

आयकर अपीलीय अधिकरण, इन्दौर न्यायपीठ, इन्दौर

**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI MANISH BORAD, ACCOUNTANT MEMBER**

**ITA No.453/Ind/2019
Assessment Year: 2014-15**

M/s. Gourav Oil Industries Singhana Road, Kukshi Dist. Dhar-454331 (MP)	बनाम/ Vs.	Pr.CIT-1, Indore
(Appellant)		(Revenue)
P.A. No.AAFFG5373F		

Appellant by	Shri Manoj Gupta, A.R.
Respondent by	Smt. Ashima Gupta, D.R.
Date of Hearing:	26.11.2019
Date of Pronouncement:	04.12.2019

आदेश / O R D E R

PER KUL BHARAT, J.M:

This appeal by the assessee is directed against order of the Ld. Pr. CIT-1, Indore dated 19.3.2019 pertaining to the assessment year 2014-15. The assessee has raised following grounds of appeal:

1. *That on the facts and in the circumstances of the case the Ld. Pr. CIT has erred in setting aside the order of the A.O. passed u/s 143(3) of the I.T. Act, for examinations of the large specified domestic transactions allegedly holding it erroneous in so far as prejudicial to interest of revenue. The order passed by Pr. CIT-1 Indore u/s 263 of the I.T. Act, is bad in law and facts, requires to be quashed in full.*

The appellant crave to add, amend or alter any of the ground stated above, either before or at the time of hearing of appeal.

2. The only effective ground is against invoking the provisions of Section 263 of the Income Tax Act, 1961 (hereinafter called as 'the Act'), thereby setting aside the order passed u/s 143(3) of the Act. The facts giving rise to the present appeal are that the case of the assessee was picked up for scrutiny assessment. The assessment was framed vide order dated 22.8.2016, thereby the A.O. made addition in respect of pre-paid expenses and on account of GP ratio of Rs.56,667/- and Rs.1 lakh respectively.

Thereafter, Ld. Pr. CIT issued a notice u/s 263 of the Act calling upon the assessee that as to why the assessment framed should not be revised. The basis of notice was that the A.O. failed to examine and make proper enquiry in respect of large specified domestic transactions, deposit/withdrawal made from the bank and held by the assessee. In response to the notice, the assessee filed reply and opposed invoking of power u/s 263 of the Act. However, the Ld. Pr. CIT rejected the objections of the assessee and proceeded to revise the assessment order. Aggrieved by the impugned order, the assessee is before this Tribunal by way of the present appeal.

3. At the outset, Ld. Counsel for the assessee submitted that so far issue of referring the matter to the TPO is concerned, the issue is squarely covered in favour of the assessee by the decision of this Tribunal in the case of Swastik Coal Corporation Pvt. Ltd. Vs. Pr.CIT-2 in ITA

No.486/Ind/2018 dated 26.7.2019 and in respect of the other issues, Ld. Counsel for the assessee submitted that all details were before the A.O. It is not the case of no enquiry.

4. On the contrary, Ld. CIT(DR) opposed these submissions and supported the order of Ld. CIT(A). Ld. CIT(DR) taken us through the assessment order to demonstrate that the A.O. has failed to examine these issues and no enquiry was made.

5. We have heard the rival submissions, perused the materials available on record and gone through the orders of the authorities below. In the present case, the assessment was revised on the ground that the A.O. has not made any enquiry related to deposits and withdrawals in the bank account and also the position of stock. It is also observed by the Ld. Pr. CIT that the A.O. has not referred the matter to TPO in respect of large specified

domestic transactions, which he was required to refer to TPO for computing the arms length price in view of the provisions of section 92CA of the Act.

6. So far the issue of referring the large specific domestic transactions to the TPO, we have already decided the issue in favour of the assessee in the case of Swastik Coal Corporation Pvt. Ltd. Vs. Pr. CIT-2 (supra). For the same reasoning, we hold that the Ld. Pr. CIT was not justified in revising his order on the ground of non referring of specific domestic transactions in view of the fact that the provisions were withdrawn. However, in respect of other issues, viz. deposit/withdrawal from bank account and stock, looking to the facts and the assessment order, we do not see any reason to disturb the direction of the Ld. Pr. CIT. We therefore, modify the impugned order. The A.O. is hereby directed to examine the issues related to deposit/withdrawal of the amount from the bank account

held by the assessee and also the issue of stock by making necessary enquiry. Hence, the appeal of the assessee is partly allowed in terms herein above.

7. In the result, the appeal filed by the assessee is partly allowed.

Order was pronounced in the open court on 04.12.2019.

Sd/-

(MANISH BORAD)
ACCOUNTANT MEMBER

Sd/-

(KUL BHARAT)
JUDICIAL MEMBER

Indore; दिनांक Dated : 04/12/2019
VG/SPS

Copy to: Assessee/AO/Pr. CIT/ CIT (A)/ITAT (DR)/Guard file.

By order

Assistant Registrar, Indore