

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.378/Jodh/2019
(निर्धारणवर्ष / Assessment Year: 2015-16)

Shri Narayan Das Kubba C/o. Rajendra Jain Advocate 106, Akshay Deep Complex 5 th B Road, Sardarpura, Jodhpur Rajasthan-342 001.	बनाम/ Vs.	Income Tax Officer Suratgarh Rajasthan
स्थायीलेखासं./जी आइ आर सं./PAN/GIR No. ACMPK-6987-A		
(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 learned Pr. Commissioner of Income-Tax, Bikaner, [in short referred to as 'Pr.CIT'], for Assessment Year [in short referred to as 'AY'] 2015-16,

vide order dated 09/10/2019. 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 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 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 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 individual was assessed u/s. 143(3) on 27/11/2017 wherein it has been saddled with addition of Rs.2.50 Lacs on account of unverifiable business expenditure. The assessee earned income of Rs.13.78 Lacs from proprietorship concern namely M/s Thakardas Rajendra Kumar which is stated to be dealing in Agricultural products, acting as commissions agent, trading of pesticides & fertilizers etc.

The assessment order takes note of the fact that the assessee's books of accounts were duly audited as per the provisions of

Sec.44AB. It has also taken note of the fact that the assessee had filed requisite documents i.e. bank details, financial statements, interest account, books of account vouchers etc. which were test checked during the course of assessment proceedings. The details of opening stock, closing stock, sale & purchase under each head was filed which was also test checked.

3.2 Subsequently, learned Pr.CIT, upon perusal of case records and invoking the provisions of Sec.263 opined that the order was passed without making proper enquiry on certain points and therefore the same would require exercise of revisional jurisdiction u/s. 263. One of the point on which jurisdiction has been exercised is the fact that the assessee had opening stock of Rs.1.74 Lacs of *bio-fertilizers* as well as opening stock of Rs.12.87 Lacs of *Seeds*. However, the same were not shown in the quantitative details. Further, the stock of *super-khad* was undervalued by Rs.61/- per bag. These points were not duly inquired to as well as explained by the assessee.

Another point of revision was that assessee's reply against loans taken from M/s Harvinder Singh Kishan Singh, M/s Deepak Traders & Sh. Ram Kumar was not satisfactory. The correct information was not supplied during assessment proceedings and no further inquiry was made by Ld. AO which makes the order erroneous as well as prejudicial to the interest of the revenue.

3.3 The assessee defended the assessment order by submitting that the valuation of closing stock of *super-khad* was done @Rs.270/- per bag which was after considering the discount / credit

note issued by the supplier. In support, the purchase bill of various suppliers was submitted along with the reply which would justify the valuation thus made by the assessee. Regarding unsecured loans, the assessee submitted that it had duly filed the confirmed copies of accounts, bank statement of the lenders as well as their respective Income Tax Returns during assessment proceedings which were duly verified as well as inquired to by Ld. AO.

3.4 However, not convinced Ld. Pr.CIT set-aside the assessment order and directed Ld. AO to redo the assessment in the light of observations as given in the revisional order.

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.

4. Upon perusal of assessee's submissions as filed during the course of assessment proceedings, it is evident that number of queries was raised by Ld.AO during assessment proceedings which were duly replied-to by the assessee vide its submissions dated 20/06/2017, 17/08/2017, 05/09/2017 & 20/11/2017.

In the said submissions, the assessee filed complete details of unsecured loans taken during the year. In support, the documentary evidences in the shape of ledger confirmation, bank statements, and Income Tax returns etc. of the lenders were also filed. It is apparent from the assessment order that Ld.AO was clinched with the issue of unsecured loans and after considering assessee's submissions, Ld. AO chose to accept the same and not to make

any additions, on this account. The attention to all these facts was also drawn by the assessee during revisional proceedings.

So far as the issue of closing stock is concerned, it is observed that the valuation of closing stock was filed by the assessee during the course of assessment proceedings. Not only this, complete books of accounts as well as bills/ vouchers were produced for verification which were test checked. The books were duly audited u/s 44AB and no adverse remarks were made by the Tax Auditor in his report regarding valuation of stock. It is quite evident that the issue of valuation of closing stock was also under active consideration of Ld. AO. After considering the material /explanation on record, he chose to accept the same. Even during revisional proceedings, the assessee explained the method of valuation of closing stock and filed requisite documentary evidences.

Oh the basis of forgoing, it could very well be said that the issues as pointed out by Ld. Pr.CIT were under due consideration of Ld.AO during assessment proceedings. After considering assessee's explanation as well as material on record, he chose to accept the same and did not make any additions on all these issues. There is nothing on record which would suggest any perversity on the part of Ld. AO while taking that view. Once a possible view has been taken by Ld. AO, the revisional jurisdiction u/s 263 would not be valid. Merely because the inquiries were not done in a particular manner, the same would not make assessment order expose to revisional jurisdiction u/s 263.

5. Therefore, on the facts and circumstances, we are inclined to quash the revisional order dated 09/10/2019. The assessee succeeds on legal grounds.

6. 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**
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, जोधपुर / DR, ITAT, Jodhpur
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

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