



**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**WRIT TAX No. - 1036 of 2026**

Nitish Kumar Roy

.....Petitioner(s)

Versus

Union Of India And Another

.....Respondent(s)

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Counsel for Petitioner(s) : Shubham Agrawal, Sr. Advocate,  
Upasna Agrawal  
Counsel for Respondent(s) : A.S.G.I., Abhishek Shukla, Ankur  
Agarwal

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**Court No. - 3**

**HON'BLE SAUMITRA DAYAL SINGH, J.  
HON'BLE INDRAJEET SHUKLA, J.**

1. Heard Sri Nikhil Agarwal learned Senior Advocate assisted by Sri Shubham Agrawal and Ms. Upasna Agrawal learned counsel for the petitioner and Sri Abhishek Shukla learned counsel for the revenue.

2. Submission is that the present is a rare case where interference is warranted at the stage of notice issued under Section 263 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'). First, returns were filed and assessment was made under section 143(3) of the Act. Later, petitioner was subjected to re-assessment proceeding under section 147/148 of the Act. During that proceeding, issue of purchases made was examined against specific queries raised. However, accepting the explanation furnished by the petitioner, no addition was made on that count.

3. At present, proceedings have been drawn under Section 263 of the Act on the self-same issues that had been examined during the course of re-assessment proceedings.

4. On the other hand learned counsel for revenue would contend that petitioner has available alternative remedy. Aggrieved by the show cause notice, it may file objections which may be considered by the Commissioner of Income Tax, alongwith merit issues.

5. Having heard learned counsel for parties and having perused the

record, prima facie it merits consideration if the revision proceedings may have been drawn, in the undisputed facts of the case. Besides the fact that issue may have been raised during the course of re-assessment proceedings, at present no definite opinion has been formed by the Principal Commissioner Income Tax (Central), Lucknow that the re-assessment order is erroneous and prejudicial to the interest of the revenue. On the contrary the order only states that the order "may be" erroneous and prejudicial to the interest of the revenue.

6. It being well settled law, revision may not arise by way of review but only where it appears to the Commissioner Income Tax that such order is erroneous and is also prejudicial to the interest of the revenue, that jurisdiction may be exercised.

7. In that regard reliance has been placed on **Commissioner Income-Tax vs. Krishna Capbox (P.) Ltd. (2015) 372 ITR 310 (All)**. Matter requires consideration keeping in mind the fact that this would be the third scrutiny being conducted by the revenue on the same facts.

8. Learned counsel for revenue prays and is granted four weeks' time to file Counter Affidavit. Petitioner shall have two weeks thereafter to file Rejoinder Affidavit.

9. List thereafter in the week commencing 20.04.2026.

10. Till the next date of listing, proceedings pursuant to the impugned Show Cause Notice dated 16.01.2026 for the Assessment Year 2019-20 shall remain stayed.

(Indrajeet Shukla,J.) (Saumitra Dayal Singh,J.)

**February 19, 2026**

Faraz