

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'C' BENCH: CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं डॉ दीपक पी. रिपोटे, लेखा सदस्य के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND**  
**DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.348/Chny/2022  
निर्धारण वर्ष /Assessment Year: 2017-18

**M/s. Sol India Pvt. Ltd.,**  
3, Ground Floor, Tarapore Towers,  
No.826, Anna Salai,  
Chennai – 600 002.  
**[PAN: AAOCS-2470-H]**

**The Principal Commissioner**  
**of Income Tax,**  
**Chennai-3.**

**Vs.**

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by  
प्रत्यर्थी की ओर से /Respondent by

: Ms. T. Sandhyaarti, FCA  
: Shri M. Rajan, CIT

सुनवाई की तारीख/Date of Hearing

: 18.08.2022

घोषणा की तारीख /Date of Pronouncement

: 18.08.2022

**आदेश / ORDER**

**Per Mahavir Singh, Vice President :**

This appeal by the assessee is arising out of the revision order of Principal Commissioner of Income Tax, Chennai-3 u/s 263 of the Income Tax Act, 1961 (hereinafter 'the Act') in Revision No. PCIT, Chennai-3/Revision-263/100000316555/2022 dated 17.03.2022. The Assessment was framed by Asst. Commissioner of Income Tax, Corporate Circle-6(2), Chennai for the relevant Assessment Year 2017-18 vide order dated 07.12.2019 u/s. 143(3) of the Act.

:- 2 -:

2. The only issue in this appeal of assessee is against the revision order passed by PCIT u/s. 263 of the Act on the issue already resolved and closed by an order for full and final settlement under Direct Tax Vivad Se Vishwas Scheme, 2020 in Form No.5 issued by the Revenue Department vide order dated 23.04.2021. For this, the assessee has raised following four grounds:

*"1. The learned PCIT has failed to consider the fact that the issue under consideration had already been resolved and closed by an order for full and final settlement under the Direct Tax Vivad Se Vishwas Act, 2020 (VSVS Act, 2020) in Form No. 5 dated 23<sup>rd</sup> April, 2021 and hence cannot be again subject to revisionary proceedings.*

*2. The learned PCIT has erred by not considering the provisions of Section 5(3) of the VSVS Act 2020, whereby it is stated that the orders passed under sub-section (1) of the said Act shall be conclusive as to the matters stated therein and no matter covered by such order shall be reopened in any other proceeding.*

*3. The learned PCIT had ignored the fact that the appellant had preferred an appeal before the CIT(A) against the impugned order u/s 143(3) dated 6<sup>th</sup> January, 2020 and the order dismissing the appeal was received on 12<sup>th</sup> May, 2021 pursuant to filing a request for withdrawal before the CIT(A).*

*4. The learned PCIT, being the same authority passing the order for final settlement of the section 14A issue under the Direct Tax Vivad Se Vishwas Act, 2020, is not in any manner justified in initiating revisionary proceedings with respect to the same issue u/s 263 of the Income-tax Act, 1961."*

3. We have heard the rival contentions and gone through the facts and circumstances of the case. We have also gone through the paper book filed by the assessee including the case laws. We noted the facts that the A.O while completing the assessment u/s 143(3) of the Act dated 07.12.2019 considered the issue of disallowance of expenses relating to exempt income by invoking the provisions of s. 14A of the

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Act r/w Rule 8D(2) of the Income Tax Rules, 1962 (hereinafter 'the Rules') and made disallowance at Rs. 4,51,181/-. Subsequently, the PCIT issued show case notice and set aside the assessment order by directing the A.O to re-compute the disallowance under Rule 8D of the Rules correctly. The PCIT observed in Para 5 & 6, which reads as under:

*"5. The submissions filed by the assessee company are carefully considered. It is seen that the Assessee had made declaration under DTVSS Act 2020 in respect of the additions made in the Assessment Order dated 07-02-2019. The protection given under the DTVSS Act is applicable only for the issues for which the assessee or the department filled^ appeal with the appellate authorities. It will not apply for the other issues.*

*6. In the present case, it is clear that the Assessing Officer had not made proper additions u/s.14A of the Act r.w. Rule 8D correctly. Therefore, I hereby **set-aside** the assessment order directing him to compute the disallowances under rule 8D correctly after affording reasonable opportunities of beard heard to the Assessee. While computing income, the balance tax and interest payable, the Assessing Officer should give proper allowance for the tax paid under the DTVSV Act, 2020."*

4. The Ld. Counsel for the assessee argued on behalf of the assessee and on the other hand, the Ld. CIT-DR argued on behalf of Revenue. We have gone through the revision order as well as the assessment order and find that the PCIT has nowhere gone into the details of expenses or given a finding how the assessment order is erroneous so far as the prejudicial to the Revenue. Even, there is no whisper about the facts how the A.O has not made proper disallowance of expenses relatable to exempt income while invoking the provisions of s. 14A of the Act r/w Rule 8D(2) of the Rules. We

:- 4 -:

have extracted the findings of PCIT and there is no whisper or no discussion at all as to how and which expenses are relatable to exempt income. Moreover, the Hon'ble Jurisdictional High Court in the case of *Gopalakrishnan Rajkumar/Gopalakrishnan Ravim vs. PCIT/CIT in W.P Nos.6367 & 6368 of 2021 (Mad.)* has considered the identical issue and held at Para 43 to 48 as under:

*“43. Section 6 of the Direct Tax Vivad Se Vishwas Act, 2020, makes it very clear that once there is a compliance with the timeliness specified under Section (5), the designated authority shall not institute any proceedings in respect of an offence or aims or levy any penalty or charge any interest under the Income Tax in respect of the tax arrears.*

*44. Section 5 of the Direct Tax Vivad Se Vishwas Act, 2020, also makes it clear that save as otherwise expressly provided in sub-section(3) of Section 5 or Section 6, nothing contained in this Act shall be construed as conferring any benefit, concession or immunity on the declarant in any proceedings other than those in relation to which the declaration has been made.*

*45. The intention of the parliament enacting the of the Direct Tax Vivad Se Vishwas Act, 2020, is to bring a closure of disputes in respect of tax arrears. Whether the petitioner had correctly or wrongly availed the benefit of Section 57(F) of the Income Tax Act or not cannot be re-opened once again under Section 263 of the Income Tax Act, 1961.*

*46. Once the petitioners had opted to settle the dispute under the Direct Tax Vivad Se Vishwas Act, 2020, the proceedings initiated under Section 263 have to go. If on the other hand the respective petitioners had not filed Form 1 and 2 or not accepted with the issue of Form 3, the Impugned Notice seeking to re-open the assessment under Section 263 of the Income Tax Act, 1961 could be justified.*

*47. The Finance Minister in her speech on 01.02.2020 announced the the Direct Tax Vivad Se Vishwas Scheme to bring down the litigation. The Government intended to reduce the litigation, so that the taxpayers can buy peace with the department. The aforesaid scheme was to be implemented on 30.06.2020.*

*48. The taxpayers whose appeals were pending at any level were entitled to avail benefit of the scheme. Therefore, there is no justification in proceeding further with the impugned proceedings initiated by the first respondent under Section 263 of the Income Tax Act, 1961.”*

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5. The Hon'ble High Court in this case has categorically held that on the very same issue, the PCIT has no power to initiate proceedings u/s. 263 of the Act.

6. Similarly, the Hon'ble Calcutta High Court in the case of *PCIT v. Manju Osatwal [2022] 139 taxmann.com 376 (Calcutta)* in great detail has considered this issue and finally held in para 17 & 18 as under:

*"17. After going through the provisions of the scheme, this Court finds that Chapter IX of the Finance Act, 2016 is a complete code by itself. It provides an opportunity to an assessee to offer income, which was not disclosed earlier, to tax. Chapter IX provides for a special procedure for disclosure and charging income to tax. It lays down the procedure for disclosure of such income; the rate of income tax and the penalty to be levied thereupon and the manner of making such payment. Under the said scheme the competent authority has been vested with the power to accept the declaration made by the assessee and such power to be exercised only upon being satisfied with such disclosure. It is also open to such authority not to accept such declaration. But once accepted, the same attains finality. The scheme does not empower and/or authorise the competent authority to reopen and/or revise a decision taken on such declaration. It is well settled that a statutory authority has to function within the limits of the jurisdiction vested with him under the statute. Thus, once the declaration is accepted by the PCIT such authority is estopped from taking any steps which would in effect amount to reopening and/or revising the decision already taken on such declaration. The said scheme was introduced in order to encourage an assessee to make a disclosure of the income not disclosed earlier. PCIT in the instant case invoked its power under section 263 in respect of an item of income which was declared in terms of the said scheme. All particulars were available before the PCIT in respect of such income and the PCIT upon being satisfied, accepted such declaration. Thus, if the contention of the revenue is accepted that the PCIT has power to invoke section 263 of the I.T. Act the same, in our considered view, would frustrate the object behind introduction of such Scheme. The PCIT was not justified in invoking the power under section 263 of the I.T. Act as it would amount to revising a decision taken by the PCIT on such declaration by the assessing officer which is not contemplated under the Income Tax Act.*

*18. Thus, all materials were available before the PCIT when the declaration made under section 183 of the Finance Act were considered and accepted. Therefore, the assumption of jurisdiction by the PCIT under section 263 of the Act is wholly without jurisdiction."*

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7. In view of the above facts and circumstances, we are of the view that the PCIT has exceeded his jurisdiction in assuming jurisdiction u/s. 263 of the Act in the present case. Accordingly, we quash the revision order and allow the appeal of the assessee.

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

*Order pronounced in the Open Court on 18<sup>th</sup> August, 2022.*

**Sd/-**  
**(डॉ दीपक पी. रिपोटे)**  
**(Dr. Dipak P. Ripote)**  
**लेखा सदस्य /Accountant Member**

**Sd/-**  
**(महावीर सिंह)**  
**(Mahavir Singh)**  
**उपाध्यक्ष / Vice President**

चेन्नई/Chennai, दिनांक/Dated: 18<sup>th</sup> August, 2022.

EDN/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF