

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

CJ Court

Case: ITA 20/2014

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**Rajesh Kumar Gupta S/o Late Shri
Ram Krishen Gupta R/o Partapgarh
Mohalla, Jammu aged 53 years.**

.....Appellant(s)/Petitioner(s)

Through: Mr. Virinder Bhat, Advocate

Vs

**Income Tax Officer, Ward 2 (2),
Jammu**

..... Respondent(s)

Through: Mr. Suraj Singh Wazir, CGSC

**Coram: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE**

**ORDER
02.04.2026**

1. This appeal has been filed by the appellant under Section 260-A of Income Tax Act 1961 against the order dated 30.01.2014 passed by Income Tax Appellate Tribunal (Amritsar) Bench, Amritsar (hereinafter to be referred as the Tribunal), whereby the appeals preferred by the parties against order passed by the Commissioner of Income Tax (Appeals) Jammu dated 15.01.2013 have been dismissed by the learned Tribunal.

2. In terms of order dated 15.01.2013, CIT (A) Jammu confirmed the disallowance of expenditure in light of Section 40(a) (ia) of the Income Tax Act, 1961. This Court, vide order dated 08.10.2014, framed the following substantial questions of law:
- (i) Whether Sec. 40 (a) (ia) of the Income Tax Act can be invoked to disallow the expenditure, which is paid or which is shown as payable on the date of balance sheet?
 - (ii) Whether the decision of the tribunal lays down correct law?
3. The learned counsel for the respondent has produced Circular No. 37/2016 dated 02.11.2016 of Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, whereby the board has accepted the settled position that the disallowances made under Sections 32, 40(a) (ia), 40A(3), 43B, etc. of the Act and other specific disallowances, related to the business activities against which the Chapter VI-A deduction has been claimed, result in enhancement of the profit of the eligible business, and that deduction under Chapter VI-A is admissible on the profit so enhanced by the disallowance. The said Circular is taken on record.
4. Learned counsel for the respondent submits that in view of Circular No. 37/2016 dated 02.11.2016, the matter be remitted to the respondent for passing fresh order in accordance with Circular No. 37/2016 dated 02.11.2016.

5. In view of above, order impugned dated 30.01.2014 is set aside to the extent of dismissal of appeal filed by the appellant and as a natural corollary would result into setting aside the order dated 15.01.2013 passed by CIA-A, Jammu to the extent of the appellant only and the matter is remitted to the respondent for passing fresh orders in accordance with law.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

Jammu
02.04.2026
Karam Chand

Whether the order is speaking:	Yes/No.
Whether the order is reportable:	Yes/No.

