

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।  
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE  
(THROUGH VIRTUAL COURT)

BEFORE SHRI D. KARUNAKARA RAO, AM AND  
SHRI PARTHA SARATHI CHAUDHURY, JM

आयकर अपील सं. / ITA No. 449/PUN/2019

निर्धारण वर्ष / Assessment Year : 2014-15

Pankaj P. Gogad,  
48, Godai, Sahjeevan Colony,  
College Road, Nashik  
Pin-422 005  
PAN: AEEPG1258C

.....अपीलार्थी / Appellant

**बनाम / V/s.**

The Pr. Commissioner of Income Tax-1,  
Nashik.

.....प्रत्यर्थी / Respondent

Assessee by : Shri S. Mutha  
Revenue by : Shri Deepak Garg

सुनवाई की तारीख / Date of Hearing : 09.06.2020  
घोषणा की तारीख / Date of Pronouncement : 09.06.2020

**आदेश / ORDER**

**PER D. KARUNAKARA RAO, AM:**

This appeal filed by the assessee is directed against the order of the Ld. Pr. Commissioner of Income Tax-1, Pune dated 03.12.2018 for the assessment year 2014-15 passed u/s.263 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').

2. The grounds raised by the assessee in this appeal reads as follows:

*“1. On the basis of the facts and circumstances of the case and as per law, the Pr. Commissioner of Income Tax-1, Nashik is not justified in initiating proceedings u/s.263 of the Act.*

*2. On the basis of the facts and circumstances of the case and as per law, the Pr. Commissioner of Income Tax-1, Nashik is not justified in setting aside the assessment order passed by the AO u/s.143(3) of the Act.*

*3. On the basis of the facts and circumstances of the case and as per law, the Pr. Commissioner of Income Tax-1, Nashik is not justified in setting aside the assessment order passed by the AO u/s. 143(3) of the Act by holding that the AO was required to verify the taxability under section 56 (2)(vii)(b) even though the case was under ‘limited scrutiny’ for the only issue that ‘Large Investment in Property’.*

*4. On the basis of the facts and circumstances of the case and as per law, the Pr. Commissioner of Income Tax-1, Nashik is not justified in setting aside the assessment order passed by the AO u/s.143(3) of the Act by holding the assessment as erroneous when it was not obligatory on the part of the AO to refer the valuation of the property to Valuation Officer.*

*5. On the basis of facts and the circumstances of case and as per law, the order passed u/s.263 setting aside the assessment de novo please be quashed as the same was not the subject matter of notice issued u/s.263 of the Act.”*

3. At the outset, we notice that the present appeal is time barred by 45 days. The assessee has filed an affidavit along with condonation of delay petition. We have gone through the condonation petition as well as the affidavit and have found that reasons specified therein are justified and that the delay cannot be attributed to the deliberate conduct of the assessee neither through intention nor through action. The reasons for delay in filing the appeal late were beyond the control of the assessee and even the Ld. DR stated that he has no objection, if the delay is condoned. In view of the matter, we condone the delay and proceed to hear the appeal on merits.

4. Briefly stated relevant facts include that the assessee is an individual and during the year, he was having income from business and other sources. The return of income for the year under consideration was filed on 30.09.2014 declaring total income of Rs.10,61,240/-. The assessment was completed u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') accepting the returned income of the assessee. The case was selected for scrutiny for the reason "large investment in property", however, it was found by the Ld. CIT(Appeal) that the assessment in the instant case was completed without conducting the enquiries which were prima facie warranted on the facts and circumstances of the case on the aspect as mentioned in notice u/s.263 of the Act.

5. The limited issue raised in this appeal connected to the limited scrutiny assessment under CASS relates to whether purchase of shop below Rs.8,21,000/- falls under the ambit of "large investment" in property.

6. At the time of hearing, through video conference, the Ld. Counsel for the assessee submitted that Stamp Duty Authority/Registration Authorities are administrative instruction of the Board/CCIT etc. to intimate the transaction over and above Rs.30 Lakhs. It is the intention of the Government that there is requirement of verification of such investments in large properties. In other words, transaction/investment should be amounting to Rs.30 Lakhs and higher are required to be under scrutiny for verification. The Ld. Counsel for the assessee further submitted that the Assessing Officer in the assessment proceedings, dutifully examined the said 'large investment' including the purchase shop although it is worth only Rs.8,21,000/-. The

transactions worth Rs.30 Lakhs and above are anyway to be scrutinized. Relying on the various decisions, the Ld. Counsel submitted that CASS assessment order should be strictly restricted to the issues relates to the high value transaction only which are intimated by the Stamp Duty Authorities only and thereafter, the order of Assessing Officer does not need any modification with respect to the transaction of Rs.8,21,000/-.

6.1 The Ld. Counsel for the assessee further relied on the order of the Co-ordinate Bench of the Tribunal, Pune in the case of **M/S. Achyut Cashew Factory Vs. Commissioner Of Income-Tax, in ITA No.1081/PUN/2015 dated 12.12.2018.**

6.2 The Ld. Counsel for the assessee further submitted that revisionary jurisdiction assumed by the Ld. Pr. Commissioner of Income Tax is invalid and improper as per provision of the 263 of the Act. The order of Assessing Officer does not suffer from any error as the Assessing Officer rightly did not make any addition with respect to the said non high value transaction of Rs.8,21,000/-. The Ld. Counsel for the assessee further submitted that notwithstanding the meaning of 'large investment', the Assessing Officer examined the purchase of the shop also, although it means exceeding the jurisdiction by the Assessing Officer under CASS Rules.

7. In reply, the Ld. DR for the Revenue submitted that in this case, the 'large investment' is the issue for examination and the Assessing Officer failed to examine transaction of purchase of shop worth Rs.8,21,000/-. Therefore, the Ld. Pr. Commissioner of Income Tax rightly assumed jurisdiction u/s.263

of the Act. The Ld. DR further submitted that this is not a case of exceeding of jurisdiction by the Assessing Officer. The Ld. DR further argued that the Assessing Officer dutifully examined even the transaction is below Rs.30 Lakhs during the assessment proceeding and the Assessing Officer failed to make addition and thus, the Assessing Officer's order is erroneous. The Ld. DR further submitted that Registration Authority is under obligation to supply 'large transaction list' to the Department vide provision 285BA of the Act. As per Section 114E of the Income Tax Rules, 1962, Registrar or Sub-Registrar appointed under section 6 of that Act, 1908 is under obligation to supply details of nature and value of the transaction which are valued at Rs.30 Lakhs or more only. Therefore, it is case of deemed definition of "large investment".

8. We have perused the case records and heard the rival contentions. The limited issue raised before us whether (i) the Assessing Officer is justified in examining the 'large investment' (ii) whether transaction of purchase of shop amounting to Rs.8,21,000/- stands higher investment at all or not. On hearing both the sides, we find it is an undisputed fact that the Department calls for details of registration only in respect of "large investment". In this case, the impugned transaction of purchase of shop is not 'large investment' and therefore, the Assessing Officer is under obligation to examine the same with limited scrutiny direction under CASS. We find in the case of **M/S. Achyut Cashew Factory Vs. Commissioner Of Income-Tax (supra)**, the Co-ordinate Bench of the Tribunal, Pune on the similar issue has held as follows:

*"8. We have heard the rival contentions and perused the record. The issue arising in the present appeal is in respect of exercise of jurisdiction*

*by the Commissioner under section 263 of the Act. The assessment of assessee was taken up for scrutiny under CASS for limited purpose, which is also mentioned by the Commissioner in its order passed under section 263 of the Act. It is not disputed that the case of assessee was picked up for scrutiny under CASS and the question which arises is that where the assessment has been picked up for limited scrutiny and the Assessing Officer after verifying the issue has passed the assessment order under section 143(3) of the Act, can the Commissioner exercise the jurisdiction under section 263 of the Act on an issue for which assessment was not picked up for scrutiny in the hands of assessee. 9. We find that similar issue arose before the Tribunal in the case of Shri Shankarsingh C. Thakur Vs. CIT in ITA No.833/PN/2014, relating to assessment year 2009-10, order dated 12.08.2016 and it was held as under:-*

*"8. We have heard the rival contentions and perused the record. The issue arising in the present appeal is against the exercise of jurisdiction of revision by Commissioner under section 263 of the Act. Where the assessment order passed by the Assessing Officer is erroneous and prejudicial to the interest of Revenue, the Commissioner is empowered to exercise the jurisdiction under section 263 of the Act against such assessment order passed by the Assessing Officer. In the facts of the present case before us, the Assessing Officer had selected the return of income filed by the assessee for scrutiny in CASS i.e. it was picked up for limited purpose of examining the source of cash deposits above the threshold limit in the savings bank account. The scrutiny to be carried out in the case of assessee was limited scrutiny. The CBDT had passed instructions in such cases which were picked up for scrutiny on the basis of data in AIR or cases of CASS. It has been decided that scrutiny of such cases would be limited to the information received or applied and in case where the Assessing Officer was of the view that wider scrutiny had to be taken up, then the same had to be carried out with the approval of Administrative Commissioner, where there was potential escapement of income of more than Rs.10 lakhs. The assessment in the case of assessee was completed under section 143(3) of the Act on account of scrutiny under CASS for limited reasoning. The Assessing Officer had not opted for wider scrutiny in the case of assessee. In such circumstances, where the Assessing Officer had exercised the limited powers of scrutinizing the case of assessee on the points for which it was selected, the order of Assessing Officer cannot be held to be erroneous for not looking at issue which was not part of its selection process.*

*9. The Commissioner has held the order of Assessing Officer to be erroneous and also prejudicial to the interest of Revenue by not considering the claim of deduction of Rs.3,89,838/- on account of conveyance allowance and additional conveyance allowance from the salary. In view thereof, where the Assessing Officer had limited zone of exercising of his jurisdiction, non-looking into the claim of assessee on account of conveyance and additional conveyance allowance cannot make the assessment order as erroneous. In any case, even if we take up the point that the Assessing Officer needed to widen its scrutiny, then the embargo is placed by the CBDT Circular that the permission is to be sought from the Administrative Commissioner where the escapement of*

*income is more than Rs.10 lakhs. The total expenditure claimed as deduction was Rs.3,89,838/- and it is beyond threshold limit of Rs.10 lakhs and hence, could not be part of wider scrutiny, if any. Even the claim of assessee is justifiable, wherein the conveyance allowance and additional conveyance allowance has been paid by the employer LIC of India to the assessee, who was the Development Officer, on account of reimbursement of expenses. Such reimbursement would only takes place where the assessee establishes its claim that it has incurred expenses. In such circumstances, where the expenses have been reimbursed to the assessee, there is no merit in the order of Commissioner in holding that the assessee has failed to establish the incurring of expenditure. Since the order passed by Assessing Officer is not erroneous, the conditions laid down in section 263 of the Act are not fulfilled. Accordingly, the Commissioner has exceeded his jurisdiction in invoking the provisions of section 263 of the Act, which are set-aside. The grounds of appeal raised by the assessee are thus, allowed."*

The above order is relevant for the proposition that in "Cass-Limited cases", the Assessing Officer should restrict his investigation to the issues specified under "Cass".

8.1 In the instant case, only the high value transaction are to be scrutinized by the Assessing Officer. Thus, the question for adjudication is if the transaction of Rs.8,21,000/- constitutes high value transaction or not. On considering the argument of the Assessing Officer, the section 285BA of the Income Tax Act r.w.r 114E of the Income Tax Rules, we are of the view that the said transaction of Rs.8,21,000/- is not the high value transaction. Accordingly, the Stamp Duty authorities are justified in not informing the said transaction to the Assessing Officer. In turn, the Assessing Officer is not justified in calling for details of the said not-high value transaction. Thus, the Assessing Officer exceeded his jurisdiction in scrutinizing this transaction. Therefore, not making any addition on this specific transaction does not make his order erroneous for the Ld. CIT to assume jurisdiction on the order of the Assessing Officer.

From the above it is evident that this issue is decided in favour of the assessee by the Co ordinate Bench of the Tribunal, Pune in the case mentioned hereinabove. Respectfully following the same parity of reasoning, we allow the appeal of the assessee.

9. In the result, **appeal of the assessee is allowed.**

Order pronounced on 9<sup>th</sup> day of June, 2020.

Sd/-  
**PARTHA SARATHI CHAUDHURY**  
**JUDICIAL MEMBER**

Sd/-  
**D. KARUNAKARA RAO**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 9<sup>th</sup> June, 2020.  
SB

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. Commissioner of Income Tax-1, Nashik.
4. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, "बी" बेंच,  
पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

// True Copy //

आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.

		Date	
1	Draft dictated on	09.06.2020	Sr.PS/PS
2	Draft placed before author	09.06.2020	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		