

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
KOLKATA BENCH "A", KOLKATA**

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER  
AND SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

**ITA No.452/Kol/2020  
Assessment Year: 2015-16**

North Dinajpur Tea Agro (P) Ltd.  C/o Subash Agarwal & Associates, Advocates Siddha Gibson, 1, Gibson Lane, Suite 213, 2 <sup>nd</sup> Floor, Kolkata- 700069.  <b>PAN: AAACN8881B</b>	Vs.	PCIT-2, Kolkata
(Appellant)		(Respondent)

**Present for:**

Appellant by : Shri Siddharth Agarwal, Advocate  
Respondent by : Shri Amol Kamat, CIT-DR.

Date of Hearing : 21.12.2021  
Date of Pronouncement : 01.02.2022

**ORDER**

**PER RAJESH KUMAR, ACCOUNTANT MEMBER:**

The present appeal has been preferred by the assessee against the order passed u/s 263 of the Income Tax Act, 1961 (hereinafter referred to as the 'Act') by the Principal Commissioner of Income Tax-2, Kolkata (hereinafter referred as the 'PCIT') relevant to A.Y 2015-16.

2. The only issue raised in the various grounds of appeal by the assessee is against the revisionary jurisdiction exercised by PCIT u/s 263 of the Act on the ground that the assessment dated 24.11.2017 was erroneous and prejudicial to the interest of the Revenue.

3. The facts in brief are that the Assessing Officer framed the assessment u/s 143(3) of the Act by order dated 24.11.2017 accepting the returned income of Rs.18,24,860/- as per return filed on 29.09.2015. The Ld. PCIT on examination of the assessment records came to conclusion that the Assessing Officer was failed to examine the interest expenses attributable to exempt income earned and by exercising the revisionary jurisdiction u/s 263 of the Act , set aside the assessment framed u/s 143(3) of the Act with the direction to frame the assessment after examining the issue.

4. After hearing the rival parties and perusing the materials on record, we find that the issue on which the PCIT exercised his revisionary jurisdiction u/s 263 of the Act is for the reason that AO has not examined in details of the huge interest expenses incurred which are relatable to exempt income earned during the year. We note that the assessee has replied along with details to the show-cause notice issued by the PCIT by letter dated 19.03.2020 explaining therein that this issue has been examined by the Assessing Officer during the course of assessment proceedings and only after examination/verification of the relevant documents filed by the assessee, the Assessing Officer accepted the plea of the assessee that no disallowance u/s 14A is required to be made in respect of interest in respect of earning of exempt income as the assessee has not received any exempt income during the year. In our view, the PCIT has wrongly exercised his powers u/s 263 of the Act for the reason that there is no exempt income to the assessee during the instant year and therefore, the order passed by the Assessing Officer u/s 143(3) dated 24.11.2017 is neither erroneous nor prejudicial to the interest of the Revenue. The view taken by the Assessing Officer finds support from the decision *Godrej & Boyce Mfg. Co. Ltd. v. Dy. CIT* [2010] 328 ITR 81 (Bom) wherein the Hon'ble High Court held that no disallowance is to be made where assessee has not earned any exempt income. Similarly in the case of *CIT vs. Chettinad Logistics (P) Ltd.* [2017] 80 taxmann.com 221(Madras), it has been held that where the assessee has not earned any exempt income, provisions of section 14A could not be invoked. Therefore, considering the facts of the assessee and the

decisions laid down by the Hon'ble High Courts, we are inclined to quash the revisionary proceedings as well as the order u/s 263 passed by the PCIT.

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

**Order pronounced in the open court on 01.02.2022.**

**Sd/-  
(SANJAY GARG)  
JUDICIAL MEMBER**

**Sd/-  
(RAJESH KUMAR)  
ACCOUNTANT MEMBER**

Kolkata, Dated: 01.02.2022.  
RS

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Kolkata  
The CIT (A) Concerned, Kolkata  
The DR Concerned Bench

//True Copy//

By Order

Sr. Private Secretary/DDO  
ITAT, Kolkata Benches, Kolkata