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

श्री संदीप गोसाई, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE SHRI SANDEEP GOSAIN, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 09/JP/2021
Assessment Year: 2016-17

Annu Agrotech Private Limited, S-47/48, S-47/48, Commercial Shops, IPIA 324005, Rajasthan, India.	बनाम Vs.	Pr.CIT, Udaipur.
PAN No.: AAGCA 5903 M		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/ Assessee by : Shri Mahendra Gargieya(Adv.) & Shri Devang Gargieya (ITP)
राजस्व की ओर से/ Revenue by : Shri B.K. Gupta (Pr.CIT-DR)

सुनवाई की तारीख/ Date of Hearing : 27/07/2021
उदघोषणा की तारीख/ Date of Pronouncement : 15 /09/2021

आदेश/ ORDER

PER: SANDEEP GOSAIN, J.M.

The present appeal has been filed by the assessee against the order of the ld. Pr.CIT, Udaipur dated 11/02/2021 passed U/s 263 of the Income Tax Act, 1961 (in short, the Act) for the A.Y. 2016-17. The assessee has raised following grounds of appeal:

"1. The Ld. Pr. CIT, seriously erred in law as well as on the facts of the case in invoking the provisions of Sec. 263 of the Act and therefore, the impugned order dated 11.02.2021 u/s 263 of the Act kindly be quashed.

2. The ld. Pr. CIT seriously erred in law as well as on the facts of the case in assuming jurisdiction u/s 263 of the Act without

recording a specific and categorical finding that the subjected assessment order passed u/s 143(3) dated 16.11.2018 is erroneous and prejudicial to the interest of the revenue, in absence of which the entire proceedings u/s 263 is vitiated. Therefore, the impugned order dated 11.02.2021 u/s 263 of the Act kindly be quashed.

3. *The ld. Pr. CIT seriously erred in law as well as on the facts of the case in assuming jurisdiction u/s 263 of the Act by wrongly and incorrectly holding that the subjected assessment order u/s 143(3) dated 16.11.2018, was passed without making proper enquiries or verification w.r.t.:*

   (a) Allotment of 1,80,000 shares of Face Value @ Rs. 10/- with premium @ Rs. 50/- per share for total consideration of Rs. 1.08 Crore u/s 68 proviso and,

   (b) Receipt of large share premium u/s 56(2)(vii) and any other relevant section of the Act.

   with a direction to the AO to properly examine the identity (typed as entities) 85 creditworthiness of the shareholders/investors and also genuineness of the transactions and also to examine applicability of S. 56(2)(viib) of large share premium and any other relevant section of the Act and also to make necessary additions to the total income or u/s 115JB(1) of the Act, wherever required.

   The assumption of jurisdiction ¯u/s 263 and the directions so given there under, being contrary to the provisions of law and facts on record hence, the proceedings initiated u/s 263 of the Act and the impugned order dated 11.02.2021 deserves to be quashed.

4. *The ld. Pr. CIT erred in law as well as on the facts of the case in wrongly setting aside the assessment order dated 16.11.2018 despite there being complete application of mind by the AO on the subjected issues and it was nothing but a case of change of opinion, based on which, assumption of jurisdiction u/s 263 is not permissible. The impugned order dated 11.02.2021*

therefore, lacks valid jurisdiction u/s 263 of the Act and hence, the same kindly be quashed.

5. *The ld. Pr. CIT seriously erred in law as well as on the facts of the case in assuming jurisdiction u/s 263 of the Act by wrongly and incorrectly invoking Explanation 2 to S. 263 as if the same conferred unbridled power upon the CIT even though the facts and circumstances of the case did not justify the application of the said Explanation.*

6. ***Alternatively and without prejudice to the above***

The ld. Pr. CIT erred in law as well on the facts of the case in holding that the consideration received by the appellant company on issue of shares was in excess of the Fair Market Value by Rs. 3,11,400/- hence, is required to be added to the total income u/s 56(2)(viib) of the Act.

Hence, the impugned finding that the assessment order passed u/s 143(3) 16.11.2018 was erroneous and prejudicial to the interest of the revenue to the extent of short assessment of Rs. 3,11,400/-, deserves to be completely quashed and set-aside.

7. *The appellant prays your honor indulgences to add, amend or alter of or any of the grounds of the appeal on or before the date of hearing."*

2. The hearing of the appeal was concluded through video conference in view of the prevailing situation of Covid-19 Pandemic.

3. The brief facts of the case are that the assesse is a Private Limited Company, derived income from grading, cleaning and storage of agriculture commodity. The assessee had filed its return of income for year under consideration on 14.10.2016 declaring total income of Rs. 2,07,940/- and book profit declared at Rs. 2,15,690/- u/s 115JB(2) of the

Act with tax including interest of Rs. 41,100/ u/s 115JB(1) of the Act. Thereafter, the case of the assessee was selected for scrutiny by CASS under Limited Scrutiny for the reason that "Whether the funds received in the form of share premium are from disclosed sources and have been correctly offered to tax." Thereafter, various other necessary notices were issued and after considering the required information and documents, the A.O. accepted the returned income filed by the assessee. Later on, through show cause notice dated 13.01.2021, it was proposed to invoke revisional proceedings u/s 263 of the Act on the ground that captioned assessment order dated 16.11.2018 passed by the AO is erroneous in so far as prejudicial to the interest of Revenue because the AO did not verify /examine the issues which he ought to have made, by observing as under:

"2. Thereafter, on examination of records by the undersigned it is seen that the assessee company had issued 1,80,000 shares at face value of Rs. 10/- and as per share premium of Rs. 50/-. Thus, the assessee company had received a total consideration of Rs. 1,08,00,000/- in F.Y. 2015-16 relevant to A.Y. 2016-17.

2.1 The detailed breakup of issued shares to whom the shares have been allotted is mentioned as under:-

S.No.	*Name of share holder*	*No. of shares issued during the year*	*Amount of total shares*
1.	*Smt. Chelna Devi Jain*	*63475*	*30,08,500/-*

2.	*Sh. Manohar Lal Jain*	*28900*	*17,34,000/-*
3.	*Sh. Dharm Chand Jain*	*87625*	*52,57,500/-*
Total		***180000***	***1,08,00,000/-***

2.2 During the assessment proceedings, the assessee company was asked by the AO vide his notice u/s 142(1) dated 25.06.2018 to explain with supporting documents that whether the funds received in the form of share premium are from disclosed sources and have been correctly offered to tax. In response, the assessee company submitted vide reply dated 08.08.2018 that the assessee company had issued shares at premium of Rs. 50/-. However, the assessee company submitted only bank account number and name of the bank to the AO.

2.3 Further, the assessee company was asked by the AO vide notice u/s 142(1) of the I.T. Act dated 09.09.2018 to prove the genuineness and creditworthiness regarding receipt of share capital and share premium. The assessee company submitted confirmation of share transaction account on 22.10.2018. The assesse company had also submitted acknowledgement of ITR showing income of Rs. 10,72,700/-, Rs. 5,23,430/- and Rs. 5,26,550/- in the cases of Smt. Chelna Devi Jain, Sh. Manohar Lal Shah and Sh. Dharm Chand Jain and whereas they had made the investment of Rs. 30,08,500/-, Rs. 17,34,000/- and Rs. 52,57,500/- respectively. But the assessee company had neither submitted its own bank account nor the bank accounts of the persons who had made investment in shares. Again, the assessee company had also not submitted capital account of the investors. Again, none of the investors produced the bank statements to establish the source of funds for making such a huge investment in the shares, even though they were declaring a meager income in the returns. Thus, the assessee company failed to discharge the onus by filing cogent evidence for creditworthiness of the investors and genuineness of transactions. The share application money received by the assessee company during the year has not been subject to examination on the triple tests of identity,

creditworthiness and genuineness. In other words, the AO has not examined the identity, creditworthiness of the shareholders / investors and also the genuineness of transactions in respect of total amount of shares of Rs. 1,08,00,000/- and because of the same, the assessment order u/s 143(3) of the I.T. Act in the case of assessee company for A.Y. 2016-17 is found to be erroneous in so far as it is prejudicial to the interest of revenue."

The Ld. Pr.CIT, thereafter, referred to the first proviso to S.68 inserted w.e.f A.Y. 2013-14 and alleged that the AO did not examine the identities and creditworthiness of the shareholders. He further alleged that the AO also did not examine the applicability of the provisions of S. 56(2)(viib) of the Act. He alleged that the AO failed to make proper enquiry in respect of core issues for which the case was selected and such lack of enquiry has rendered the subjected assessment as erroneous. In response, the assessee filed detailed written submission dated 25.01.2021before the ld. PCIT, Udaipur. The ld. PCIT, however feeling dissatisfied, rejected the contentions and held the assessment order erroneous and prejudicial to the interest of revenue, by holding as under:

"6. I have carefully examined the written submission of the assessee. The contentions of the assessee have been considered. It is pertinent to mention here that the various additional documentary evidences which have been furnished in compliance to notice u/s 263 of the I.T. Act were not produced before the AO. This becomes all the more important in view of section 68 & the proviso added to section 68 w.e.f. 01.04.2013. Since the AO has not examined the entities and creditworthiness of the shareholders / investors and also the

genuineness of transactions and due to which the assessment order u/s 143(3) of the I.T. Act is found to be erroneous in so far as it is prejudicial to the interest of revenue. However, In view of the facts and submission offered by the assessee, this issue requires thorough verification. Therefore, the AO is directed to conduct necessary verification in respect of this issue by calling for relevant details and documents from the assessee, examining the books of account and audited balance sheet of the assessee, conduct independent enquiries from the persons who have contributed to share capital / share premium and based on such verification on this issue and in case of any discrepancy, appropriate action may be taken as per law.

7. Here, it is useful to refer to the Explanation-2 below section 263(1) inserted w.e.f. 01.06.2015 by Finance Act, 2015, which provides that:

x x x x

8. The assessment order u/s 143(3) of the I.T. Act for the A.Y. 2016-17 dated 16.11.2018 was passed by the AO in this case, without making proper enquiries or doing any verification of the issue of Large share premium received by the assessee company during the year and the applicability of Section 56(2)(viib) andany other relevant section as discussed in preceding paras, despite being the fact that this was the sole reason for scrutiny selection. Hence, assessment order u/s 143(3) of the I.T. Act for the A.Y. 2016-17 dated 16.11.2018 has thus been rendered erroneous and prejudicial to interest of revenue on the issue of non-verification Large share premium received by the assessee company during the year and the applicability of 56(2)(viib) and any other relevant section of the Income Tax Act. The same is therefore set-aside / cancelled and restored back to the file of AO on this issue, in view of the detailed discussion made in preceding paras, with the direction to pass fresh assessment order after conducting proper verification and enquiries on the above issue and based on outcome of such enquiries, necessary addition wherever required may be made to the total

income and to the book profit u/s 115JB(1) of the I.T. Act of the assessee in accordance with the provisions of Income Tax Act and Income Tax Rules. However, an opportunity of being heard should be given to the assessee before passing the order."

4. Now the assessee is in appeal before the ITAT by taking the above mentioned grounds of appeal.

5. All the grounds taken by the assessee in this appeal are interrelated and interconnected but the assessee is mainly aggrieved by the order of the ld. Pr.CIT for passing the order U/s 263 of the Act. In this regard, the ld. AR appearing on behalf of the assessee has reiterated the same arguments as were raised before the ld. Pr.CIT and also relied upon the written submissions filed before the Bench and the same are reproduced below:

Legal Position on Sec.263 – Judicial Guideline: Before proceeding, we may submit as regards the judicial guideline, in the light of which, the facts of this case are to be appreciated.

1.1 *The pre-requisites to the exercise of jurisdiction by the CIT u/s 263, is that the order of the AO is established to be erroneous in so far as it is prejudicial to the interest of the Revenue. The CIT has to be satisfied of twin conditions, 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 i.e. if the assessment order is not erroneous but it is prejudicial to the Revenue, Sec.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. 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 CIT does not agree, it cannot be treated as an erroneous order prejudicial to the interest of the Revenue, unless the view taken by the AO is totally unsustainable in law. Kindly refer Malabar Industrial Co. Ltd. v/s CIT (2000) 243 ITR 83 (SC).

1.2 Also kindly refer CIT v/s Max India Ltd. (2007) 295 ITR 282 (SC) wherein it is held that:

Ratio of these cases fully apply on the facts of the present case in principle.

2. Due application of mind:

2.1 It is submitted that the AO had raised very specific and directly relevant queries/called for explanation and evidences w.r.t. the identities and creditworthiness genuineness of the receipts towards the share premium of Rs. 1.08 Cr and applicability of of S.56(2)(viib); to the extent he was supposed to act in law.

2.2 This is also evident from queries raised and the replies given thereto, reproduced hereunder:

2.2.1 Through the Notice/s u/s 143(2) dated 12.08.2017 (PB 4-8), thereto called for explanation as under:

"Following issue(s) have been identified for examination:

i. Whether the funds received in the form of share premium are from disclosed sources and have been correctly offered for tax.

In view of the above, I would like to give you an opportunity to produce any evidence/information which you feel is necessary in support of the said return of income on or before 29/08/2017 at 11:30 AM."

Reply to the above notice was submitted on 29.08.2017 (PB 8) as under:

"With reference to the above subject it is submitted that the shares have been issued in the form of share premium from disclosed sources . It is submitted that the net worth of the Company as on 31.03.2015 is Rs. 55,47,060/- and estimated profit upto the date of issue of shares was Rs. 62,940/-, hence total net worth of the Company deemed is Rs. 56,10,000/-.Total 93,500 shares have been issued. Book value of the share was Rs. 60/- and the Company has issued Rights Issue as per book value of the Company. 10 rupees face value shares has been issued at the premium of Rs. 50/- i.e. @ Rs. 60/- per share, hence as per book value the Rights Issue has been allotted.

We want a personal hearing the case and do not want E-proceeding facility through our account in e-filing website of the Income Tax Department. We opted out e-assessment proceedings."

2.2.2 Thereafter, in notice u/s 142(1) dated 25.06.2018 (PB 9-11) the AO raised more queries on the issue in hand:

"3. To furnish copy of Directors' and Auditors' Report with financial statements as on 31.03.2014, 31.03.2015 & 31.03.2016.

4. To furnish complete detail of bank accounts & Post Office Accounts and other Financial Institution Accounts managed/operated in the table given below –

5. To explain with supporting documents that whether the funds received in the form of Share Premium are from disclosed sources and have been correctly offered for tax."

The same was replied vide letter dated 08.08.2018 (PB 11)

"3. Copies of the Directors' Report and Auditor's Report for the FY ended on 31.03.2014, 31.03.2015 & 31.03.2016 are enclosed.

4. Details of bank account are enclosed in the format provided by you.

5. In respect of point no. 5: It is submitted that the shares have been issued in the form of share premium from disclosed sources ."

2.2.3 The AO again issued a notice u/s 142(1) dated 09.09.2018 (PB 12-13) calling for explanation, directly on the issues in hand, as under:

"Particulars of Accounts and/or documents required.

1. To explain with supporting documents that whether the funds received in the form of Share Premium are from disclosed sources and have been correctly offered for tax.

2. To prove the genuineness to transactions with proving the identity of persons and explain their creditworthiness regarding receipts of share capital and share premium.

3. To explain and justify with supporting documents that whether the provisions of section 56(2)(viib) of the Income-Tax Act, 1961 read with rule 11UA(2) of the Income-Tax Rules, 1962 are not applicable on receipts of Share Premium.

*4. On perusal of your submissions and documents, it is noticed that FMV of unquoted shares which allotted during the year under consideration is come at Rs.57.67 against calculating by you of Rs.60 in terms of procedure provided under rule 11UA(2) of the Income-Tax Rules, 1962 i.e., A-L/PE*PV = (7231418-733000)-(64254+1111000+491891)/935000*10. Thus, there is a difference comes of Rs.14,99,400 is why not to be added to your total taxable income in terms of section 56(2)(viib) of the Income-Tax Act, 1961."*

The same was duly replied vide letter dated 'Nil' and dated 12.11.2018 (PB 14-19), on all the queries raised. The assesee provided complete name and PAN No of all the three shareholders. To prove their genuineness, the assesee also submitted copies of ITR acknowledgements (PB 29-40) and the confirmations duly signed by them (PB 43-45), to whom the shares were allotted. The assesee also submitted justification behind the premium @ Rs 50/- per share charged as under:

"1 That we have allotted the shares on premium as per following calculation:

Net Assets Value as on 31.03.2015 : 72,31,418.00

Less: Liabilities : 4,91,891.00

: 11,73,787.00 16,65,678.00

5565740/ 93500 = 59.53 as on 31.03.2015 and as per fair market Value which is Rs. 60/- per share.

x x x x

As per calculation we have taken the premium as per value of the shares i.e. face value is Rs. 10 per share and premium of Rs. 50/- per share hence total value is Rs. 60/- per share and there is no tax liability on share premium as they are from disclosed sources."

The assesse also submitted the copy of bank statements of the assesse company (PB 24-28).

2.3 The ld. AR attended time to time, produced books of account including cash book, ledger, subsidiary records and filed various other details as required, stated above and also those even though not required, which were duly examined.

The AO made all the inquiries, sought clarifications on all the relevant aspects to the extent he was supposed looking to the nature of the issue involved, the past accepted history of the case and the evidences and material already available therein together with the material provided during the assessment proceedings. Thus, ld. AO framed the assessment in accordance with the available judicial guideline.

It is also a fact on record that the assesse opted for personal hearing and denied for e-proceedings. Again an admitted fact is that the director-Shareholder Dharam Chand Jain, FCA himself attended on various occasions along with the AR CA Sumit Chittora on as many as nine dates mentioned on the first page of the subjected Assessment Order. Needless to say that, during the course of personal hearing, there is always an exchange of oral information by way of discussion. The AO once have been raised regular queries discussed the issues of identity and creditworthiness of the shareholders and the genuineness of the

transaction and the AR explained him, in a great detail w.r.t financial capacity of the three shareholders. It cannot be presumed that a quasi-judicial authority having raised the relevant queries would not have asked anything from the AR during the course of the personal hearing and remained a silent spectator. More particularly, when all the shareholders were regular IT assesses with PAN no. and after discussion with them, he was having the authority and a technical infrastructure to look into the assessment record of this year as well as the preceding year along with the enclosures filed with or within the ROI by the concerned shareholder.

Thus, unless there was something negative available on record or so alleged by the Ld. CIT, his attempt to find fault in the actions of the AO, is not legally justified.

3. Source of receipt of share premium amount:

3.1 AO acted as per Judicial Guidelines:

This all the more holds good when binding decisions of the Hon'ble jurisdictional High Court in various cases (infra) have propounded the principle in the context of S.68 being only the examination of the identity of the shareholder concerned his/her the confirmation of the fact of providing/ transferring subjected amount to the assesse but the AO is not legally bound to examine source of source, once the immediate source is available.

In the present case, the AO was having complete details of the identity in the shape of PAN number & address (PB 29-40). He was also having conformation (PB 43-45) duly signed by the shareholder. As stated, he was able and he looked into the file of the shareholders in the portal of the department. Thus, in view of the binding judicial guideline, the AO was not obliged still to ask the assessee to provide source of source under the pretense of examination of the creditworthiness of the shareholder.

3.2 Following decisions of Hon'ble Rajasthan High Court are directly relevant for the purpose.

3.2.1 Kindly refer Labhchand Bohra V/s ITO (2008) 8 DTR 44 (Raj.) (DPB 1-4) held that

"Cash credit- burden of proof- identity of the creditors established and the confirmed the credit. This discharged the burden of appellant to

prove genuineness. However, capacity of the lender to advancement money to appellant was not a matter which the appellant could be required to establish and that would amount to calling upon him to establish the source of source. Hence addition cannot be sustained."

3.2.2 In Aravali Trading Co. v/s ITO (2008) 8 DTR 199 (Raj) (DPB 5-9) held that:

"Once the existence of the creditors is proved and such persons own the credits which are found in the books of the appellant, the appellant's onus stand discharged and the latter is not further required to prove the sources from which the creditors could have acquired the money deposited with him and, therefore the addition u/s 68 cannot be sustained in the absence of anything to establish that the sources of the creditors deposits flew from the appellant itself."

3.2.3 In CIT v. G. M. Mittal Stainless Steel (P.) Ltd. [2003] 263 ITR 255 (SC)

"Precedent—Binding nature of judgment—Decision of the jurisdictional High Court—Where the decision of the jurisdictional High Court has not been set aside or at least has not been appended from it would be binding—In view of this CIT proceeding on the basis of the High Court other than jurisdictional High Court on the basis that jurisdictional High Court was erroneous and that the AO who had acted in terms of the High Court's decision had acted erroneously, was not justified"

4.1 Accordingly, it is submitted that AO raised very specific and directly relevant queries/called for explanation and evidences w.r.t. source of amount received by the company from three shareholders (as indicated in the table here in above), means to the extent he was supposed to act in law and in accordance with the above decisions.

4.2 As apparent from the record, it is very clear that the Assessee had discharged the burden, by satisfying all the three conditions, as under:

4.2.1 Identity Established: The facts are not denied that the assesse had already submitted complete addresses of all the three shareholders as

also their Permanent Account Number (PAN) which is the best evidence to prove the identity of a shareholder, in the records of AO itself. Moreover, all the transactions with all the shareholders were admittedly made through banking channels only. Thus, their identity is fully established.

4.2.2 Genuine Transactions: The genuineness of the transaction is fully established in as much as all the borrowings were made through account payee cheque only and the same was duly verified by the AO from the bank statement (PB 24-28) of the assesse company filed before him, wherein the fact and the receipt of the subjected amount towards the allotment of share, was clearly visible and was duly verified by the AO. Apart from the bank statement, the AO was also having the ledger accounts of the bank in the account books maintained by the assesse and produced before him as also through the confirmation of all the three shareholders (PB 43-45) containing complete details i.e. the amount, date, cheque number etc. It is not the case of the revenue that the borrowing was made in cash so as to justify any suspicion. There was no cash deposit made in their bank A/C just prior to issue of cheque to the assessee company. For the completeness, the details of the amount received from the shareholders is as under:

Smt. Chelna Devi Jain, PAN AGTPJ3772H:

S.No.	*Name of share-holder*	*No. Of shares issued during the year*	*Amount of total shares*
1	*Smt. Chelna Devi Jain*	*63,475*	*38,08,500*

The payment received by the company in its Bank account maintained with SBBJ having no 61264902049 on dated as under:

Date	*Amount in Rs.*
18.12.2015	*16,92,000*
28.01.2016	*21,16,500*
Total	*38,08,500*

Shri Manohar Lal Jain, PAN ATZPS8153L

S.No.	*Name of share-holder*	*No. Of shares issued during the year*	*Amount of total shares*
2	*Shri Manohar Lal Jain*	*28,900*	*17,34,000*

The payment received by the company in its Bank account maintained with SBBJ having no 61264902049 on dated as under:

Date	*Amount in Rs.*
18.12.2015	*7,71,000*
28.01.2016	*9,63,000*
Total	*17,34,000*

Shri Dharm Chand Jain, PAN ABRPJ4861E

S.No.	*Name of share-holder*	*No. Of shares issued during the year*	*Amount of total shares*
3	*Shri Dharm Chand Jain*	*87,625*	*52,57,500*

The payment received by the company in its Bank account maintained with SBBJ having no 61264902049 on dated as under:

Date	*Amount in Rs.*
18.12.2015	*23,37,000*
28.01.2016	*29,20,500*
Total	*52,57,500*

4.2.3 Capacity Proved: Further the creditworthiness of the shareholders also stands fully established in as much as the direct source of the amounts given was the income declared year to year by the respective shareholders in their return of income (accumulated savings) and loan taken from outsider but finally deposited in the respective bank accounts by the shareholders. The assessee not only submitted their PAN no. but also provided copies of acknowledgement of filing return of income which contains the computation of total income.

The AO directly inquired deeper into the assessment record of the concerned shareholder on the portal of income tax department with reference to the respective PAN no. given by the assessee. Needless to say that the entire information of that particular shareholder being the Balance Sheet, details of income declared, subjected transactions done with the assesse company in the current year as also his creditworthiness/ financial capacity was duly verified by the AO. Oral explanation were also made during the personal hearing. The Ld CIT, in fact, did not apply his

mind on this aspect and ignored that the AO was empowered legally and technically to have examined the veracity of the claim made by the assesse with regard to the creditworthiness of the shareholders.

4.2.4 The following facts and details which were available on the portal of the Income Tax Department and emanated from the hearing, were known to the AO, are quite relevant and being submitted hereunder:

Chelna Devi: She is an old and regular income tax assesse. This fact can be verified from the PAN Card data. The Return of Income for this year was filed on gross total income of Rs 12,23,031/- and total income of Rs. 10,72,700/- for A.Y. 2016-17. She is proprietor of M/s Munmun Industries. The Balance Sheet of the proprietary was uploaded in the ROI filed by her. The source of fund transfers to the assesse company was from her proprietary M/s Munmun Industries which is a Tax Audit case with a turnover of Rs. 3523.81 Lakhs. The closing balance of her capital a/c in the proprietary stood at Rs. 97.08 lakhs and her total capital stood at Rs. 148.18 lakhs. Her financial capacity was duly verified by the AO. There is nothing on record to arise any suspicion of the AO nor the Ld. CIT pointed out any adverse material though available on the assessment record but ignored by the AO warranting further investigation with regard to all the three aspects relevant for S.68.

INCOME DETAILS OF Smt. CHELNA DEVI (PAN: AGTPJ3772H)

HEAD	*ASSESSMENT YEAR*				
	2016-17	*2015-16*	*2014-15*	*2013-14*	*2012-13*
Gross Total Income	*12,23,031*	*11,75,948*	*10,57,444*	*6,09,139*	*5,48,768*

Manohar Lal Jain: He is also an old and regular income tax assesee. This fact can be verified from the PAN Card data. The ROI was filed showing gross total income of Rs. 6,74,581/- and total income of Rs. 5,23,430/- for A.Y. 2016-17. He also declared agricultural income of Rs.1,50,000/-. He is also running a proprietary in the name of the M/s Om Tractor Agencies since 2008. He has been regularly showing substantial agricultural income in the past, this capital was of 1.19 cr.

A look on the income declared in the preceding four years will show that declared income ranging between Rs. 7,00,000/- to more than Rs.

9,00,000/- and agricultural income ranging from Rs.1,11,000/- to Rs. 1,30,000/-, as under:

INCOME DETAILS OF SH. MANOHAR LAL SHAH (PAN: ATZPS8153L)

HEAD	*ASSESSMENT YEAR*				
	2016-17	*2015-16*	*2014-15*	*2013-14*	*2012-13*
Rental Income	*3,60,000*	*3,60,000*	*2,82,000*	*2,98,000*	*2,62,000*
Business Income	*4,21,431*	*3,12,490*	*3,07,004*	*5,49,068*	*3,87,154*
Interest Income	*1,150*	*1,099*	*4,546*	*2,968*	*2,460*
Agriculture Income	*1,50,000*	*1,30,000*	*1,25,600*	*1,11,000*	*1,11,000*
Total	*9,32,581*	*8,03,589*	*7,19,150*	*9,61,036*	*7,62,614*

Dharam Chand Jain: He is also an old and regular income tax assesse and practicing Chartered Accountant since long. This fact can be verified from the PAN Card data. The ROI was filed showing gross total income of Rs. 6,79,099/- and total income of Rs. 5,26,550/- for A.Y. 2016-17. He himself appeared before AO , confirmed explained bank transactions and credit worthiness , His capital was of Rs 83.57 Lacks and he had unsecured loans of Rs 95 Lakhs. He himself appeared before AO, confirmed, explained bank transaction and credit worthiness.

A look on the income declared in the preceding four years will show that declared income ranging between Rs 4.88lakhs to Rs 7.76 lakhs.

INCOME DETAILS OF SH. DHARM CHAND JAIN (PAN: ABRPJ4861E)

HEAD	*ASSESSMENT YEAR*				
	2016-17	*2015-16*	*2014-15*	*2013-14*	*2012-13*
Gross Total Income	*6,79,099*	*6,43,430*	*5,48,703*	*6,04,222*	*4,22,501*
Profit from Firm (Exempt Income)	*96,956*	*29,204*	*60,959*	*71,242*	*65,550*
Total	*7,76,055*	*6,72,634*	*6,09,662*	*6,75,464*	*4,88,051*

Therefore, the allegation and the expectation of the Ld. CIT from the AO acting as quasi-judicial authority, examine the receipts in context with the S. 68 and requiring he assesse to prove the credit to the hilt, is clearly beyond the scope of S. 263, in as much as he was supposed, only to the extent of examination of the fact that the amount so received towards the share premium was not from undisclosed sources (if one strictly go by the reason of selection for limited scrutiny) or to examine the conditions as per RHC decisions.

Thus, when AO has acted according to the judicial guideline and the principles propounded by the Hon'ble Rajasthan High Court the AO could not venture to follow the binding decisions. If the ld. CIT had any doubt, he should have directed inquiry in their hands as held in Lovely Exports [2015] 59 taxmann.com 232 (Mumbai - Trib.).

Hence, it cannot be said that the impugned assessment order was erroneous and therefore prejudicial to the interest of the revenue, for want of further enquiry by the AO.

4.3 We also rely upon w/s Pg- 2-5 (PB 65-68) made to the CIT.

5. Credit self-explanatory: Further the undisputed facts are that all the three shareholders were allotted equity shares as per the details given at pg 2 of the Impugned Order in consideration of Rs. 60 per share. Necessary formality of filing return of allotment and making entries in the record were completed as per the provisions of the Companies Act, 2013. Thus, the subjected receipts of Rs. 1.08 Cr from the three shareholders was in consideration of the 1.80 lakhs equity shares. Such credits, were not loan/ borrowings to be termed as Cash Credits u/s 68. The law is well settled and more particularly, by the decision of the Hon'ble Rajasthan High Court that receipt of the consideration in the exchange of the movable/ immovable property or anything, is a case of self-explanatory credit, hence u/s 68 should not be applied.

Kindly refer Smt. Harshila Chordiya vs. ITO (2008) 298 ITR 349 (Raj) wherein it was held the Tribunal has found as a fact that the assessee was receiving money from the customers against which delivery of vehicles was made – such cash deposits are self – explanatory and would not attract S. 68 – Therefore, no addition could be made.

The Ld. CIT has not doubted the ownership of the respective shareholdings by the three shareholders and also must have been considered by the respective AO/s. Therefore, it cannot be doubted that this was undisclosed income of the assesse company which might have been introduced through bogus credits so that the AO must have made enquiries to prove otherwise of what was apparent on the face. Therefore, the level of the proof required in a normal case of cash credit u/s 68 could not have been blindly applied and expected of the AO to have the same degree of proof in the peculiar facts of this case (though assesse did furnish the requisite details and the evidences) and the AO also did whatever it was supposed in the law to satisfy the requirement of S.68.

No doubt, a proviso was inserted which, requires the AO that the explanation offered by the assesse company for the amount credited towards share application money, premium etc. shall be deemed not satisfactory unless the shareholder does not offer explanation on the nature and the source of the sum credited and such explanation in the opinion of the AO is not found satisfactory. In the peculiar facts of this case, the AO was not supposed to deem the explanation offered by the assesse as unsatisfactory because the assesse had explained the nature and the source to the satisfaction of the AO and there was no evidence, information or anything else indicating that more enquiry was warranted.

Hence, the principle propounded by the Hon'ble Rajasthan High Court in the case of Smt. Harshila Chordiya (Supra) still holds goods in as much as the Proviso broadly states what S. 68 states. In fact, first proviso was inserted to annul the argument that receipts towards share allotment, premium etc. are as of capital nature to avoid the application of S. 68 w.r.t such receipts. Therefore, the ratio laid as above held good in present case also and this law of land having been available on the date of the passing of the Assessment Order dated 16.11.2018, could not have been ignored by the AO.

6.1 It is not the case of CIT that there was a complete/total lack of inquiry. He himself admits in the Impugned Order that the AO did make enquiry on both the issues. The law is well settled that the Assessment order cannot be held to be erroneous simply on the allegation of inadequate enquiry. Unless there is an established case of total lack of

enquiry. Kindly refer CIT vs. Sunbeam Auto Ltd. (2011) 332 ITR 167 (Del) (DPB 10-20), wherein Delhi High Court was considering the aspect, when there is no proper or full verification, and it was held that:

"One has to see from the record as to whether there was application of mind before allowing the expenditure in question as revenue expenditure. Learned counsel for the assessee is right in his submission that one has to keep in mind the distinction between "lack of inquiry" and "inadequate inquiry". If there was any inquiry, even inadequate that would not by itself give occasion to the CIT to pass orders under section 263 of the Act, merely because he has a different opinion in the matter. It is only in cases of "lack of inquiry" that such a course of action would be open."

6.2 In another case of Narain Singla v. PCIT [2015] 62 taxmann.com 255 (Chandigarh - Trib.) (DPB 21-30) it was held that when AO was fully aware of matter, he had appraised evidences filed by assessee and then had formed a view to accept same, Commissioner was unjustified in invoking jurisdiction under section 263. Whether if there was an enquiry, even inadequate, that would not, by itself, give occasion to Commissioner to pass order under section 263, merely because he has a different opinion in matter; it is only in case of 'lack of inquiry' that such a cause of action can be open.

6.3 In CIT vs. Chemsworth Pvt. Ltd. (2020) 275 Taxman 408 (Kar) (DPB 31-33), it was held that:

Revision—Erroneous and prejudicial order—AO taking plausible view—AO completed the assessment without considering expenditure which was not allowable under s. 14A—CIT held that non-consideration of disallowable expenditure under s. 14A was erroneous and is prejudicial to the interest of the Revenue—Not correct—CIT has held hat the enquiry conducted by the AO was inadequate and has assumed the revisional jurisdiction—Assessee has filed all the details before the AO and AO has accepted the contention of the assessee that no expenditure was attributable to the exempt income during the relevant assessment year—Thus, while recording the said finding, the AO has taken one of the plausible views in allowing the claim of the assessee—Therefore, CIT could not have set aside the order of assessment merely on the ground of inadequacy of enquiry—Order passed by the CIT was not sustainable in law hence, the Tribunal rightly set aside the impugned order of the CIT.

The ld. CIT is completely silent on this aspect.

7.1 Beyond the scope of enquiry contemplated u/s 263: The scope of enquiry in the present case was limited to the extent of the issues made a basis for selection of the case. The admitted fact was that the case was selected for limited scrutiny so as to examine whether the funds received in the form of share premium are from disclosed sources and have been correctly offered to tax (and not large share premium received during the year verify applicability of sec 56(2)(viib) or any other relevant section) as per notice issued u/s 143(2) dated 12.08.2017 (PB 4-7). It is also a fact available on record that limited scrutiny was not converted to full scrutiny nor the higher authorities did so.

Thus, the scope of examination by the AO in this limited scrutiny was confined:

a) Only to the examination of the fact as to whether the funds received in the form of share premium were from disclosed sources or not. Evidently, there was no pointed reference made to S.68 therefore, the technical requirement of S. 68 being establishing the identity and creditworthiness of the creditor and genuineness of the transaction could not have been presumed by the Ld. Pr. CIT and consequently, he could not have expected the AO to get the same proved by the assesse to the hilt. In other words, this could not be a good basis for holding the subjected assessment as erroneous and prejudicial to the interest of the revenue. It cannot be denied that the very reason of selection was certainly enquired into by the AO in as much as the funds of Rs. 1.08 Cr in the form of share premium were found received from disclosed sources as they were received from the regular income tax assesses through banking channels. That being the fact, there was no reason, to offer such amount to tax.

b) Thereapart, the reason for selection does not speak of S. 56(2)(viib) as well. Hence, here also therefore, the AO could not have made enquiries on this aspect. Although the AO has duly applied mind on the aspect of share premium (and other related issues on his own) but this fact itself could not have authorized the CIT to have enlarged the scope of limited scrutiny for the purposes of S. 263. Moreover, once complete details were filed before the CIT, he was supposed to adjudicated the issues on merits instead of sending it back to the AO. The observation and allegation of the Ld. CIT appears to be factually incorrect. On the first page of the Impugned Order also, he wrongly narrated the basis of the selection of

the case under CASS under limited scrutiny for the reason Large share premium received during the year (verify applicability of S. 56(2)(viib) or any other relevant section. It has not known where from the Ld. CIT has adapted this reason of selection. Therefore, on the face of the record, no fault could be find in the subjected assessment order on this aspect. Thus, on this aspect also the AO could not have proceeded to examine the application of S. 56(2)(viib) and S. 263 could not have been invoked.

7.2. Supporting Case Laws:

The law is well settled that in the limited scrutiny assessment, the AO can be expected to make enquiry only to the extent of the reason/ basis of selection of the case for the limited scrutiny and the CIT cannot invoke S. 263 on the issues which were not made basis for selection of the case.

7.2.1 Kindly refer Mahendra Singh Dhankar (HUF) vs. ACIT, (2021) 35 NYPTTJ 458 (Jp) (DPB 34-43)

7.2.2 In CIT v/s Smt. Padmavathi (2020) 4 NYPCTR 682 (Mad)

7.3.3 In Su-Raj Diamond Dealers (P) Ltd. v/s PCIT (2020) 203 TTJ (Mumbai) 137 (DPB 44-50)

7.3.4 In Nayek Paper Converters vs. ACIT (2005) 93 TTJ (Cal)

8.1 Applicability of S.56(2) (viib):

The Ld. CIT also alleged that the AO did not make enquiries and verification on the issue of large share premium received by the assesse and the applicability of S.56(2)(viib) and other relevant sections even though this was not the reason for scrutiny selection.

8.2 Alternatively and without prejudice to above, even otherwise on merits, there has been due and proper application of mind in as much as the Ld. AO raised directly relevant queries (as stated above) which were duly replied by the assesse as well. The assesse also submitted the computation as to how the assesse derived the amount of the premium which was also admitted by the Ld. CIT in para 3 pg 4 of the Impugned Order. In addition, thereto, the assesse also submitted a report of the expert dated 10.10.2015 under Rule 11UA (PB 46-58) which fully justified charging premium @ Rs 50 per share. Hence, the AO was fully justified in not applying in S. 56(2)(viib). There appears no valid basis to compute

excessive value of Rs 1.73 per share which is not supported by any expert report but mere suspicion. In other words, it was nothing but a substitution of opinion by the Ld. CIT. Therefore, on this aspect also the subjected assessment order could not be covered u/s 263 as it was neither erroneous nor prejudicial to the interest of the revenue. He also got valuation done u/r 11UA by expert which is binding upon AO, as held in Rameshwaram Strong Glass Pvt Ltd vs. AO 195 TTJ465 (Jp) . We also rely on w/s to the CIT (PB 69-72).

9. The allegation of the Ld. CIT that various evidential documents were furnished itself goes to show that the AO did not make requisite enquiries, is not a good basis to invoke S.263 and is mere suspicion and substitution of opinion. moreover, once all the details were made available before the CIT, he should not have decided the issues instead of setting aside to the AO. kindly refer Elder IT Solutions (P.) Ltd. vs CIT (infra).

10. Even the amendment (Expl. 2(a)) does not confer blind powers: It is held that despite there being an amendment, enlarging the scope of the revisionary power of the ld. PCIT u/s 263 to some extent, it cannot justify the invoking of the Expl. 2(a) in the facts of the present case. Before referring to that Explanation, one has to understand what was the true meaning of the Explanation in the context of application of mind by a quasi-judicial authority.

In the case of Narayan Tatu Rane Vs. ITO Itat, (2013) 7 NYPTTJ 1493 (Mum) (DPB 59-68) it was held that newly inserted Explanation 2(a) to Sec. 263 does not authorize or give unfettered powers to Commissioner to revise each and every order, if in his (subjective) opinion, same has been passed without making enquiries or verification which should have been made.

11. Supporting Case Laws on S. 263:

11.1 CIT v/s Rajasthan Financial Corporation (1996) 134 CTR 145 (Raj). (DPB 51-54)

11.2 CIT v/s Ganpat Ram Bishnoi (2005) 198 CTR (Raj) 546 (DPB 55-58)

11.3 Gabriel India Ltd. [1993] 203 ITR 108 (Bom),

11.4 Elder IT Solutions (P.) Ltd. vs CIT [2015] 59 taxmann.com 232 (Mumbai - Trib.)

11.5 Rajmal Kanwar v. CIT-I [2017] 82 taxmann.com 119 (Jaipur - Trib.)

11.6 Abdul Hamid v. Income-tax Officer [2020] 117 taxmann.com 986 (Gauhati - Trib.)

11.7 CIT v/s Vikas Polymers 341 (2012) ITR 0537 (Del)

In view of the above submissions and the Judicial Guideline, the impugned order passed u/s 263 deserves to be quashed.

The above submissions are based on the facts & information made available and as per instructions of the appellant."

6. On the other hand, the ld CIT-DR has relied on the order passed by the ld. Pr.CIT.

7. We have heard the ld. Counsels of both the parties and have perused the material placed on record. We have also deliberated upon the decisions cited in the orders passed by the authorities below as well as cited before us and we have also gone through the orders passed by the revenue authorities. As per facts of the present case, we noticed that the assesse, a Private Limited Company, derived income from grading, cleaning and storage of agriculture commodity. It had filed its return of income for the year under appeal on 14.10.2016 declaring income of Rs. 2,07,940/- and book profit declared of Rs. 2,15,690/- u/s 115JB(2) of the Act with tax including interest of Rs. 41,100/ u/s 115JB(1) of the Act. Thereafter, the A.O. by passing the assessment order U/s 143(3) of the

Act accepted the returned income filed by the assessee. Thereafter, the ld. Pr.CIT passed the impugned order mentioning the fact that the assessment order dated 16.11.2018 passed by the AO is erroneous in so far as it is prejudicial to the interest of Revenue.

7. From perusal of the record, we observed that the pre-requisites to exercise of jurisdiction by the ld. Pr.CIT u/s 263 of the Act is that the order of the AO is established to be erroneous in so far as it is prejudicial to the interest of the Revenue. The Pr. CIT has to be satisfied of twin conditions, 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 i.e. if the assessment order is not erroneous but it is prejudicial to the Revenue, Sec.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. 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 CIT 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. In this regard, we draw strength from the decision of the Hon'ble Supreme Court in the case of **Malabar Industrial Co. Ltd. v/s CIT** (**2000) 243 ITR 83 (SC)**. We also draw strength from the decision of the Hon'ble Supreme Court in the case of **CIT v/s Max India Ltd. (2007) 295 ITR 282 (SC)** wherein it was held that:

> *"The phrase "prejudicial to the interests of the Revenue" in S. 263 of the Income Tax Act, 1961, has to be read in conjunction with the expression "erroneous" order passed by the AO. Every loss of revenue as a consequence of an order of the AO cannot be treated as prejudicial to the interests of the Revenue. For example, when the AO adopts one of two courses permissible in law and it has resulted in loss of revenue, or where two views are possible and the AO has taken one view with which the Commissioner does not agree, it cannot be treated as an erroneous order prejudicial to the Revenue, unless the view taken by the AO is unsustainable in law."*

8. It is submitted by the ld. AR that the AO had raised very specific and directly relevant queries/called for explanation and evidences w.r.t. the identities and creditworthiness genuineness of the receipts towards the share premium of Rs. 1.08 Cr and applicability of S.56(2)(viib); to the extent he was supposed to act in law. The relevant para of the assessment order, wherein the AO has examined each any every

documents submitted by assessee during scrutiny proceedings, is reproduced below:

> *"The assessee company has filed its e-ITR on 14.10.2016 declaring a total income at Rs.2,07,940 and book profit declared of Rs.2,15,690 u/s 115JB(2) of the Income-Tax Act, 1961 (the Act) with tax including interest of Rs.41,100 u/s 115JB(1) of the Act for the year under consideration. Thereafter, the case was selected for limited scrutiny assessment through Computer Aided Scrutiny Selection (CASS) for the issue that "Whether the funds received in the form of share premium are from disclosed sources and have been correctly offered for tax." and notice u/s 143(2) of the Act issued on 12.08.2017 for 29.08.2017 duly served upon the assessee company through its registered E-mail. Subsequently, notices u/s 142(1) of the Act issued on 25.06.2018 and 09.09.2018 for 03.07.2018 and 19.09.2018 respectively duly served upon the assesse company through its registered E-mail. In response to those notices, the assessee company through its authorized signatory and representative CA Dharm Chand Jain, who is director's of the assessee company filed the required information and documents from time to time.*
>
> *On examining the information, material and documents furnished by the assessee company in its e-ITR and during assessment proceedings through its authorized signatory, it has found that the assessee company has increased its share capital with share premium which valued in accordance to the relevant provisions of the Act as explained by them. Therefore, no adverse inference is hereby drawn on the issue of the funds received in the form of share premium."*

9. It was also evident from the Notice/s u/s 143(2) dated 12.08.2017, which are at page Nos. 4-8 of the paper book, thereto called for explanation as under:

> *"Following issue(s) have been identified for examination:*
>
> *ii. Whether the funds received in the form of share premium are from disclosed sources and have been correctly offered for tax.*
>
> *In view of the above, I would like to give you an opportunity to produce any evidence/information which you feel is necessary in support of the said return of income on or before 29/08/2017 at 11:30 AM."*

Reply to the above notice was submitted by the assessee on 29.08.2017, which are available at page No. 8 of the paper book, as under:

> *"With reference to the above subject it is submitted that the shares have been issued in the form of share premium from disclosed sources . It is submitted that the net worth of the Company as on 31.03.2015 is Rs. 55,47,060/- and estimated profit upto the date of issue of shares was Rs. 62,940/-, hence total net worth of the Company deemed is Rs. 56,10,000/-.Total 93,500 shares have been issued. Book value of the share was Rs. 60/- and the Company has issued Rights Issue as per book value of the Company. 10 rupees face value shares has been issued at the premium of Rs. 50/- i.e. @ Rs. 60/- per share, hence as per book value the Rights Issue has been allotted.*
>
> *We want a personal hearing the case and do not want E-proceeding facility through our account in e-filing website of the Income Tax Department. We opted out e-assessment proceedings."*

10. Thereafter, in notice u/s 142(1) dated 25.06.2018, which are at page No. 9-11of the paper book, the AO raised more queries on the issue in hand as under:

> *"3. To furnish copy of Directors' and Auditors' Report with financial statements as on 31.03.2014, 31.03.2015 & 31.03.2016.*
> *4. To furnish complete detail of bank accounts & Post Office Accounts and other Financial Institution Accounts managed/operated in the table given below –*
>
> *5. To explain with supporting documents that whether the funds received in the form of Share Premium are from disclosed sources and have been correctly offered for tax."*

The same was replied vide letter dated 08.08.2018, which is at page No. 11 of the paper book, which reads as under:

> *"3. Copies of the Directors' Report and Auditor's Report for the FY ended on 31.03.2014, 31.03.2015 & 31.03.2016 are enclosed.*
>
> *4. Details of bank account are enclosed in the format provided by you.*

5. In respect of point no. 5 : It is submitted that the shares have been issued in the form of share premium from disclosed sources ."

The AO again issued a notice u/s 142(1) dated 09.09.2018, which are at page No. 12-13 of the paper book, calling for explanation, directly on the issues in hand, as under:

"Particulars of Accounts and/or documents required.
1. To explain with supporting documents that whether the funds received in the form of Share Premium are from disclosed sources and have been correctly offered for tax.
2. To prove the genuineness to transactions with proving the identity of persons and explain their creditworthiness regarding receipts of share capital and share premium.
3. To explain and justify with supporting documents that whether the provisions of section 56(2)(viib) of the Income-Tax Act, 1961 read with rule 11UA(2) of the Income-Tax Rules, 1962 are not applicable on receipts of Share Premium.
*4. On perusal of your submissions and documents, it is noticed that FMV of unquoted shares which allotted during the year under consideration is come at Rs.57.67 against calculating by you of Rs.60 in terms of procedure provided under rule 11UA(2) of the Income-Tax Rules, 1962 i.e., A-L/PE*PV = (7231418-733000)- (64254+1111000+491891)/935000*10. Thus, there is a difference comes of Rs.14,99,400 is why not to be added to your total taxable income in terms of section 56(2)(viib) of the Income-Tax Act, 1961."*

The same was duly replied vide letter dated 'Nil' and dated 12.11.2018 which are at page No. 14-19 of the paper book, on all the queries raised. The assesee provided complete name and PAN of all the three shareholders. To prove their genuineness, the assesee also submitted copies of ITR acknowledgements (PB 29-40) and the confirmations duly signed by them (PB 43-45), to whom the shares were allotted. The assesee also submitted justification behind the premium @ Rs 50/- per share charged as under:

"1 That we have allotted the shares on premium as per following calculation:

Net Assets Value as on 31.03.2015	*:*	*72,31,418.00*	
Less: Liabilities	*:*	*4,91,891.00*	
	:	*11,73,787.00*	*16,65,678.00*

5565740/ 93500 = 59.53 as on 31.03.2015 and as per fair market Value which is Rs. 60/- per share.

x x x x

As per calculation we have taken the premium as per value of the shares i.e. face value is Rs. 10 per share and premium of Rs. 50/- per share hence total value is Rs. 60/- per share and there is no tax liability on share premium as they are from disclosed sources."

The assesse also submitted the copy of bank statements of the assesse company which are at page No. 24-28 of the paper book.

11. We observed that the ld. AR produced books of account including cash book, ledger, subsidiary records and filed various other details as required, which were duly examined. The AO made all the inquiries, sought clarifications on all the relevant aspects to the extent he was supposed looking to the nature of the issue involved the past accepted history of the case and the evidences and material already available therein together with the material provided during the assessment proceedings. In the present case, the AO was having complete details of the identity in the shape of PAN number & address (PB 29-40). He was also having conformation of the parties (PB 43-45) duly signed by the shareholder. As stated, he was able and he looked into the file of the

shareholders in the portal of the department. In this regard, we draw strength from the decision as relied by the ld. AR in the case of **Labhchand Bohra V/s ITO (2008) 8 DTR 44 (Raj**.), the Hon'ble High has held that

> *"Cash credit- burden of proof- identity of the creditors established and the confirmed the credit. This discharged the burden of appellant to prove genuineness. However, capacity of the lender to advancement money to appellant was not a matter which the appellant could be required to establish and that would amount to calling upon him to establish the source of source. Hence addition cannot be sustained."*

In the case of **Aravali Trading Co. v/s ITO (2008) 8 DTR 199 (Raj)** it has been held that:

> *"Once the existence of the creditors is proved and such persons own the credits which are found in the books of the appellant, the appellant's onus stand discharged and the latter is not further required to prove the sources from which the creditors could have acquired the money deposited with him and, therefore the addition u/s 68 cannot be sustained in the absence of anything to establish that the sources of the creditors deposits flew from the appellant itself."*

In the case of **CIT v. G. M. Mittal Stainless Steel (P.) Ltd. [2003] 263 ITR 255 (SC)** wherein the Hon'ble Apex Court has held as under:

> *"Precedent—Binding nature of judgment—Decision of the jurisdictional High Court—Where the decision of the jurisdictional High Court has not been set aside or at least has not been appended from it would be binding—In view of this CIT proceeding on the basis of the High Court other than jurisdictional High Court on the basis that jurisdictional High Court was erroneous and that the AO who had acted in terms of the High Court's decision had acted erroneously, was not justified"*

In view of the above, we observed that the AO raised very specific and directly relevant queries/called for explanation and evidences w.r.t. source of amount received by the company from three.

12. We also observed that the facts are not denied that the assesse had already submitted complete addresses of all the three shareholders as also their Permanent Account Number (PAN) which is the best evidence to prove the identity of a shareholder, in the records of AO itself. Moreover, all the transactions with all the shareholders were admittedly made through banking channels only. Thus, their identity is fully established. The genuineness of the transaction is fully established inasmuch as all the borrowings were made through account payee cheque only and the same was duly verified by the AO from the bank statement of the assesse company filed before him, wherein the fact and the receipt of the subjected amount towards the allotment of share, was clearly visible and was duly verified by the AO. Apart from the bank statement, the AO was also having the ledger accounts of the bank in the account books maintained by the assesse and produced before him as also through the confirmation of all the three shareholders containing complete details i.e. the amount, date, cheque number etc. It is not the case of the revenue that the borrowing was made in cash so as to justify any suspicion. There was no cash deposit made in their bank A/C just

prior to issue of cheque to the assessee company. For the completeness, the details of the amount received from the shareholders is as under:

Smt. Chelna Devi Jain, PAN AGTPJ3772H:

S.No.	Name of share-holder	No. Of shares issued during the year	Amount of total shares
1	Smt. Chelna Devi Jain	63,475	38,08,500

The payment received by the company in its Bank account maintained with SBBJ having no 61264902049 on dated as under:

Date	Amount in Rs.
18.12.2015	16,92,000
28.01.2016	21,16,500
Total	38,08,500

Shri Manohar Lal Jain, PAN ATZPS8153L

S.No.	Name of share-holder	No. Of shares issued during the year	Amount of total shares
2	Shri Manohar Lal Jain	28,900	17,34,000

The payment received by the company in its Bank account maintained with SBBJ having no 61264902049 on dated as under:

Date	Amount in Rs.
18.12.2015	7,71,000
28.01.2016	9,63,000
Total	17,34,000

Shri Dharm Chand Jain, PAN ABRPJ4861E

S.No.	Name of share-holder	No. of shares issued during the year	Amount of total shares
3	Shri Dharm Chand Jain	87,625	52,57,500

The payment received by the company in its Bank account maintained with SBBJ having no 61264902049 on dated as under:

Date	Amount in Rs.
18.12.2015	23,37,000
28.01.2016	29,20,500
Total	52,57,500

13. We also observed from perusal of the record that the creditworthiness of the shareholders also stands fully established inasmuch as the direct source of the amounts given was the income declared year to year by the respective shareholders in their return of income (accumulated savings) and loan taken from outsider but finally deposited in the respective bank accounts by the shareholders. The assessee not only submitted their PAN no. but also provided copies of acknowledgement of filing return of income which contains the computation of total income. The AO directly inquired deeper into the assessment record of the concerned shareholder on the portal of income tax department with reference to the respective PAN no. given by the assessee. Needless to say that the entire information of that particular shareholder being the Balance Sheet, details of income declared, subjected transactions done with the assesse company in the current year as also his creditworthiness/ financial capacity was duly verified by the AO. Oral explanation were also made during the personal hearing. The Ld

Pr.CIT, in fact, did not apply his mind on this aspect and ignored that the AO was empowered legally and technically to have examined the veracity of the claim made by the assesse with regard to the creditworthiness of the shareholders. Therefore, the allegation and the expectation of the Ld. Pr.CIT from the AO acting as quasi-judicial authority, examine the receipts in context with the S. 68 and requiring the assesse to prove the credit to the hilt, is clearly beyond the scope of S. 263, inasmuch as he was supposed, only to the extent of examination of the fact that the amount so received towards the share premium was not from undisclosed sources (if one strictly go by the reason of selection for limited scrutiny) or to examine the conditions as per the Hon'ble Jurisdictional High Court decisions.

14. Further the undisputed facts are that all the three shareholders were allotted equity shares as per the details given at pg 2 of the impugned order in consideration of Rs. 60 per share. Necessary formality of filing return of allotment and making entries in the record were completed as per the provisions of the Companies Act, 2013. Thus, the subjected receipts of Rs. 1.08 Cr from the three shareholders was in consideration of the 1.80 lakhs equity shares. Such credits were not loan/ borrowings to be termed as Cash Credits u/s 68. The law is well settled and more particularly, by the decision of the Hon'ble Rajasthan High

Court that receipt of the consideration in the exchange of the movable/ immovable property or anything, is a case of self-explanatory credit, hence u/s 68 should not be applied. In the case of **Smt. Harshila Chordiya vs. ITO (2008) 298 ITR 349 (Raj)** wherein it was held the Tribunal has found as a fact that the assessee was receiving money from the customers against which delivery of vehicles was made – such cash deposits are self – explanatory and would not attract S. 68 – Therefore, no addition could be made. The Ld. CIT has not doubted the ownership of the respective shareholdings by the three shareholders and also must have been considered by the respective AO/s. Therefore, it cannot be doubted that this was undisclosed income of the assesse company which might have been introduced through bogus credits so that the AO must have made enquiries to prove otherwise of what was apparent on the face. Therefore, the level of the proof required in a normal case of cash credit u/s 68 could not have been blindly applied and expected of the AO to have the same degree of proof in the peculiar facts of this case (though assesse did furnish the requisite details and the evidences) and the AO also did whatever it was supposed in the law to satisfy the requirement of S.68. No doubt, a proviso was inserted which, requires the AO that the explanation offered by the assesse company for the amount credited towards share application money, premium etc. shall be deemed

not satisfactory unless the shareholder does not offer explanation on the nature and the source of the sum credited and such explanation in the opinion of the AO is not found satisfactory. In the peculiar facts of this case, the AO was not supposed to deem the explanation offered by the assesse as unsatisfactory because the assesse had explained the nature and the source to the satisfaction of the AO and there was no evidence, information or anything else indicating that more enquiries was warranted. Hence, the principle propounded by the Hon'ble Rajasthan High Court in the case of **Smt. Harshila Chordiya (Supra)** still holds goods inasmuch as the Proviso broadly states what S. 68 states. In fact, first proviso was inserted to annul the argument that receipts towards share allotment, premium etc. are as of capital nature to avoid the application of S. 68 w.r.t such receipts. Therefore, the ratio laid as above held good in present case also and this law of land having been available on the date of the passing of the Assessment Order dated 16.11.2018, could not have been ignored by the AO.

15. We observed that it was not the case of CIT that there was a complete/total lack of inquiry. He himself admits in the impugned order that the AO did make enquiry on both the issues. The law is well settled that the assessment order cannot be held to be erroneous simply on the allegation of inadequate enquiry. Unless there is an established case of

total lack of enquiry. In this regard, we draw strength from the decision of the Hon'ble Delhi High court in the case of **CIT vs. Sunbeam Auto Ltd. (2011) 332 ITR 167 (Del)**), wherein Hon'ble Delhi High Court was considering the aspect, when there is no proper or full verification, and it was held that:

> *"One has to see from the record as to whether there was application of mind before allowing the expenditure in question as revenue expenditure. Learned counsel for the assessee is right in his submission that one has to keep in mind the distinction between "lack of inquiry" and "inadequate inquiry". If there was any inquiry, even inadequate that would not by itself give occasion to the CIT to pass orders under section 263 of the Act, merely because he has a different opinion in the matter. It is only in cases of "lack of inquiry" that such a course of action would be open."*

In another case of **Narain Singla v. PCIT [2015] 62 taxmann.com 255 (Chandigarh - Trib.)** it was held that when AO was fully aware of matter, he had appraised evidences filed by assessee and then had formed a view to accept same, Commissioner was unjustified in invoking jurisdiction under section 263. Whether if there was an enquiry, even inadequate, that would not, by itself, give occasion to Commissioner to pass order U/s 263, merely because he has a different opinion in matter; it is only in case of 'lack of inquiry' that such a cause of action can be open. In the case of **CIT vs. Chemsworth Pvt. Ltd. (2020) 275 Taxman 408 (Kar)**, it was held that:

> *Revision—Erroneous and prejudicial order—AO taking plausible view—AO completed the assessment without considering*

expenditure which was not allowable under s. 14A—CIT held that non-consideration of disallowable expenditure under s. 14A was erroneous and is prejudicial to the interest of the Revenue—Not correct—CIT has held hat the enquiry conducted by the AO was inadequate and has assumed the revisional jurisdiction—Assessee has filed all the details before the AO and AO has accepted the contention of the assessee that no expenditure was attributable to the exempt income during the relevant assessment year—Thus, while recording the said finding, the AO has taken one of the plausible views in allowing the claim of the assessee—Therefore, CIT could not have set aside the order of assessment merely on the ground of inadequacy of enquiry—Order passed by the CIT was not sustainable in law hence, the Tribunal rightly set aside the impugned order of the CIT.

16. We also observed that the scope of enquiry in the present case was limited to the extent of the issues made a basis for selection of the case. The admitted fact was that the case was selected for limited scrutiny so as to examine whether the funds received in the form of share premium are from disclosed sources and have been correctly offered to tax (and not large share premium received during the year verify applicability of sec 56(2)(viib) or any other relevant section) as per notice issued u/s 143(2) dated 12.08.2017. It is also a fact available on record that limited scrutiny was not converted to full scrutiny nor the higher authorities did so. Thus, the scope of examination by the AO in this limited scrutiny was confined:

a) Only to the examination of the fact as to whether the funds received in the form of share premium were from disclosed sources or not. Evidently, there was no pointed reference made to S.68 therefore, the technical requirement of S. 68 being establishing the identity and

creditworthiness of the creditor and genuineness of the transaction could not have been presumed by the Ld. Pr. CIT and consequently, he could not have expected the AO to get the same proved by the assesse to the hilt. In other words, this could not be a good basis for holding the subjected assessment as erroneous and prejudicial to the interest of the revenue. It cannot be denied that the very reason of selection was certainly enquired into by the AO in as much as the funds of Rs. 1.08 Cr in the form of share premium were found received from disclosed sources as they were received from the regular income tax assesses through banking channels. That being the fact, there was no reason, to offer such amount to tax.

b) There apart, the reason for selection does not speak of S. 56(2)(viib) as well. Hence, here also therefore, the AO could not have made enquiries on this aspect. Although the AO has duly applied mind on the aspect of share premium (and other related issues on his own) but this fact itself could not have authorized the CIT to have enlarged the scope of limited scrutiny for the purposes of S. 263. Moreover, once complete details were filed before the CIT, he was supposed to adjudicated the issues on merits instead of sending it back to the AO. The observation and allegation of the Ld. CIT appears to be factually incorrect. On the first page of the Impugned Order also, he wrongly narrated the basis of the selection of the case under CASS under limited scrutiny for the reason Large share premium received during the year (verify applicability of S. 56(2)(viib) or any other relevant section. It has not known where from the Ld. CIT has adapted this reason of selection. Therefore, on the face of the record, no fault could be find in the subjected assessment order on this aspect. Thus, on this aspect also the AO could not have proceeded to examine the application of S. 56(2)(viib) and S. 263 could not have been invoked.

We draw strength from the decision in the case of **Mahendra Singh Dhankar (HUF) vs. ACIT, (2021) 35 NYPTTJ 458 (Jp**) wherein it was held that:

"Revision—Erroneous and prejudicial order—Limited scrutiny assessment—Case of the assessee was selected for limited scrutiny under CASS on account of mismatch of sales turnover as reported in audit report, ITR, AIR and CIB data—AO issued notice under s. 143(2) and enquired about the issues under

consideration—Being satisfied, the AO completed the assessment under s. 143(3) without any adverse finding regarding the issues for which the matter was selected for limited scrutiny—Scope of enquiry in case of limited scrutiny is limited to the extent of the issues for which case is selected for scrutiny under CASS—However, in case during the assessment proceedings the AO is of the view that substantial verification of other issue is also required, then the case may be taken up for comprehensive scrutiny with the approval of the Principal CIT/Director of IT concerned—Without following said procedure and necessary approval of the competent authority, conducting an enquiry on the issue which is outside the limited scrutiny would be beyond the jurisdiction of the AO—Therefore, where the matter is selected for limited scrutiny, revisional jurisdiction cannot be exercised for broadening the scope of jurisdiction that was originally vested with the AO while framing the assessment—For the purposes of converting limited scrutiny to complete scrutiny, what is relevant is that there must be some credible material or information on face of the record indicating that there is possibility of underassessment of income if the case is not examined under 'complete scrutiny'—In the instant case, there was no tangible material or information available during the course of assessment proceedings basis which reasonable belief can be formed of escapement or underassessment of income which could have led the AO to seek permission to convert limited scrutiny into complete scrutiny—Issue of valuation of closing work-in-progress as well as matter relating to agriculture income, which are held by the Principal CIT as matters not examined by the AO, are matters which are not part of the reasons for which the case was selected for limited scrutiny—As far as matters for which case was selected for limited scrutiny in terms of mismatch of sales turnover is concerned the Principal CIT has not recorded any adverse findings in terms of lack of enquiry or inadequate enquiry on part of the AO—Therefore, the order passed by the Principal CIT under s. 263 is set aside and the order of the AO is sustained."

In in the case of **CIT v/s Smt. Padmavathi (2020) 4 NYPCTR 682 (Mad)**, it was held that:

"Revision—Erroneous and prejudicial order lack of proper enquiry—AO in his limited scrutiny, has verified the source of funds, noted the sale consideration paid, the expenses incurred for stamp duty and other charges—Source of funds was verified and the AO was satisfied with the same—Principal CIT while invoking his power under s. 263, faults the AO on the ground that he did not

make proper enquiry—It is not clear as to what in the opinion of the Principal CIT is 'proper enquiry'—Further, merely because the guideline was higher than the sale consideration shown in the deed of conveyance, cannot be the sole reason for holding that the assessment is erroneous and prejudicial to the interest of revenue"

In the case of **Su-Raj Diamond Dealers (P) Ltd. v/s PCIT** (**2020) 203 TTJ (Mumbai) 137**, it was held that:

"Revision—Erroneous and prejudicial order—Lack of proper enquiry vis-a-vis case selected for limited scruting under CASS—As per CBDT Instruction No. 20 of 2015, dt. 29th Dec., 2015, scrutiny in cases selected through CASS is to be confined only to the specific reasons/issues for which the case has been picked up for scrutiny—However, the case may thereafter be taken up for complete scrutiny with the approval of the administrative Principal CIT/CIT, where it is felt that apart from the CASS information there is potential escapement of income of more than Rs.10,00,000—In this case, it is neither a fact nor the case of the Revenue that the case was taken up for complete scrutiny with the approval of the administrative CIT—Since the scope of the assessment framed by the AO under s.143(3) was circumscribed by the limited reasons for which the case of the assessee was selected for scrutiny assessment, he was absolutely divested of his powers from traversing on issues which did not fall within the realm of the said limited purpose—Thus, no infirmity could be attributed to the assessment framed by the AO on the ground that he has failed to deal with other issues which did not fall within the realm of the limited reasons for which the case was selected for scrutiny assessment—Thus, the order passed by the AO under s. 143(3) cannot be said to be erroneous—Therefore, order passed by the Principal CIT under s. 263 is quashed."

In the case of **Nayek Paper Converters vs. ACIT (2005) 93 TTJ (Cal) 574**, it was held that:

"Revision—Erroneous order and/or order prejudicial to Revenue—Limited scrutiny assessment by AO under s. 143(2)(1)—Exercise of revisional jurisdiction by CIT directing AO to make comprehensive scrutiny assessment under s. 143(2)(ii)—Invalid—It is the exclusive discretion of the AO to proceed under s. 143(2)(i) or 143(2)(ii) in a given case—AO having chosen to make assessment

under s. 143(2)(i) after obtaining approval of Addl. CIT and making proper enquiries, order of AO could not be said to be erroneous and prejudicial to the interest of Revenue—Further, time limit for issue of notice under s. 143(2)(ii) had also expired—Still further, only miniscule cases were to be taken up for comprehensive scrutiny under s. 143(2)(i) as per guidelines issued by CBDT"

17. The Ld. Pr.CIT also alleged that the AO did not make enquiries and verification on the issue of large share premium received by the assesse and the applicability of S.56(2)(viib) and other relevant sections even though this was not the reason for scrutiny selection. Alternatively and without prejudice to above, even otherwise on merits, there has been due and proper application of mind inasmuch as the AO raised directly relevant queries which were duly replied by the assesse as well. The assesse also submitted the computation as to how the assesse derived the amount of the premium which was also admitted by the Ld. CIT in para 3 pg 4 of the Impugned Order. In addition, thereto, the assesse also submitted a report of the expert dated 10.10.2015 under Rule 11UA which are at page Nos. 46-58 of the paper book which fully justified charging premium @ Rs 50 per share. Hence, the AO was fully justified in not applying in S. 56(2)(viib). There appears no valid basis to compute excessive value of Rs 1.73 per share which is not supported by any expert report but mere suspicion. In other words, it was nothing but a substitution of opinion by the Ld. Pr.CIT. Therefore, on this aspect also the subjected assessment order could not be covered u/s 263 as it was

neither erroneous nor prejudicial to the interest of the revenue. He also got valuation done u/r 11UA by expert which is binding upon AO, as held in **Rameshwaram Strong Glass Pvt Ltd vs. AO 195 TTJ465 (Jp)**. The allegation of the Ld. CIT that various evidential documents were furnished itself goes to show that the AO did not make requisite enquiries, is not a good basis to invoke S.263 and is mere suspicion and substitution of opinion. Moreover, once all the details were made available before the CIT, he should not have decided the issues instead of setting aside to the AO. We draw strength from the decision in the case of **Gabriel India Ltd. [1993] 203 ITR 108 (Bom)**, law on this aspect was discussed in the following manner (page 113): " . . . From a rending of sub-section (1) of section 263, it is clear that the power of suo motu revision can be exercised by the Commissioner only if, on examination of the records of any proceedings under this Act, he considers that any order passed therein by the Income-tax Officer is „erroneous in so far as it is prejudicial to the interests of the Revenue" . It is not an arbitrary or unchartered power, it can be exercised only on fulfillment of the requirements laid down in sub-section (1). The consideration of the Commissioner as to whether an order is erroneous in so far as it is prejudicial to the interests of the Revenue, must be based on materials on the record of the proceedings called for by him. If there are no

materials on record on the basis of which it can be said that the Commissioner acting in a reasonable manner could have come to such a conclusion, the very initiation of proceedings by him will be illegal and without jurisdiction. The Commissioner cannot initiate proceedings with a view to starting fishing and roving enquiries in matters or orders which are already concluded. Such action will be against the well-accepted policy of law that there must be a point of finality in all legal proceedings, that stale issues should not be reactivated beyond a particular stage and that lapse of time must induce repose in and set at rest judicial and quasi-judicial controversies as it must in other spheres of human activity. In the case of **Elder IT Solutions (P.) Ltd. vs CIT [2015] 59 taxmann.com 232 (Mumbai - Trib.)**, it was held that:

> ***"18.*** *In the case in hand, there is no dispute that the AO called for financial details of these companies and also examine the parties in order to satisfy himself about the genuineness of the transaction. Therefore, on the basis of the record available before him, the AO accepted the claim of the assessee. The Commissioner has not found any fault with the details and records filed by the assessee in support of the claim but has cited the reasons that the AO has not conducted the proper enquiry. When the entire record was available with the Commissioner then he ought to have given a concluding finding that the view taken by the AO is contrary to the law as well as facts emerging from the records. However, the Commissioner has not given any such finding and restored the matter to the record of the AO which is not permissible as per the provisions of section 263 when the AO has conducted the enquiry and allowed the claim of the assessee on the basis of the examination of the record as well as the parties in person. We further note that the assessee has also filed the bank statements of these companies showing the transaction of payment of share premium as well as loans to the assessee. The transactions were also*

reflected in the return of income filed by these companies, therefore, in any case if the Department has any doubt about the genuineness of arranging the funds by these share applicant companies, the enquiry and investigation should have been conducted in those cases as held by the Hon'ble Delhi High Court in the case of Lovely Exports (P.) Ltd. (supra) which has been confirmed by the Hon'ble Supreme Court by dismissing the special leave petition filed by the Department."

Considering the totality of facts and circumstances, facts of the present case and as well as the judicial pronouncements, we found merit in the contention of the ld. AR, therefore, we quash the order passed by the ld. Pr.CIT U/s 263 of the Act.

18. Once, we quash the order passed U/s 263 of the Act, then in that eventuality, the other grounds raised by the assessee become infructuous and needs no adjudication.

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

Order pronounced in the open court on 15th September, 2021.

Sd/-	Sd/-
(विक्रम सिंह यादव)	(संदीप गोसाईं)
(VIKRAM SINGH YADAV)	(SANDEEP GOSAIN)
लेखा सदस्य / Accountant Member	न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur
दिनांक / Dated:- 15/09/2021
*Ranjan
आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:
1. अपीलार्थी / The Appellant- Annu Agrotech Private Limited.

2. प्रत्यर्थी / The Respondent- The Pr.CIT, Udaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 09/JP/2021)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar