Neeraj Paper Marketing Ltd.

CIN: L74899DL1995PLC066194 GSTIN: 07AAACN0196P1Z3
Regd. Office: 218-222, Agarwal Prestige Mall, Plot No. 2 Community Center
Along Road No. 44, Pitampura, Delhi – 110034 Phone : (91-11) 47527700
E-mail: accounts@neerajpaper.com Website: www.neerajpaper.com

SCRIP CODE: 539409 19/11/2025

BSE Limited
Phiroze Jeejeebhoy Towers
Dalal Street,
Mumbai – 400001

Subject: Disclosure under Regulation 30 of SEBI (Listing Obligation & Disclosure Requirement), Regulation, 2015

Dear Sir,

We wish to inform you that the company (Neeraj Paper Marketing Limited) has filed an appeal to the Commissioner of Income-Tax (Appeals) against the disputed amount of Rs. 12,15,438 passed by DCIT in assessment order u/s 147 of the Income tax Act, 1961 for the financial Year 2012-13 and in this regard we have filed the disclosure of Ongoing Tax litigation on quarterly basis to the stock exchange. While checking the status of our appeal on Income Tax portal today, 19th November, 2025 at 12:45 p.m. we found the appellate order from the Office of The Commissioner of Income Tax, Delhi that appeal of the company is partly allowed. Therefore we are filing the same to update the status of our tax litigations.

For the purpose, please find enclosed the soft copy of order passed by Office of The Commissioner of Income Tax, Delhi and the details as required under the Regulation 30 of the SEBI (Listing Obligation and Disclosure Requirements) Regulations 2015 read with Para B (8) of Part A of Schedule III and SEBI Circular No. SEBI/HO/CFD/PoD2/CIR/P/0155 dated November, 11, 2024, details attached herein shall be taken on record.

This is for your information and record.

Yours faithfully,
For Neeraj Paper Marketing Limited

Deepa Kumari
(Company Secretary & Compliance Officer)
Add: 218-222,Agarwal Prestige Mall, Plot No. 2
Community Center Along Road No. 44,
Pitampura, Delhi – 110034

Annexure - I

the details of any change in the status and / or any development in relation to such proceedings;	The company has received an Appellate Order from the Office of The Commissioner of Income Tax, Delhi dated 11th November, 2025 and appeal of the company is partly allowed. .

OFFICE OF
THE COMMISSIONER OF INCOME TAX (APPEALS)-29
2ND FLOOR, ARA CENTRE, JHANDEWALAN EXTENSION,
NEW DELHI-110055

Date of Order: 11 .11.2025
Appeal No.: CIT(A), Delhi-29
10132/2012-13

D.R. No. 360/101.

Instituted on 16.04.2022 from the order of DCIT, Central Circle-28, New Delhi.

1.	Assessment Year	:	**2013-14**
2.	Name & address of the Appellant	:	**M/s Neeraj Paper Marketing Ltd.,** 218-222, Aggarwal Prestige Mall, Plot No. 2, Community Centre, Along Road No. 44, Pitampura, New Delhi – 110034.
3.	PAN	:	AAACN0196P
4.	Returned Income	:	Rs. 1,31,28,570/-
	Assessed Income		Rs. 1,60,58,598/-
5.	Tax, Penalty / Fine / Interest demanded	:	Rs. 12,15,438/-
6.	Section under which order appealed against was passed	:	Section 147 of the I.T. Act, 1961.
7.	Name of Assessing Officer	:	Sh. Vinod Kumar Chaudhary
8.	Date of hearing	:	As Per Record
9.	Present for Appellant	:	Written submission filed online
10.	Whether Notice sent to the AO	:	No
11.	Present for Department	:	None

APPELLATE ORDER AND GROUNDS OF DECISION

This appeal emanates from the assessment order dated 30.03.2022, passed by the DCIT, Central Circle-28, New Delhi (hereinafter referred to as the "AO") under section 147 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for the Assessment Year 2013-14.

2. Aggrieved by the assessment order passed by the AO u/s 147, the appellant filed this appeal with the following grounds of appeal:

> *"1. Under the facts and circumstances of the case, the notice issued u/s 148 of the IT Act, 1961 is ex-facie illegal, arbitrary, and without jurisdiction.*
>
> *2. Under the facts and circumstances of the case, the assessment order passed by Ld. AO u/s 147 of the IT Act, 1961 is ex-facie illegal, arbitrary, and without jurisdiction.*
>
> *3. Under the facts and circumstances of the case, the assessment order passed by Ld. AO u/s 147 of the IT Act, 1961 is ex-facie illegal, arbitrary, and without jurisdiction, as no effective notice u/s 143(2) was issued by the Ld. AO.*
>
> *4. The Ld. AO has grossly erred on facts as well as in law in not appreciating that the issue raised in the impugned proceedings was covered by the order of Hon'ble Settlement Commission which was conclusive and ousted reopening of assessment in terms of section 245-I of the Income Tax Act, 1961.*
>
> *5. The Ld. AO has grossly erred on facts as well as in law in assessing income at Rs. 160,58,998/- as against returned income of Rs. 1,31,28,570/-.*
>
> *5.1 The Ld. AO has grossly erred on facts as well as in law in deeming the purchase of goods from M/s Giriraj Global Ltd. amounting to Rs. 7,30,28,430/- as well as corresponding sales amounting to Rs. 7,34,92,963/- made to various parties as turnover entries completely ignoring the contemporaneous evidence filed by the appellant substantiating the impugned purchases and sales.*
>
> *5.2 The Ld. AO has grossly erred on facts as well as in law in making an addition of Rs. 29,30,428/- u/s 69C of the IT Act, 1961.*
>
> *5.3 The Ld. AO has grossly erred on facts as well as in law in holding that the appellant had incurred unexplained commission expenses @ 2% of the aforesaid purchases and sales and deeming the said expenditure*

as unexplained expenditure u/s 69C of the IT Act, 1961 purely on the basis of estimation, surmises and conjectures.

6. The Ld. AO has grossly erred on facts as well as in law in charging interest under various sections of the IT Act, 1961.

7. The appellant craves leave to add, alter, modify and withdraw any ground of appeal before or during the appellate proceedings.

3. The AO noted in the assessment order for A.Y. 2013-14 dated 30.03.2022 as under:

Assessment order u/s 147 of the I. T. Act 1961

The assessee filed its ITR for year under consideration at an income of Rs. 1,31,28,570/- on 25.09.2013. The return was processed u/s 143(1) of the I.T. Act 1961 on 30.03.2015. The case was selected under CASS. Subsequently, a search & seizure was conducted on Bindal Group. The assessment was completed u/s 245D(4) on 26.09.2017 and assessed at Rs. 1,32,89,390/-.

2. The case of the assessee was re-opened u/s 148 of the I.T. Act, 1961 after obtaining the approval of Pr. CIT (Central), New Delhi. Accordingly notice u/s 148 of the I.T. Act 1961 dated 31.03.2021 was served on designated e-mail of the assessee through ITBA asking the assessee to file the return of income within 10 days from the service of this notice. This notice was also served vide speed post acknowledgement No. ED518888421IN.

3. In response to the notice issued u/s 148 of I.T.Act 1961, the AR of the assessee filed its submission on 02.02.2022 has submitted that the assesseee company in order to make the compliance of the notice issued u/s 148 of the Income Tax Act 1961 has filed its return of income through email on 05.08.2021. The assessee has requested for providing the copy of reasons and the same was provided to the assessee company through the designated mail of the assessee company on 03.05.2022. Notice u/s 143(2) of the I.T.Act was issued in this case on 30.03.2022.

4. During the course of assessment proceedings, assessee company filed objection for reopening of the assessment proceedings u/s 148 of the I.T. Act, 1961 which was disposed off on 30.03.2022.

5. Thereafter, notices u/s 142(1) of the Income Tax Act, 1961 along with questionnaire were issued to the assessee. In response, the assessee furnished written reply and supporting documents during the course of re-assessment proceedings which are placed on record. Since, information received from the insight portal accordingly, reason for re-opening the case were recorded as under:

"As in this case information received through insight portal. Further, report in the case of G P Trading, 281/5, Loha Mandi Ghaziabad was submitted on 27.02.2020 by DDIT (Inv.)-I, Ghaziabad.

M/s G P Trading Company is a partnership firm and Shri Anil Singhal and his wife Smt Anita Rani Singhal are two partner in this firm. From the internal dabase it has been seen M/s G P Trading firm has never filed ITRs and providing accommodation entry on commission basis and has also issued bogus bills/purchases.

Shri Anil Kumar Singhal on oath has accepted that he is an entry provider and issues bogus bills/purchase to the beneficiaries."

6. The assessee was asked to prove the purpose, nature and source of cash deposit in the bank account of M/s Giriraj Global Ltd. amounting to Rs. 6,53,58,196/-.

6.1 In response to the stated transaction, the assessee submitted that during the year, the assessee company made purchases from M/s Giriraj Global Ltd.To justify its stand, the assessee company submitted the following documents:

(i) Ledger account of M/s Giriraj Global Ltd. in the books of the assessee company.

(ii) Confirmation of M/s Giriraj Global Ltd.

(iii) Party wise details of purchases of TMT Bar and shape from M/s Giriraj Global Limited along with the party-wise details of corresponding sales made to different parties.

(iv) Invoices issued by the M/s Giriraj Global Ltd along with the freight bills

6.2 It is argued by the assessee company that the purchases made by the assessee company from M/s Giriraj Global Ltd are genuine. All the payments against such purchases were made through banking channels only. The corresponding sales were also realised through the banking channels. All the purchases made from the stated party and corresponding sales are genuine.

7. In order to verify the contention of the assessee, notices u/s 133(6) were issued to various parties. The responses to these notices were also received by this office.

8. However, still these purchases/sales are seemed to be the turnover entries. For such turnover entries, the assessee company would have paid certain amount of commission. A final opportunity was given to the assessee vide show cause notice dated 28/03/2022 wherein the assessee was asked to explain the following:

"In view of the stated facts, you are hereby required to show cause as to why such commission paid out of books of account for obtaining such turnover entries on account of purchases/sales made should not be deemed as income of the assessee company at the rate of

2% on such turnover. For the sake of the convenience, working of such commission deemed to have been paid is being proposed to be added in the hand of the assessee is as under:

Particulars	*Amount*	*Proposed Commission expenses @ 2%*
Goods purchased from Giriraj Global Ltd	*7,30,28,430*	*14,60,569*
Corresponding Goods sold to the parties	*7,34,92,963*	*14,69,859*
Total		*29,30,428*

9. In response to the above-stated show cause notice, the assessee submitted the reply on 29/03/2022 through online portal. Reply filed by the assessee is reproduced hereunder:

"The assessee is in receipt of show cause notice dt. 28/03/2022 wherein the assessee has been asked to show cause as to why the addition on account of alleged commission on purchases made from M/s Giriraj Global Ltd. and corresponding sales made to the different parties should not be made. In response to the same, under the instruction of the assessee, the following is submitted.

1. During the year, the assessee purchased goods for an aggregate amount of Rs. 7,30,28,430/- from M/s Giriraj Global Ltd. The payment of the same has also been made during the year itself through the banking channel. The impugned purchases are duly recorded in the audited booksof account of the assessee.

2. In order to prove the genuineness of the stated purchases, the following documents have already been submitted before your goodself:

a) Ledger account of M/s Giriraj Global Ltd. in the books of the assessee
b) Confirmation from M/s Giriraj Global Ltd.
c) Details of purchases made from M/s Giriraj Global Ltd. along with the details of corresponding sales made to different parties
d) Invoices for purchases made from M/s Giriraj Global Ltd. along with the freight/transportation bill (Transport Bilty)

3. Also, all the purchases made by the assessee from M/s Giriraj Global Ltd. have been directly transported to the respective parties who have bought the goods. The details of such parties who have bought the impugned goods are duly mentioned on the backside of the respective transportation bill.

4. All the impugned purchases are duly supported by the proper tax invoice issued by M/s Giriraj Global Ltd. Sales tax @ 5% also been charged and paid on the impugned purchases. The invoices issued by M/s Giriraj Global Ltd. clearly shows the following details

a) Name of vendor
b) Address of vendor
c) TIN No. of vendor
d) Date of invoice
e) Invoice no.

f) Name of the purchaser
g) Address of the purchaser
h) TIN No. of the purchaser
i) Description of goods
j) Quantity of goods
k) Rate of goods
l) Amount of Invoice
m) Truck no. through which goods are transported, etc.

5. Also, all the purchase invoices are duly supported by the respective freight bill. These bills clearly show the following details:

a) Name of transporter
b) Address of transporter
c) PAN of transporter
d) GR number
e) Truck number
f) Date of transportation
g) Name of vendor
h) Name of buyer
i) Address of vendor
j) Address of buyer
k) Description of goods
l) Quantity of goods transported
m) Rate of freight
n) Amount of freight, etc.

6. The assessee purchased TMT Bar and Shape & section from M/s Giriraj Global Ltd. These goods were purchased by the assessee from various other parties also. A chart showing details of respective goods purchased by the assessee from M/s Giriraj Global Ltd. and other parties is as under:

Description of goods	Value of purchase from M/s Giriraj Global Ltd.	Value of purchase from other vendors	Total amount of purchase	Total no of vendors	%age of goods purchased from M/s Giriraj Global Ltd.
TMT Bar	3,83,37,633	1,22,66,15,121	1,26,49,52,754	11	3%
Shape & Section	3,12,13,256	30,64,23,520	33,76,36,776	9	9%
Total purchases (Without sales tax)	6,95,50,889	1,53,30,38,641	1,60,25,89,530		4%
Add: 5% sales tax	34,77,544				
Total	7,30,28,430				

7. From the perusal of the above table it is clear that the assessee is a regular buyer of the goods which were also purchased from M/s Giriraj Global Ltd. Apart from M/s Giriraj Global Ltd., there are various other vendors from whom the same goods were purchased. Further, out of the total purchases of the impugned goods, the quantity purchased from M/s Giriraj Global Ltd. is just 4% which is very

less. Therefore, it is clear that the impugned purchases of Rs. 7,30,28,430/- made from M/s Giriraj Global Ltd. are completely genuine and not the turnover entries as alleged by your goodself.

8. Further, corresponding sales have been made by the assessee company to the following parties:

Particulars	*Items*	*Assessable Value*	*Gross Value*
Goods purchased from Giriraj Global Ltd	*TMT Bar*	*3,83,37,633*	*4,02,54,515*
Goods purchased from Giriraj Global Ltd	*Shape and Section*	*3,12,13,256*	*3,27,73,916*
Total Purchased (A)		***6,95,50,889***	***7,30,28,430***
Corresponding Goods sold to the parties			
Fusion Traders	*TMT Bar*	*41,78,384*	*43,87,303*
Ganesh Trading Co	*TMT Bar*	*60,82,541*	*63,86,668*
Shri Vasudev Iron Pvt Ltd	*TMT Bar*	*1,53,42,510*	*1,61,09,636*
Multiblizz Construction Pvt Ltd	*TMT Bar*	*1,21,49,236*	*1,27,56,698*
Ashutosh Trading Co	*TMT Bar*	*8,20,168*	*8,61,177*
Total TMT Bars sold (B)		***3,85,72,839***	***4,05,01,481***
Fusion Traders	*Shape & Section*	*32,50,172*	*34,12,681*
Ganesh Trading Co	*Shape & Section*	*92,62,601*	*97,25,731*
Multiblizz Construction Pvt Ltd	*Shape & Section*	*1,81,92,072*	*1,91,01,676*
Ashutosh Trading Co	*Shape & Section*	*7,15,614*	*7,51,395*
Total TMT Shape and Section sold (C)		***3,14,20,459***	***3,29,91,482***
GRAND TOTAL (B + C=D)		***6,99,93,298***	***7,34,92,963***
Profit on stated sales (D-A)			***4,64,533***

On perusal of the above-stated chart, it is evident that the impugned purchases of Rs 7,30,28,430/- have been sold at a total sales price of Rs.7,34,92,963/- and gross profit earned on the above-stated sales amounting to Rs. 4,64,533/- has already been embedded in the profit and loss account of the assessee.

9. As regards the addition of alleged commission it is submitted that since the impugned purchases and corresponding sales are genuine, the question of making addition on account of alleged commission does not arise.

10. Further, even for a movement, just for the sake of argument, it is presumed that the above-stated purchase & sales are the turnover entries. Still, no prudent businessman will pay the alleged commission of Rs. 29,30,428/- for earning such a minor profit of Rs. 4,64,533/-. The alleged

commission expenses are more than 6 times the profit earned by the assessee on stated transactions. Therefore, it is clear that the assessee has not paid the alleged commission at all.

11. Moreover, there is no statement whereby it could be inferred that the assessee paid the alleged commission. The same is also established from the fact that there is neither any statement nor any documents/evidences etc. which could show that the assessee has paid alleged commission. The proposed addition is not backed/supported by any of the documents/evidence/statements etc. The impugned addition is proposed just on the basis of surmises and conjectures. By now it is judicially settled that no addition can be made just on the basis of surmises or conjectures. Reliance is placed on the following case laws:

- ***DCIT v. Asahi India Glass Ltd. (ITA No.1638/Del./2014) (14/05/20)***

"So, when the taxpayer has successfully proved that it has received patented technology and support for the manufacturing of float glass from AGC Japan in lieu of royalty payment, the same cannot be disallowed on the basis of conjectures and surmises. So, ld. CIT (A) has rightly deleted the addition made by the AO/TPO. Hence ground no.1 of Revenue's appeal is determined against the Revenue. [Para 18]"

- ***Escorts Benefit and Welfare Trust v. ITO (ITA No. 8491/D/19) (27/05/20)***

"The ld. AO has not brought on record any evidence to show that Escorts Limited is the trustee of the assessee. Therefore, the allegation of ld AO that Escorts Limited is also the trustee is devoid of any merit and based on mere conjectures and surmises. Further the sole beneficiary is Escorts Limited and Settlor of the trust is Escorts Limited is the major reason why the ld AO is refusing to recognize the above trust. Honorable Gujarat High court has answered it in Bhavna Nalinkant Nanavati Vs. Commissioner Of Gift Tax (2002) 76 CCH 0059 Guj HC (2002) 174 CTR 0152, (2002) 255 ITR 0529 where the settlor was also the sole beneficiary was held to be a valid trust. Revenue did not show us any bar in the trust act where the settler cannot be beneficiary of that trust. I Assessee also submitted identical structures in case of Mahartana Companies, which were not found be violating Trust Act. Therefore, we do not find any infirmity in the Escorts Limited being the settlor and sole beneficiary of the trust. [Para 18]"

- ***Ms. Farrah Marker Vs ITO; 2016-TIOL-1092-ITAT-MUM***

"Whether the addition is correctly deleted which was made u/s 68 of the Act merely on presumptions, suspicions and surmises in respect of penny stocks, disregarding the direct evidences placed on record and furnished by the assessee - Held Yes"

- ***Sunita Jain vs. ITO, 2017-TIOL-493-ITAT-AHM***

"++ there was no denying that consideration was paid when the shares were purchased. ………………In the light of the decisions of the Supreme Court in the case of Andaman Timber Industries and considering the facts in totality, the claim of the assessee could not be denied on the basis of presumption and surmises in respect of penny stock by disregarding the direct evidences on record relating to the sale/purchase transactions in shares supported by broker's contract notes, confirmation of receipt of sale proceeds through regular banking channels and the demat account. Accordingly, we direct the A.O. to treat the gains arising out of the sale of shares under the head capital gains- "Short Term" or "Long Term" as the case may be."

12. Without prejudice to the above, it is submitted that by now it is judicially settled that no addition can be made on the basis of a statement only without any corroborative material. Reliance is placed on the following case laws:

✓ *Pr. CIT Vs Best Infrastructure India Pvt Ltd; 2017-TIOL-1496-HC-DEL-IT*

"Whether statements recorded u/s 132(4), by themselves constitute incriminating material NO: HC"

✓ *ACIT vs. COLUMBIA HOLDINGS PVT. LTD., 2013-TIOL-602-ITAT-DEL*

*"......**Thus, the surrendered amount u/s 132(4) was taken at Rs.16 crores** in the hands of each of these two assessee companies, namely, M/s. Columbia Holdings (P) Ltd. and M/s. Moonlight Continental (P) Ltd. This amount was taken on the basis of surrender made by Shri Shravan Gupta, MD of Emaar MGF Land Limited while making statement u/s 132(4)/131 of the Act and thereafter submitting bifurcation of the surrendered amount. **Columbia Holdings (P) Ltd. filed return declaring income of Rs.8,35,79,534/- only.** The AO made the addition of balance of the amount on the basis of statement of ShriShravan Gupta and the bifurcations submitted of Rs.225 crores. The CIT (A) has deleted the addition in both these cases.*

....

*++ **therefore, the disclosure made by ShriShravan Gupta during the search operation and which has been further enhanced, shall not have adverse impact on income disclosed in the return of these assessees.** Only on the basis of ad hoc bifurcation of the disclosure or surrendered income at initial stage of proceeding and in absence of any incriminating document shall not make such addition sustainable. Overall disclosure was of a high amount. Initial bifurcation was not based on any reliable calculation in view of changed method of recognizing income. The fact shows that these bifurcations were made on ad hoc basis only. **It was not even based on any seized material.** No statement u/s 132(4) of the Act recorded in these companies. **Neither the authorized officer during the search operation nor AO had worked out any concealed income supported by any document. Hence, no adverse inference can be drawn when assessee filed return of income by making income on the***

basis of changed method of accounting. Therefore, the CIT (A) has rightly deleted the additions....."

✓ *DCIT vs. PREMSONS, (2010) 130 TTJ 159 (Mum)*

"7.....The Department is also not oblivious of the practice by which the Revenue authorities obtain undue confession from the assessee during search or survey proceedings. Vide CBDT circular dt. 10th March, 2003 it has been made clear by the Board that no attempt should be made to obtain confession as to the undisclosed income and the addition should be made only on the basis of material gathered during the course of search and survey. Going by the verdict of the two Hon'ble High Courts and the position reaffirmed by the CBDT through its circular, it becomes abundantly clear that no addition can be made or sustained simply on the basis of statement recorded at the time of survey/search. In order to make an addition on the basis of surrender during search or survey, it is sine qua non that there should be some other material to co-relate the undisclosed income with such statement......"

✓ *GYAN CHAND JAIN vs. ITO, (2001) 73 TTJ (Jd) 859*

"7.... It is not the position of law that no addition can be made on the basis of an admission, at all, but the position of law is that the person making an admission is not always bound by it and can sometimes get out of its binding purview if that person can explain convincingly with supportive evidence/material or otherwise that the admission made by him earlier is not correct or contains a wrong statement or that the true state of affairs is different from that represented therein, and so the same should not be acted upon for fastening tax liability which should rather be fixed on the basis of correct/true facts, as ascertainable from material on record...."

✓ *ACIT vs. MRS. SUSHILADEVI S. AGARWAL, (1994)49 TTJ (Ahd) 663*

"7.It is well-known and admitted fact that search operation, particularly under the IT Act, is a lawful invasion on the privacy, life and property of a citizen which may affect him/her mentally also, besides causing several other inconveniences, hardships, embarrassment and harassment. There is every likelihood of a statement tendered to or recorded by the searching officers on the search day being incoherent or at variance with subsequent statements tendered to or recorded in any further or colateral proceedings. But to make addition to the returned income or to put such person to sufferance or to adverse consequences on such statement is not justified in law. By this we are not saying or laying down that every statement recorded on the search day has to be ignored as of no consequence or that no reliance or credence should be placed on such search day statement. All that we wish to say but with little emphasis, is that all that is stated by any deponent on the search day should not be taken as the truth, the whole truth and nothing but the truth. Such statements indubitably have evidentiary value and credibility in law, but the same should be viewed with great caution particularly when the same is denied, varied or retracted or established by the defendant to have been obtained or given under mental stress, coercion, undue influence or due to any other abnormal condition and circumstances when such statement was given. Any person may state different stories/versions to different persons/authorities on different occasions about certain facts. But when it comes to be tested or examined in a judicial or quasi-judicial proceedings before any Court, Tribunal or authority, then the question which arises for determination is as to which of the story/statement is right, truthful and/or reliable and believable. Though strict rules of evidence do not apply to income-tax proceedings yet, the substantive and normal rules of evidence do apply as an ingredient of rules of natural justice [refer Central Bank of India Ltd. vs. Prakash Chand Jain AIR 1969 SC 983 and the decision of the Supreme Court in the case of Chuharmal vs. CIT (1988) 70 CTR (SC) 88 : (1988) 172 ITR 250 (SC) at page 255]. Therefore, the statement recorded on the search day has to be tested in accordance therewith. If a person at a later stage retracts from the statement given on the search day, then the Court or the Tribunal should try to ascertain reasons or circumstances from such person for doing so and, if satisfied, not to place heavy reliance on such earlier statement which has subsequently been denied and retracted…."

13. In view of the facts and law as discussed above, it is requested that no addition may kindly be made in the case of the assessee on account of the alleged commission. Accordingly, the returned income of the assessee may kindly be accepted."

10. I have perused the reply filed by the assessee. However, the same is not found tenable. Therefore, it is clear that during the year, the assessee has booked turnover entries on which it has paid a commission of Rs. 29,30,428/- being 2% of the above-stated purchases and sales. Further, assessee stated that the transactions are through the banking channel is not the only basis for holding the transactions genuine. Since, the above purchase and sales are not verified. Accordingly, it is difficult for the undersigned to held the above said transaction with M/s Giriraj Global Ltd. are genune Accordingly, an addition of Rs. 29,30,428/- has been made u/s 69C of the Income Tax Act, 1961 in the case of the assessee.

(Addition - Rs. 29,30,428)

11. Having regard to the nature of addition made, penalty proceedings u/s 271(1)(c) of the Income-tax Act, 1961 are being initiated separately for concealment of income or for furnishing inaccurate particulars of income.

12. In view of the above, income of the assessee is re-computed as under:

Particulars	**Amount (In Rs.)**
Income assessed earlier u/s 147 r.w.s. 143(3)	1,31,28,570
Addition: As per para 11 above	29,30,428
Income assessed u/s 147 of the I. T. Act. 1961	1,60,58,998

13. Assessed at Rs. 1,60,58,998/- u/s 147 of Income Tax Act, 1961. Credit of prepaid taxes is allowed. Interest to be charged u/s 234A, 234B, 234C and 234D, if applicable. Challan and demand notice and necessary forms served. Penalty proceedings u/s 271(1)(c) of the I.T. Act, 1961 are being initiated separately.

4. During the course of appellate proceedings, notices were issued on various dates and the appellant was provided with the opportunity to furnish written submissions along with supporting evidences. The Appellant submitted its written submissions, the relevant portion of which is reproduced as under:

"........ Ground no. 4

The case, as well as the issue involved, is already decided by Hon'ble Settlement Commission and hence, cannot be reopened again

20. Without prejudice to the above, it is submitted that no addition can be made in the case of the appellant on account of alleged bogus purchases because the same issue has already been settled by Hon'ble Settlement Commission.

21. Further, it is submitted that the assessment for the present assessment year was originally completed by the Hon'ble Settlement Commissioner, vide order dated 26.09.2017. A copy of the order passed by Hon'ble Settlement Commission is enclosed herewith at page 85-89 of paper book. Relevant extracts of the same are as under:

"7.1.3 Commission's findings:- We have examined the submissions and documents furnished by both the parties as well as the submissions made during hearings. The seized documents in question were also perused. It is noted from the seized document that unaccounted sales amounting to Rs. 49,85,39,206/- is recorded in it.

....

Now the question arises whether the corresponding purchases were accounted or unaccounted. The Pr. CIT has clearly stated in his report u/s 245D(3) that the purchases corresponding to this unaccounted sales were unaccounted. He also calculated the initial investment of Rs. 32,85,813/- corresponding to this unaccounted sales of Rs. 49.85 Cr. The applicant also agreed in its comments on 245D(3) report that the corresponding purchases were unaccounted and it also agreed to the calculation of initial investment. It further submitted the quantitative tally for its accounted purchases and sales. Perusal of the quantitative tally makes it clear that there was no extra stock in the books which could

have corresponded for these unaccounted sales. Thus, it is evident that the purchases corresponding to the sales of Rs. 49.85 Cr. were unaccounted. It is further noted that though in her subsequent report, the PT.CIT has recommended addition of entire Rs. 49.85 cr., but no evidence has been produced for such recommendation. The pr. CIT has neither furnished any evidence, no explained the basis for her recommendation that entire Rs. 49.85Cr. should be treated as applicant's income. On the other hand, the quantitative tally furnished by the applicant clearly establishes that there was no stock available in books for unaccounted sales and the purchases corresponding to the unaccounted sales of Rs. 49.85Cr., shown in the seized documents were also unaccounted.

....

Therefore, peak investment on such unaccounted purchases works out to' Rs. 86,75,970 (Rs. 93,29,000 - 6,53,030 i.e. 7%GP). Hence, total additional income on this issue is worked out as under:-

1.	*GP @ 7% of 49,85,39,206/-*	*Rs. 3,48,97,744/-*
2.	*Initial investment in purchases*	*Rs. 86,75,970/-*
	Total	*Rs. 4,35,73,714/-*

Out of the above additional income, the applicant has offered Rs. 1,70,00,000/- in its SOF before the Commission. Thus, the additional income of Rs. 2,65,73,714- (Rs. 4,35,73,714 - Rs. 1,70,00,000) is added to the income of the applicant in A.Y. 2014- 15."

22. The Hon'ble Settlement Commissioner after perusing the entire matter including purchases and sales made during the block period as found recorded in the books of account accepted the returned income of the appellant in the year under consideration and in AY 2014-15, Hon'ble Settlement commission enhanced the income of the appellant from Rs. 1,70,00,000/- to Rs. 4,35,73,714/- on account of peak investment of Rs. 86,75,970/- for unaccounted purchases and corresponding enhancement of Rs. 3,48,97,744/- being gross profit @ 7% (against 3.3% proposed by PCIT) on unaccounted sales of Rs. 49,85,39,206/- originated from such unaccounted purchase.

23. It is respectful submission of the appellant, that the order passed by Hon'ble Settlement Commissioner, in terms of section 245-I of the Act is conclusive and specifically provides that the issues covered by such order shall not be reopened in any provisions under the Act or under any other law for the time being in force. By virtue of section 245-I of the Income Tax Act, 1961, the impugned matter cannot be reopened u/s 147 of the Income Tax Act, 1961 because the same is already decided by Hon'ble Settlement Commission vide order u/s 245D. Section 245 I is reproduced hereunder for ready reference:

"Section 245-I. Order of settlement to be conclusive.

Every order of settlement passed under sub-section (4) of section 245D shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Act or under any other law for the time being in force."

24. Further, it is respectfully submitted that the issue of purchases was duly examined by the Hon'ble Settlement Commission before passing the order dated 26.09.2017 and therefore, the said issue of purchases was covered by such order, rendering the said issue to be conclusive under section 245-1 of the Act.

25. Therefore, the present proceedings initiated under section 147 through issue of Notice under section 148 doubting the purchases made by the appellant during the year under consideration, are in violation of the aforesaid provisions of section 245-I of the Act.

26. By now it is judicially settled that once an order has been passed under section 245D by Settlement Commission, assessment for year stands concluded and Assessing Officer thereafter has no jurisdiction to reopen that assessment. Reliance is placed in the following case laws:

- *Komalkant Faikirchand Sharma Vs DCIT; [2019] 108 taxmann.com 50 (Gujarat)*

"Section245-I, read with sections68, 148 and 245D, of the Income-tax Act, 1961 - Settlement Commission - Order of, to be conclusive (Scope of order) - Assessment year 2011-12 - Whether once an order has been

passed under section 245D by Settlement Commission, assessment for year stands concluded and Assessing Officer thereafter has no jurisdiction to reopen assessment - Held, yes - For relevant assessment year, assessment in case of Appellant was completed by an order of Settlement Commission under section 245D(4) - Subsequently, a reopening notice was issued against Appellant on grounds that in course of search conducted upon premises of one SCS it was found that SCS was engaged in providing accommodation entries on account of bogus sales to several beneficiaries and that Appellant was also one of beneficiaries - Whether since there was an order of Settlement Commission under section 245D(4) in relation to assessment year in respect of which assessment was sought to be reopened, Assessing Officer had no jurisdiction to reopen assessment - Held, yes - Whether, therefore, impugned notice issued under section 148 was to be set aside - Held, yes [Paras 7.6, 7.8, 7.10 and 9] [In favour of Appellant]"

27. It is also judicially settled that once Settlement Commission has completed proceedings, its order is considered conclusive as regards matters 'stated therein' per section 245-I and reopening any proceeding in respect of matters covered in order would be barred. Reliance is placed on the following case laws:

- *Omaxe Ltd. Vs ACIT; [2012] 254 CTR 370 (Delhi HC)*

"5. ....According to the reasons recorded by the Assessing Officer the commercial area inthese projects was more than the limit prescribed by the Act and therefore the profits from these projects were noteligible for deduction. In paragraph 2 of the reasons recorded the Assessing Officer adverted to the order of the ITSC settling the income of the assessee for the assessment year 2006-07 at Rs. 89,38,76,630/-, but stated that theITSC "did not adjudicate the issue of allowability or otherwise of the above deduction claimed by the assessee u/s80IB (10). The assessee also did not offer any undisclosed income in this respect"............

13. We are afraid that the submission of the Revenue overlooks the fact that in the return the assessee had claimed deduction of Rs.

78,99,00,509/- u/s. 80IB (10) and it was only after claiming such deduction that the net taxable income was declared at Rs. 89,20,76,630/-. The Assessing Officer issued notices under Sections 143(2) and 142(1) on 12.07.2007 but even before the questionnaire was issued the petitioner had approached the Settlement Commission by an application filed on 31.05.2007. Under Section 245F(1), the ITSC, in addition to the powers conferred on it under Chapter XIX-A, shall have all the powers which are vested in an income-tax authority under the Act. By virtue of the provisions of Section 245F (2) once the application for settlement was filed and an order was passed allowing the application to be proceeded with, it was the ITSC which has the exclusive jurisdiction to exercise the powers and perform the functions of an income tax authority under the Act relating to the case, till the final order of settlement is passed under Section 245D (4). Thus the moment the application of the assessee was allowed to be proceeded with by the ITSC till the final order of the settlement is passed on 17.03.2008, it was the ITSC which had exclusive jurisdiction in relation to the assessee's case. Therefore, all matters which could be examined by the Assessing Officer could be examined by the ITSC in these proceedings, including the assessee's claim for deduction under Section 80IB (10). The total income of the assessee for the assessment year 2006-07 has been computed by the ITSC at Rs. 89,38,76,630/- which is Rs. 18,00,000/- more than the income of Rs. 89,20,76,630/-declared by the petitioner, which figure is after the petitioner claimed deduction of Rs. 78,99,00,509/- under Section 80IB (10). It is irrelevant that no undisclosed income was offered by the petitioner in regard to the housing project. Again a harmonious reading of the provisions of the statute would show that it does not postulate the existence of two orders, each of a different income tax authority, determining the total income of an assessee for the same assessment year. If the contention of the Revenue is accepted, not only will the finality of the order of settlement be disturbed, but it will also result in different orders relating to the same assessment year and relating to the same assessee being allowed to stand. We have grave

doubts whether such a result, which is likely to create chaos and confusion in the tax administration could have been intended...."

20. For the above reasons, we quash the impugned notice issued by the first respondent under Section 148 of the Act for the assessment year 2006-07 and also the reassessment order passed under Section 147/ 143(3) of the Acton 08.11.2011 for the same assessment year. The writ petition is allowed with no order as to costs."

- *Gunjan Garg Vs PCIT; [2021] 125 taxmann.com 69 (Delhi - Trib.)*

"Section245-I, read with sections68, 148 and 245D, of the Income-tax Act, 1961 - Settlement Commission Whether since issue of short-term capital gain earned by Appellant on sale of shares had already been considered by Settlement Commission and Appellant had offered additional income on which tax at appropriate rate was payable, such issue could not be raised again in revisionary proceedings as there was no prejudice caused to Revenue - Held, yes [Para 17] [In favour of Appellant]"

- *Shree Ganpati Synthetics (P.) Ltd. Vs ACIT; [2018] 89 taxmann.com 46 (Amritsar - Trib.)*

"Section245-I, read with sections245C, 245D and 245E, of the Income-tax Act, 1961 - Settlement Commission - Order of, to be conclusive (Reopening of proceedings) - .... Whether order passed by Settlement Commission under section 245D(4) shall be conclusive as to matter stated therein and no matter covered by such order shall be reopened in any proceeding under this Act or under any law for time being in force - Held, yes.........."

Finding & Analysis

5. The brief fact of the case records that during the year under consideration the assessee company filed its return of income u/s 139(1) of the Act on 25.09.2013 and declared an income of Rs. 1,31,28,570/-. Thereafter, a search and seizure operation u/s 132(1) of the Act was conducted upon Bindal Group of cases wherein the case of the assessee was also covered, on 07.03.2014. Pursuant to search notices u/s 153A was issued

in the case of assessee company and assessment proceedings were initiated. During the course of assessment proceedings, the assessee company filed an application before Hon'ble Income Tax Settlement Commission ('ITSC') on 18.03.2016 which was admitted and the assessment was completed u/s 245D(4) of the Act, vide order of Hon'ble ITSC, dated 26.09.2017.

5.1 Subsequently, the case of the assessee was re-opened u/s 147 of the Act after obtaining the approval of Pr. CIT (Central), New Delhi. Accordingly notice u/s 148 of the Act dated 31.03.2021 was served through designated e-mail of the assessee and also through speed post asking the assessee to file the return of income within 10 days from the service of this notice. In response thereto the assessee company filed its return of income through email on 05.08.2021 and requested the AO to provide a copy of reasons to believe for reopening of assessment proceedings under section 147 of the Act. The copy of reason to believe was provided to the assessee company on 03.05.2022. The reassessment proceedings were initiated for the reason that the assessee company during the relevant assessment year had made a payment of Rs.6.53 crores to M/s Giriraj Global Pvt Ltd against bogus bills. The objection of the assessee concerning the reopening of assessment u/s 147 of the Act was disposed-off on 30.03.2022 and on the same day a notice u/s 143(2) of the Act was issued to the assessee company.

6. Ground No. 4: pertains to appeal of the assessee disputing the jurisdiction of the AO initiating assessment proceedings u/s 148 of the Act as the issues raised in the impugned assessment proceedings are already covered by the order of Hon'ble ITSC passed u/s 245D(4) of the Act, rendering the jurisdiction assumed u/s 148 of the Act to be bad in law leading to the subsequent passing of impugned assessment order liable to be quashed.

6.1 During the course of hearing, the AR of the assessee also brought my attention to the latest decision of Hon'ble Delhi high Court in the case of ***Orchid Infrastructure Developers Pvt Ltd vs. PCIT [W.P. (C) 16524/2023 & CM APPL. 66626/2023]***, wherein the aforesaid position was reiterated and it was held that when an assessment year has been subject matter of

assessment by Hon'ble ITSC, the AO becomes functus officio and loses power to reopen assessment u/s 147 of the Act.

6.2 Reason recorded for the initiation of assessment proceedings is that the assessee has made a payment of Rs. 6,53,58,196/- to Giriraj Global Limited. The assessee has rebutted this by stating that during the year under consideration, it has made purchases from Giriraj Global Limited aggregating to Rs. 7,30,28,430/- which are completely paid through proper banking channel. In support of the above contention assessee has adduced plethora of evidence(s) like Ledgers, account confirmations, invoices of purchase along with transportation bill (Transport Bilty) of Giriraj Global Limited, copy of stock register, VAT return etc. Further, details of purchases made during the year from various parties including Giriraj Global Ltd was also provided.

6.3 A perusal of the impugned assessment order shows that all of the above mentioned evidence(s) were produced before the Ld. Assessing Officer, who rejected the same without providing any cogent reason leading to the belief that the above addition has been solely on the basis of assumptions, surmises and conjectures especially when the Ld. Assessing Officer issued notices u/s 133(6) to various parties and nothing adverse were found from the responses received in response thereto. The relevant extract of the assessment order (para 8) which proves that the evidence(s) adduced by the assessee were rejected without providing any reasoning whatsoever is as under:

> 6. The assessee was asked to prove the purpose, nature and source of cash deposit in the bank account of M/s Giriraj Global Ltd. amounting to Rs. 6,53,58,196/-.
>
> 6.1 In response to the stated transaction, the assessee submitted that during the year, the assessee company made purchases from M/s Giriraj Global Ltd. To justify its stand, the assessee company submitted the following documents:
>
> (I) Ledger account of M/s Giriraj Global Ltd. in the books of the assessee company.
>
> (ii) Confirmation of M/s Giriraj Global Ltd.
>
> (III) Party wise details of purchases of TMT Bar and shape from M/s Giriraj Global Limited along with the party-wise details of corresponding sales made to different parties.
>
> (iv) Invoices issued by the M/s Giriraj Global Ltd along with the freight bills
>
> 6.2 It is argued by the assessee company that the purchases made by the assessee company from M/s Giriraj Global Ltd are genuine. All the payments against such purchases were made through banking channels only. The corresponding sales were also realised through the banking channels. All the purchases made from the stated party and corresponding sales are genuine.
>
> 7. In order to verify the contention of the assessee, notices u/s 133(6) were issued to various parties. The responses to these notices were also received by this office.
>
> 8. However, still these purchases/sales are seemed to be the turnover entries. For such turnover entries, the assessee company would have paid certain amount of commission. A final opportunity was given to the assessee vide show cause notice dated 28/03/2022 wherein the assessee was asked to explain the following:

6.4 Further, from the order of Hon'ble ITSC it can be seen that, the Hon'ble ITSC had duly applied mind on veracity of purchases accounted/recorded in the books of account, the income of Rs. 1,70,00,000/-, as declared by the assessee company was enhanced by Rs. 2,65,73,714/- to Rs.4,35,73,714/- on account of:

Particulars	**Amount (in Rs.)**
1. Peak investment of unaccounted purchases	86,75,970/-
2. Enhancement of gross profit to 7% (against 3.3% by PCIT) on unaccounted sales of Rs. 49,85,39,206/-, originated from such unaccounted purchases.	1,78,97,744/- [3,48,97,744-1,70,00,000]
Net addition made by Hon'ble ITSC to the income already disclosed by the assessee company	**2,65,73,714/-**

6.5 The issue before Hon'ble Settlement Commission was with regard to addition to income on account of a alleged, unaccounted sales on the basis of certain evidence(s) found by the tax authorities in the course of search. The stand of the assessee before the Hon'ble ITSC was that only GP qua such unaccounted sales can be added to income, since the assessee was only a trading entity and such unaccounted sales were corresponded with unaccounted purchases. As opposed to the aforesaid stand of the assessee, the contention of the revenue was that corresponding purchases against unaccounted sales were recorded in the books of account, and therefore, the entire unaccounted sale ought to be added to taxable income of the assessee. The Hon'ble ITSC after examining entire facts on record agreed with the contention of assessee that no portion of purchases recorded in the books of account was attributable to unaccounted sales related to unaccounted purchases and therefore addition could have been made only GP on such sales. Finally, the Hon'ble Settlement Commission enhanced the offer of GP at 3% of sales made by the assessee to 7% of such sales. The relevant observations of the Hon'ble Settlement Commission in this regard are reproduced here under:

7.1.3 **Commission's findings:-** We have examined the submissions and documents furnished by both the parties as well as the submissions made during hearings. The seized documents in question were also perused. It is noted from the seized document that unaccounted sales amounting to Rs. 49,85,39,206/- is recorded in it. This fact has been accepted by the Department as well as the applicant. The applicant has offered Rs. 1,70,00,000/- (GP @ 3% on the above unaccounted sales) as additional income in its SOF. The Pr. CIT in his report u/s 245D(3) has proposed the GP rate of 3.3%. It is however, noted that the G.P. rate 3 – 3.3% is on lower side, considering the fact the unaccounted sales of Rs. 49.85 Cr. pertains to a short span of time of about 50 days only. Further the unaccounted transactions generally involve higher rate of GP than the accounted transactions. Also, the applicant has failed to furnish the details of any party involved in these unaccounted sales and purchases. In view of above, it would be logical to adopt a higher rate of GP at 7%. Therefore, the additional income for unaccounted sales of Rs. 49,85,39,206/- would be Rs. 3,48,97,744/- (7% of 49,85,39,206/-).

Now the question arises whether the corresponding purchases were accounted or unaccounted. The Pr. CIT has clearly stated in his report u/s 245D(3) that the purchases corresponding to this unaccounted sales were unaccounted. He also calculated the initial investment of Rs. 32,85,813/- corresponding to this unaccounted sales of Rs. 49.85 Cr. The applicant also agreed in its comments on 245D(3) report that the corresponding purchases were unaccounted and it also agreed to the calculation of initial investment. It further submitted the quantitative tally for its accounted purchases and sales. Perusal of the quantitative tally makes it clear that there was no extra stock in the books which could have corresponded for these unaccounted sales. Thus, it is evident that the purchases corresponding to the sales of Rs. 49.85 Cr. were unaccounted. It is further noted that though in her subsequent report, the Pr.CIT has recommended addition of entire 49.85 cr., but no evidence has been produced for such recommendation. The Pr. CIT has neither furnished any evidence, nor explained the basis for her recommendation that entire Rs. 49.85Cr. should be treated as applicant's income. On the other hand, the quantitative tally furnished by the applicant clearly establishes that there was no stock available in books for unaccounted sales and the purchases corresponding to the unaccounted sales of Rs. 49.85Cr., shown in the seized documents were also unaccounted.

Then, comes the issue of quantification of initial investment in the unaccounted purchases for the unaccounted sales of Rs. 49.85 Cr. as has been noted above, the Pr. CIT, in his report u/s 245D(3) has quantified the initial investment at Rs. 32, 85, 813/- and the applicant has accepted this calculation. This calculation has been done on the basis of maximum amount of unaccounted sales on a particular day, as noted from the seized document. The date has been taken as 29.01.2014 and the amount of unaccounted sales has been taken as Rs. 33,99,000/- . Relevant portion of the report is reproduced as under:

" .... Further, in respect of the investment aspect in respect of unaccounted purchases the seized material has been perused and on verification, it is found that the maximum amount of unaccounted sales on a particular day is Rs. 33,99,000 on 29.01.2014. Therefore, investment on such purchases works out to Rs. 32,85,813 (Rs. 33,99,000 – 1,13,187 i.e. 3.33% GP)."

6.6 On perusal of aforesaid, relevant extracts of the order of Hon'ble ITSC, it would be appreciated that the Hon'ble Settlement Commission was precisely

seized of the issue of veracity of accounted and unaccounted purchases, and therefore, the issue of purchases stood merged with the order of Hon'ble Settlement Commission.

6.7 Assessee has also drawn my attention towards section 245I of the Act which makes it amply clear that the order of Hon'ble ITSC passed u/s 245D(4) of the Act is conclusive and no reassessment of the matter covered by the said order can be made under any provision of the Act. the relevant extract of the said provision is reproduced as under:

"Order of settlement to be conclusive.

245-I. Every order of settlement passed under sub-section (4) of section 245D shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Act or under any other law for the time being in force."

6.8 It has been legally established that once an order is passed by the Hon'ble Settlement Commission u/s 245D(4) of the Act, the assessment for the respective year is deemed finalized, and subsequently, the AO holds no authority to reopen said assessment. It was further pointed out that there is no provision akin to aforesaid section 245-I giving conclusiveness to the order of Hon'ble ITSC, to any other order of any other assessing authority like assessing officer, which, therefore can be revised by resort to provisions like section 148 or 263. Thus, it was argued that, if the order Hon'ble ITSC is permitted to be revised, more so by AO, the aforesaid provisions of section 245I would be rendered nugatory, which cannot be the correct interpretation of the aforesaid provision. Reliance in this regard is placed on the decision of Hon'ble High Court of Delhi in the case of ***Omaxe Ltd vs. ACIT [254 ITR 370]*** wherein the argument of revenue that the decision of Hon'ble ITSC is conclusive only to the extent of matter stated in the order of Settlement and the AO is permitted to open/reopen the assessment in respect of matters which the not decided therein was rebutted to state that the order of Hon'ble ITSC is a conclusive in nature and it is only the Hon'ble ITSC which can

reopen it and that to in certain special circumstances like fraud and representation of facts.

6.9 In this case, the reopening of assessment was sought for erroneous deduction claimed u/s 80-IB of the Act which was not specifically contested before the Hon'ble ITSC. The Hon'ble Court held that though the question related to 80-IB deduction was not specifically put forth before the Hon'ble ITSC but since the same was duly disclosed in the return of income it would be deem to have been considered by Hon'ble ITSC and thus even that issue attained finality vide order of Hon'ble ITSC which is conclusive in nature by virtue of section 245I of the Act and cannot be allowed to be disturbed by the action of AO in initiating assessment proceeding under any provision of the Act. The relevant extract of the decision is reproduced as under:

> *"12. A conjoint reading of the aforesaid provisions indicates that the ITSC is a high powered body vested with powers to settle the case of an assessee. The order of settlement is conclusive as expressly stated in Section 245I but the argument of the Revenue is that it is conclusive only with regard to matters stated in the order of settlement and in respect of matters not stated therein, the Assessing Officer has the power to reopen the assessment. It is further submitted that the assessee did not approach the ITSC with regard to settlement of its claim for deduction under Section 80IB (10) of the Act and there was no adjudication of the said claim in the order of the ITSC. It is therefore submitted that the issue relating to deduction under Section 80IB (10) is not a matter covered by the order of the ITSC and can be reopened by the Assessing Officer.*
>
> *13. We are afraid that the submission of the Revenue overlooks the fact that in the return the assessee had claimed deduction of Rs. 78,99,00,509/- u/s. 80IB (10) and it was only after claiming such deduction that the net taxable income was declared at Rs. 89,20,76,630/-. The Assessing Officer issued notices under Sections 143(2) and 142(1) on 12.07.2007 but even before the questionnaire was issued the petitioner had approached the Settlement Commission by an application filed on 31.05.2007. Under Section 245F(1), the ITSC, in addition to the powers conferred on it under Chapter XIX-A, shall have*

all the powers which are vested in an income-tax authority under the Act. By virtue of the provisions of Section 245F (2) once the application for settlement was filed and an order was passed allowing the application to be proceeded with, it was the ITSC which has the exclusive jurisdiction to exercise the powers and perform the functions of an income tax authority under the Act relating to the case, till the final order of settlement is passed under Section 245D (4). Thus the moment the application of the assessee was allowed to be proceeded with by the ITSC till the final order of the settlement is passed on 17.03.2008, it was the ITSC which had exclusive jurisdiction in relation to the assessee's case. Therefore, all matters which could be examined by the Assessing Officer could be examined by the ITSC in these proceedings, including the assessee's claim for deduction under Section 80IB (10). The total income of the assessee for the assessment year 2006-07 has been computed by the ITSC at Rs. 89,38,76,630/- which is Rs. 18,00,000/- more than the income of Rs. 89,20,76,630/-declared by the petitioner, which figure is after the petitioner claimed deduction of Rs. 78,99,00,509/- under Section 80IB (10). It is irrelevant that no undisclosed income was offered by the petitioner in regard to the housing project. Again a harmonious reading of the provisions of the statute would show that it does not postulate the existence of two orders, each of a different income tax authority, determining the total income of an assessee for the same assessment year. If the contention of the Revenue is accepted, not only will the finality of the order of settlement be disturbed, but it will also result in different orders relating to the same assessment year and relating to the same assessee being allowed to stand. We have grave doubts whether such a result, which is likely to create chaos and confusion in the tax administration could have been intended. The order of the ITSC can be reopened only in cases of fraud and misrepresentation and in no other case.

....

19. The issue can also be viewed from another angle. Barring the exception of the provisions relating to appeal and revision, the Act does

not contemplate or provide for disturbing the finality of an order or proceeding passed or completed by an income-tax authority, by any order or proceeding passed or initiated by a different income-tax authority. An assessment order passed by an Assessing Officer can be rectified or amended under Section 154 or Section 155 or reopened under Section 148 only by him, and by no other income-tax authority. Similarly, an assessment by way of settlement of a case, which is made by the ITSC, can be reopened only by the ITSC and that too only in certain circumstances. Applying this general principle that runs through the Act, an assessment by way of a settlement order passed by the ITSC cannot be reopened by a different authority, viz., the Assessing Officer. The fact that the ITSC has not been designated as an "income-tax authority" under Section 116 of the Act makes the position 'a fortiori'. Section 147 of the Act does not employ language that permits him to do so, nor are the powers and orders of the ITSC made subject to the provisions of Section 147. Section 147 does not appear to fit into the general scheme of Chapter XIX-A, which has been held to be a self contained code by the Supreme Court in Brij Lal v. CIT [2010] 328 ITR 477/194 Taxman 566."

6.10 Further, similar ratio is culled out of the decision of Jurisdictional Hon'ble High Court in the case of ***Omaxe Ltd DCIT [270 CTR 390]***, where the Hon'ble Court relying upon its earlier decision of Omax Ltd [254 CTR 370] held that once the Hon'ble ITSC has completed proceedings, its order is considered conclusive as regards matter 'stated therein' per section 245-I and reopening any proceeding in respect of matter covered in the said order would be barred. The relevant extract of the decision is reproduced as under:

"15. A facial consideration of the above provisions would reveal that the finality which attaches itself to Settlement Commission's order is in respect of the matters referred to it. The Revenue's contention appears to be that the nondisclosure of materials which have a bearing on AY 2006-07, discovered or seized in search proceedings concerning Shri Modi, were not the subject matter of the Commission's deliberations and consequently the subject matter of its order. Attractive though this aspect appears to be, the ruling in Omaxe (supra) precludes exercise of authority

by the Revenue. Whilst from the Revenue's perspective, every non-disclosure or a fresh discovery of facts which might have a bearing on the assessee's returns, prima facie, stands excluded from what is referred to a Settlement Commission, the fallacy in that argument is the Commission has a full weight and the jurisdiction of all the authorities under the Income Tax Act when it is seized of a matter. Concededly in this case, the subject matter before the Commission was the submission of the assessee to its jurisdiction with respect to AY 2006-07. Of course, the Revenue contends that the recovery of material in a third party's premises were not a subject matter of the settlement proceedings, which got concluded on 17.3.2008. However, equally its case can proceed only on the assumption that the assessee was guilty of non-disclosure or suppression of material facts which ought to have been primarily revealed to the Settlement Commission when the application was moved under Section 245D in the first place. The fallacy in the Revenue's argument is that it overlooks the remedy available for the Revenue, i.e to approach the Settlement Commission under Section 245D(6) contending that its previous order of 17.3.2008 ought to be reopened because the non-disclosure amounted to a fraud or misrepresentation. The observations in Brij Lal (supra) cited earlier are extremely pertinent in this context Likewise, in Express Newspapers Ltd.'s case (supra), the Supreme Court had earlier stated as follows :

"...... It is equally evident that once an application made under Section 245C is admitted for consideration (after giving notice to and considering the report of the Commissioner of Income Tax as provided by Section 245D) the Commission shall have to withdraw the case relating to that assessment year (or years, as the case may be) from the assessing/appellate/revising authority and deal with the case, as a whole, by itself. In other words, the proceedings before the Commission are not confined to the income disclosed before it alone. Once the application is allowed to be proceeded with by the Commission, the proceedings pending before any authority under the Act relating to that assessment year have to be transferred to the Commission and the entire

case for that assessment year will be dealt with by the Commission itself. The words "at any stage of a case relating to him " only make it clear that the pendency of proceedings relating to that assessment year, whether before the Assessing Officer or before the appellate or revisional authority, is no bar to the filing of an application under Section 245C so long as the application complies with the requirements of Section 245C (refer page 451 plac. E/F).'

16. It is evident from the rulings of the Supreme Court that orders of Settlement Commission are final and conclusive as to matters stated therein. The "matters" necessarily could comprehend disputed questions, items or heads of income, disallowance, etc. or variants of it, but always with reference to a particular assessment year. In this case, the Settlement Commission was seized of AY 2006-07. Whilst exercising its authority over the application, the Commission concededly exercised the vast plenitude of its power or jurisdiction. The petitioner had made a disclosure in its application - as it was duty bound to........

....

17. Finally, this Court is not impressed by the argument of the Revenue that the definition of "case" over which the Settlement Commission has exclusive jurisdiction excludes proceedings for reassessment, under Section 245A(i). This is because any reassessment proceedings that are sought to be excluded from the purview of "case" must be in respect of a Section 148 notice sent while the proceedings before the Settlement Commission are ongoing. Once the Settlement Commission has completed proceedings, its order is considered conclusive as regards matters "stated therein" per Section 245I and reopening any proceeding in respect of matters covered in the order would be barred."

6.11 Hon'ble Gujarat High Court in the case of ***Komalkant Faikirchand Sharma v. DCIT [417 ITR 11]*** has held that the AO does not have any jurisdiction to reopen the assessment when an order under section 245D(4) of the Act in relation to the AY in respect of which the assessment is sought to be reopened has already been passed by the ITSC. The relevant paragraphs of the said decision are reproduced as under:-

"7.10 The upshot of the above discussion is that once an order has been made by the Settlement Commission under section 245D(4) of the Act, the same is conclusive and final in respect of the assessment for the assessment year in relation to which such order was passed and the Assessing Officer has no jurisdiction under section 147 of the Act to reopen an assessment made under section 245D(4) of the Act. That, however, does not mean that the Revenue is without remedy if at a subsequent stage it is noticed that the assessee had suppressed its actual income before the Settlement Commission. In view of the provisions of sub-section (6) of section 245D of the Act, an order made by the Settlement Commission under section 245D(4) of the Act shall provide for the terms of settlement, which should, inter alia, provide that the settlement shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud or misrepresentation. Section 245D(7) of the Act provides that where the settlement becomes void, as provided in sub-section (6) of section 245D, the proceedings in respect of the matters covered by the settlement shall be deemed to have been revived from the stage at which the application was allowed to be proceeded with by the Settlement Commission. The remedy, therefore, is not under section 147 of the Act, but under section 245D(6) read with section 245D(7) of the Act.

....

9. Thus, though on the reasons recorded for reopening the assessment, the Assessing Officer could have formed the belief that income chargeable to tax has escaped assessment, in this case, as discussed earlier, since there is an order of the Settlement Commission under section 245(4) of the Act in relation to the assessment year in respect of which the assessment is sought to be reopened, the Assessing Officer has no jurisdiction to reopen the assessment. The impugned notice under section 148 of the Act, therefore, cannot be sustained."

6.12 Special reliance is placed on the recent decision of Hon'ble High Court in the case of ***Orchid Infrastructure Developers Pvt Ltd [W.P.(C) 16524/2023 & CM Appl. 66626/2023]***. The facts of the case involve that

the notice under section 148 of the Act was issued with regard to the decision of Supreme Court in the case of Abhisar Buildwell Pvt Ltd with respect to issue which was not specifically decided by the ITSC. Hon'ble Court in the present matter held that:

> *"28. Thus, considering the foregoing discussion, it is seen that the order of the ITSC is deemed to be conclusive for all the matters pertaining the concerned AY for which the settlement application has been accepted and processed by the ITSC. In case, the Income Tax Department is not satisfied with the computation of income by the ITSC for the relevant AY, the same could only be assailed in accordance with the provisions contemplated under Section 245D(6) read with Section 245D(7) of the Act. The legislative scheme envisaged for ITSC is self-contained in nature and the intent appears to be to facilitate a mutually satisfactory arrangement which could not be reopened, unless explicitly covered under the textual exceptions of fraud or misrepresentation.*
>
> *29. In the instant case, the application of the petitioner was accepted and the proceedings were initiated therein by the ITSC after the second search and seizure operation was conducted by the respondent on 05.03.2013. Thus, undoubtedly, since the ITSC was already held up with the concerned AY, including the aspects raised by the respondent in the present petition, the AO cannot be allowed to exercise jurisdiction to reopen the proceedings under the guise of Section147/148 of the Act for the relevant AY in consideration. As already settled by the catena of judgments, some of which are already discussed above, allowing the AO to proceed with the impugned notices and order for reopening assessment for the concerned AY would create a situation of downright chaos and vagueness. Put otherwise, it would tantamount to simultaneous existence of two concomitant and materially different assessment orders for the same AY, which is completely impermissible as per the provisions of the Act and the aforementioned judicial pronouncements.*
>
> ....
>
> *31. Therefore, if the respondent was apprehensive of the fact that the petitioner had suppressed its income before the ITSC, it ought to have*

resorted to the remedy contained in Chapter XIX-A of the Act itself on the grounds of fraud or misrepresentation. The concept of fraud has been jurisprudentially recognized as a concept of wide import, and thus, availability of a challenge on the ground of fraud could have provided an effective remedy to the respondent, if so justified. Evidently, the respondent has failed to seek recourse to such a remedy and rather, preferred an appeal before this Court on altogether different aspects as compared to the ones raised in the present petition. In any case, the same was also dismissed vide order dated 05.09.2017."

6.13 In the light of above judicial position supporting the case of the assessee company, it can be said that while passing the order of settlement dated 26.09.2017, Hon'ble ITSC has assessed the overall sale and purchase of the assessee company and made the addition of Rs. 2.65 Crore after due consideration of all relevant facts and material placed before it. In case the AO wanted to reassess the assessee, it must prove that the order of Hon'ble ITSC has been obtained after misrepresenting the facts or by fraudulent means and followed the procedure mentioned under chapter XIX-A of the Act, which is not the case. Therefore, the order of Hon'ble ITSC, which has already taken into consideration the purchases and sales of the assessee while making the addition of Rs. 2.65 crores (as discussed supra) dealt with the very issue raised by the AO while initiating reassessment proceedings u/s 148 of the Act is conclusive in nature and cannot be interfere with as per the provision of section 245I of the Act.

6.14 Therefore, the notice issued u/s 148 of the Act is declared bad in law and consequent additions of Rs. 29,30,428/- made vide assessment order passed u/s 147 of the Act, dated 30.03.2022, in violation of section 245-I of the Act is hereby deleted.

6.15 The **Ground No. 4** is **allowed** in favour of assessee.

7. Ground No. 1, 2, 3, 5, 5.1, 5.2, 5.3, 6 & 7: In the above grounds, the appellant has challenged the addition made by the AO on merits as well as some other legal grounds. Since the grounds taken on jurisdiction have been allowed supra, these grounds are rendered academic in nature. Hence, they

do not require any specific adjudication. Thus, the abovementioned grounds **are dismissed.**

8. In the result, the appeal of the appellant is hereby partly allowed.

The order is having DIN ITBA/APL/M/250/2025-26/1082501771(1)

(S. K. Yadav)
Commissioner of Income Tax
(Appeals)-29, New Delhi

Copy to:-
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2) The Pr. CIT(C)-3, ARA Centre, Jhandewalan Extn. New Delhi-110055.
3) The DCIT, Central Circle-28, New Delhi-110055.
4) The Appellant.

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