

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'A' : NEW DELHI)**

**SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
and
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.2047/Del./2022
(ASSESSMENT YEAR : 2014-15)**

Shri Bikram Singh Panwar,
C/o M/s. LC Yadav & Company,
205, Arcadia, South City – II,
Sector 49,
Gurgaon – 122 0 18 (Haryana).

vs. PCIT,
Gurgaon.

(PAN : BAVPS4321N)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri L.C. Yadav, Advocate
REVENUE BY : Shri P. Praveen Sidharth, CIT DR

Date of Hearing : 17.11.2022
Date of Order : 22.11.2022

ORDER

PER SHAMIM YAHYA, ACCOUNTANT MEMBER :

This appeal by the assessee is directed against the order of the Id. Pr.CIT, Gurgaon dated 27.02.2019 passed under section 263 of the Income-tax Act, 1961 (for short 'the Act') for the assessment year 2014-15.

2. The grounds of appeal taken by the assessee read as under :-

“1. That having regard to facts & circumstances of the case, Ld. PCIT has erred in law and on facts in assuming jurisdiction u/s 263 of Income Tax Act, 1961 and has erred in holding the

assessment order dated 30-11-2016 as erroneous in so far as it is prejudicial to the interest of revenue and that too by recording incorrect facts and findings and in violation of principles of natural justice.

2. That having regard to facts & circumstances of the case, Ld. PCIT has erred in law and on facts in setting aside the assessment order dated 30-11-2016 and directing the assessing officer to pass a fresh assessment order after making proper enquiries/verification and that too by recording incorrect facts and findings and without observing the principles of natural justice and more particularly when all the necessary details/information/evidences were examined by Ld. AO at the time of assessment proceedings.

3. That having regard to facts & circumstances of the case, Ld. PCIT has erred in law and on facts in initiating the proceedings u/s 263 and passing the impugned order under that section inter alia on the basis of audit objection which is not permitted under the law.

4. That in any case and in any view of the matter, action of Ld. PCIT in assuming jurisdiction u/s 263 and passing the impugned order u/s 263 is bad in law and against the facts and circumstances of the case and is in violation of principles of natural justice and barred by limitation also.

5. That having regard to facts and circumstances of the case, Ld. PCIT has erred in law and on facts in passing the impugned order u/s 263 without serving the mandatory notices/show cause to the assessee.”

3. In this case, in the assessment order passed under section 143 (3) of the Act, Assessing Officer noted that assessee filed return declaring an income of Rs.5,42,030/-. Assessee had supplied requisite details which were examined and AO accepted the return of income.

4. Pr.CIT invoked his jurisdiction u/s 263 of the Act by observing that assessee has claimed large agricultural income and AO was required to make procedural verifications to accept the claim of the assessee. Further, he observed that AO failed to verify the copy of Khasra Girdawari/Khudkashte to substantiate the area of land cultivated by the assessee and kind of agricultural produce grown on this land and whether the assessee had tried to give colour to the income. He noted that the documents furnished are inappropriate and have not been verified by the AO. He gave notices to the assessee but nobody appeared. He proceeded to exercise his jurisdiction and noted that this case was fit for scrutiny as assessee has shown large agricultural income of Rs.25,89,496/- as exempt income despite declaring his nominal income. Ld. Pr.CIT referred to several case laws and concluded as under :-

“ In view of the above facts and circumstances of the case, I am of the confirmed view that the assessment order passed u/s 143(3) of the Income Tax Act, 1961 by assessing officer dated 30.11.2016 for the A.Y. 2014-15 is erroneous and prejudicial to the interest of the revenue. Hence the same deserves to be revised u/s 263 of I.T. Act, 1961. Therefore, the said order passed by the Assessing Officer is set aside for this particular issue only. The assessing officer is directed to pass fresh assessment order after making proper enquiries/verification on the issues discussed above. The assessing officer will also give proper opportunity to the assessee before completing fresh assessment.”

5. Against this order, assessee is in appeal before us. We have heard both the parties and perused the records.

6. At the outset, while perusing the records, we find that assessee at pages 50 & 51 has enclosed a copy of audit objection dated 23.03.2018 in this case. The date of the same precedes the date of Pr.CIT's order. The contents of the said audit objection and the jurisdiction exercised by Pr.CIT u/s 263 have the commonality. Hence, the question arises as to whether Id. Pr.CIT has applied his independent application of mind or has borrowed satisfaction. Furthermore, Id. Counsel of the assessee had pleaded that assessee has not been given adequate opportunity and has prayed that an opportunity before the Id. Pr.CIT may kindly be granted. Ld. DR for the Revenue did not have any objection to this submission. Accordingly, we remit the issue to the file of Id. Pr.CIT to examine the issue afresh after giving the assessee proper opportunity of being heard.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on this 22nd day of November, 2022.

**Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER**

**sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**Dated the 22nd day of November, 2022
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.Pr.CIT, Gurgaon.
- 5.CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI.