

आयकर अपीलीय अधिकरण, कोलकाता पीठ “बी”, कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH: KOLKATA

श्री राजेश कुमार, लेखा सदस्य एवं श्री संजय शर्मा न्यायिक सदस्यके समक्ष

[Before Shri Rajesh Kumar, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 252/Kol/2022
Assessment Year: 2016-17

Eastern Coalfields Ltd. (PAN: AAACE 7590 E)	Vs.	PCIT-Asansol
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	13.12.2022
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	05.01.2023
For the Appellant/ निर्धारिती की ओर से	Shri Arvind Agarwal, Advocate
For the Respondent/ राजस्व की ओर से	Shri Sudipta Guha, CITDR

ORDER / आदेश

Per Rajesh Kumar, AM:

This is the appeal preferred by the assessee against the order of the Ld. Principal Commissioner of Income Tax-Asansol (hereinafter referred to as the Ld. PCIT”) passed u/s 263 of the Income Tax Act, 1961 (hereinafter referred to as the Act) dated 26.03.2022 for the AY 2016-17.

2. The assessee has challenged the revisionary jurisdiction exercised by the Ld. PCIT u/s 263 on the ground of being invalid and against the provisions of the Act as the assessment framed is neither erroneous and nor prejudicial to the interest of the revenue.

3. Facts in brief are that the assessment was framed u/s 143(3) vide order dated 29.12.2019. The Ld. PCIT upon perusal of the said assessment records was of view that the assessment so framed was erroneous insofar as prejudicial to the interest of the revenue on two counts namely i) first wrong and excess credit of brought forward MAT to the tune of Rs. 1,47,76,76,957/- and ii) second ,the provisions made on account of doubtful debts amounting to Rs. 6,05,42,000/-was required to be added in computation to income which was not done. Accordingly the Ld. PCIT issued notice u/s 263 of the Act dated 17.03.2022 as to why the assessment framed should not be revised which was replied by the assessee vide written submission dated 09.03.2022. The Ld. PCIT after considering the reply of the assessee rejected the same and revised the assessment vide order dated 29.12.2019 directing the AO to frame the assessment afresh.

4. We have heard the rival submissions and perused the material on record. The Ld. A.R argued that there was no mistake in the claim of MAT as observed by the Ld. PCIT. The Ld. A.R. also brought out notice the assessment framed u/s 143(3) of the Act dated 29.12.2019 and submitted that MAT determined in terms of said assessment framed was claimed as MAT credit which is in pursuance of the provisions of Section 115JAA(6) of the Act which provide that where as a result of an order u/s 143(3) or other order as referred to any of that Statute, the amount tax payable under this Act is reduced or increased, as the case may be, the amount of tax credit allowed under this section shall also be increased or reduced accordingly. We find from the facts /records before us that MAT credit has been strictly claimed as determined the order passed u/s 143(3) of the Act a copy of which is placed before us for our perusal. In view this fact ,we do not find any mistake in the claim of brought forward MAT by the assessee and accordingly the assessment order framed is neither erroneous nor prejudicial to the interest of the revenue. On the issue no. 2 ,the provisions made for doubtful debts amounting to Rs. 6,05,42,000/- on which the Ld. PCIT revised the assessment , we observe that there is no mistake in the computation of disallowance. We note that the said observation of the Ld. PCIT is based upon the audit objection which has been

replied by the assessee dated 10.11.2021 submitting therein that there is no mistake in making disallowance towards doubtful debts amounting to Rs. 55,03,00,000/- and computation of disallowance of Rs. 48,97,58,000/- as per Note 29 and 34 have duly been furnished in computation of taxable income. We also observe that the said figure of disallowance was arrived at on the basis of three amounts namely i) provisions for doubtful debts Rs. 55,03,00,000/-, ii) other provisions written back Rs. (-)39,10,00,000/- and iii) provisions for superannuation benefit of Rs. 33,04,58,000/- the net of which comes to Rs. 48,97,58,000/- which has been disallowed in the return of income filed by the assessee a copy of which is placed at page 39 of the PB. Accordingly on the second issue on which the Id CIT(A) revised the assessment order, there is no mistake in the assessment order. In other words the assessment order is neither erroneous nor prejudicial to the interest of the revenue. It is settled legal position that in order to invoke the revisionary jurisdiction u/s 263 of the Act , the satisfaction of twin condition is must i.e the order must be erroneous and secondly it must be prejudicial to the interest of the revenue. Even if one of the two condition is satisfied , the jurisdiction u/s 263 of the Act is not available. This is in consonance with the ratio laid down by the Hon'ble Apex Court in the case of *Malabar Industrial Co. Ltd. v. Commissioner of Income-tax reported in [2000] 243 ITR 83 (SC)*. In view of this fact, we are inclined to quash the order passed by the PCIT u/s 263 of the Act.

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

Order is pronounced in the open court on 5th January, 2023

Sd/-
(Sonjoy Sarma /संजय शर्मा)
Judicial Member/न्यायिक सदस्य

Sd/-
(Rajesh Kumar/राजेश कुमार)
Accountant Member/लेखा सदस्य

Dated: 5th January, 2023

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- Eastern Coalfields Ltd., CMD's Office, Eastern Coalfield Ltd., Sanctoria, Dishergarh-713333.
2. Respondent – PCIT-Asansol
3. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata