

IN THE INCOME TAX APPELLATE TRIBUNAL,
“C” BENCH, KOLKATA
BEFORE SHRI A.T, VARKEY, JM & DR. A.L. SAINI, AM

ITA No. 895/Kol/2019
(Assessment Year: 2014-15)

M/s. Raipur Steel Casting India (P) Ltd. PAN: AAACG 8490M	Vs.	P.C.I.T.,-5, Kolkata
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Appellant by : Shri Subash Agarwal, Advocate, Id.AR
Revenue by : Shri Vijay Shankar, CIT, Id.DR

Date of Hearing : 20/02/2020
Date of Pronouncement. : /06/2020

ITA No.1035/Kol/2019
(Assessment Year: 2014-15)

M/s. Srinath Ji Furnishing Pvt. Limited PAN: AAICS 7939R	Vs.	P.C.I.T.,-5, Kolkata
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Appellant by : Shri S.M. Surana, Advocate
Shri Sagar Jain, FCA, Id.ARs.
Revenue by : Shri Vijay Shankar, CIT, Id.DR

Date of Hearing : 20/02/2020
Date of Pronouncement: 10 /06 /2020

आदेश / O R D E R

Per Dr. Arjun Lal Saini, AM:

By way of these appeals, the assesseees have challenged the correctness of the order dated 04.03.2019 passed by the learned Principal Commissioner of Income Tax (for short “PCIT”) under section 263 of the Income Tax Act, 1961 (hereinafter referred to as ‘the Act’).

2. These two appeals relate to different assessee`s and heard on 20th February, 2020. Since, the issues involved in these appeals are common and identical; therefore, these appeals have been clubbed and heard together and a consolidated order is being passed for the sake of brevity. For the sake of convenience, the grounds as well as the facts narrated in ITA No. 895/Kol/2019, for assessment Year 2014-15, have been taken into consideration for deciding the above appeals *en masse*.

3. The assessee has raised the following grounds of appeal in ITA No.895/Kol/2019 (Raipur Steel Casting India (P) Ltd.) assessment year 2014-15:

“1.That the above order of the Commissioner of Income Tax in so far it is against the assessee is against the law, facts, circumstances, natural justice, equity and all other known principles of law.

2.The CIT erred in assuming jurisdiction u/s 263 without first satisfying that the assessment order was erroneous and prejudicial to interest of revenue.

3.The CIT erred in issuing the notice u/s 263 when the order was not prejudicial to the interest of revenue

4.The CIT erred in issuing the notice u/s 263 when the order was not erroneous.

5.The Ld CIT erred in assuming jurisdiction u/s 263 by issuing notice on 20.11.2018

6.The order passed u/s 263 passed by Ld CIT dated 08.03.2019 is erroneous having regard to the facts, circumstances and law on the issue.

7.The Ld CIT erred in holding the order passed by the ld AO as prejudicial to interest of revenue and erroneous and issuing direction to the AO to pass assessment order de novo.”

4.The assessee has raised the following grounds of appeal in ITA No.1035/Kol/2019 (M/s Srinath Ji Furnishing Pvt. Ltd.) assessment year 2014-15:

“1. For that the order of the Hon'ble Pr. Commissioner of Income Tax is arbitrary, illegal and bad in law.

2. For that the Hon'ble Pr. Commissioner of Income tax erred in taking conclusion that it is mandatory for assessing officer to refer the specified domestic transaction to the Transfer Pricing officer as per section 92CA of the Income Tax Act, 1961, which he failed to do so, in spite of the fact that the section 92CA of the Income Tax Act, 1961 is very clear about the discretionary power given to assessing officer, if he consider it necessary or expedient so to do, he may refer the matter to Transfer pricing officer.

3. For that the Hon'ble Pr. Commissioner of Income tax erred in cancelling the Assessment Order and giving direction to the assessing officer to pass an assessment order de novo in spite of the fact that the Assessing Officer has called for the transfer pricing report in form 3CEB and considered the same.

4. For that the Hon'ble Pr. Commissioner of Income tax has erred in cancelling the Assessment Order when a possible view was taken by the Assessing Officer to consider the report himself and not referring the same to TP Officer as per the provisions of the Law.

5. For that on the facts and circumstances of the case the order of the PCIT should be quashed and the assessee be given the relief prayed for.

6. For that the appellant craves leave to add, alter or amend any ground before or at the time of hearing.”

5. We note that both assesseees have raised multiple grounds of appeal to challenge the correctness of the orders passed by the Id PCIT under section 263 of the Act but at the time of hearing the solitary grievance of both the assesseees has been confined to the issue that since clause (i) of section 92BA has been omitted by Finance Act, 2017, w.e.f. 01.04.2017 and the effect of such omission without any saving clause of General Clauses Act, means that the above provisions was not in existence or never existed in the statute, therefore, the jurisdiction exercised by the Id PCIT under section 263 of the Act is *void* and as a result the order passed by the assessing officer dated 30.08.2016, under section 143(3) of the Act is neither erroneous nor prejudicial to the interest of the Revenue.

6. The facts of the case which can be stated quite shortly are as follows: The assessee company filed its return of Income for, A.Y. 2014-15 on 26.09.2014 declaring total income to the tune of Rs 47,90,310/-. The Assessing officer passed the assessment order u/s 143(3) on 28.12.2016 determining income at Rs. 51,57,860/-. Thereafter, Id Principal Commissioner of Income Tax (Id.PCIT) had examined the assessment records of the assessee with reference to the evidence brought on record by the Assessing Officer during the course of assessment proceedings. During examination of assessment records it was observed from the Form NO.3CEB that the assessee company had entered into specified domestic transactions amounting to Rs.34,82,67,956/- which were required to be referred to the Transfer Pricing Officer by the Assessing officer after obtaining the approval of the Pr. Commissioner of Income Tax as per section 92CA of the Income Tax Act,1961 but the same was not done by the Assessing Officer. Therefore, Id PCIT was of the view that the benchmarking of the domestic transaction undertaken by the assessee with the specified domestic parties was not done as per the statute for determining the Arm's Length Price(ALP).

In view of the above facts, the Id PCIT took a view that the order passed by the Assessing Officer was erroneous in so far as it is prejudicial to the interests of revenue. Hence, proceedings u/s 263 were initiated for A Y 2014-15. During the course of the said proceedings the assessee was given opportunity of being heard and to furnish documents and arguments against initiation of 263 proceedings *inter-alia*. A notice dated 30/11/2018 was issued to the assessee and in response to the said notice, the assessee furnished written submission before Id PCIT. The important part of the written submission which is useful for our discussion is reproduced below:

If It has been stated in the notice under reference that "It is observed from the assessment records that as per Form 3CEB your concern had made specified domestic transactions amounting to Rs. 34,82,67,956/- but the same was not referred to Transfer Pricing Officer by the Assessing officer after obtaining the approval of PCIT as per 92CA of the Act. In this view of the matter the

benchmarking of the domestic transaction undertaken with the specified domestic parties for the purpose of determining the Arms Length Price was not done in this case. In the above conspectus, the order passed u/s. 143(3) on 30.08.2016 for A. Y. 2014-15 appears to be erroneous in so far as it is prejudicial to the interest of revenue."

The "specified domestic transaction has been defined u/s 92BA of the I. T. Act, 1961. The specified domestic transaction entered into by the petitioner falls under clause (i) of section 92BA which reads as under:

92A (i): any expenditure in respect of which payment has been made or is to be made to a person referred to in clause (b) of sub-section (2) of section 40A.

The aforesaid clause (i) has been omitted by Finance Act, 2017, w.e.f 01.04. 2017. Clause 41 of the Explanatory Memorandum has explained the reasons and purpose of amendment and its omission. See (2017) 391 ITR 192 (Statutes) :

"The existing provisions of section 92BA of the Act, inter alia, provide that any expenditure in respect of which payment has been made by the assessee to certain "specified persons" under section 40A(2)(b) are covered within the ambit of specified domestic transactions".

As a matter of compliance and reporting, taxpayers need to obtain the chartered accountant's certified in Form 3CEB providing the details such as list of related parties, nature and value of specified domestic transactions (SDTs), method used to determine the arm's length price for SDTs positions taken with regard to certain transactions not considered as STDs, etc. This, has considerably increased the compliance burden of the taxpayer.

In order to reduce the compliance burden of taxpayers, it is proposed to provide that expenditure in respect of which payment has been made by the assessee to a person referred to in under section 40A(2)(b) are to be excluded from the scope of section 92BA of the Act. Accordingly, it is also proposed to make a consequential amendment in section 40A(2)(b) of the Act. Since clause (i) has been omitted by Finance Act, 2017, w.e.f 01.04. 2017 and effect of this omission is that said clause (i) was never existed in the statute book therefore ld PCIT cannot exercise the jurisdiction u/s 263 of the Act"

7. However, ld PCIT rejected the contention of the assessee and held that since the Assessing Officer failed to refer the specified domestic transactions to the Transfer Pricing Officer as per Section 92CA of the I.T.Act,1961, the above said transactions remained un-benchmarked as per the provisions of the section 92CA of the Act In such a circumstances, the Arm's Length Price (ALP) remained undetermined because of the non-application of the Function, Asset, Risk

((FAR) analysis etc. Resultantly, the specified domestic transactions are not held to have been benchmarked as per the provisions of the Act leading to an erroneous and prejudicial order. Therefore, Id PCIT cancelled the assessment order and directed to the Assessing Officer to pass an assessment order de novo as per law and in accordance with the provisions of the I.T.Act,1961.

8. Aggrieved by the order of Id PCIT, both the assesseees are in appeal before us.

9. Both the Learned Counsels, Shri Subash Agarwal and Shri S.M. Surana argued the matter on technical issue under consideration. Both the Id Counsel put their common arguments before the Bench stating that the whole object of the omission of clause (i) of section 92BA is to reduce the compliance burden. The clause(i) of section 92BA has been "omitted" w. e.f 01.04.2017 and the effect of such omission without any saving clause of general clause Act, means that the above provision was not in existence or never existed. Therefore, Id PCIT cannot exercise jurisdiction under section 263 of the Act for a provision of law which is never existed in the Income Tax Act. Both the Id Counsel relied on the judgments of Hon'ble Supreme Court in the case of Kolhapur Canesugar Works Ltd. V Union of India (2002) 2 SCC 536 and in Royala Corporation P. Ltd. V Director of Enforcement (1969) 2 SCC 412. The above judgments were reiterated in the case of General Finance Co. Vs. Asstt CIT (2002) 257 ITR 338 (SC).

10. On the other hand, Shri Vijay Shankar, (CIT-DR), on behalf of the Revenue vehemently argued that clause (i) of section 92BA has been "repealed" and not "omitted." Effect of such "Repeal" means the clause (i) of section 92BA was in existence till 01.04.2017 and it was removed by the Finance Act, 2017. In the assessee's case under consideration, Id PCIT has exercised his jurisdiction under section 263 of the Act, for the assessment year 2014-15. In the assessment year 2014-15, the clause (i) of section 92BA was in force therefore, the exercise of the

jurisdiction under section 263 of the Act during the currency of the Act is very much valid.

Shri Vijay Shankar, (CIT-DR), also submitted before the Bench that the judgments of Hon`ble Supreme Court, which were used by the assessee, in the case of Kolhapur Canesugar Works Ltd. V Union of India (2002) 2 SCC 536 and in Royala Corporation P. Ltd. V Director of Enforcement (1969) 2 SCC 412 and in the case of General Finance Co. Vs. Asstt. CIT (2002) 257 ITR 338 (SC) were overruled by the Hon`ble Supreme Court by its subsequent judgments in the case of M/s. Shree Bhagwati Steel Rolling Mills vs. C.I.T. Excise & Others - 2015(326) ELT 209(S.C.), and M/s. Fibre Boards 62 Taxmann.com 135 (S.C.), therefore, the assessee can not use them in his favour.

In addition to these verbal arguments, Shri Vijay Shankar, (CIT-DR) submitted written submissions before the Bench, the same is reproduced below, in brief, to the extent applicable for our discussion:

“In the present case, the Principal Commissioner of Income Tax-5, Kolkata passed an order u/s.263 holding that specified domestic transactions shown by the assessee were not taken into cognizance by the A.O. and not referred to the TPO before completing the assessment, which he was required to do statutorily, for the correct Benchmarking of the domestic transactions undertaken by the assessee with specified domestic parties. The notice for 263 proceedings was issued dated 20.11.2018. The assessee is contesting the jurisdiction of the Pr. C.I.T.-5, Kolkata in initiating proceedings u/s.263 on the ground that the reference to the TPO on the specified domestic transactions was not applicable to him since Section 92BA(i) was omitted by Finance Act, 2017 w.e.f. 01.04.2017.

The assessee is relying on Section-6 of the General Clause Act, 1897(GCA 1897) to contend that an omission is not entailed in repeal, and upon omission, the provision results in obliteration from the very beginning.

The appellant has relied on the decision of ITAT, Bangalore in the case of M/s. Texport Overseas (P) Ltd. vs. DCIT, A.Y. 2013-14, ITA No.IT(TP)A No.1722/Bang/2017, order dated 22.12.2017 for the proposition that since clause 92BA(i) was omitted w.e.f. 01.09.2017 it is to be treated as if it never existed in the statute and thus no adverse inference can be drawn against the appellant under the said provisions.

Against this it is submitted that Section-6 of GCA, 1897 has to be read in consonance with Section-6A of GCA, 1897. The relevant portion of the GCA, 1897 is reproduced as under-

"6. Effect of repeal- Where this Act, or any [Central Act] or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not -

(a) revive anything not in force or existing at the time at which the repeal takes effect; or

(b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed.

6A. Repeal of Act making textual amendment in Act or Regulation. - Where any [Central Act] or Regulation made after the commencement of this Act repeals any enactment by which the text of any [Central Act] or Regulation was amended by the express omission, insertion or substitution of any matter, then, unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal."

Copy of General Clause Act, 1897 enclosed as Annexure-A 1.

The following decisions, (1) M/s. Shree Bhagwati Steel Rolling Mills vs. C.I.T. Excise & Others - 2015(326) ELT 209(S.C.), M/s. Fibre Boards 62 Taxmann.com 135 (S.C.) interpret the matter in favour of the Revenue's stand that omission of a provision shall have to be interpreted as per sec.6 and sec.6A of GCA 1897 and read in togetherness. For proceedings which stem from the omitted provision, or part thereof, including consequential proceedings, it shall not mean an obliteration from the very beginning; it will have the effect as if the omitted part is in full force before such omission of the provision, or part thereof.

The Hon'ble Bangalore Bench in the case of M/s. Texport Overseas Pvt. Ltd. (supra) has given the finding on the basis of Apex Court decision in the case of General Finance Company 257 ITR 338. This is an old decision pronounced on 04/09/2002. However, it may kindly be pointed out that the Hon'ble Bench of Bangalore Tribunal did not take into consideration the subsequent decision of the Apex Court constitutional bench on the same issue in the case of M/s. Shree Bhagwati Steel Rolling Mills (supra) and M/s. Fibre Boards (supra). The constitutional bench in the above cases, orders passed in 2015, have held that repeal, delete and omit can be used interchangeably and, therefore, section 6 of the General Clauses Act would also save provisions which have

been omitted from the Act. Therefore, the proceedings initiated during the omission of provision will continue. It cannot be obliterated from the very beginning.”

11. We heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the Id PCIT under section 263 of the Act and other materials brought on record.

We note that assessee has raised multiple grounds of appeal to challenge the correctness of the order dated 08.03.2019 passed by the Id PCIT under section 263 of the Act but at the time of hearing the solitary grievance of the assessee has been confined to the issue that since clause (i) of section 92BA has been omitted by Finance Act, 2017, w.e.f. 01.04.2017 and the effect of such omission without any saving clause of General Clauses Act, means that the above provisions was not in existence or never existed in the statute, therefore, the jurisdiction exercised by the Id PCIT under section 263 of the Act is *void* and as a result the order passed by the assessing officer dated 30.08.2016, under section 143(3) of the Act is neither erroneous nor prejudicial to the interest of the Revenue.

If this is the solitary grievance of the assessee, then, first of all, it would be necessary for us to examine **meaning of “omission” and its consequences** in respect to the provisions of clause (i) of section 92BA of the Act. The Clause (i) of section 92BA of the Act is reproduced below:

Section 92BA: Meaning of specified domestic transaction

For the purposes of this section and sections 92, 92C, 92D and 92E, “specified domestic transaction” in case of an assessee means any of the following transactions, not being an international transaction, namely:-

(i).Omitted by Finance Act, 2017, w.e.f. 1-4-2017.*

**Prior to omission, clause (i) of section 92BA, as originally enacted, read as under:*

“(i) any expenditure in respect of which payment has been made or is to be made to a person referred to in clause (b) of sub-section (2) of section 40A.”

Clause (i) of section 92BA of the Act, *inter alia* provides that any expenditure in respect of which payment has been made by assesseees to certain “specified person” under section 92BA are covered within the ambit of specified domestic transactions.

As a matter of compliance and reporting, taxpayers need to obtain the chartered accountant’s certificate in Form 3CEB providing the details such as list of related parties, nature and value of specified domestic transactions, method used to determine the arm’s length price for specified domestic transactions, positions taken with regard to certain transactions not covered as specified domestic transactions etc. This has considerably increased the compliance burden of the taxpayers. In order to reduce the compliance burden of the taxpayers, it was proposed by the Finance Act 2017 to provide that expenditure in respect of which payment has been made by the assessee to a person referred to in section 40A(2)(b) are to be excluded from the scope of section 92BA of the Act. The whole object of the omission of clause (i) of section 92BA is to reduce the compliance burden of taxpayers.

As we noticed that clause (i) of section 92BA has been ‘omitted’ with effect from 01.04.2017. The effect of such omission without any saving clause of General Clauses Act, means that the above provision was not in existence or never existed in the statute book. If it is held that effect of such “omission” of clause (i) of section 92BA means that this provision was never existed in the statute book, then in that situation the exercise of jurisdiction by the Id PCIT [in respect of above said clause (i) of section 92BA] under section 263 of the Act would fail.

12. We note that Id PCIT has issued a show cause notice under section 263 of the Act to the assessee, which is reproduced below:

"It is observed from the assessment records that as per Form 3CEB your concern had made specified domestic transactions amounting to Rs. 34,82,67,956/- but the same was not referred to Transfer Pricing Officer by the Assessing officer after

obtaining the approval of PCIT as per 92CA of the Act. In this view of the matter the benchmarking of the domestic transaction undertaken with the specified domestic parties for the purpose of determining the Arms Length Price was not done in this case. In the above conspectus, the order passed u/s. 143(3) on 30.08.2016 for A. Y. 2014-15 appears to be erroneous in so far as it is prejudicial to the interest of revenue."

We note that Id PCIT issued the above show cause notice u/s 263 in respect of specified domestic transactions referred to in clause (i) of section 92BA of the Act which was omitted with effect from 01.04.2017, and effect of such "omission" of clause (i) of section 92BA means that this provision was never existed in the statute book, since clause (i) of section 92BA was never existed in the statute book therefore, Id PCIT cannot exercise his jurisdiction under section 263 of the Act in respect of specified domestic transactions referred to in clause (i) of section 92BA of the Act. In other words, since the clause (i) of section 92BA was omitted with effect from 01.04.2017 by the Finance Act 2017. Therefore, in the Act, clause (i) of section 92BA stood "omitted" from the Act as if it was never in the statute book. Therefore, "omission" means the above provisions was not in existence or never existed in the statute book. To support this, we find useful guidance from the judgment of the Hon'ble Supreme Court in the case of Rayala Corporation (P) Ltd (1970 AIR 494) wherein the Hon'ble Supreme Court has defined the terminology "omission" and "Repeal" and distinguished these terminologies also. The relevant para of the judgment is reproduced below:

"The argument of Mr. Sen was that, even if there was a contravention of R. 132A(2) by the accused when that Rule was in force, the act of contravention cannot be held to be a "thing done or omitted to be done under that rule," so that, after that rule has been omitted, no prosecution in respect of that contravention can be instituted. He conceded the possibility that, if a prosecution had ,already been started while R. 132A was in force, that prosecution might have been competently continued. Once the Rule was omitted altogether, no new proceeding by way of prosecution could be initiated even though it might be in respect of an offence committed earlier during the period that the rule was in force. We are inclined to agree with the submission of Mr. Sen that the language contained in clause 2 of the Defence of India (Amendment) Rules, 1965 can only afford protection to action already taken while the rule was in force, but cannot

justify initiation of a new proceeding which will not be a thing done or omitted to be done under the rule but a new act of initiating a proceeding after the rule had ceased to exist. On this interpretation, the complaint made for the offence under R. 132A(4) of the D.I. Rs., after 1st April, 1965 when the rule was omitted, has to be held invalid.

This view of ours is in line with the general principle enunciated by this Court in the case of [S. Krishnan and Others' v. The State of Madras](#)(1), relating to temporary enactments, in, the following words :--

"The general rule in regard to a temporary statute is that, in the absence of special provision to the contrary, proceedings which are being taken against a person under it will ipso facto terminate as soon as the statute expires."

Mention may also be made to a decision of a learned single Judge of the Allahabad High Court in [Seth Jugmendar Das and Others v. State](#)(2), where a similar view was taken when considering the effect of the repeal of the Defence of India Act, 1939, and the (1) [1951] S.C.R. 621. (2) A.I.R. 1951 All. 703.

Ordinance No. XII of 1946 which had amended [s. 1](#) (4) of that Act.

On the other hand, Mr. Desai on behalf of the respondent relied on a decision of the Privy Council in [Wicks v. Director of Public Prosecutions](#)(1). In that case, the appellant, whose case came up before the Privy Council, was convicted for contravention of Regulation 2A of the Defence (General) Regulations framed under the Emergency Powers (Defence) Act, 1939 as applied to British subjects abroad by s. 3 (1)(b) of the said Act. It was held that, at the date when the acts, which were the subject matter of the charge, were committed, the regulation in question was in force, so that, if the appellant had been prosecuted immediately afterwards, the validity of his conviction could not be open to any challenge at all. [But the Act](#) of 1939 was a temporary Act, and after various extensions it expired on February 24, 1945. The trial of the accused took place only in May 1946, and he was Convicted and sentenced to four years penal servitude on May 28. In these circumstances, the question raised in the appeal was: "Is a man entitled to be acquitted when he is proved to have broken a Defence Regulation at a time when that regulation was in operation, because his trial and conviction take place after the regulation expired ?" The Privy Council took notice of sub- s. (3) of section 11 of the Emergency Powers (Defence) Act, 1939 which laid down that "the expiry of this Act shall not affect the operation thereof as respects things previously done or omitted to be done". It was argued before the Privy Council that the phrase "things previously done" does not cover offences previously committed. This argument was rejected by Viscount Simon on behalf of the Privy Council and it was held that the appellant in that case could be convicted in respect of the offence which he had committed when the regulation was in force. That case, however, is distinguishable from the case before us inasmuch as, in that case, the saving provision laid down that the operation of that Act itself was not to be affected by the expiry as respects things previously done or omitted to be done. [The Act](#) could, therefore, be held to be in operation in respect of acts already committed, so that the conviction could be validly made even after the expiry of the Act in respect of an offence committed before the expiry. In the case before us, the operation of R. 132A of the D.I. Rs. has not been continued after its omission. The

language used in the notification only affords protection to things already done under the rule, so that it cannot permit further application of that rule by instituting a new prosecution in respect of something already done. The offence alleged against the accused in the present case is in respect of acts done by them which cannot be held to be acts under that rule. The difference in the language thus makes (1) [1947] A.C. 362. it clear that the principle enunciated by the Privy Council in the case cited above cannot apply to the notification with which we are concerned.

Reference was next made to a decision of the Madhya Pradesh High Court in [State of Madhya Pradesh v. Hiralal Sutwala](#)(1), but, there again, the accused was sought to be prosecuted for 'an offence punishable under an Act on the repeal of which [section 6](#) of the General Clauses Act had been made applicable. In the case before us, [s. 6](#) of the General Clauses Act cannot obviously apply on the omission of R. 132A of the D.I.Rs. for the two obvious reasons that s. 6 only applies to repeals and not to omissions, and applies when the repeal is of a [Central Act](#) or Regulation and not of a Rule. If [s. 6](#) of the General Clauses Act had been applied no doubt this complaint 'against the two accused for the offence punishable under R. 132A of the D.I.Rs. could have been instituted even after the repeal of that rule.

The last case relied upon is 1. K. Gas Plant Manufacturing Co., (Rampur) Ltd. and Others v. The King Emperor(2). In that case, the Federal Court had to deal with the effect of sub-s. (4) of section 1 of the Defence of India Act, 1939 and the Ordinance No. XII of 1946 which were also considered by the Allahabad High Court in the case of Seth Jugmendar Das & Ors.(2). After quoting the amended sub-s. (4) of s. 1 of the Defence of India Act, the Court held :-

"The express insertion of these saving clauses was no doubt due to a belated realisation that the provisions of s. 6 of the General Clauses Act (X of 1897) apply only to repealed statutes and not to expiring statutes, and that the general rule in regard to the expiration of a temporary statute is that unless it contains some special provision to the contrary, after a temporary Act has expired, no proceedings can be taken upon it and it ceases to have any further effect. Therefore, offences committed against temporary Acts must be prosecuted and punished before the Act expires and as soon as the Act expires any proceedings which are being taken against a person will ipso facto terminate."

The Court cited with approval the decision in the case of Wicks v. Director of Public Prosecutions(4), and held that, in view [s. 1](#) (4) of the Defence of India Act, 1939, as amended by Ordinance No. XII of 1946, the prosecution for a conviction for an offence committed when the Defence of India Act was in force, was valid even after the Defence of India Act had ceased to be in force. That case is, however, distinguishable from the case before us in two respects. In that case, the prosecution had been started before the Defence of India Act ceased to be in force and, secondly, the language introduced in the amended sub-s. (4) of [s. 1](#) of the Act had the effect of making applicable the principles laid down in [s. 6](#) of the General Clauses Act, so that a legal proceeding could be instituted even after the repeal of the Act in respect of an offence committed during the time when the Act was in force. As we have indicated earlier, the notification of the

Ministry of Home Affairs omitting R. 132A of the D.I.Rs. did not make any such provision similar to, that contained section 6 of the General Clauses Act. Consequently, it is clear that, after the omission of R. 132A of the D.I.Rs., no prosecution could be instituted even in respect of an act which was an offence when that Rule was in force. In this connection, Mr. Desai pointed out to us that, simultaneously with the omission of R. 132A of the D.I.Rs., s. 4(2) of the Act was amended so as to bring the prohibition contained in R. 132A(2) under s. 4(1) of the Act. He urged that, from this simultaneous action taken, it should be presumed that there was no intention of the Legislature that acts, which were offences punishable under R. 132A of the D.I.Rs., should go unpunished after the omission of that rule. It, however, appears that when s. 4(1) of the Act was amended, the Legislature did not make any provision that an offence previously committed under R. 132A of the D.I.Rs. would continue to remain punishable as an offence of contravention of s. 4 (1) of the Act, nor was any provision made permitting operation of R. 132A itself so as to permit institution of prosecutions in respect of such offences. The consequence is that the present complaint is incompetent even in respect of the offence under R. 132A(4). This is the reason why we hold that this was an appropriate case where the High Court should have allowed the applications under s. 561A of the Code of Criminal Procedure and should have quashed the proceedings on this complaint.

Consequently, as already directed by our short order dated 2nd May, 1969, the appeals are allowed, the order of the High Court rejecting the applications under s. 561A of the Code of Criminal Procedure is set aside, and the proceedings for the prosecution of the appellants are quashed.”

After going through the judgment of the Hon’ble Supreme Court in the case of Rayala Corporation (P) Ltd (supra), we note that the provisions of section 6 of the General Clauses Act (X of 1897) apply only to repealed statutes and not to “omitted” statutes, unless it contains some special provision to the contrary. Therefore, any penalty/prosecution under clause(i) of section 92BA may be punished before its “omission” that is, before 01.04.2017 and as soon as the Act omits any proceedings which are being taken against a person will ipso facto terminate.

Argument advanced by Shri Vijay Shankar, (CIT-DR), on behalf of the Revenue was that the prosecution/penalty in respect of clause (i) of section 92BA of the Act, was in force in assessment year 2014-15, and therefore it is valid even after 01.04.2017, [when the clause(i) was omitted]. We do not agree with Id DR for the Revenue because omitted clause (i) of section 92BA of the Act, does not contain

any condition/ saving clause to the effect that a legal proceeding could be instituted even after the omission of clause (i) of section 92BA of the Act. It is clear that when clause (i) of section 92BA was omitted, the Legislature did not make any provision that any prosecution/penalty committed under clause (i) of section 92BA of the Act, would continue to remain punishable even after its omission w.e.f. 01.04.2017, therefore, in the absence of such condition/ saving clause it would be presumed that clause (i) of section 92BA had obliterated from the inception, that is, it would be presumed that clause (i) of section 92BA was never existed in the statute book.

13. We note that the Hon`ble Supreme Court in the case of Kolhapur Canesugar Works Ltd (2000), Civil Appeal No.2132 of 1994, dated 01/02/2000, has distinguished the terminology “omission” and “Repeal” as follows:

“29. We have carefully considered the decisions in Saurashtra Cement and Chemical Industries (supra) and Falcon Tyres case (supra). Though the judgments in these cases were rendered after the decision of the Constitution Bench in Rayala Corporation Pvt. Ltd. (supra) a different view has been taken by the High Courts for the reasons stated in the judgments. The Full Bench of the Gujarat High Court in Saurashtra Cement and Chemical Industries (supra), as it appears from the discussions in the judgment, tried to distinguish the decision of the Constitution Bench in M/s Rayala Corporation (supra) for reasons, we are constrained to say not sound in law. The decision of the Constitution Bench is directly on the question of applicability of Section 6 of the General Clauses Act in a case where a rule is deleted or omitted by a notification and the question was answered in the negative. The Constitution Bench said that "Section 6 only applies to repeals and not to omissions, and applies when the repeal is of a Central Act or Regulation and not of a Rule" (Page 656 of the S. C. Report).

30. The Full Bench appears to have lost sight of the position that all the relevant terms i.e. 'Central Act', 'Enactment' Regulation', and 'Rule' are defined in Sub-section 3(7), 3(19), 3(50) and 3(51) respectively of the General Clauses Act. When the term Central Act or Regulation or Rule is used in that Act reference has to be made to definition of that term in the statute. It is not possible nor permissible to give a meaning to any of the terms different from the definition. It is manifest that each term has a distinct and separate meaning attributed to it for the purpose of the Act. Therefore, when the question to be considered is whether a particular provision of the Act applies in a case then the clear and unambiguous language of that provision has to be given its true meaning and import. The Full Bench has equated a 'rule' with 'statute'. In our considered view this is impermissible in view of the specific provisions in the Act.

When the legislature by clear and unambiguous language has extended the provision of section 6 to cases of repeal of a 'Central Act' or 'Regulation', it is not possible to apply the provision to a case of repeal of a 'Rule'.

The position will not be different even if the rule has been framed by virtue of the power vested under an enactment; it remains a 'rule' and takes its colour from the definition of the term in the Act (General Clauses Act). At the cost of repetition we may say that the omissions in the judgment in M/s Rayala Corporation (supra) pointed out in paragraph 17 of the Judgment of the full Bench have no substance as they are not relevant for determination of the question raised for the reasons stated herein.

31. In paragraph 21 of the judgment the Full Bench has noted the decision of a Constitution Bench of this Court in Chief Inspector of Mines v. K.C. Thapar, AIR 1961 SC 838 and has relied upon the principles laid down therein. The Full Bench overlooked the position that was a case under section 24 of the General Clauses Act which makes provision for continuation of orders, notification, scheme, rule, form or bye-law, issued under the repealed Act or Regulation under an Act after its repeal and re-enactment. In that case section 6 did not come up for consideration. Therefore the ratio of that case is not applicable to the present case. With respect we agree with the principles laid down by the Constitution Bench in M/s Rayala Corporation case (supra). In our considered view the ratio of the said decision squarely applies to the case on hand.

"32. For the reasons set forth above we do not accept the view taken in Saurashtra Cement and Chemical Industries Ltd. (supra), in Falcon Tyres Ltd. (supra) and the other decisions taking similar view. It is not correct to say that in considering the question of maintainability of pending proceedings initiated under a particular provision of the rule after the said provision was omitted the Court is not to look for a provision in the newly added rule for continuing the pending proceedings. It is also not correct to say that the test is whether there is any provision in the rules to the effect that pending proceedings will lapse on omission of the rule under which the notice was issued. It is our considered view that in such a case the Court is to look to the provisions in the rule which has been introduced after omission of the previous rule to determine whether a pending proceeding will continue or lapse. If there is a provision therein that pending proceedings shall continue and be disposed of under the old rule as if the rule has not been deleted or omitted then such a proceeding will continue. If the case is covered by Section 6 of the General Clauses Act or there is a pari-materia provision in the statute under which the rule has been framed in that case also the pending proceeding will not be affected by omission of the rule. In the absence of any such provision in the statute or in the rule the pending proceedings would lapse on the rule under which the notice was issued or proceeding was initiated being deleted/omitted. It is relevant to note here that in the present case the question of divesting the Revenue of a vested right does not arise since no order directing refund of the amount had been passed on the date when Rule 10 was omitted.

We, therefore, hold that the decisions of the Full Bench of the Gujarat High court and the Division Bench of the Karnataka High Court noted above were not correctly decided. The said decisions are overruled.

We, therefore, hold that the decisions of the Full Bench of the Gujarat High court and the Division Bench of the Karnataka High Court noted above were not correctly decided. The said decisions are overruled.

In the case in hand Rule 10 or Rule 10-A is neither a "Central Act" nor a "Regulation" as defined in the Act. It may be a Rule under Section 3(51) of the Act. Section 6 is applicable where any Central Act or Regulation made after commencement of the General Clauses Act repeals any enactment. It is not applicable in the case of omission of a "Rule".

The position is well known that at common law, the normal effect of repealing a statute or provision is to obliterate it from the statute book as completely as if it had never been passed, and the statute must be considered as a law that never existed. To this rule, an exception is engrafted by the provisions Section 6(1). If a provision of a statute is unconditionally omitted without a saving Clause in favour of pending proceedings, all actions must stop where the omission finds them, and if final relief has not been granted before the omission goes into effect, it cannot be granted afterwards. Savings of the nature contained in Section 6 or in special Acts may modify the position. Thus the operation of repeal or deletion as to the future and the past largely depends on the savings applicable. In a case where a particular provision in a statute is omitted and in its place another provision dealing with the same contingency is introduced without a saving clause in favour of pending proceedings then it can be reasonably inferred that the intention of the legislature is that the pending proceeding shall not continue but a fresh proceeding for the same purpose may be initiated under the new provision.

In the present case, as noted earlier, Section 6 of the General Clauses Act has no application. There is no saving provision in favour of pending proceeding. Therefore action for realisation of the amount refunded can only be taken under the new provision in accordance with the terms thereof.

The further question that arises for consideration in this connection is whether the notification No. 267/77 dated 6.8.77 by which Rule 10 was deleted contained any provision for continuance of the proceedings already initiated and whether Act 25 of 78 which introduced Section 11-A of the Central Excise Act, adopted the legal device of creating a fiction by virtue of which a proceeding under Rule 10 could be deemed to be a proceeding under section 11-A of the Act. If such was the position then it could be argued that the proceeding initiated when old Rule 10 was in force could be continued on the strength of the clause of the notification by which the said Rule was omitted and substituted by a new Rule which in turn was substituted by section 11-A of the Act.

From the contents of the provisions in the Rules it is clear that it did not contain any saving clause for continuance of the proceeding initiated under the rule which was deleted/omitted. There is also no provision in Section 11-A or in any other Section of the Act saving the proceedings initiated under the deleted/omitted provision. The consequential position that follows is that the proceeding lapsed after 6th August 1977 and any order passed in the proceeding thereafter is to be treated as non-est. In case the notice was issued after Section 11-A was introduced in the Act, the proceeding will continue and will not be affected by this decision. All the cases are disposed of on the terms aforesaid. No costs."

From the above judgment it is abundantly clear that if a provision of a statute is unconditionally omitted without a saving Clause in favour of pending proceedings, all actions must stop where the omission finds them, and if final relief has not been granted before the omission goes into effect, it cannot be granted afterwards. Savings of the nature contained in Section 6 or in special Acts may modify the position. Thus, the operation of repeal or deletion as to the future and the past largely depends on the savings applicable. In a case where a particular provision in a statute is omitted and in its place another provision dealing with the same contingency is introduced without a saving clause in favour of pending proceedings then it can be reasonably inferred that the intention of the legislature is that the pending proceeding shall not continue but a fresh proceeding for the same purpose may be initiated under the new provision.

Case before us is that the clause(i) of section 92BA is unconditionally omitted without a saving Clause in favour of pending proceedings therefore Id PCIT cannot exercise the jurisdiction under section 263 of the Act.

14. Our view is also fortified by the judgment of the Hon'ble Supreme Court in the case of General Finance Co. 257 ITR 338 (SC), wherein the Hon'ble Supreme Court relied on its previous judgments in the case of Rayala Corporation (P) Ltd. & vs. Director of Enforcement 1969 (2) SCC 412, and Kolhapur Canesugar Works Ltd & Anr. vs. Union of India & Ors. 2000 (2) SCC 536, and held that **an 'omission' of a provision is different from a 'repeal' and section 6 of the General Clauses Act applies to a repealed law and not to omission.** The Hon'ble Supreme Court held in the context of section 276DD of the Income Tax Act that in the Income Tax Act, section 276DD stood omitted from the Act but not repealed and hence, a prosecution could not have been launched or continued by invoking section 6 of the General Clauses Act after its omission. The findings of the Hon'ble Supreme Court are as follows:

“6. Net result of this discussion is that the view taken by the High Court is not consistent with what has been stated by this Court in the two decisions aforesaid and the principle underlying s. 6 of the General Clauses Act as saving the right to initiate proceedings for liabilities incurred during the currency of the Act will not apply to omission of a provision in an Act but only to repeal, omission being different from repeal as held in the aforesaid decisions. In the IT Act, s. 276DD stood omitted from the Act but not repealed and hence, a prosecution could not have been launched or continued by invoking s. 6 of the General Clauses Act after its omission.”

15. Now we shall address the main grievances of Id DR for the Revenue, which are on three counts.

i. First grievance is that clause (i) of section 92BA has been “repealed” and not “omitted.” Effect of such “Repeal” means the clause (i) of section 92BA was in existence till 01.04.2017 and it was removed by the Finance Act, 2017. In the assessee’s case under consideration, Id PCIT has exercised his jurisdiction under section 263 of the Act, for the assessment year 2014-15. In the assessment year 2014-15, the clause (i) of section 92BA was in force therefore, the exercise of the jurisdiction under section 263 of the Act during the currency of the Act is very much valid.

ii. Second grievance is that Id DR relied on the following two judgments of Hon’ble Supreme Court, namely: (1) M/s. Shree Bhagwati Steel Rolling Mills vs. C.I.T. Excise & Others - 2015(326) ELT 209(S.C.) and (2) M/s. Fibre Boards 62 Taxmann.com 135 (S.C.) and contended that these two judgments interpret the matter in favour of the Revenue.

iii. Third grievance is that the judgments of Hon’ble Supreme Court, which were relied by the assessee in its favour, in the case of Kolhapur Canesugar Works Ltd. V Union of India (2002) 2 SCC 536 and in Royala Corporation P. Ltd. V Director of Enforcement (1969) 2 SCC 412 and in the case of General Finance Co. Vs. Asstt CIT (2002) 257 ITR 338 (SC) were overruled by the Hon’ble Supreme Court by its subsequent judgments in the case of M/s. Shree Bhagwati Steel Rolling Mills vs. C.I.T. Excise & Others - 2015(326) ELT

209(S.C.), and M/s. Fibre Boards 62 Taxmann.com 135 (S.C.), therefore, the assessee cannot use them in his favour.

16. Regarding the first grievance of Id DR to the effect that in the assessment year 2014-15, the clause (i) of section 92BA was in force therefore, the exercise of the jurisdiction under section 263 of the Act during the currency of the Act is very much valid. The said issue has been already addressed by us in para 12 of this order, hence we do not repeat the same for the sake of brevity.

17. Regarding second grievance of Id DR who relied on the following two judgments of Hon`ble Supreme Court, namely: (1) M/s. Shree Bhagwati Steel Rolling Mills vs. C.I.T. Excise & Others - 2015(326) ELT 209(S.C.) and (2) M/s. Fibre Boards 62 Taxmann.com 135 (S.C.) and contended that these two judgments interpret the law in favour of the Revenue. In order to appreciate the contention of Id DR, let us go through, one by one, the concluding para and *ratio decidendi* of the said judgments, in the case of (1) M/s. Shree Bhagwati Steel Rolling Mills (supra) and (2) M/s. Fibre Boards (supra)

First, we take the judgment of Hon`ble Supreme Court in the case of M/s. Shree Bhagwati Steel Rolling Mills vs. C.I.T. Excise & Others - 2015(326) ELT 209(S.C.), the relevant paras of the said judgment are reproduced below:

“24. Fibre Boards case is a recent judgment which, as has correctly been argued by Shri Radhakrishnan, learned senior counsel on behalf of the revenue, clarifies the law in holding that an omission would amount to a repeal. The converse view of the law has led to an omitted provision being treated as if it never existed, as Section 6 of the General Clauses Act would not then apply to allow the previous operation of the provision so omitted or anything duly done or suffered thereunder. Nor may a legal proceeding in respect of any right or liability be instituted, continued or enforced in respect of rights and liabilities acquired or incurred under the enactment so omitted. In the vast majority of cases, this would cause great public mischief, and the decision of Fibre Boards case is therefore clearly delivered by this Court for the public good, being, at the very least a reasonably possible view. Also, no aspect of the question at hand has remained unnoticed. For this reason also we decline to accept Shri Aggarwals persuasive plea to reconsider the judgment in Fibre Boards case. This being the case, it

is clear that on point one the present appeal would have to be dismissed as being concluded by the decision in the Fibre Boards case.

.....
.....

43. We are in broad agreement with the Karnataka High Court view as it is clear that the load capacity of an induction furnace unit is certainly relevant material referred to in Rule 3(2) to determine the capacity of the furnace installed. It is obvious that it is not necessary to state such load capacity in terms for it to be included in Rule 3(2). Agreeing therefore with the Karnataka High Courts view we set aside the judgment of the Punjab and Haryana High Court and declare that a Chartered Engineer Certificate dealing with the sanctioned electrical load for a furnace is a relevant consideration which can be looked at in the absence of other factors mentioned in Rule 3. This appeal is disposed of accordingly.

*44. Conclusion We have declared in this judgment that the interest and penalty provisions under the Rules 96ZO, ZP, and ZQ of the Central Excise Rules, 1994 are invalid for the reasons assigned in the judgment. **Accordingly, the appeals filed by the Revenue are dismissed and the appeals filed by the assesseees are allowed to the extent indicated above.** It may be noted that in an appeal from a judgment of the Allahabad High Court dated 8.11.2012 in SLP (C) No. 9796/2012, it has been held that the levy of penalty under the aforesaid provisions is mandatory in character. In view of what has been held by us today, this appeal will also have to be allowed in the same terms as the other assesseees appeals which have been allowed. All the aforesaid appeals are disposed of accordingly.”*

Having gone through the concluding para, as mentioned above, we note that Hon`ble Supreme Court in the case of M/s. Shree Bhagwati Steel Rolling Mills (supra), has not decided the issue in favour of Revenue. Therefore, the contention of Id. D.R. that Hon`ble Supreme Court has interpreted the issue in favour of Revenue, is not tenable. In fact, the concluding para No. 44 of the said judgment clearly speaks that the appeals filed by the Revenue are dismissed and the appeals filed by the assesseees are allowed. The said judgment of the Hon`ble Supreme Court also advocates that omitted provision being treated as if it never existed and as Section 6 of the General Clauses Act would not then apply to allow the previous operation of the provision so omitted or anything duly done or suffered thereunder. Nor may a legal proceeding in respect of any right or liability be instituted, continued or enforced in respect of rights and liabilities

acquired or incurred under the enactment so omitted. Therefore, considering the judgment of the Hon`ble Supreme Court in the case of M/s. Shree Bhagwati Steel Rolling Mills(supra), it can be said that since clause(i) of section 92BA was omitted w.e.f. 01.04.2017 therefore, it would be treated that said since clause(i) of section 92BA was never existed in the statute book.

18. Now, we shall take second judgment, in the case of M/s. Fibre Boards, 62Taxmann.com135(S.C.),relied on by the Id DR for the Revenue. The important part of the judgment is reproduced below for ready reference:

“18. On a reading of Section 24 together with what has been stated by this Court above, it becomes difficult to accept Shri Arijit Prasad’s contention that Section 24 would only apply to notifications which themselves gave rights to persons like the appellant. Unlike Section 6 of the General Clauses Act, which saves certain rights, Section 24 merely continues notifications, orders, schemes, rules etc. that are made under a Central Act which is repealed and re-enacted with or without modification. The idea of Section 24 of the General Clauses Act is, as its marginal note shows, to continue uninterrupted subordinate legislation that may be made under a Central Act that is repealed and re-enacted with or without modification. It being clear in the present case that Section 280ZA which was repealed by omission and re-enacted with modification in section 54G, the notification declaring Thane to be an urban area dated 22.9.1967 would continue under and for the purposes of Section 54G. It is clear, therefore, that the impugned judgment in not referring to section 24 of the General Clauses Act at all has thus fallen into error.

*19. But then Shri Arijit Prasad put before us two roadblocks in the form of two Constitution Bench decisions. He cited **Rayala Corporation (P) Ltd. and M.R. Pratap v. Director of Enforcement, New Delhi**, (1969) 2 SCC 412 which was followed in **Kolhapur Canesugar Works Ltd. & Anr. v. Union of India & Ors.**, (2000) 2 SCC 536. He argued based upon these two judgments that an “omission” would not amount to “repeal” and that since the present case was concerned with the omission of Section 280ZA, Section 24 would have no application.*

20. Shri Prasad is correct in relying upon these two Constitution Bench judgments for they do indeed say that in Section 6 of the General Clauses Act, the word “repeal” would not take within its ken an “omission”.

*21. In **Rayala Corporation (P) Ltd.**, what fell for decision was whether proceedings could be validly continued on a complaint in respect of a charge made under Rule 132A of the Defence of India Rules, which ceased to be in existence before the accused were convicted in respect of the charge made under the said rule. The said Rule 132A was*

omitted by a notification dated 30th March, 1966. What was decided in that case is set out by paragraph 17 of the said judgment, which is as follows:

“17. Reference was next made to a decision of the Madhya Pradesh High Court in State of Madhya Pradesh v. Hiralal Sutwala [AIR 1959 MP 93] but, there again, the accused was sought to be prosecuted for an offence punishable under an Act on the repeal of which Section 6 of the General Clauses Act had been made applicable. In the case before us, Section 6 of the General Clauses Act cannot obviously apply on the omission of Rule 132-A of the DIRs for the two obvious reasons that Section 6 only applies to repeals and not to omissions, and applies when the repeal is of a Central Act or Regulation and not of a rule. If Section 6 of the General Clauses Act had been applied, no doubt this complaint against the two accused for the offence punishable under Rule 132-A of the DIRs could have been instituted even after the repeal of that rule.”

22. It will be clear from a reading of this paragraph that a Madhya Pradesh High Court judgment was distinguished by the Constitution Bench on two grounds. One being that Section 6 of the General Clauses Act does not apply to a rule but only applies to a Central Act or Regulation, and secondly, that Section 6 itself would apply only to a “repeal” not to “an omission”. This statement of law was followed by another Constitution Bench in the **Kolhapur Canesugar Works Ltd.** case. After setting out paragraph 17 of the earlier judgment, the second constitution bench judgment states as follows:

“33. In para 21 of the judgment the Full Bench has noted the decision of a Constitution Bench of this Court in Chief Inspector of Mines v. Karam Chand Thapar [AIR 1961 SC 838] and has relied upon the principles laid down therein. The Full Bench overlooked the position that that was a case under Section 24 of the General Clauses Act which makes provision for continuation of orders, notification, scheme, rule, form or bye-law, issued under the repealed Act or regulation under an Act after its repeal and re-enactment. In that case Section 6 did not come up for consideration. Therefore the ratio of that case is not applicable to the present case. With respect we agree with the principles laid down by the Constitution Bench in Rayala Corpn. Case [(1969) 2 SCC 412 : (1970) 1 SCR 639]. In our considered view the ratio of the said decision squarely applies to the case on hand.”

23. The **Kolhapur Canesugar Works Ltd.** judgment also concerned itself with the applicability of Section 6 of the General Clauses Act to the deletion of Rule 10 and 10A of the Central Excise Rules on 6th August, 1977.

24. An attempt was made in **General Finance Company & Anr. v. Assistant Commissioner of Income Tax, Punjab**, (2002) 7 SCC 1 to refer these two judgments to a larger bench on the point that an omission would not amount to a repeal for the purpose of Section 6 of the General Clauses Act. Though the Court found substance in the argument favouring the reference to a larger bench, ultimately it decided that the prosecution in cases of non-compliance of the provision therein contained was only

transitional and cases covered by it were few and far between, and hence found on facts that it was not an appropriate case for reference to a larger bench.

25. *We may also point out that in G.P. Singh's Principles of Statutory Interpretation, 12th Edition, the learned author has criticized the aforesaid judgments in the following terms:*

“Section 6 of the General Clauses Act applies to all types of repeals. The section applies whether the repeal be express or implied, entire or partial or whether it be repeal simpliciter or repeal accompanied by fresh legislation. The section also applies when a temporary statute is repealed before its expiry, but it has no application when such a statute is not repealed but comes to an end by expiry. The section on its own terms is limited to a repeal brought about by a Central Act or Regulation. A rule made under an Act is not a Central Act or regulation and if a rule be repealed by another rule, section 6 of the General Clauses Act will not be attracted. It has been so held in two Constitution Bench decisions. The passing observation in these cases that “section 6 only applies to repeals and not to omissions” needs reconsideration for omission of a provision results in abrogation or obliteration of that provision in the same way as it happens in repeal. The stress in these cases was on the question that a 'rule' not being a Central Act or Regulation, as defined in the General Clauses Act, omission or repeal of a 'rule' by another 'rule' does not attract section 6 of the Act and proceedings initiated under the omitted rule cannot continue unless the new rule contains a saving clause to that effect....”(At pages 697 and 698)

26. *In view of what has been stated hereinabove, perhaps the appropriate course in the present case would have been to refer the aforesaid judgment to a larger bench. But we do not find the need to do so in view of what is stated by us hereinbelow.*

27. *First and foremost, it will be noticed that two reasons were given in **Rayala Corporation (P) Ltd.** for distinguishing the Madhya Pradesh High Court judgment. Ordinarily, both reasons would form the ratio decidendi for the said decision and both reasons would be binding upon us. But we find that once it is held that Section 6 of the General Clauses Act would itself not apply to a rule which is subordinate legislation as it applies only to a Central Act or Regulation, it would be wholly unnecessary to state that on a construction of the word “repeal” in Section 6 of the General Clauses Act, “omissions” made by the legislature would not be included. Assume, on the other hand, that the Constitution Bench had given two reasons for the non-applicability of Section 6 of the General Clauses Act. In such a situation, obviously both reasons would be ratio decidendi and would be binding upon a subsequent bench. However, once it is found that Section 6 itself would not apply, it would be wholly superfluous to further state that on an interpretation of the word “repeal”, an “omission” would not be included. We are, therefore, of the view that the second so-called ratio of the Constitution Bench in **Rayala Corporation (P) Ltd.** cannot be said to be a ratio decidendi at all and is really in the nature of obiter dicta.*

28. *Secondly, we find no reference to Section 6A of the General Clauses Act in either of these Constitution Bench judgments. Section 6A reads as follows:*

“6A. Repeal of Act making textual amendment in Act or Regulation - Where any Central Act or Regulation made after the commencement of this Act repeals any enactment by which the text of any Central Act or Regulation was amended by the express omission, insertion or substitution of any matter, then, unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal.”

29. A reading of this Section would show that a repeal can be by way of an express omission. This being the case, obviously the word “repeal” in both Section 6 and Section 24 would, therefore, include repeals by express omission. The absence of any reference to Section 6A, therefore, again undoes the binding effect of these two judgments on an application of the ‘per incuriam’ principle.¹

30. Thirdly, an earlier Constitution Bench judgment referred to earlier in this judgment, namely, **State of Orissa v. M.A. Tulloch & Co.**, (1964) 4 SCR 461 has also been missed. The Court there stated:

1 In Mamleshwar Prasad & Anr. v. Kanahaiya Lal (dead) through LRs., (1975) 3 SCR 834, Krishna Iyer, J., succinctly laid down what is meant by the “per incuriam” principle. He stated:

“We do not intend to detract from the rule that, in exceptional instances, whereby obvious inadvertence or oversight a judgment fails to notice a plain statutory provision or obligatory authority running counter to the reasoning and result reached, it may not have sway of binding precedents. It should be a glaring case, an obtrusive omission. No such situation presents itself here and we do not embark on the principle of judgment per incuriam.” (At page 837)

An interesting application of the said principle is contained in **State of U.P. & Anr. v. Synthetics and Chemicals Ltd. & Anr.**, (1991) 3 SCR 64, where a Division Bench of this Court held that one particular conclusion of a Bench of seven Judges was per incuriam – see: the discussion at pages 80, 81 and 91 of the said judgment.

“....Now, if the legislative intent to supersede the earlier law is the basis upon which the doctrine of implied repeal is founded could there be any incongruity in attributing to the later legislation the same intent which Section 6 presumes where the word ‘repeal’ is expressly used. So far as statutory construction is concerned, it is one of the cardinal principles of the law that there is no distinction or difference between an express provision and a provision which is necessarily implied, for it is only the form that differs in the two cases and there is no difference in intention or in substance. A repeal may be brought about by repugnant legislation, without even any reference to the Act intended to be repealed, for once legislative competence to effect a repeal is posited, it matters little whether this is done expressly or inferentially or by the enactment of repugnant legislation. If such is the basis upon which repeals and implied repeals are brought about it appears to us to be both logical as well as in accordance with the principles upon which the rule as to implied repeal rests to

attribute to that legislature which effects a repeal by necessary implication the same intention as that which would attend the case of an express repeal. Where an intention to effect a repeal is attributed to a legislature then the same would, in our opinion, attract the incident of the saving found in Section 6 for the rules of construction embodied in the General Clauses Act are, so to speak, the basic assumptions on which statutes are drafted.....” (At page 484)

31. The two later Constitution Bench judgments also did not have the benefit of the aforesaid exposition of the law. It is clear that even an implied repeal of a statute would fall within the expression “repeal” in Section 6 of the General Clauses Act. This is for the reason given by the Constitution Bench in **M.A. Tulloch & Co.** that only the form of repeal differs but there is no difference in intent or substance. If even an implied repeal is covered by the expression “repeal”, it is clear that repeals may take any form and so long as a statute or part of it is obliterated, such obliteration would be covered by the expression “repeal” in Section 6 of the General Clauses Act.

32. In fact in Halsbury’s Laws of England Fourth Edition, it is stated that:

“So far as express repeal is concerned, it is not necessary that any particular form of words should be used. (R v. Longmead, (1795) 2 Leach 694 at 696). All that is required is that an intention to abrogate the enactment or portion in question should be clearly shown. (Thus, whilst the formula "is hereby repealed" is frequently used, it is equally common for it to be provided that an enactment "shall cease to have effect" (or, If not yet in operation, "shall not have effect") or that a particular portion of an enactment "shall be omitted).”

33. At this stage, it is important to note that a temporary statute does not attract the provision of Section 6 of the General Clauses Act only for the reason that the said statute expires by itself after the period for which it has been promulgated ends. In such cases, there is no repeal for the reason that the legislature has not applied its mind to a live statute and obliterated it. In all cases where a temporary statute expires, the statute expires of its own force without being obliterated by a subsequent legislative enactment. But even in this area, if a temporary statute is in fact repealed at a point of time earlier than its expiry, it has been held that Section 6 of the General Clauses Act would apply. – See: **State of Punjab v. Mohar Singh**, (1955) 1 SCR 893 at page 898.

34. In **CIT v. Venkateswara Hatcheries (P) Ltd.**, (1999) 3 SCC 632, this Court was faced with an omission and re-enactment of two Sections of the Income Tax Act. This Court found that Section 24 of the General Clauses Act would apply to such omission and re-enactment. The Court has stated as follows:

“As noticed earlier, the omission of Section 2(27) and re-enactment of Section 80-JJ was done simultaneously. It is a very well-recognized rule of interpretation of statutes that where a provision of an Act is omitted by an Act and the said Act simultaneously re-enacts a new provision which substantially covers the field occupied by the repealed provision with certain modification, in that event such re-enactment is regarded having force continuously and the modification or changes are treated as amendment coming into force with effect from the date of

enforcement of the re-enacted provision. Viewed in this background, the effect of the re-enacted provision of Section 80-JJ was that profit from the business of livestock and poultry which enjoyed total exemption under Section 10(27) of the Act from Assessment Years 1964-65 to 1975-76 became partially exempt by way of deduction on fulfilment of certain conditions.” (At para 12)

35. *For all the aforesaid reasons, we are therefore of the view that on omission of Section 280ZA and its re-enactment with modification in Section 54G, Section 24 of the General Clauses Act would apply, and the notification of 1967, declaring Thane to be an urban area, would be continued under and for the purposes of Section 54A.*

36. *A reading of Section 54G makes it clear that the assessee is given a window of three years after the date on which transfer has taken place to “purchase” new machinery or plant or “acquire” building or land. We find that the High Court has completely missed the window of three years given to the assessee to purchase or acquire machinery and building or land. This is why the expression used in 54G(2) is “which is not utilized by him for all or any of the purposes aforesaid....”. It is clear that for the assessment year in question all that is required for the assessee to avail of the exemption contained in the Section is to “utilize” the amount of capital gains for purchase and acquisition of new machinery or plant and building or land. It is undisputed that the entire amount claimed in the assessment year in question has been so “utilized” for purchase and/or acquisition of new machinery or plant and land or building.*

37. *The High Court is not correct when it states:-*

“31. The word ‘purchase’ is not defined under the Act and therefore, has to be construed in the commercial sense. In many dictionaries, the word ‘purchase’ means the acquisition of property by party’s own act as distinguished from acquisition by act of law. In the context in which the expression issued by the Legislature requires first to be understood and interpretation that suits the context requires to be adopted. Exemption of capital gains under Section 54G of the Act can be claimed on transfer of assets in cases of shifting of industrial undertaking from urban area to any other non-urban area. This exemption may be claimed if the capital gains arising on transfer of any of assets of existing industrial unit is utilized within one year or three years after the date on which the transfer took place for purchase of new machinery or plant for the purposes of the business of the industrial undertaking in the area to which the said undertaking is shifted. The Legislature consciously has not used the expression ‘towards the purchase of plant and machinery’ as in Section 54(4) of the Act in contrast to Section 54(2) of the Act wherein the words ‘towards’ is used before the word ‘purchase’. The expression ‘purchased’ used in sub-clause (a) of section 54G of the Act requires to be understood as the domain and control given to the assessee. In the present case, it is not in dispute that the assessee has paid advance amount for acquisition of land, plant, building and machinery, etc., within the time stipulated in the Section, but it is not the case of the assessee that after such payment of advance amount, it has taken possession of land and building, plant and machinery. In our view, if the argument of the learned Senior Counsel for the assessee is accepted, it would defeat the very purpose and object

of the Section itself. By merely paying some amount by way of advance towards the cost of acquisition of land for shifting its industrial unit from urban area to non-urban area, an assessee cannot claim exemption from payment of tax on capital gains. This cannot be the intention of the Legislature and an interpretation, which would defeat the very purpose, and the object of the Act requires to be avoided.” (at para 31 of the impugned judgment)

*38. We are of the view that the aforesaid construction of Section 54G would render nugatory a vital part of the said Section so far as the assessee is concerned. Under sub-section (1), the assessee is given a period of three years after the date on which the transfer takes place to purchase new machinery or plant and acquire building or land or construct building for the purpose of his business in the said area. If the High Court is right, the assessee has to purchase and/or acquire machinery, plant, land and building within the same assessment year in which the transfer takes place. Further, the High Court has missed the key words “not utilized” in sub-section (2) which would show that it is enough that the capital gain made by the assessee should only be “utilized” by him in the assessment year in question for all or any of the purposes aforesaid, that is towards purchase and acquisition of plant and machinery, and land and building. Advances paid for the purpose of purchase and/or acquisition of the aforesaid assets would certainly amount to utilization by the assessee of the capital gains made by him for the purpose of purchasing and/or acquiring the aforesaid assets. **We find therefore that on this ground also, the assessee is liable to succeed. The appeals are, accordingly, allowed and the judgment of the High Court is set aside.”***

Having gone through the second judgment, in the case of M/s. Fibre Boards, 62Taxmann.com135(S.C.) (supra), as relied on by the Id DR for the Revenue, we note that Hon`ble Supreme Court has decided the issue in favour of assessee on different set of facts and not in favour of Revenue as contended by Id. Departmental Representative (DR). Therefore, we find that the aforesaid order of Hon`ble Supreme Court is not in favour of Revenue, as contended by Id. DR. The facts of the judgment in the case of M/s. Fibre Boards(supra) is that soon after “omission” of Section 280ZA there is re-enactment with modification in Section 54G of the Income Tax Act, therefore, section 24 of the General Clauses Act would apply. Therefore, Hon`ble Supreme Court held that on omission of Section 280ZA of the Act and its re-enactment with modification in Section 54G of the Act, section 24 of the General Clauses Act would apply, and the notification of 1967, declaring Thane to be an urban area, would be continued under and for the purposes of Section 54A of the Act.

Whereas in the assessee's case under consideration clause (i) of section 92BA was omitted with effect from 01.04.2017 and there is no re-enactment with modification in other sections of the Income tax Act, therefore, in the assessee's case under consideration it would be treated that clause (i) of section 92BA was never existed in the statute book.

It is a very well-recognized rule of interpretation of statutes that where a provision of an Act is omitted by an Act and the said Act simultaneously re-enacts a new provision which substantially covers the field occupied by the repealed provision with certain modification, in that event such re-enactment is regarded having force continuously and the modification or changes are treated as amendment coming into force with effect from the date of enforcement of the re-enacted provision.

19. Now, we shall address the third grievance of Id DR which is that the judgments of Hon'ble Supreme Court, which were relied by the assessee in its favour, in the case of Kolhapur Canesugar Works Ltd. V Union of India (2002) 2 SCC 536 and in Rayala Corporation P. Ltd. V Director of Enforcement (1969) 2 SCC 412 and in the case of General Finance Co. Vs. Asstt CIT (2002) 257 ITR 338 (SC) were overruled by the Hon'ble Supreme Court by its subsequent judgments in the case of M/s. Shree Bhagwati Steel Rolling Mills vs. C.I.T. Excise & Others - 2015(326) ELT 209(S.C.), and M/s. Fibre Boards 62 Taxmann.com 135 (S.C.), therefore, the assessee can not use them in his favour.

We do not agree with such contention of Id DR, rather, we have noticed after going through the subsequent judgments of Hon'ble Supreme Court in the case of M/s. Shree Bhagwati Steel Rolling Mills (supra) and M/s. Fibre Boards (supra) that these previous judgments in the case of Kolhapur Canesugar Works Ltd (supra) and in Rayala Corporation P. Ltd (supra) were appreciated and accepted by the subsequent judgments of the Hon'ble Supreme Court. In one of the

subsequent judgments, in the case of M/s. Fibre Boards (supra), both these judgments were appreciated in the following words:

*“19. But then Shri Arijit Prasad put before us two roadblocks in the form of two Constitution Bench decisions. He cited **Rayala Corporation (P) Ltd. and M.R. Pratap v. Director of Enforcement, New Delhi**, (1969) 2 SCC 412 which was followed in **Kolhapur Canesugar Works Ltd. & Anr. v. Union of India & Ors.**, (2000) 2 SCC 536. He argued based upon these two judgments that an “omission” would not amount to “repeal” and that since the present case was concerned with the omission of Section 280ZA, Section 24 would have no application.*

20. Shri Prasad is correct in relying upon these two Constitution Bench judgments for they do indeed say that in Section 6 of the General Clauses Act, the word “repeal” would not take within its ken an “omission”.

Therefore, the judgments of the Hon`ble Supreme Court in the case of Kolhapur Canesugar Works Ltd (supra) and in the case of Rayala Corporation P. Ltd (supra) were not overruled by the Hon`ble Supreme Court by its subsequent judgments in the case of M/s. Shree Bhagwati Steel Rolling Mills vs. C.I.T. Excise & Others - 2015(326) ELT 209(S.C.), and M/s. Fibre Boards 62 Taxmann.com 135 (S.C.). Therefore, contention of Id DR that these judgments were overruled is not tenable.

20. We are of the view that at this juncture it is necessary to examine, the meaning of saving clause? As Per the law.Com Law Dictionary & Black's Law Dictionary 2nd Ed, the saving clause has been defined as follows:

“A saving clause in a statute is an exception of a special thing out of the general things mentioned in the statute; it is ordinarily a restriction in a repealing act which is intended to save rights pending proceedings penalties etc. from the annihilation which would result from an unrestricted repeal. In contracts it is a clause that states that ambiguities should not render a contract void or voidable but the contract should be enforced in all other respects provided it can still exist as a valid and binding agreement.”

Thus, the Saving clause means a clause which denotes a reservation or exception. As per Find Law Legal dictionary, saving clause means a clause in a statute exempting something from statute's operation.

Having discussed the meaning of saving clause, it has become quite clear that at the time of omission of clause (i) of section 92BA with effect from 01.04.2017 the Legislature did not mention any terms and conditions to the effect that after omission of clause (i) of section 92BA, pending proceedings/penalties etc, till the date of omission (01.04.2017) will survive. That is, the Legislature did not insert new section in the Income Tax Act to the effect that pending proceedings/penalties etc in relation to clause (i) of section 92BA will survive even after omission, (that is, after 01.04.2017). Hence, we note that these terms and conditions, as discussed above, are absent in case of omitted clause (i) of section 92BA of the Act, therefore as per the law laid down by the Hon'ble Supreme Court in the case of Rayala Corporation (supra) and Kohlapur Cane Sugar (supra), it will be presumed that clause (i) of section 92BA never existed in the Statute Book, meaning thereby it is obliterated from the very beginning and hence the jurisdiction exercised by the Ld. PCIT u/s. 263 of the Act invoking clause (i) of section 92BA, for reference by A.O. to TPO is null in the eye of Law, as clause (i) of section 92BA is "omitted" and not "repealed" and there is no provision in any other section of the Income Tax Act saving the pending proceedings initiated under the omitted provision [(clause (i) of sec, 92BA)] as the said clause (i) was omitted on 01.04.2017, therefore, subsequent revision proceedings by ld. PCIT u/s. 263 on dated 08.03.2019 would be invalid. As we noticed above that an 'omission' of a provision is different from a 'repeal' and section 6 of the General Clauses Act applies to a repealed law and not to 'omission' of law, therefore section 6 of the General Clauses Act does not apply. So in the assessee's case it is noted that in the Income Tax Act, clause (i) of section 92BA was omitted from the Act and not repealed, hence pending

proceedings/ prosecution could not have been launched or continued by invoking section 6 of the General Clauses Act after its omission.

21. We note that the Coordinate Bench of ITAT Indore in the case of Swastik Coal Corporation Pvt. Ltd, in ITA No. 486/Ind/2018, order dated 26.07.2011, has quashed the order of Id PCIT under section 263 of the Act, on the identical facts, as narrated above. The findings of the Coordinate Bench is reproduced below:

“8. We find that the above view of the Ld. Pr. CIT is not correct. In view of the aforesaid discussion, moreover, the coordinate bench has also examined the issue in the case of Texport Overseas Pvt. Ltd. in IT(TP)A No.1722/Bang/2017. Admittedly, in this case, the order has been revised purely on the basis that the assessing officer has not referred to determine the arm's length price to the TPO. Since the provision itself stood omitted at the time when the order was passed by the Ld. Pr. CIT, under these undisputed facts in the light of the Judgement of the Hon'ble Supreme Court rendered in the case of General Finance Company (supra) as well as the order of the coordinate bench rendered in the case of Texport Overseas Pvt. Ltd. (supra), the impugned order cannot be sustained, hence is hereby quashed. The order impugned is thus quashed and the grounds raised in the appeal are allowed.”

22. To conclude: If a provision of a statute is unconditionally omitted without a saving Clause in favour of pending proceedings, all actions must stop where the omission finds them, and if final relief has not been granted before the omission goes into effect, it cannot be granted afterwards. Savings of the nature contained in Section 6 of General Clauses Act or in special Acts may modify the position. Thus, the operation of repeal or deletion as to the future and the past largely depends on the savings applicable. In a case where a particular provision in a statute is omitted and in its place another provision dealing with the same contingency is introduced without a saving clause in favour of pending proceedings then it can be reasonably inferred that the intention of the legislature is that the pending proceeding shall not continue but a fresh proceeding for the same purpose may be initiated under the new provision.

In this case, Clause (i) of section 92BA was omitted w.e.f 01.04.2017, and after its omission the Id. PCIT passed order u/s. 263 on 28.03.2019. Since clause (i) of section 92BA was unconditionally omitted without a saving clause in favour of Pending Proceedings therefore Id. PCIT ought not to have proceeded u/s. 263 of the Act, since the omission took place prior to 08.03.2019 and such omission in clause (i) of section 92BA is unconditional, that is, it does not say that Pending Proceedings under clause (i) of section 92BA would continue in future, even after its omission on 01.04.2017. Therefore, Ld. PCIT erred in exercising his jurisdiction u/s. 263 of the Act, so far clause (i) of section 92BA is concerned, reason being, in the eyes of law after omission of clause (i) of section 92BA, it would be treated as if it never existed in the Statute Book. In other words, clause (i) of section 92BA, was omitted w.e.f 1.4.2017 unconditionally and without a saving clause therefore section 6 of the General Clauses Act has no application.

We note that Id PCIT issued the above show cause notice u/s 263 in respect of specified domestic transactions referred to in clause (i) of section 92BA of the Act which was omitted with effect from 01.04.2017, and effect of such “omission” of clause (i) of section 92BA means that this provision never existed in the statute book, since clause (i) of section 92BA never existed in the statute book therefore, Id PCIT cannot exercise his jurisdiction under section 263 of the Act in respect of specified domestic transactions referred to in clause (i) of section 92BA of the Act. Therefore, the action of the Assessing Officer cannot be held to be erroneous as well as prejudicial to the interest of the revenue, in the facts and circumstances as narrated above. Thus, the usurpation of jurisdiction of exercising revisional jurisdiction by the Principal CIT is “null” in the eyes of law and, therefore, we are inclined to quash the very assumption of jurisdiction to invoke revisional jurisdiction u/s 263 of the Act by the Principal CIT. Therefore, we quash the order of the Principal CIT dated 08.03.2019 being *ab initio void*.

23. Since we allowed both the appeals on the technical ground, as narrated above, therefore we do not adjudicate the grounds raised by the assesseees on merits.

24. Before parting, it is noted that the order is being pronounced after 90 days of hearing. However, taking note of the extraordinary situation in the light of the Covid-19 pandemic and lockdown, the period of lockdown days need to be excluded. For coming to such a conclusion, we rely upon the decision of the Co-ordinate Bench of the Mumbai Tribunal in the case of DCIT vs. JCB Limited in ITA No. 6264/Mum/2018 and ITA No. 6103/Mum/2018 for A.Y. 2013-14 order dated 14.05.2020.

25. In the result, both the appeals of the assesseees (In ITA No. 895 and ITA No.1035) are allowed.

Order pronounced in the open court on this 10/06 /2020

Sd/-
(A.T. Varkey)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(A. L. Saini)

लेखा दस्य/ACCOUNTANT MEMBER

कोलकाता /Kolkata;

Dated: 10 / 06 /2020

*PP, Sr.PS

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

1. अपीलार्थी / The Appellant- M/s.Raipur Steel Casting India Pvt. Limited
4C Wood Street, 4th Fl., Kolkata-14 & M/s. Srinath Ji Furnishing P.Ltd
Ganga Building, Gr. Fl., Room No. 7, 127 B.T Road, Saket Nagar, Kol-108..
2. प्रत्यर्थी / The Respondent.-The Pr. CIT-5, Kolkata Aaykar Bhawan
(Poorva) 6th Fl., 110 Shanti Pally Kolkata-107.
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाईल / Guard file.

//True Copy//

By Order

Assistant Registrar,

I.T.A.T, Kolkata Benches, Kolkata