

आयकर अपीलीय अधिकरण न्यायपीठ जोधपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH, JODHPUR

माननीय श्री संदीप गोसाईं, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI SANDEEP GOSAIN, JM AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
(Hearing Through Video Conferencing Mode)

1. आयकर अपील सं./ I.T.A. No.384/Jodh/2019
(निर्धारणवर्ष / Assessment Year: 2015-16)

M/s. Ridhi Sidhi Home Developers Pvt.Ltd. C/o.Rajendra Jain Advocate 106, Akshay Deep Complex 5 th B Road, Sardarpura, Jodhpur Rajasthan-342 001.	बनाम/ Vs.	Income Tax Officer Sri Ganganagar Rajasthan
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AADCR-4437-N		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Shri Rajendra Jain (Advocate)-Ld. AR.
Revenue by	:	Shri K.C. Badhok- Ld. CIT- DR

सुनवाई की तारीख/ Date of Hearing	:	02/11/2020
घोषणा की तारीख / Date of Pronouncement	:	21/12/2020

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member): -

1. By way of this appeal, the assessee challenges the validity of revisional jurisdiction u/s 263 as exercised by Ld. Pr. Commissioner of Income-Tax, Bikaner, (Pr. CIT), for Assessment Year (AY) 2015-

16 vide order dated 10/10/2019. The effective grounds taken by the assessee read as under:-

1. That on the facts and in the circumstances of the case, the order u/s 263 passed by Id CIT, Bikaner is bad in law and bad in facts.
2. That on the facts and in the circumstances of the case, the Id CIT, Bikaner erred in not recording own satisfaction in respect of assessment order passed by the Id AO is erroneous so as it is prejudicial the interest of revenue as per provision of section 263 of the Act.
3. That on the facts and in the circumstances of the case, the Id CIT, Bikaner grossly erred in setting aside the assessment order passed by the Id. Assessing Officer u/s 143(3) without any finding as to how the assessment order passed by the Id. AO is erroneous so as it prejudicial the interest of revenue.
4. That on the facts and in the circumstances of the case, the Id CIT, Bikaner erred in recording various finding in the order are contrary to the material available on record.

2. We have carefully heard the rival submissions and perused relevant material on record including submissions made by the assessee during assessment proceedings as well as during revisional proceedings. The judicial precedents as cited during the course of hearing have duly been deliberated upon. Our adjudication to the subject matter of appeal would be as given in succeeding paragraphs.

3.1 The material facts are that the assessee being resident corporate assessee was assessed u/s. 143(3) on 27/12/2017 wherein the returned income of Rs.53.21 Lacs filed by the assessee was accepted. The assessment order takes note of the fact that the case was selected for scrutiny under CASS due to various reasons which are tabulated in the opening part of the assessment order. One of the reason was *Real Estate Business with high closing stock (verify whether assessee has adopted percentage completion*

method). Another reason was that *Large squared up loans during the year*.

3.2 In the assessment order, a finding has been rendered by Ld. AO that loans were repaid out of genuine sources and through banking channels and therefore, no addition was to be made on this account.

3.3 However, Ld. Pr. CIT, upon perusal of case records and invoking the provisions of Sec.263, opined that the order was passed without making proper inquiries or verification and therefore, the same would require exercise of revisional jurisdiction in terms of Sec.263. The same stem from the fact that the assessee obtained loans of Rs.8.41 Crores during the year and repaid loans of Rs.17.64 Crores. However, the receipts as well as repayments were not verified by Ld. AO and no inquiries were made, in this regard. This was in the backdrop of the fact that the assessee's case was selected for scrutiny on the basis that large loans were squared off during the year.

Another reason to invoke jurisdiction u/s 263 was the fact that requisite inquiries as to inventories were not made by Ld. AO whereas one of the reason for selection of scrutiny was real estate business with high closing stock.

3.4 The assessee defended the assessment order by submitting that in view of new amendment in The Companies Act, the assessee could not obtain unsecured loans except from certain specified categories. Therefore, the existing loans were repaid which were sourced from fresh loans taken from directors, their

relatives & other corporate entities, as permissible. The attention was drawn to the loan confirmations, bank statements and copies of Income Tax Returns etc. as filed by the assessee during the course of assessment proceedings to substantiate the fresh loans.

The assessee also pleaded that necessary inquiries regarding valuation as well as verification of closing stock were made by Ld. AO and the requisite details were duly supplied during the course of assessment proceedings. There was no sale of flats during the year and the cost incurred by assessee on the projects formed part of closing stock. The assessee only sold plots during the year and the closing stock of plots of land was correctly valued. In support of the same, the attention was drawn to the queries raised by Ld. AO during assessment proceedings and the assessee's replies thereto. Along with its reply to show-cause notice, the assessee filed trading account with complete detail as well as valuation of closing stock of plots and flats.

4. The Ld. Pr.CIT agreed with assessee's submissions on loans aspect and therefore, dropped the revisional jurisdiction on this issue.

However, the order on the point of valuation of closing stock was held to be erroneous as well as prejudicial to the interest of the revenue and Ld. AO was directed to redo the assessment, after considering the same.

It has been observed by Ld. Pr. CIT that assessee claimed UIT expenses of Rs.5.63 Lacs as Rs.2.35 Lacs, the payment of which was not verified. There were changes in inventories of finished

goods, WIP and stock-in-trade for Rs.118.35 Lacs and the claim was accepted on provisions basis. Since the aforesaid points were not inquired to by Ld. AO, the order was erroneous and prejudicial to the interest of the revenue.

Aggrieved as aforesaid, the assessee is in further appeal before us challenging the validity of revisional jurisdiction as exercised by Ld. Pr.CIT u/s 263.

5. Upon perusal of assessment order, we find that Ld. AO was well aware of the fact that one of the reasons for selection of scrutiny was the fact that the assessee had huge closing inventory. Accordingly, a specific query was raised by Ld. AO during assessment proceedings, with respect to valuation of closing stock, vide letter dated 16/06/2017 in the following manner: -

5. It has been noticed that you did real estate business and there is high closing stock. Please furnish complete details thereof and state whether you have adopted percentage of completion method.

The assessee, vide submissions dated 05/12/2017, pointed out that the assessee was a Real Estate Developer and selling the plots only. The assessee purchased agricultural land and got it regularized from UIT / Govt. of Rajasthan. After undertaking requisite developments, it would sell the plots in the market. No construction activity was stated to be carried out by the assessee on the plots and therefore, there would be no project completion. At the end of each financial year, the closing stock of plots in sq. ft. would be worked out on cost price basis and the sales would also be recorded on the basis of area sold. In other words, profit would

be worked out on the basis of percentage of area sold by the assessee every year. The detailed trading account for the year was also placed before Ld. AO. Vide earlier submissions dated 26/10/2017, the detail of development expenditure in case of bills of more than Rs.1 Lacs was also furnished.

6. In the background of aforesaid facts, it could be gathered that Ld. AO was clichéd with the issue of valuation of closing stock and raised a specific query against the same. Apparently, the requisite details were furnished by the assessee during the course of assessment proceedings which were duly taken note of by Ld. AO and therefore, he chose not to make any addition, in this respect. This would also negate the observations of Ld. Pr.CIT that proper inquiries as well as verifications were not done by Ld. AO during the course of assessment proceedings.

7. Further, in response to show-cause notice, the assessee again filed the complete plot-wise details as well as valuation thereof in support of stock figures, which was not duly appreciated by Ld. Pr.CIT. The same is evident from the fact that it has been noted on page-6 of the impugned order that the assessee incurred development cost of Rs.8,69,453/- in the account of sale of plots (2). The same is factually incorrect since this is the area in sq. ft. of plots held by the assessee. Similarly the figures of opening stock has wrongly been noted as 677.48 Lac as against correct figures of Rs.739.03 Lacs. The fact that the claim has been accepted on provisions basis is also not correct since the assessee maintained complete stock details under each of the head which was duly

verified as well as accepted by Ld. AO during assessment proceedings.

8. Therefore, on the given facts and circumstances, it could be said that there was no slippage on the part of Ld.AO to make proper inquiries as alleged by Ld. Pr.CIT. In such a case, the revisional jurisdiction u/s 263 could not be sustained in the eyes of law. By quashing the revisional order dated 10/10/2019, we allow the appeal.

9. Resultantly, the appeal stands allowed.

*Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal)
Rules, 1963.*

Sd/-
(Sandeep Gosain)
न्यायिक सदस्य / **Judicial Member**

Sd/-
(Manoj Kumar Aggarwal)
लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 21/12/2020
Sr.PS:-Jaisy Varghese

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त/ CIT– concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई/ DR, ITAT, Jodhpur
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, जोधपुर / ITAT, Jodhpur.