

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "D", MUMBAI**

**BEFORE SHRI G.S. PANNU, PRESIDENT AND  
SHRI VIKAS AWASTHY, JUDICIAL MEMBER**

**ITA NO. 920/MUM/2021 : A.Y : 2015-16**

Rediffusion Brand Solutions Pvt. Ltd., Vs. Pr. Commissioner of Income  
1801, A Wing, Lotus Corporate Park, Tax-8, Mumbai. (Respondent)  
Goregaon (E), Mumbai 400 063.  
**PAN : AAACR5303G (Appellant)**

**Appellant by : Shri Madhur Agarwal**  
**Respondent by : S/Shri Amol Kirtane & Mehul Jain**

**Date of Hearing : 17/06/2022**

**Date of Pronouncement : 12/08/2022**

**ORDER**

This appeal by the assessee is directed against the order of Principal Commissioner of Income Tax-8, Mumbai (in short 'PCIT') dated 22.3.2021 passed under Section 263 of the Income Tax Act, 1961 (in short 'the Act') for Assessment Year 2015-16.

2. Shri Madhur Agarwal appearing on behalf of the assessee submitted that the assessee had filed return of income for the impugned assessment year declaring total income of Rs.12,11,29,330/-. The assessment for Assessment Year 2015-16 in the case of assessee was completed vide order dated 29.06.2017 under Section 143(3) of the Act. Thereafter, the PCIT in exercise of revisionary powers under Section 263 of the Act issued notice dated

19.03.2021 on the premise that the Assessing Officer failed to conduct inquiry with respect to inconsistency in the sales as recorded in the Profit & Loss Account and as per 26AS statement. The Id. Counsel for the assessee submitted that, in the first instance, PCIT has erred in holding that no inquiry was made by the Assessing Officer in scrutiny assessment proceedings. The assessee had given all the relevant details in response to the notice issued under Section 142(1) of the Act and the Assessing Officer verified all the details furnished by assessee in support of the submissions. The Id. Counsel referred to notice dated 22.05.2017 issued under Section 142(1) of the Act (page 9 of the Paper Book), and the reply to the notice dated 28.06.2017 (page 10 of the Paper Book). The Id. Counsel pointed that secondly, a perusal of notice issued under Section 263 of the Act and the reasons for invoking revisionary jurisdiction in order passed under Section 263 of the Act would show that the reasons are inconsistent. The Id. Counsel asserted that impugned order is liable to be quashed on this ground alone. He submitted that the assessee has been consistently following same method of accounting to record sales and the same has been accepted by the Department in the past. The assessee was able to reconcile difference between 26AS statement and the sales as recorded in the books of account. The Assessing Officer after examining the reconciliation statement was satisfied and hence, made no addition. The PCIT has failed to point out inquiries which the Assessing Officer has failed to conduct during scrutiny assessment proceedings. The Id. Counsel pointed that in the notice issued under Section 142(1) of the Act, the Assessing Officer specifically raised query with respect to reconciliation of 26AS statement with the audited books. The assessee, in reply to the notice, had furnished reconciliation of income as per AIR and the books of account. The assessee had also furnished party-wise details of revenue from operations. The Id. Counsel contended that the twin

conditions set-out in Section 263 of the Act for invoking revisionary jurisdiction are not satisfied as there is no error in the assessment order and prayed for quashing the impugned order.

3. *Per contra*, Shri Amol Kirtane representing the Department strongly supported the impugned order and prayed for dismissing the appeal of assessee. The Id. DR submitted that as per 26AS statement, sales was Rs.287,19,81,529/- on which TDS amounting to Rs.8,04,01,305/- was deducted. Whereas, as per reconciliation statement, sales are Rs.253,41,71,488/-. The assessee failed to reconcile the difference. The Assessing Officer has failed to conduct inquiries, hence, the assessment order is erroneous and prejudicial to the interest of Revenue.

4. We have heard the submissions made by rival sides and have examined the orders of the authorities below. A perusal of the notice issued under Section 263 of the Act reveals that the PCIT has exercised power under Section 263 of the Act for the following reasons :-

*“5. ....During the scrutiny assessment assessee submitted party wise details of receipt of Rs.253,41,71,488. The AO in notice dated 142(1) dated 22.5.2017 asked assessee to submit complete reconciliation of 26AS with audited books. Assessee submitted the reconciliation of books of accounts with 26AS on 28-6-2017. But this submission of assessee only accounted for total receipt of Rs.253,41,71,488 and not Rs.287,19,81,529.”*

While passing impugned order u/s 263 of the Act, the PCIT observed as under :-

*“2. On perusal of the assessment records it was seen that, P&L A/c. and 26AS statement and reconciliation statement available in the file it is seen*

*that Sales as per the 26AS statement was Rs.287,19,81,529/- on which TDS amounting to Rs.80401305/- was deducted and claimed. And as per reconciliation statement submitted by assessee these sales are at Rs.253,41,71,488/-. AO has failed to verify this mismatch of receipt between 26AS and assessee's books."*

From perusal of above, it is evident that primary issue for exercising power under Section 263 of the Act in notice and the order thereafter is same, however, the PCIT in the impugned order is more specific whereas in notice issued under Section 263 there is variation in amounts only. Therefore, the argument raised by the assessee that the reasons recorded in the notice and the order under Section 263 of the Act is at variance is without much force.

5. The PCIT has observed in the impugned order that the Assessing Officer has completed the assessment without making any inquiry on the issue of reconciliation of books with 26AS statement. We find that the Assessing Officer had issued notice under Section 142(1) of the Act (page 9 of the Paper Book) wherein a specific query at serial number 5 was raised by the Assessing Officer directing the assessee to furnish complete reconciliation of 26AS/CIB/AIR/OLTAS/Service Tax/STT/Sales-tax Return with audited books. The assessee in reply to the notice had furnished reconciliation of income as per AIR with the books of account. A perusal of the reconciliation statement shows that the assessee has been able to reconcile the sales as per 26AS with the books of account. The Assessing Officer after having been satisfied with the reconciliation statement raised no further inquiry, therefore, it cannot be said that it is a case of no inquiry by the Assessing Officer. 'Inadequate inquiry' and 'no inquiry' are on a different pedestal. The assessee has furnished all the relevant documents before the PCIT. The PCIT has not pointed as to what further inquiries ought to have been conducted by the Assessing Officer. We

find no error in the assessment order. The twin conditions for exercising power under Section 263 of the Act, i.e. assessment order should be erroneous and prejudicial to the interest of the Revenue, are not satisfied in the present case. It is a well settled law that satisfaction of aforesaid twin conditions are *sine qua non* for exercising revisional powers under Section 263 of the Act. Where any one of the conditions are not met, jurisdiction under Section 263 of the Act cannot be invoked. In the present case since the assessment order is not found to be erroneous, one of the twin conditions is not satisfied. Consequently, the impugned order is quashed and the appeal of assessee is allowed.

Order pronounced in the open court on 12<sup>th</sup> August, 2022.

Sd/-  
**(G.S. PANNU)**  
**PRESIDENT**

Sd  
**(VIKAS AWASTHY)**  
**JUDICIAL MEMBER**

Mumbai, Date : 12.08.2022

\*SSL\*

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT(A) concerned
- 4) The CIT concerned
- 5) The D.R, "D" Bench, Mumbai
- 6) Guard file

By Order

Asstt. Registrar/Sr. Private Secretary  
I.T.A.T, Mumbai