

**IN THE INCOME TAX APPELLATE TRIBUNAL "B"**  
**BENCH KOLKATA**

**Before Shri Sanjay Garg, Judicial Member and Shri Girish Agrawal, Accountant Member**

**I.T.A. No.200/Kol/2022**  
Assessment Year: 2017-18

**Manindra Mohan Mazumdar.....Appellant**  
**Radhanagar Road,**  
**P.O-Burnpur, PO-Burnpur,**  
**Burdwan-713325.**  
**[PAN: AELPM0074R]**

vs.

**PCIT, Asansol.....Respondent**

**Appearances by:**

Shri S. K. Tulsyan, Advocate & Lata Goyal, ACA, appeared on behalf of the appellant.  
Shri Amol Kamat, CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : July 20, 2022

Date of pronouncing the order : July 28, 2022

**ORDER**

**Per Sanjay Garg, Judicial Member:**

The present appeal has been preferred by the assessee against the order dated 26.03.2022 of the Principal Commissioner of Income Tax, Asansol [hereinafter referred to as 'PCIT'] exercising his revision jurisdiction u/s 263 of the Income Tax Act (hereinafter referred to as the 'Act').

2. At the outset, the Id. Counsel for the assessee has invited our attention to the impugned order of the Id. PCIT passed u/s 263 of the Act to submit that the Id. PCIT has noted that the business income of the assessee was computed u/s 44AD of the Act as per which the gross profits of the assessee were computed @8% of the gross turnover. He further observed that the assessee had adjusted derivative loss of current year amounting to Rs.38,01,257/- from the income computed u/s 44AD of the Act. In the opinion of the Id. PCIT, the derivative loss could not be adjusted against the income computed u/s 44AD of the Act. He, therefore, held that the order of the Assessing Officer was erroneous and prejudicial to the interest of the Revenue.

3. The Id. Counsel for the assessee invited our attention to the paper-book page 12,13,14,15 & 16 to submit that show-cause notices were served by the Assessing

Officer during the assessment proceedings wherein the queries were raised regarding the adjustment of derivative loss against the income declared u/s 44AD of the Act which were duly replied and the relevant evidences in support of the claim were also furnished. The Assessing Officer having satisfied with the reply and explanation submitted by the assessee passed the assessment order accepting the adjustment/set off of derivative loss against business income of the assessee. The Id. Counsel has submitted that even otherwise there is no bar under the Income Tax Act for setting off of derivative loss against business income.

The Id. DR could not rebut the above contention of the Id. Counsel for the assessee.

3. In view of the above, we do not find any justification on the part of the Id. PCIT to exercise his revision jurisdiction u/s 263 of the Act in this case. The impugned revision order u/s 263 is, therefore, being not sustainable in the eyes of law is hereby quashed.

4. In the result, the appeal of the assessee stands allowed.

***Kolkata, the 28<sup>th</sup> July, 2022.***

Sd/-  
**[Girish Agrawal]**  
**Accountant Member**

Sd/-  
**[Sanjay Garg]**  
**Judicial Member**

Dated: 28.07.2022.

RS

*Copy of the order forwarded to:*

1. Manindra Mohan Mazumdar
2. PCIT, Asansol
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches