclusive inquiry or verification for ascertaining the genuineness of purchases of Rs.3,47,42,785/-. Before us, the Ld. AR contended that the Ld. AO has done inquiries or verification for ascertaining the genuineness of purchases and has taken a conscious decision of applicability of profit rate of 2%. But we are not convinced with the Ld. AR. We are of the considered opinion that issuance of statutory notices, in absence of full & complete compliance

with no follow-up action to arrive a conclusion either way cannot be termed as "inquiries" or "verification as envisaged in the Explanation 2(a) of section 263(1) of the Act. Since the Ld. AO has not formed her opinion on the genuineness of purchases of Rs.3,47,42,785/-; therefore, the question of change of opinion on the genuineness of purchases of Rs.3,47,42,785/- does not arise here. Further, we do not find any justification in the order based on which the profit rate of 2% has been applied on the purchases of Rs.3,47,42,785/-. Non-follow-up action on the part of the Ld. AO after non-compliance and selective compliance and the applicability profit rate of 2% without any justification in the assessment order clearly shows non-application of mind and thus, we are of the considered view that the same cannot be said a conscious plausible view sustainable in law.

16. Section 263 of the Act empowers the PCIT or Commissioner of Income Tax to call for and examine the record of any proceeding under the Act and, if satisfied that an order passed by an authority subordinate to him is erroneous in so far as it is prejudicial to the interests of the revenue, to modify, cancel or direct fresh assessment. The phrase 'erroneous' imports an objective legal or factual error. 'Prejudicial to the interests of the revenue' requires an adverse financial consequence. The Explanation 2 to section 263 of the Act reads as under:

> *"Explanation 2. — For the purposes of this section, it is hereby declared that an order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Principal Commissioner or Commissioner, —*
>
> *(a) the order is passed without making inquiries or verification which should have been made;*

(b) the order is passed allowing any relief without inquiring into the claim;

(c) the order has not been made in accordance with any order, direction or instruction issued by the Board under section 119; or

(d) the order has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person."

17. From perusal of the assessment order, it is not discernible that whether the Ld. AO has carried out the requisite inquiries or verification which should have been made for ascertaining the genuineness of purchases of Rs.3,47,42,785/-. The impugned order under section 263 of the Act clearly shows that the Ld. AO has not carried out the requisite inquiries or verification on the issue of genuineness of purchases of Rs.3,47,42,785/-.

18. The Hon'ble Supreme Court, in the case of Paville Project Pvt. Ltd. in Civil Appeal No. 6126 of 2021 order dated 06.04.2023 has held that the scheme of the Income Tax is to levy and collect tax in accordance with the provisions of the Act which is entrusted to the Revenue. If due to an erroneous order of the Income Tax Officer, the Revenue is losing tax lawfully payable by a person, it will certainly be prejudicial to the interests of the Revenue. The Hon'ble Supreme Court upon perusing the assessment order and the order passed by the Commissioner of Income Tax and relying upon Malabar Industries Company Ltd. (2000) 2 SCC 718 has held that the order passed by the AO is erroneous as well as prejudicial to the interest of the Revenue. The relevant part of the order of the Hon'ble Supreme Court in the case of Paville Project Pvt. Ltd. reads as under:

"7. In the present case, the Commissioner, in exercise of the powers under Section 263 of the Income Tax Act and in exercise of the revisional jurisdiction, set aside the assessment order by specifically observing that the assessment order was erroneous as well as prejudicial to the interest of the Revenue. However, the High Court by the impugned judgment and order has set aside the order passed by the Commissioner by observing that the Commissioner wrongly invoked the powers under Section 263 of the Act.

7.1 Learned counsel appearing on behalf of the assessee has heavily relied upon the decision of this Court in the case of Malabar Industrial Co. Ltd. (supra). It is true that in the said decision and on interpretation of Section 263 of the Income Tax Act, it is observed and held that in order to exercise the jurisdiction under Section 263(1) of the Income tax Act, the Commissioner has to be satisfied of twin conditions, namely, (i) the order of the Assessing Officer sought to be revised is erroneous; and (ii) it is prejudicial to the interests of the Revenue. It is further observed that if one of them is absent, recourse cannot be had to Section 263(1) of the Act. "What can be said to be prejudicial to the interest of the Revenue" has been dealt with and considered in paragraphs 8 to 10 in the case of Malabar Industrial Co. Ltd. (supra), which are as under:-

"8. The phrase "prejudicial to the interests of the Revenue" is not an expression of art and is not defined in the Act. Understood in its ordinary meaning it is of wide import and is not confined to loss of tax. The High Court of Calcutta in Dawjee Dadabhoy & Co. v. S.P. Jain [(1957) 31 ITR 872 (Cal)] , the High Court of Karnataka in CIT v. T. Narayana Pai [(1975) 98 ITR 422 (Kant)] , the High Court of Bombay in CIT v. Gabriel India Ltd. [(1993) 203 ITR 108 (Bom)] and the High Court of Gujarat in CIT v. Minalben S. Parikh [(1995) 215 ITR 81 (Guj)] treated loss of tax as prejudicial to the interests of the Revenue.

9. Mr Abraham relied on the judgment of the Division Bench of the High Court of Madras in Venkatakrishna Rice Co. v. CIT [(1987) 163 ITR 129 (Mad)] interpreting "prejudicial to the interests of the Revenue". The High Court held:

"In this context, (it must) be regarded as involving a conception of acts or orders which are subversive of the administration of revenue. There must be some grievous error in the order passed by the Income Tax Officer, which might set a bad trend or pattern for similar assessments, which on a broad reckoning, the Commissioner might think to be prejudicial to the interests of Revenue Administration." In our view this interpretation is too narrow to merit acceptance. The scheme of the Act is to levy and collect tax in accordance with the provisions of the Act and this task is entrusted to the Revenue. If due to an erroneous order of the Income Tax Officer, the Revenue is losing tax lawfully payable by a person, it will certainly be prejudicial to the interests of the Revenue.

10. The phrase "prejudicial to the interests of the Revenue" has to be read in conjunction with an erroneous order passed by the Assessing Officer. Every loss of revenue as a consequence of an order of the Assessing Officer cannot be treated as prejudicial to the interests of the Revenue, for example, when an Income Tax Officer adopted one of the courses permissible in law and it has resulted in loss of revenue; or where two views are possible and the Income Tax Officer has taken one view with which the Commissioner does not agree, it cannot be treated as an erroneous order prejudicial to the interests of the Revenue unless the view taken by the Income Tax Officer is unsustainable in law. It has been held by this Court that where a sum not earned by a person is assessed as income in his hands on his so offering, the order passed by the Assessing Officer accepting the same as such will be erroneous and prejudicial to the interests of the Revenue. (See Rampyari Devi Saraogi v. CIT [(1968) 67 ITR 84 (SC)] and in Tara Devi Aggarwal v. CIT [(1973) 3 SCC 482 : 1973 SCC (Tax) 318 : (1973) 88 ITR 323] .)"

7.2 Thus, even as observed in paragraph 9 by this Court in the case of Malabar Industrial Co. Ltd. (supra) that the scheme of the Act is to levy and collect tax in accordance with the provisions of the Act and this task is entrusted to the Revenue. It is further observed that if due to an erroneous order of the Income Tax Officer, the Revenue is losing tax lawfully payable by a person, it will certainly be prejudicial to the interests of the Revenue. However, only in a case where two views are possible and the Assessing Officer has adopted one view, such a decision, which might be plausible and it has resulted in loss of Revenue, such an order is not revisable under Section 263.

7.3 Applying the law laid down by this Court in the case of Malabar Industrial Co. Ltd. (supra) to the facts of the case on hand and even as observed by the Commissioner, the order passed by the Assessing Officer is erroneous as well as prejudicial to the interest of the Revenue. Having gone through the assessment order as well as the order passed by the Commissioner of Income Tax, we are also of the opinion that the assessment order was not only erroneous but prejudicial to the interest of the Revenue also. In the facts and circumstances of the case, it cannot be said that the Commissioner exercised the jurisdiction under Section 263 not vested in it. The erroneous assessment order has resulted into loss of the Revenue in the form of tax.

Under the Circumstances and in the facts and circumstances of the case narrated hereinabove, the High Court has committed a very serious error in setting aside the order passed by the Commissioner passed in exercise of powers under Section 263 of the Income Tax Act.

8. In view of the above and for the reasons stated above, present appeal succeeds. The impugned judgment and order passed by the High Court is hereby quashed and set aside and that the order passed by the

Commissioner passed in exercise of powers under Section 263 of the Income Tax Act is hereby restored."

19. In the case of Nirav Modi (supra), Ld. AO accepted gifts received from the assessee's non-resident father and sister as he explained the same in accordance with provisions of section 68 of the Act. The Hon'ble Court has found that the Ld. PCIT has neither found the satisfaction of the Ld. AO accepting gifts erroneous not doubted on the genuineness of evidence explaining gifts submitted by the assessee during the assessment proceedings. Hence the Hon'ble Court decided the case in favour of the assessee. However, in present case the genuineness of purchases has not been established beyond doubt by the assessee. Here, in the present case the Ld. AO has not inquired for ascertaining the genuineness of purchases and has not taken a plausible view sustainable in law. The acceptance of profit rate @ 2% by the assessee itself proves that the said purchases have not been held genuine. Hence, reliance on this decision by the Ld. AR does not help the assessee.

20. In case of Fine Jewellery (India) Ltd. (supra), the issue is that whether the brand building expenses incurred by the assessee is revenue or capital expenditure. The Ld. AO, after investigation, largely accepted the assessee's submission and allowed such expenditure as revenue expenditure. The Ld. AO took a plausible view sustainable in law. Hence, the Hon'ble Court decided the case in favour of the assessee. Here, in the present case the Ld. AO has not inquired for ascertaining the genuineness of purchases and has not taken a plausible view sustainable in law. The acceptance of profit rate @ 2% by the assessee itself proves that the said purchases

have not been held genuine. Hence, reliance on this decision by the Ld. AR does not help the assessee.

21. In case of Gabriel India Ltd. (supra), the issue in dispute is nature of expenditure; revenue or capital. The Ld. AO, after investigation, accepted the assessee's submission and allowed such expenditure as revenue expenditure. The Ld. AO took a plausible view sustainable in law. Hence, the Hon'ble Court decided the case in favour of the assessee. Here, in the present case the Ld. AO has not inquired for ascertaining the genuineness of purchases and has not taken a plausible view sustainable in law. The acceptance of profit rate @ 2% by the assessee itself proves that the said purchases have not been held genuine. Hence, reliance on this decision by the Ld. AR does not help the assessee. Similar is the case of Sunbeam Auto Ltd. (supra); i.e. nature of expenditure; revenue vis-à-vis capital expenditure. The Ld. AO, after investigation, accepted the assessee's submission and allowed such expenditure as revenue expenditure. The Ld. AO took a plausible view sustainable in law. Hence, the Hon'ble Court decided the case in favour of the assessee. Here, in the present case the Ld. AO has not inquired for ascertaining the genuineness of purchases and has not taken a plausible view sustainable in law. The acceptance of profit rate @ 2% by the assessee itself proves that the said purchases have not been held genuine. Hence, reliance on this decision by the Ld. AR does not help the assessee.

22. In the case of Chandani Jain (supra), the Tribunal has found that the Ld. AO has examined the cash deposits in two bank accounts of the assessee and accepted

the said deposits in bank accounts after detailed investigation thereof, therefore, the Tribunal has held that the same issue cannot be directed for reinvestigation under section 263 of the Act as the Ld. AO, after investigation, took a plausible view sustainable in law. Hence, the Tribunal decided the case in favour of the assessee. Here, in the present case the Ld. AO has not inquired for ascertaining the genuineness of purchases and has not taken a plausible view sustainable in law. The acceptance of profit rate @ 2% by the assessee itself proves that the said purchases have not been held genuine. Hence, reliance on this decision by the Ld. AR does not help the assessee.

23. In the case of Reliance Payment Solutions Ltd. (supra), the Ld. AO show-caused the assessee about the higher rate of depreciation. The assessee furnished detailed reply to the said query during the assessment proceedings. The Ld. AO accepted the same but did not give any reasoning/finding accepting the higher rate of depreciation in the assessment order. The Tribunal has held that the assessment order cannot be held erroneous and prejudicial to the interests of revenue for not mentioning the reason for allowing higher rate of depreciation in the assessment order. The Ld. AO, after investigation, took a plausible view sustainable in law. Here, in the present case the Ld. AO has not inquired for ascertaining the genuineness of purchases and has not taken a plausible view sustainable in law. The acceptance of profit rate @ 2% by the assessee itself proves that the said purchases have not been held genuine. Hence, reliance on this decision by the Ld. AR does not help the assessee.

24. The cases of Malabar Industrial Co. Ltd. (supra) and Greenworld Corp. (supra) laid down the basic principles for applicability of revisionary powers under section 263 of the Act. These cases have been considered while adjudicating the present case. These case laws, being distinguishable on facts, do not help the assessee.

25. In the case of Kwality Steel Suppliers Complex (supra), the Hon'ble Supreme Court has held that the Ld. AO has taken a plausible view on the issue of stock valuation. The said view is sustainable in law. However, it is not so in the present case. Here, in the present case the Ld. AO has not inquired for ascertaining the genuineness of purchases and has not taken a plausible view sustainable in law. The acceptance of profit rate @ 2% by the assessee itself proves that the said purchases have not been held genuine. Hence, reliance on this decision by the Ld. AR does not help the assessee.

26. The reliance of Ld. AR on the decision of this bench in the case of Anil Agrawal (supra), is of no relevance as the issue in the case of Anil Agrawal (supra) is the taxability of the difference between the value of the property determined by DVO and value disclosed by the assessee. There is no further inquiry left to be carried out on the part of the assessee after receipt of the DVO report. The Ld. AO has adopted a plausible view placing reliance on the safe harbour margin of 10% wef 01.04.2021 under section 56(2) of the Act. However, it is not so in the present case. Here, in the present case the Ld. AO has not inquired for ascertaining the genuineness of purchases and has not taken a plausible view sustainable in law. The

acceptance of profit rate @ 2% by the assessee itself proves that the said purchases have not been held genuine. Hence, reliance on this decision by the Ld. AR does not help the assessee.

27. In the case of Pramod Tekariwal (supra), the Hon'ble Supreme Court has decided the case in favour of the assessee on the reasoning that the Tribunal has noted that assessee has filed all details, documents, etc. called for during the assessment proceedings to explain the purchases, which is factual finding and thus no substantial question of law arises. However, it is not so in the present case. Here, in the present case the Ld. AO has not inquired for ascertaining the genuineness of purchases and has not taken a plausible view sustainable in law. The acceptance of profit rate @ 2% by the assessee itself proves that the said purchases have not been held genuine. Hence, reliance on this decision by the Ld. AR does not help the assessee.

28. In case of Shilphy Steels (P) Ltd. (supra), The Hon'ble Chhattisgarh High Court has decided the case in favour of the assessee by holding that the Ld. PCIT has not allowed the reasonable opportunity of being heard. This case law is distinguishable on facts and is of no relevance. However, it is not so in the present case. Hence, reliance on this decision by the Ld. AR does not help the assessee.

29. In the case of UOI & Ors. v. Dhanwanti Devi & Ors; 6 SCC 44, the Hon'ble Supreme Court observed as under:

> "*9. …….What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in the judgement. Every judgment must be read as*

applicable to the particular facts proved, since the generality of the expressions which may be found there is not intended to be exposition of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found.

10. Therefore, in order to understand and appreciate the binding force of a decision is always necessary to see what were the facts in the case in which the decision was given and what was the point which had to be decided. No judgment can be read as if it is a statute. A word or a clause or a sentence in the judgment cannot be regarded as a full exposition of law. Law cannot afford to be static and therefore, Judges are to employ an intelligent interpretation in the use of precedents……"

[Emphasis supplied]

Keeping in view the above decision of Hon'ble Supreme Court, we are of the considered view that building a case by extracting suitable observations here and there out of various decisions without appreciating the facts involved in such cases is not justified. Therefore, the case laws relied upon by the Ld. AR are held distinguishable on the facts and thus, those cases do not help the assessee.

30. We find that Ld. PCIT has amply demonstrated in the impugned order that the issue under reference has not been enquired/verified by Ld. AO. This inference gets support from the fact that the Ld. AO has not followed up after non-compliance and or selective compliance to the statutory notices. We have perused the record and are of the considered view that Ld. AO has failed to carry out the requisite inquiries or verification on the issue raised by Ld. PCIT. Even calling details and not examining in right perspective will invite revisionary proceedings under section 263 of the Act [Paville Project Pvt. Ltd. (SC) (supra)].

31. We have perused the record and are of the considered view that when the Ld. AO has failed to carry out requisite inquiries or verification on the issue raised by the Ld. PCIT, the assessment order dated 24.03.2024 passed under section 147 of the Act in the case in hand has become erroneous and prejudicial to the interest of the revenue. Explanation 2(a) to section 263 of the Act, in an unambiguous manner states that where the order is passed without making enquiries or verification which should have been made, the same shall be deemed to be erroneous and in so far as it is prejudicial to interests of revenue. Applying the law laid down by the Hon'ble Supreme Court in the case of Paville Project Pvt. Ltd. (supra) to the facts of the present case and keeping in view the above discussions, we hold that the Ld. PCIT has rightly exercised his revisionary power under section 263 of the Act in setting aside the assessment order holding the same erroneous and prejudicial to the interests of the revenue. Accordingly, we uphold the order of the Ld. PCIT and dismiss the appeal of the assessee.

32. In the result, appeal of the assessee is **dismissed as above**.

Order pronounced in the open court on 15/10/2026.

Sd/-	**Sd/-**
(PARTHA SARATHI CHAUDHURY)	**(AVDHESH KUMAR MISHRA)**
न्यायिक सदस्य / JUDICIAL MEMBER	**लेखा सदस्य / ACCOUNTANT MEMBER**

रायपुर / Raipur; दिनांक Dated 15/10/2026
HKS, PS

आदेशकी प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. The Pr. CIT, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR, ITAT, Raipur
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

//True copy//

(Private Secretary)
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur