

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर  
**IN THE INCOME TAX APPELLATE TRIBUNAL,**  
**INDORE BENCH, INDORE**  
**BEFORE HON'BLE KUL BHARAT, JUDICIAL MEMBER**  
**AND HON'BLE MANISH BORAD, ACCOUNTANT MEMBER**

**ITA No.518/Ind/2019**  
**Assessment Year 2014-15**

M/s M.P. Rajya Van Vikas  
Nigam Ltd,  
5<sup>th</sup> Floor, Panchanam Building,  
T.T. Nagar, Bhopal  
PAN : AACCM1081C : Appellant

V/s

Pr. CIT-1,  
Bhopal : Respondent

Revenue by	Smt. Ashima Gupta, CIT
Assessee by	Shri Anil Khabya, CA
Date of Hearing	19.10.2020
Date of Pronouncement	23.10.2020

**ORDER**

**PER MANISH BORAD, A.M:**

The above captioned appeal filed at the instances of the assessee pertaining to Assessment Year 2014-15 is directed against the order of Ld. Pr. Commissioner of Income Tax (Appeals)-1 (in short 'Ld.CIT(A)'], Bhopal dated 26.03.2019 framed u/s 263 of the Act.

2. Assessee has raised following grounds of appeal:-

*1. That the Ld. Pr. CIT(A) erred in invoking provisions of section 263 and setting aside order of assessment dated 31.10.2016 to be framed denovo.*

*2. That the Ld. CIT(A) erred in holding that the order of assessment passed by the A.O was erroneous and prejudicial to interest of revenue as claim of agriculture income was accepted by A.O in original assessment proceeding without any verification which allegation is factually incorrect.*

3. Brief facts relating to this issue is that the assessee is a Madhya Pradesh Government undertaking engaged in the business of forestry and agriculture. The assessee filed its original return of income on 29.09.2014 showing income at Rs.17,77,18,930/-. The case was selected for scrutiny under CASS and notice u/s 143(2) dated 31.08.2015 was duly served. Assessment u/s 143(3) of the Act was completed on 31.10.2016 assessing income at Rs. 68,18,49,104/- after making addition on account of lease rent at Rs.47,28,83,250/- and disallowance of corporate expenses at Rs.3,12,46,924/-. Assessee preferred appeal before Ld. CIT(A) and succeeded. Subsequently Revenue preferred appeal before the Tribunal but failed to succeed.

4. Ld. Pr. CIT-1 exercising his power u/s 263 of the Act examined the order of Ld. A.O u/s 143(3) of the Act as to whether it

is erroneous and prejudicial to the interest of revenue and examined the assessment records observing as follows:-

*2. On going through the case records, it is noticed that the profit and loss account for the year ended 31 March, 2014 had shown other income which was sale of Root Shoot/Seeds of Rs.521.36 lakh and other income which was crop-1 of RS.256.42 lakh, total as agriculture income of Rs.777.78 lakh (521.36+256.42), but at the time of computation of income assessee company had taken the agriculture income of Rs.62,60,40,263/- which was not in order as per conditions laid down in respect of section 2(1A) of the Income Tax Act,1961. Thus the difference amount of Rs.54,82,62,263/- (6260540263-77778000) was required to be added back to the assessee's company income. The omission resulted in under assessment of income to the extent of Rs. 54,82,62,263/- leading to tax effect of Rs. 18,63,54,343/- (33.99% of Rs. 54,82,62,263/-). So prima facie admissibility of agriculture income in the case is not proved. In absence of material evidence the income claimed as agriculture income should have been treated as income from other sources.*

5. On the basis of the above observation Ld. PCIT issued a show cause notice u/s 263 of the Act dated 12.03.2019. In compliance there to assessee made necessary submissions and after going through the same Ld. Pr.CIT came to the conclusion that the Ld. A.O has not examined the material facts of the case with regard to the issue raised in the show cause notice. Ld. Pr.CIT has accordingly set aside the order of Ld. A.O u/s 143(3) of the Act and

directing it to be framed *denovo* after examining the issue referred in the show cause notice.

6. Now the assessee is in appeal before the Tribunal assailing the order of Ld. Pr. CIT u/s 263 of the Act.

7. At the outset Ld. Counsel for the assessee submitted that the impugned order u/s 263 of the Act needs to be modified to the extent of directing the Ld. A.O to examine only the issue referred in the show cause notice by Ld. Pr.CIT rather than to frame *denovo* assessment. In support of this contention Ld. Counsel for the assessee referred to the decision of the Hon'ble Tribunal, Indore Bench vide ITA No.453/Ind/2017 dated 21.8.2018 in assessee's own case for Assessment Year 2014-15 in which the revenue has challenged the order of Ld. CIT(A) deleting the addition made by Ld. A.O in the assessment order u/s 143(3) of the Act dated 31.10.2016. It was submitted that the Hon'ble Tribunal has already confirmed the finding of Ld. CIT(A) deleting the additions made in the regular assessment proceedings u/s 143(3) of the Act and thus framing of *denovo* assessment order will not be justified.

8. Per contra Ld. Departmental Representative vehemently argued supporting the order of Ld. Pr. CIT.

9. We have heard rival contentions and perused the records placed before us. The assessee has challenged the finding of Ld. Pr.CIT to the extent of making modification in his finding wherein directions have been given for framing *denovo* assessment order. Before us Ld. Counsel for the assessee has submitted that as far as the issue raised in the show cause notice issued by Ld. Pr.CIT relating to admissibility of agriculture income i.e. assessment of income to the extent of Rs.54.82 crores, they are admitting the fact that this issue was not examined by Ld. A.O and Ld. CIT(A) has rightly directed to examine this issue to the Ld. A.O. However direction of Ld. Pr. CIT to the Ld. A.O for framing *denovo* assessment will not be justified since the additions made in the assessment proceedings u/s 143(3) of the Act has travelled up to the Tribunal, Indore Bench and the additions so made on account of lease rent and disallowance of corporate expenses have been deleted by the Tribunal.

10. On going through the order of Tribunal, Indore Bench dated 21.8.2018 vide ITA No.453/Ind/2017 in assessee's own case, we find sufficient merit in the contention made by the Ld. Counsel for the assessee and are of the considered view that impugned order

u/s 263 of the Act dated 26.3.2019 needs to be modified and the direction of Ld. Pr.CIT to the Ld. A.O should be restricted only to the extent of examining the issue of admissibility of agriculture income at Rs. 54.82 crores and not to other issues already dealt by the Ld. A.O and have also been examined by the I.T.A.T., Indore Bench. Thus we partly allow assessee's appeal directing the Pr. CIT to remove the word 'denovo assessment' and replace it with the direction to Ld. A.O only to the extent of examining the issue raised in the show cause notice dated 12.3.2019 i.e. the issue of admissibility of agriculture income.

11. In the result the appeal of the assessee is partly allowed.

The order pronounced in the open Court on 23.10.2020.

Sd/-  
( KUL BHARAT)  
JUDICIAL MEMBER

Sd/-  
(MANISH BORAD)  
ACCOUNTANT MEMBER

दिनांक /Dated : 23 October, 2020  
/Dev

Copy to: The Appellant/Respondent/CIT concerned/CIT(A)  
concerned/ DR, ITAT, Indore/Guard file.

By Order,  
Asstt.Registrar, I.T.A.T., Indore