

**IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH, JODHPUR**

**BEFORE SHRI B. R. BASKARAN, ACCOUNTANT MEMBER
AND
SHRI SANDEEP GOSAIN, JUDICIAL MEMBER**

ITA No. 45/Jodh/2022
(ASSESSMENT YEAR- 2014-15)

Rita Goyal 113, Golf Course Golf Course Jodhpur	Vs	Pr. Commissioner of Income Tax, Central Jaipur
(Appellant)		(Respondent)
PAN NO. AAPPG 4511 M		

Assessee By	Shri Amit Kothari (CA)
Revenue By	Smt. Alka Rajvanshi Jain, CIT-DR
Date of hearing	02/11/2022
Date of Pronouncement	02/11/2022

ORDER

PER: B.R. BASKARAN, AM

The assessee has filed this appeal challenging the revision order dated 31-03-2022 passed by Ld PCIT (Central), Jaipur and it relates to the assessment year 2014-15. The assessee is challenging the validity of revision order passed by Ld PCIT.

2. The facts relating to the case are stated in brief. The AO completed the assessment of the year under consideration u/s 143(3) of the Act on

22.12.2019. The LD PCIT, upon examination of assessment record, took the view that the assessing officer has not conducted proper enquiries/verification while passing the assessment order. Accordingly, he initiated revision proceedings u/s 263 of the Act. The Ld PCIT issued show cause notice u/s 263 of the Act on the following issues:-

- (a) Sale of property located at Khasra No.69, Villaghe Jhalamand, Jodhpur for a consideration of Rs.52,00,000/- and DLC value of which was Rs.52,20,000/-
- (b) Sale of property located at Chak No.10, Khasra No.352, Village Jhalamand, District Jodhpur for a consideration of Rs.13,00,000/-.

The Ld PCIT took the view that the above said two transactions have not been reported by the assessee in her return of income.

3. Before Ld PCIT, the assessee submitted that she has duly recorded the above said sale transactions in her books of account and the relevant details were submitted before the AO during assessment proceedings. It was submitted that the assessee had incurred loss of Rs.14,315/- in respect of first property and the second property was also sold at a loss of Rs.57,900/-. In order to verify the submissions made by the assessee, the Ld PCIT called for a remand report from the assessing officer in respect of above said submissions. The AO furnished remand report on 30-03-2022,

wherein he confirmed that the assessee has furnished the details of sale of above said two properties and also confirmed that both the properties were shown as opening balance in the books of account, i.e.. brought forward from earlier year.

4. Despite the confirmation given by AO, the Ld PCIT still directed the AO to make/verify the computation of capital gains or loss on properties in question. The assessee is aggrieved by the order so passed by Ld PCIT.

5. We heard rival contentions and perused the record. It is settled position of law that the revision proceedings u/s 263 of the Act can be initiated by the Ld PCIT if he is of the view that the assessment order is erroneous in so far as it is prejudicial to the interests of revenue. It is also settled proposition of law that both the conditions should be satisfied in order to initiate revision proceedings, i.e., the order is not only erroneous, but it should also be prejudicial to the interests of revenue.

6. In the instant case, the Ld PCIT has initiated the revision proceedings on the impression that the assessee has not disclosed the sale transactions of two properties. When the assessee replied that they have been properly reported, the Ld PCIT also called for a remand report from the assessing

officer, who also confirmed that both the properties have been duly recorded in the books of accounts and further the assessee has also furnished the details relating to sale of both the properties. Hence the element of "erroneous" got wiped out when the AO gave the remand report. When the assessment order was not found to be erroneous, as presumed by Ld PCIT, there is no scope for proceeding further with the proceeding initiated by him u/s 263 of the Act. However, we notice that the Ld PCIT proceeded further and directed the AO to verify the computation of capital gains/loss, which is not warranted at all. Accordingly, we are of the view that the impugned revision order passed by Ld PCIT could not be sustained. Accordingly, we quash the impugned revision order passed by Ld PCIT.

7. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open Court on 2nd November, 2022.

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

Sd/-
(B. R. BASKARAN)
ACCOUNTANT MEMBER

Dated : 02/11/2022

**Ganesh Kr*
Copy to:

1. The Appellant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR
6. Guard File

Assistant Registrar
Jodhpur Bench