

pages. This tribunal's Special Bench's decision All Cargo Global Logistics Ltd. Vs. DCIT (2012) 137 ITD 287 (Mum); after considering the hon'ble apex court's landmark judgement in NTPC Ltd. vs. CIT 229 ITR 383 holds that we can very well entertain such a pure question of law in order to determine correct tax liability of an assessee provided all the relevant facts form part of the records. We make it clear that page 63 of the assessee's paper book contains the assessee's limited scrutiny notice dated 30.07.2016 indicating that the sole issue in his case as "interest income mismatch" whereas the corresponding Section 143(3) assessment dated 26.12.2016 added Section 68 unexplained cash credit of Rs.17,25,000/- and that too, without converting it into a "complete" scrutiny as prescribed in the CBDT circular dated 14.07.2016 baring No. 5/2016.

3. Learned DR could also not place on record any material that the Assessing Officer had indeed undertaken all necessary steps as well as all approval(s) as prescribed in the foregoing twin CBDT circulars. Case law (2020) 120 taxmann.com 187 CIT vs. Padmavati (Mad) (HC) holds that such an assessment could not exceed the scope of the prescribed "limited" scrutiny except as per the due process of law. This is indeed coupled with various coordinate benches decisions reiterating the very legal proposition. Faced with this situation, we hold that the learned Assessing Officer's impugned assessment herein is non- est in the eyes of law. The same stands quashed. The assessee succeeds in his quantum appeal ITA No. 1615/Pun/2018.

4. Same order to follow in assessee's penalty appeal ITA No. 1329/Pun/2018 being consequential in nature.

5. These assessee's twin appeals are allowed in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 24th August, 2022.

Sd/-
(G.D. Padmahali)
Accountant Member

Sd/-
(S.S.Godara)
Judicial Member

Pune, Dated: 24th August, 2022

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT(A) -6, Pune*
4. *The Pr.CIT-5, Pune*
5. *The DR, "b" Bench, ITAT, Pune*

By Order

//True Copy//

*Assistant Registrar
ITAT, Pune Benches, Pune*

n.p.