

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“B” BENCH, CHANDIGARH**

**HYBRID HEARING**

**BEFORE HON'BLE SHRI RAJPAL YADAV, VICE PRESIDENT  
AND  
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**1. आयकर अपील सं. / ITA No.702/CHANDI/2025  
(निर्धारण वर्ष / Assessment Year: 2020-21)**

**&**

**2. आयकर अपील सं. / ITA No.703/CHANDI/2025  
(निर्धारण वर्ष / Assessment Year: 2021-22)**

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|---------------------------------------------------------------------------------------|----------------------|------------------------------------------------------------------------------|
| <b>M/s Rico Auto Industries Ltd.</b><br>B-26, Focal Point<br>Ludhiana (Punjab)-141010 | <b>बनाम/<br/>Vs.</b> | <b>Pr. CIT-1</b><br>Aaykar Bhawan, Rishi Nagar<br>Ludhiana (Punjab) - 141001 |
| <b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAACR-8724-R</b>                               |                      |                                                                              |
| <b>(अपीलार्थी/Appellant)</b>                                                          | <b>:</b>             | <b>(प्रत्यर्थी / Respondent)</b>                                             |

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|---------------------------------------|----------|---------------------------------------------------|
| <b>अपीलार्थीकीओरसे/ Appellant by</b>  | <b>:</b> | <b>Shri Sudhir Sehgal (Advocate) – Ld. AR</b>     |
| <b>प्रत्यर्थीकीओरसे/Respondent by</b> | <b>:</b> | <b>Smt. Kusum Bansal (CIT) (Virtual) – Ld. DR</b> |

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|--------------------------------------------|----------|-------------------|
| <b>सुनवाईकीतारीख/Date of Hearing</b>       | <b>:</b> | <b>07-10-2025</b> |
| <b>घोषणाकीतारीख /Date of Pronouncement</b> | <b>:</b> | <b>10/11/2025</b> |

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. In these twin appeals, the assessee assails proposed revision of the assessment order by revisionary authority u/s 263 for Assessment Years (AY) 2020-21 & 2021-22. Facts are stated to be identical in both the years. First, we take up appeal for AY 2020-21 wherein the assessee challenges invocation of revisionary jurisdiction u/s 263 by Ld. Pr.

Commissioner of Income Tax, Ludhiana-1 (Pr. CIT) for the Assessment Year (AY) 2020-21 vide impugned order dated 30-03-2025 proposing revision of an assessment as framed by Ld. Assessing Officer [AO] u/s.143(3) r.w.s. 144B of the Act on 26-09-2022.

2. The Ld. AR advanced arguments supporting the assessment order and made out a case of one of the possible views as taken by Ld. AO during the course of regular assessment proceedings itself. The Ld. AR contended that sufficient explanations and documents were already furnished by the assessee during the course of regular assessment proceedings substantially on all the issues as identified by revisionary authority. The Ld. CIT-DR, on the other hand, advanced arguments supporting the impugned revisionary order. Having heard rival submissions and upon perusal of case records, the appeal is disposed-off as under.

### **Revisionary Proceedings**

3.1 From the case records, it emerges that the assessee's return of income was subjected to complete scrutiny vide assessment order dated 26-09-2022. During the course of assessment proceedings, as many as ten issues were identified by Ld. AO which were proposed to be examined. The same were as under: -

- (i) Large Deduction claimed u/s 35(3AA), 35(2AB), 35(CCC) & 35(CCD)
- (ii) Large increase in unsecured loans during the year
- (iii) Claim of large value refund
- (iv) Large any other amount allowable as deduction claimed in schedule BP of return
- (v) Large business loss set off against other heads of income
- (vi) High liabilities as compared to low income / receipts
- (vii) Huge loss from currency fluctuations

- (viii) Large difference in the opening stock of current year (in trading and manufacturing account) and closing stock of previous year (in trading and manufacturing a/c as per return of income)
- (ix) Introduction / addition of high value intangible asset during the year
- (x) Large refund claimed out of advance tax (business ITR)

3.2 During the course of assessment proceedings, various notices were issued by Ld. AO to the assessee u/s 142(1) along with detailed questionnaire calling for various details from the assessee on all of these issues. The same has been detailed on Page No.2 of the assessment order. The assessee furnished various replies and documents on all the issues as raised by Ld. AO in these notices. The Ld. AO specifically noted each of the issues as identified and substantially accepted assessee's claim / return of income barring disallowances u/s 35(2AB) and 14A. The returned loss of Rs.29.65 Crores was finally reduced to Rs.21.31 Crores and the assessment was framed against the assessee. The assessment order specifically takes note of the fact that there was no difference in opening and closing value of the inventory.

