HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Income Tax Appeal No. 12/2025

Pr. Commissioner Of Income Tax, Udaipur

----Appellant

Versus

M/s Secure Meters Ltd., E-Class, Pratap Nagar Industrial Area, Udaipur.

----Respondent

For Appellant(s)	:	Mr. K.K. Bissa
For Respondent(s)	:	--

HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA

MR. JUSTICE BALJINDER SINGH SANDHU

Order

26/02/2026

1. The challenge in this appeal is to the order dated 24.12.2024 passed by the Income Tax Appellate Tribunal (in short, "the ITAT"), whereby it has quashed the order passed by the Principal Commissioner of Income Tax (in short, "the PCIT") under Section 263 of the Income tax Act, 1961 (in short, "the Act") holding that the Assessing Officer (in short, "the AO") order was neither erroneous nor it can be said to be prejudicial to the interest of Revenue.

2. The law in this regard is well settled in the case of *"Malabar Industrial Co. Ltd. vs. CIT"*[1], wherein the Hon'ble Supreme Court has held that if the order of ITO is erroneous but it is not prejudicial to the revenue or if it is not erroneous but it is prejudicial to revenue, the recourse cannot be had to Section 263(1) of the Act. Mere change of opinion would not suffice for

1 (2000) 243 ITR 83 SC

entertaining and upholding order passed under Section 263 of the Act. The powers under Section 263 of the Act have been further explained in "*Parshuram Pottery works Co. Ltd. Vs ITO*"[2] and in "*CIT v. Gabriel Indian Ltd.*"[3].

3. In the present case, we notice that the ITAT found that in the assessee's own case of assessment year 2008-09, a co-ordinate jurisdiction Bench held as under:-

> *"...6.2 … In the assessee's own case for Assessment Year 2008-09 (ITA No. 366/Jodh/2015), the Coordinate Jurisdiction Bench has dismissed the department's appeal and upheld that provisions for doubtful debts constitute ascertained liabilities. The ld. PCIT has also himself accepted that the issue has been decided in favour of the assessee in the earlier years. Thus, in our view, the issue in present appeal is fully covered by said decision of Coordinate Bench in the case of the appellant itself and therefore if the ld. AO has followed such view the order cannot be said to be erroneous or prejudicial to the interest of revenue."*

4. Thus, we are satisfied that the PCIT's contention that doubtful debts would not ascertain liabilities is merely a difference of opinion. For the change of opinion the interference under Section 263 of the Act cannot be allowed as it cannot be said that the AO's order is erroneous.

5. The learned counsel has also relied upon a judgment passed by the Hon'ble Supreme Court in "*The Commissioner of Income Tax 7 v. M/s. Paville Projects Pvt. Ltd.*"[4], however, we find that the facts in the said case as mentioned in para 4.1 reflects that the AO's had allowed expenses of 31.05 crores while computing the capital gain from the sale of the land whereas the payments were actually made to shareholders which cannot fall within the definition of expenses. Thus, it is apparent that the view of AO

2 [1977] 106 ITR 1 (SC)
3 [1993] 203 ITR 108 (Bom)
4 2023 LiveLaw (SC) 282

was erroneous and the interference in the said case under Section 263 of the Act was sufficient. More so, as it would amount to directly causing loss, therefore, it is prejudicial to the interest of the revenue. Since both the essential requirements were meted out, the Hon'ble Supreme Court has interfered with the order passed by the High Court.

6. In the present case, we find that the department itself in its assessment of the earlier year had accepted the view of the ITAT.

7. The present appeal does not reflect any substantial question of law which requires to be examined by this Court.

8. The D.B. Income Tax Appeal No. 12/2025 is accordingly, dismissed.

(BALJINDER SINGH SANDHU),J **(SANJEEV PRAKASH SHARMA),ACJ**

17-Kshama Dixit/-