

**IN THE INCOME TAX APPELLATE TRIBUNAL  
[ DELHI BENCH "C": NEW DELHI ]**

**BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER  
AND  
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER  
(Through Video Conferencing)**

ITA. No. 3645/Del/2019  
(Assessment Year : 2014-15)

M/s. Jhajjar Power Ltd., Village Khanpur, Teh. Matenhail, Jhajjar – 124 141. <b>PAN: AACJ0468L</b>	Vs.	Pr. CIT,  Rohtak.
(Appellant)		(Respondent)

Assessee by :	Shri Vartik Choksi, C. A.;
Department by :	Ms. Sunita Singh [CIT] – D. R.;
Date of Hearing :	04/10/2021
Date of pronouncement :	07/10/2021

**ORDER**

**PER PRASHANT MAHARISHI, A. M.**

1. This Appeal is filed by the assessee against the order passed by the Pr. Commissioner of Income Tax, Rohtak, [ Ld PCIT] under Section 263 of the Income Tax Act, 1961 (the Act), for assessment year 2014-15.
2. The ld. Pr. CIT has held that assessee company has debited an amount of Rs.48,77,57,035/- on account of expenditure of forward cover premium, the ld. Assistant Commissioner of income tax, Rohtak Circle, Rohtak [ Ld. Assessing Officer/ Ao] by passing an order under Section 143(3) of the Act on 30<sup>th</sup> December, 2016 while assessing loss of Rs.232,85,26,570/- has not examined the above claim. According to the Pr. CIT the above expenditure incurred was of un-ascertained nature. Accordingly, he directed the Assessing Officer to make fresh assessment after making proper enquiries. Thus, He held that the order passed under Section 143(3)

of the Act on 30<sup>th</sup> December, 2016 is erroneous and prejudicial to the interest of Revenue. The assessee is aggrieved with that order and, therefore, is in appeal before us.

3. The brief facts of the case shows that assessee filed its return of income on 20.11.2014 declaring 'NIL' income. During the course of assessment proceedings the assessee revised his return of income on 30/11/2015 and disallowed ₹ 487,757,035 on account of expenditure of forward cover premium-. Thereafter, The Assessing Officer disallowed a depreciation of Rs.184,48,19,306/-and passed an assessment order u/s 143 (3) of the income tax act 1961 on 30 December 2016.
4. The Id. Pr. CIT on examination of the record issued notice under Section 263 of the Act on 7.02.2019 stating that in the profit and loss account of the assessee, assessee has debited an amount of Rs.48,77,57,035/- on account of expenditure of forward cover premium. According to the Pr. CIT, this is of un-ascertained nature and required to be amortized in the books of accounts. He held that the Assessing Officer failed to examine the same afresh. Assessee replied on 5.03.2019. Same was rejected and order under Section 263 of the Act was passed. The assessee aggrieved with that is in appeal before us.
5. We have heard the rival contentions of the Id. AR as well as the Id. [CIT] – DR on this appeal. We find that the order under Section 143(3) read with Section 263 of the Act is also passed by the Assessing Officer on 6.12.2019 wherein the Id. Assessing Officer in para No. 4.1 has noted that assessee itself has disallowed the forward premium amortization of Rs.48,77,57,035/-, for the year under consideration in the computation of total income. The Id. Assessing Officer has also reproduced the computation of total income. Therefore, no addition was made in assessment order passed in pursuance of Section 263 of the Act. In view of the above facts, we find that when the assessee itself has disallowed the above sum and has not claimed in the return of income itself and the Id. Assessing Officer has taken cognizance of the same, we do not find any merit in the order of the Pr. CIT in passing order under Section 263 of the Act. Further, when the assessee has not claimed any deduction of the impugned sum, there cannot be any question of examination of such sum

unless it affect the total income. In view of the above facts, we do not find any reason to sustain the order passed under Section 263 of the Act by the Pr. CIT, Rohtak, dated 26<sup>th</sup> March, 2019 and hence the same is quashed.

6. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 7/10/2021.

**Sd/-**  
**(SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(PRASHANT MAHARISHI)**  
**ACCOUNTANT MEMBER**

Dated : 7/10/2021

\*MEHTA\*

Copy forwarded to

1. Appellant;
2. Respondent
3. CIT
4. CIT (Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi

Date of dictation	7.10.2021
Date on which the typed draft is placed before the dictating member	7.10.2021
Date on which the typed draft is placed before the other member	7.10.2021
Date on which the approved draft comes to the Sr. PS/ PS	7.10.2021
Date on which the fair order is placed before the dictating member for pronouncement	7.10.2021
Date on which the fair order comes back to the Sr. PS/ PS	7.10.2021
Date on which the final order is uploaded on the website of ITAT	7.10.2021
date on which the file goes to the Bench Clerk	7.10.2021
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the order	