

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "H": NEW DELHI**

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER &  
SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No. 615/DEL/2021  
[Assessment Year: 2016-17]**

Flora International, 17, Sector-25, HUDA, Part-2, Panipat. <b>PAN: AACFF1305R</b>	vs	Pr. CIT, Rohtak.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	None	
<b>Respondent by</b>	Shri M. Baranwal, CIT DR	
<b>Date of Hearing</b>	15.11.2022	
<b>Date of Pronouncement</b>	15.11.2022	

**ORDER**

**PER KUL BHARAT. JM:**

This appeal, by the assessee, is directed against the order of the Ld. Principal Commissioner of Income-tax, Rohtak, dated 23.03.2021, passed u/s 263 of the Income-tax Act, 1961 (in short "the Act"), pertaining to the assessment year 2016-17. The assessee has raised following grounds of appeal:

1. *"On the facts and circumstances of the case, the order passed by the learned Principal Commissioner of Income Tax, Rohtak (Pr. CIT) under Section 263 of the Act is bad, both in the eye of law and on facts.*
2. *That the Learned Pr. Cit just incorporated the reply submitted by us and passed order u/s 263 without giving any reason for rejection of our written submissions and just repeated the reasons for reopening mentioned in notice for hearing.*

3. *On the facts and circumstances of the case, the order passed by the learned Pr. CIT cancelling the assessment order passed by the A.O. is untenable in the absence of order of the A.O. being erroneous as well as prejudicial to the interest of the Revenue.*
4. *On the facts and circumstances of the case, the learned Pr. CIT has erred both on facts and in law in ignoring the fact that issue raised by him in notice under Section 263 was before the A.O in proceedings under Section 143(3) and as such the jurisdiction on this issue under Section 263 cannot be assumed.*
5. *On the facts and circumstances of the case, the learned Pr. CIT has erred both on facts and in law in ignoring the contention of the appellant that the proceeding under Section 263 is not permissible and cannot be used for substituting opinion of the A.O. by that of the Pr. CIT*
6. *On the facts and circumstances of the case, the learned Pr. CIT has erred both on facts and in law in ignoring the settled position of law that where the two views are possible and the Assessing officer has taken one view with which the Commissioner does not agree, it cannot be treated as an erroneous and prejudicial to the interest of the revenue unless the view taken by the AO is unsustainable in law.*
7. *On the facts and circumstances of the case, the learned Pr. CIT has erred both on facts and in law in invoking revisionary power under Section 263 of the Act despite the fact that even after thorough examination, no specific findings have been given on the issue how the order is erroneous and prejudicial to the interest of Revenue.*
8. *On the facts and circumstances of the case, the learned Pr. CIT has erred both on facts and in law in rejecting the contention of the appellant that the issues raised by the him were before the AO in proceedings under Section 143(3) and was assessed after application of mind as per record available with him a such the*



<b>Phone No. with STD code/Mobile No.</b>	9215055655		
<b>Email Address</b>	<a href="mailto:Sushilgargcal@gmail.com">Sushilgargcal@gmail.com</a>		
<b>Name/designation of the Respondent (as applicable)</b>	PCIT, ROhtak		
<b>PAN (If available)</b>	N.A.		
<b>TAN(if available)</b>	N.A.		
<b>Complete address for sending notices</b>	PCIT, ROhtak		
<b>State</b>	Haryana		
<b>Pin Code</b>	132103		
<b>Phone No. with STD code/mobile No.</b>	N.A		
<b>Email Address</b>	N.A.		
<b>1. Assessment year in connection with which the appeal is preferred</b>	2016-17		
<b>2. Total Income declared by the assessee for the assessment year referred to in item 1</b>	Rs. 5,72,6677-		
<b>3. Details of the order appealed against</b>			
<b>a. Section and sub-section under which the order is passed</b>	263		
<b>b. Date of order</b>	23.03.2021		
<b>c. Date of service or communication of the order</b>	23.03.2021		
<b>4. Income tax Authority passing the order appealed against</b>	PCIT, Rohtak		
<b>5. The State and District in which the Jurisdictional Assessing Officer is located</b>	Haryana		
<b>6. Section and sub-section under which the original order is passed</b>	263		
<b>7. If appeal relates to any assessment</b>			
a. Total income as computed by the Assessing Office of the assessment year referred to in item 1	N.A		
b. Total amount of additions or disallowances made in the assessment	N.A		
c. Amount disputed in appeal	N.A.		
<b>8. If appeal relates to any penalty:</b>			
a. Total amount of penalty imposed as per order	N.A.		
b. Amount of penalty disputed in appeal	N.A.		
<b>9. If appeal related to any other matter:</b>			
<b>10. Ground of appeal</b>	Tax effect relating to each Ground of appeal (see note below)		
1.			
2.			
3.			
Total tax effect (see note below)			
<b>11. Whether there is any delay in filing of appeal (if yes, please attach application seeking condonation of delay)</b>	No		
<b>12. Details of Appeal Fees paid</b>			
BSR Code	Date of payment	Sl.No.	Amount
6910333	19.05.2021	10410	500/-

**Sd/-**  
**(Authorized Representative, if any)**  
**(Appellant)**  
**Name:**  
**Designation:**

**Sd/-**  
**Name:**  
**Designation:**

5. In view of the above, we find that the appeal filed by the assessee is defective hence, dismissed. However, liberty is granted to the assessee to approach the Tribunal for restoration of appeal if the defect is removed/rectified. Thus, grounds raised by the assessee are dismissed.

6. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open Court on 15<sup>th</sup> November, 2022.

**Sd/-**

**(N.K.BILLAIYA)**  
**ACCOUNTANT MEMBER**

*\* Amit Kumar \**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**Sd/-**

**(KUL BHARAT)**  
**JUDICIAL MEMBER**

ASSISTANT REGISTRAR  
ITAT, NEW DELHI