

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'D', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No.2556/Del/2016
Assessment Year: 2011-12

Mohan Tractors Pvt. Ltd. Sonepat Road Rohtak PAN No.AACCM8536G	Vs	Pr. CIT Rohtak
(APPELLAN		(RESPONDENT)

Appellant	None
Respondent	Ms. Neetika Bansal, CIT DR

Date of hearing:	31/05/2022
Date of Pronouncement:	31/05/2022

ORDER

PER N.K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order dated 23.03.2016 framed u/s. 263 of the Act by the Pr. CIT, Rohtak for A.Y. 2011-12.

2. The grievance of the assessee read as under :-

1. That the impugned order u/s 263 of Ld. Pr. CIT, Rohtak dated 23.03.2016 is bad in law and wrong, incorrect and illegal on the facts and in the circumstances of the case and the legal position.
2. That the Ld. Pr. CIT erred in opening the case already, assessed u/s 143(3), under section 263 of the Income Tax Act, 1961 objecting to the documents and explanations already submitted during assessment proceedings when on the contrary,
 - a) All facts and circumstances were clearly explained before the Ld Pr. CIT which was not accepted by the Ld Pr CIT.
3. And the said reopening of the assessment was confirmed on no material evidence and/or on irrelevant material/evidence and/or by ignoring relevant material/evidence and/or was based on surmises and is perverse and bad in law.
4. That the authorities below has erred in ignoring and/or rejecting submissions and contentions made by the appellant Company and had erred in not putting cogent material on record before disapproving the same.
5. That the appellant Company had discharged the burden/onus that rests on it and the Authorities below has failed to discharge the burden/onus that rest on them.
6. That the appellant craves to add, alter, delete, modify, substitute, amend any ground(s) of appeal before or at the time of hearing of appeal.

3. None appeared on behalf of the assessee. A perusal of our record show that this appeal was first listed on 04.09.2019 on which date nobody appeared thereafter on 23.02.2021, 30.09.2021, 16.12.2021, 28.02.2022, 05.04.2022 in all these dates no one appeared on behalf of the assessee inspite of the notices. The impugned assessment year is A.Y.2011-12 and the impugned order is framed u/s. 263 of the Act. This being an old matter we decided to proceed exparte.

4. The DR was heard at length. Case records carefully perused.

5. Briefly stated the facts of the case are that the assessee is an authorized dealer of JCB, Ashok Leyland, Eicher Tractor. Return for the year under consideration was selected for scrutiny under "CASS" and accordingly statutory notices were issued and served upon the assessee.

6. During the course of the scrutiny assessment proceedings the assessee was asked to file the comparative chart of Sales, Gross Profit, Net Profit, G.P. Ratio and Net Profit Ratio of the current year and on perusal of the details the AO made certain additions and framed order u/s. 143 (3) of the Act on 25.10.2013.

7. Assuming the power conferred upon him by the provision of section 263 of the Act the Pr. CIT, Rohtak served notice upon the assessee asking the assessee to show cause why the Assessment Order dated 25.10.2013 framed u/s. 143 (3) of the Act be not treated as erroneous and prejudicial to the interest of the revenue

as no enquiry was made by the AO in respect of interest free advances of Rs. 1.33 crores which included certain advances for purchase of property on which interest was not capitalized.

8. Assessee filed reply to the show cause notice which was duly considered by the Pr. CIT. However, the Pr. CIT was of the firm belief that since no enquiry was made by the AO, he deem it fit to set aside the Assessment order dated 25.10.2013 with a direction to the AO to reframe the same after making proper enquiry in respect of the advances given by the assessee holding the assessment order as erroneous and prejudicial to the interest of the revenue.

9. On the aforementioned facts and on finding that the AO infact did not make any enquiry in respect of interest free advances has certainly made the Assessment order dated 25.10.2013 erroneous and prejudicial to the interest of the revenue. We, therefore, do not find any reason to interfere with the findings of the Pr. CIT. The appeal filed by the assessee is accordingly dismissed.

10. Decision announced in the open court on 31.05.2022.

Sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER

NEHA, Sr. Private Secretary

Date:- 31.05.2022

Copy forwarded to:

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

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
 ITAT NEW DELHI

Date of dictation	31.05.2022
Date on which the typed draft is placed before the dictating Member	31.05.2022
Date on which the typed draft is placed before the Other member	31.05.2022
Date on which the approved draft comes to the Sr.PS/PS	31.05.2022
Date on which the fair order is placed before the Dictating Member for Pronouncement	31.05.2022
Date on which the fair order comes back to the Sr. PS/ PS	31.05.2022
Date on which the final order is uploaded on the website of ITAT	31.05.2022
Date on which the file goes to the Bench Clerk	31.05.2022
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	