

**आयकर अपीलीय अधिकरण, “सी” न्यायपीठ, चेन्नई**  
IN THE INCOME-TAX APPELLATE TRIBUNAL ‘C’ BENCH, CHENNAI  
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष  
Before Shri Duvvuru RL Reddy, Judicial Member &  
Shri S. Jayaraman, Accountant Member

आयकर अपील सं./I.T.A. No. 1709/Chny/2018  
निर्धारण वर्ष/**Assessment Year:2013-14**

M/s. Sun Spintex India Ltd.,  
504, Avinashi Road, Peelamedu,  
Coimbatore 641 004.  
**[PAN:AAQCS4328E]**

Vs. The Deputy Commissioner of  
Income Tax,  
Corporate Circle 2,  
Coimbatore.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri K. Raghu, C.A.  
प्रत्यर्थी की ओर से/Respondent by : Shri Abani Kanta Nayak, CIT  
सुनवाई की तारीख/ Date of hearing : 22.04.2021  
घोषणा की तारीख /Date of Pronouncement : 14.06.2021

**आदेश /O R D E R**

**PER DUVVURU RL REDDY, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order of the Id. Principal Commissioner of Income Tax-1, Coimbatore, dated 19.03.2018 relevant to the assessment year 2013-14 challenging the order passed under section 263 of the Income Tax Act, 1961 [“Act” in short].

2. Brief facts of the case are that the assessee filed its return of income for the assessment year 2013-14 on 02.01.2014 declaring NIL income. The return of income filed by the assessee was processed under section 143(1) of the Act. Subsequently, the case of the assessee was

selected for scrutiny and against the statutory notices, the assessee filed the details. After examining the details of the assessee, the assessment under section 143(3) of the Act was completed by accepting the returned income.

3. However, on verification of assessment records, against the claim of depreciation at 80% on the purchase of wind mills during the assessment year 2013-14, the Id. PCIT was of the opinion that the wind mills purchased after 31.03.2012 are to be allowed a depreciation of 15% only in view of notification of CBDT in No. 15/2012. Since the Assessing Officer while completing the assessment has allowed the relief without verification or proper enquiry, the Id. PCIT was of the opinion that the assessment order is erroneous and prejudicial to the interest of the Revenue. Therefore, by invoking the provisions of section 263 of the Act, the Id. PCIT passed exparte order under section 263 of the Act in directing the Assessing Officer to redo the assessment afresh.

4. Against the order under section 263 of the Act, the assessee preferred an appeal before the Tribunal. By filing copy of the written submissions of the assessee filed in the form of letter dated 14.03.2018, which was received in the office of the Id. PCIT on 14.03.2018, the Id. Counsel for the assessee has submitted that the Id. PCIT has not considered the explanations of the

assessee and passed exparte order and prayed for quashing the revision order.

5. Per contra, the Id. DR has fairly conceded that the matter may be remitted back to the file of the Id. PCIT.

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. Against the notice under section 263 of the Act issued by the Id. PCIT, the assessee has filed its explanation by way of letter dated 14.03.2018, which was received in the office of the Id. PCIT on the same day. However, in para 4 of the revision order, the Id. PCIT has stated that the assessee chose not to avail the opportunities provided as the assessee has not responded to the show cause notice issued on 08.03.2018 and proceeded to pass order under section 263 of the Act on 19.03.2018. Thus, it is a fact that the Id. PCIT has not considered the explanations of the assessee which was very much available in the office of the Id. PCIT before passing revision order. Accordingly, we direct the Id. PCIT to examine the explanations by keeping in mind the amendment to the Income Tax Rules through Income Tax (Eighth Amendment) Rules, 2014 notified by the Ministry of Finance, Department of Revenue vide notification dated 16.09.2014 and thereafter

take a decision for the necessity of invoking the provisions of section 263 of the Act after allowing meaningful opportunity of being heard to the assessee.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on the 14<sup>th</sup> June, 2021 in Chennai.

Sd/-  
(S. JAYARAMAN)  
ACCOUNTANT MEMBER

Sd/-  
(DUVVURU RL REDDY)  
JUDICIAL MEMBER

Chennai, Dated, 14.06.2021

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/  
Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5.  
विभागीय प्रतिनिधि/DR & 6. गार्ड फाईल/GF.