3.3 Subsequently, Ld. Pr. CIT, upon perusal of case records and at the behest of audit objections, alleged that the assessment was completed without making in-depth enquiries. For the same, a show-cause notice was issued to the assessee in 15-02-2025 flagging the issue of disallowance of interest on TDS for Rs.6.14 Lacs and alleging difference in expenses claimed under the head 'fees for technical services' (FTS) for Rs.12.90 Crores. Subsequently, another show-cause notice was issued on 17-03-2025 identifying more issues viz. (i) Expenses capitalized for intangible assets; (ii) non-verification of income from house property; (iii)

Interest on loan to subsidiaries for Rs.285.96 Lacs reduced from computation of income; (iv) genuineness of loan transactions; (v) no enquiry on reconciliation of turnover as per Profit & Loss Account and turnover as per GST; (vi) Large difference in opening stock of current year and closing stock of previous year, non-verification of stock register; (vii) non-verification of other expenses claimed in the Profit & Loss Account for Rs.95.12 Crores; (viii) non verification of deduction claimed for Rs.28.44 Crores; (ix) no enquiry for addition to plant and machinery, furniture and building; (x) non verification of high liabilities.

3.4 The assessee, in its reply dated 22-02-2025, refuted each of the allegations of Ld. Pr. CIT by stating that the assessee furnished requisite details during the course of assessment proceedings itself. The assessee was confronted on all facets of the claim and the assessment was completed by considering all aspects of the case. Therefore, the proposed revision was bad-in-law in terms of various judicial decisions. Subsequently, other replies were filed on 21-03-2025 and 24-03-2025 reiterating framing of assessment by Ld. AO with complete application of mind.

3.5 However, Ld. Pr. CIT continued to allege that Ld. AO failed to examine / verify the flagged issues during the course of assessment proceedings and various claims were accepted without supporting documents. Finally, in para 5.6, it was held that the assessment order was passed without making reasonable inquiries or verification on the flagged issues which should have been made which makes the assessment order erroneous and prejudicial to the interest of revenue in terms of

Explanation 2(a) to Sec.263. Accordingly, Ld. AO was directed to redo the assessment on the flagged issues after affording opportunity of hearing to the assessee. So aggrieved, the assessee is in further appeal before us.

### **Our findings and Adjudication**

4. It emerges that the assessee is engaged in manufacturing of auto parts. Its return of income for this was subjected to extensive scrutiny under CASS wherein as many as ten issues were identified by Ld. AO for verification and examination. During the course of regular assessment proceedings, various notices were issued to the assessee u/s 142(1) along with detailed questionnaire calling for various details from the assessee. From the face of the assessment order itself, it is quite clear that necessary details as requisitioned from time to time vide detailed questionnaire was duly furnished by the assessee. The assessee complied with various notices as issued u/s 142(1) on 18-11-2021, 27-06-2022 & 02-08-2022. The assessee was also issued show-cause notices by Ld. AO on 11-03-2022 & 08-09-2022 which was also duly responded to by the assessee. The assessee had filed return of income declaring loss of Rs.29.65 Crores. The assessee is a corporate entity and it subjected to Tax Audit as well as corporate tax audit. The financial statements of the assessee along with report of Tax Auditor was duly furnished by the assessee during the course of regular assessment proceedings.

5. In notice u/s 142(1) dated 18-11-2021, various details were called by Ld. AO from the assessee. The same was duly responded to by the assessee vide its reply dated 24-12-2021. In this reply, the assessee supported its claim u/s 35(2AB). The complete details of loans taken by

the assessee from banks and financial institutions were duly furnished. The assessee also explained that difference in opening stock arose due to re-classification of inventory which was duly furnished. Some bills of addition to fixed assets were enclosed. The reconciliation of income as per P&L Account, GST return and Form 26AS was furnished. The reduction in profit was duly explained by the assessee. The details of major expenses with complete details were filed.

In show-cause notice dated 11-03-2022, Ld. AO proposed disallowance u/s 14A as well as u/s 40(a)(ia). A specific query was raised on discrepancy in turnover. The assessee duly replied to the same along with documentary evidences in its reply dated 12-03-2022.

In notice u/s 142(1) dated 27-06-2022, the issue of deduction u/s 35(2AB), increase in intangible assets, unsecured loans as taken by the assessee, deduction of any other expenditure for Rs.28.43 Crores, reduction of notional interest on loan to subsidiary from computation of income was raised by Ld. AO. The assessee, in its replay dated 23-07-2022, furnished the explanations along with documentary evidences.

In yet another notice u/s 142(1) dated 02-08-2022, the issue of deduction u/s 35(2AB), creation of intangible assets, unsecured loans and reduction of interest on loan to subsidiary was again raised by Ld. AO. The assessee, vide its reply dated 13-08-2022 furnished the information so desired by Ld. AO.

Another show-cause notice was issued to the assessee on 08-09-2022 wherein Ld. AO proposed disallowance of deduction u/s 35(2AB) and invocation of provisions of Sec.68 on certain unsecured loans. The

assessee opposed the same in its reply dated 08-09-2022 and took support of various judicial decisions to fortify its submissions.

6. Having considered aforesaid extensive submissions as well as documentary evidences, Ld. AO finally framed the assessment on the assessee on 26-09-2022 wherein Ld. AO made disallowance u/s 35(2AB) and 14A. No adverse view was taken on other issues as raised in various hearing notices from time to time. Apparently, Ld. AO was satisfied on all the other issues as raised by him.

7. Upon due consideration of aforesaid notices as well as assessee's replies thereto, it could very well be said that the various claims of the assessee were accepted by Ld. AO with due application of mind and one of the possible views was taken in the matter. The Ld. AO raised specific queries on various issues as identified for examination during scrutiny proceedings. The identified issues have specifically been discussed in the assessment order and factual findings have been rendered by Ld. AO on each of the issues. In other words, the issues as identified during the course of regular assessment proceedings were duly been examined / verified by Ld. AO and Ld. AO chose not to make any additions / disallowances in those aspects.

8. From assessee's various replies as placed on record, it is quite evident that all the hearing notices as issued by Ld. AO from time to time were duly been complied with by the assessee and the requisite details as called for by Ld. AO were duly furnished by the assessee during the course of regular assessment proceedings itself. After due consideration

thereof, Ld. AO felt satisfied and chose not to make any additions in all these respects except for disallowances u/s 35(2AB) and 14A.

9. Thereafter, again in response to revisionary show-cause notices as issued by Ld. Pr. CIT, the assessee filed its replies on 22-02-2025, 21-03-2025 & 24-03-2025 and again explained each of the issues with supporting documentary evidences as raised by Ld. Pr. CIT. However, except for mere allegation that Ld. AO failed to make any requisite enquiries on the flagged issues, no factual findings have been rendered by Ld. Pr. CIT on detailed explanation as furnished by the assessee. The fulfilment of twin conditions of Sec.263 viz. the order being erroneous and prejudicial to the interest of revenue is based on mere allegations rather than any concrete finding on factual matrix as to how twin conditions of Sec.263 stood fulfilled in the present case in the light of assessee's submissions as well as documentary evidences.

10. Upon perusal of assessee's detailed replies / submissions, it could very well be said that the various issues as flagged in the impugned revisionary order were duly been questioned by Ld. AO and the same were aptly replied by the assessee from time to time. Upon perusal of all these replies and documents, it could very well be said that whatever information was called for by Ld. AO, the same was duly been supplied by the assessee. The Ld. AO considered the replies of the assessee and after having satisfied with aforesaid explanation as furnished by the assessee, he chose to substantially accept the returned income of the assessee. It could thus be seen that Ld. AO had raised a specific query on various issues as flagged in the impugned revisionary order and accepted

the claim of the assessee with due application of mind. Therefore, it is a case of acceptance of one of the plausible views which was more on facts and the said view could not be said to be opposed to any law or statutory provisions. The Ld. AO, in our opinion, had taken one of the plausible views in the matter and therefore, Ld. Pr. CIT could not be said to be justified in substituting the view of Ld. AO with that of his own view. Simply because some further verification was required or simply because the verification was not done in a particular manner or some issues were not examined by Ld. AO which ought to have been examined, the same could not justify revision of the order unless it was shown that the view of Ld. AO was erroneous or opposed to any law or non-examination of any aspect was prejudicial to the interest of the revenue. We find that there is no such finding in the impugned revisionary order and therefore, the scope of assessment could not be enhanced by exercising the revisionary power u/s 263 unless the case of error as well as prejudice to revenue is made out by revisionary authority.

11. Our aforesaid view is as per the ratio of Hon'ble Delhi High Court in the case of **ITO vs. DG Housing Projects Ltd. (343 ITR 329)**. In this decision, it was held by Hon'ble Court that AO is both an investigator and an adjudicator. A distinction has to be drawn between a case where the AO has not conducted any enquiry or examined any evidence whatsoever ("lack of inquiry") from one (i) where there is enquiry but the findings are erroneous; and (ii) where there is failure to make proper or full verification or enquiry ("inadequate inquiry"). The fact that the assessment order does not give any reasons for allowing the claim is not by itself indicative of the

fact that the AO has not applied his mind on the issue. All the circumstances have to be seen. A case of lack of enquiry would by itself render the order being erroneous and prejudicial to the interest of the revenue. In a case where there is inquiry by the AO, even if inadequate, the CIT would not be entitled to revise u/s 263 on the ground that he has a different opinion in the matter. Also, in a case where the AO has formed a wrong opinion or finding on merits, the CIT has to come to the conclusion and himself decide that the order is erroneous, by conducting necessary enquiry before passing the Sec. 263 order. The CIT is entitled to collect new material to show how the order of the AO is erroneous. The CIT cannot remand the matter to the AO for further enquiries or to decide whether the findings recorded are erroneous without a finding that the order is erroneous and how that is so. A mere remand to the AO implies that the CIT has not decided whether the order is erroneous but has directed the AO to decide the aspect which is not permissible. On facts, as the CIT had doubts about the valuation and sale consideration received, he ought to have examined the said aspect himself and given a finding on the merits on how the consideration was understated. The ratio of this decision squarely applies to the facts of present case before us.

12. The Hon'ble Supreme Court in **Malabar Industrial Co. Ltd. vs. CIT (243 ITR 83)** has held that 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 consequence of an order of the Assessing Officer cannot be treated as prejudicial to the interest 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 interest of the revenue, unless the view taken by the Income-tax Officer is unsustainable in law. The said principal has been reiterated by Hon'ble Court in its subsequent judgment titled as **CIT V/s Max India Ltd. (295 ITR 282)**. Similar principal has been followed in **Grasim Industries Ltd. V/s CIT (321 ITR 92)**. The ratio of all these decisions is that where two views are possible and AO has preferred one view against another view, order could not be said to be erroneous or prejudicial to the interest of the revenue.

13. In the case of **Gabriel India Ltd. (203 ITR 108)**, Hon'ble Bombay High Court observed that from a reading of sub-section (1) of section 263, it is clear that the power of suo-motu revision can be exercised by revisionary authority only if, on examination of the records of any proceedings under this Act, he considers that any order passed therein by the Income-tax Officer is "erroneous in so far as it is prejudicial to the interests of the Revenue". However, this power is not an arbitrary or unchartered power. It could be exercised only on fulfilment of the requirements laid down in sub-section (1). The consideration of revisionary authority must be based on materials on the record of the proceedings called for by him. The revisionary authority could not initiate proceedings with a view to start fishing and roving enquiries in matters or orders which already stood concluded. Such action will be against the well-accepted policy of law that there must be a point of finality in all legal

proceedings, that stale issues should not be reactivated beyond a particular stage and that lapse of time must induce repose in and set at rest judicial and quasi-judicial controversies as it must in other spheres of human activity. If Ld. AO, acting in accordance, with law makes a certain assessment, the same could not be branded as erroneous simply because, according to revisionary authority, the order should have been written more elaborately. This section does not visualize a case of substitution of the judgment of the revisionary authority for that of the Income-tax Officer, who passed the order unless the decision is held to be erroneous. When the assessee filed detailed explanation which are part of the record, it could be said that Ld. AO was satisfied with the explanation of the assessee. Such decision of the Income-tax Officer cannot be held to be "erroneous" simply because in his order he did not make an elaborate discussion in that regard. Further inquiry and / or fresh determination can be directed by revisionary authority only after coming to the conclusion that the earlier finding of the Income-tax Officer was erroneous and prejudicial to the interests of the Revenue.

14. The ratio of recent decision of Hon'ble High Court of Punjab & Haryana in the case of **Pr. CIT vs. V-con Integrated Solutions P. Ltd. (173 Taxmann.com 773)** would also apply wherein Hon'ble Court dismissed the appeal of the revenue against the order of Tribunal. It was observed that Pr. CIT did not point out any further enquiries which were required to be made by Ld. AO which have not been so made. The scope of Sec.263 is apparently to see whether AO has failed to conduct a proper enquiry which led to an error resulting into loss to the revenue.

Simply by holding that AO was required to make further enquiries would not be a valid ground for treating the assessment order as erroneous and prejudicial to the interest of the revenue. The power u/s 263 could not be invoked in such circumstances. The department's Special Leave Petition (SLP) against the same has already been dismissed by Hon'ble Apex Court which is reported as 173 Taxmann.com 774. The Hon'ble Apex Court observed that the assessee do not have any control over the pen of the AO. Once the AO carries out investigation but does not make any addition, it can be taken that he accepts the stand of the assessee. In such cases, it would be wrong to say that the revenue is remediless. The power u/s 263 could be exercised but by going into the merits and making an addition and not by way of remand by recording that there was failure to investigate. There is distinction between the failure or absence of investigation and a wrong decision / conclusion. A wrong decision / conclusion could be corrected by revisionary authority with a decision on merits and by making an addition or disallowance. There may be cases where AO undertakes a superficial and random investigation that may justify to remit, albeit, the revisionary authority must record the abject failure and lapse on the part of the AO to establish both the error and prejudice caused to the revenue.

15. Applying the ratio of all these decisions, we come to a conclusion that various aspects as identified by Ld. AO during the course of regular assessment proceedings were duly been examined by Ld. AO and one of the possible views was taken in the matter. The assessee duly furnished all the information as called for by Ld. AO on all the identified aspects. On

the issues as identified by Ld. Pr. CIT in the impugned revisionary order, there is no finding of fact as to how the flagged issues were prejudiced to the revenue. The matter has simply been remanded back on the allegation that Ld. AO failed to make the requisite enquiries. The allegation is not supported by facts on record in the light of queries raised by Ld. AO during the course of regular assessment proceedings and assessee's replies thereto. In the absence of any such independent findings by Ld. Pr. CIT, the impugned revision of the assessment order could not be sustained in law. We order so. The revisionary order u/s 263 stand quashed. Consequently, the assessment as framed by Ld. AO stand restored back.

ITA No.703/Chandi/2025 (AY 2021-22)

16. In this year, an assessment was framed by Ld. AO u/s 143(3) r.w.s. 144B on 19-12-2022 accepting the returned income of the assessee. The Ld. Pr. CIT substantially raised similar issues in the revisionary order passed u/s 263 on 30-03-2025 and remanded the assessment back to the file of Ld. AO with a direction to redo the assessment on various issues as flagged in the impugned order. No independent findings have been rendered on assessee's submissions and documentary evidences as filed in response to show-cause notices issued u/s 263. It is another fact that requisite details as called for by Ld. AO during the course of regular assessment proceedings, were duly been furnished by the assessee. Aggrieved by impugned revisionary order u/s 263, the assessee is in further appeal before us.

17. Facts being *pari-materia* the same as in AY 2020-21, taking the same view, the revisionary order u/s 263 stand quashed. Consequently, the assessment as framed by Ld. AO stand restored back.

Conclusion

18. Both the appeals stand allowed in terms of our above order.

Order pronounced on 10/11/2025

Sd/-  
(RAJPAL YADAV)  
VICE PRESIDENT

Sd/-  
(MANOJ KUMAR AGGARWAL)  
ACCOUNTANT MEMBER

Dated: 10/11/2025

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT CHANDIGARH