

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI 'F' BENCH, MUMBAI.

Before Shri B.R. Baskaran (AM) & Shri Rahul Chaudhary (JM)

I.T.A. No. 1360/Mum/2021 (A.Y. 2015-16)

M/s. Vighnahara Agri Infratech Pvt. Ltd. Flat No. 2015, Ackruti Erica Building, Vile Parle East Mumbai-400 057. PAN : AAECV2564K (Appellant)	Vs.	PCIT-8 Room No. 612 6 th Floor Aayakar Bhavan M.K. Road Mumbai-400 020. (Respondent)
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Assessee by	None
Department by	Shri Azhar Zain Vayal Parambath
Date of Hearing	24.01.2023
Date of Pronouncement	24.01.2023

O R D E R

Per B.R.Baskaran (AM) :-

The assessee has filed this appeal challenging the revision order dated 26.3.2021 passed by learned PCIT-3, Mumbai for A.Y. 2015-16 under section 263 of the I.T. Act. In the present appeal the assessee is challenging the validity of the impugned revision order.

2. None appeared on behalf of the assessee, even though notice of hearing was sent on several occasions and further the case was adjourned on two occasions at the specific request of learned counsel of the assessee. Hence, we proceed to dispose of the appeal ex-parte, without presence of the assessee.

3. We heard learned DR and perused the record. The assessment in the hands of the assessee was completed by the Assessing Officer on 30.12.2017

under section 143(3) of the Act. Perusal of the assessment order would show that the Assessing Officer has taken up the return of income filed by the assessee for the "limited scrutiny". However, the assessment order does not mention about the issues, for which the return of income was taken up for the limited scrutiny. The Assessing Officer completed the assessment accepting the return of income filed by the assessee.

4. On examination of the assessment record, learned PCIT noticed that the Assessing Officer has not examined properly in respect of following three issues :-

- a) Amount of Rs. 15 crore paid to Kalyan Toll Infrastructure Ltd.
- b) Non-charging of interest on the above said amount given to Kalyan Toll Infrastructure Ltd.
- c) Excess claim of loss on foreign exchange fluctuation

Accordingly, learned PCIT initiated the revision proceedings under section 263 of the Act. After considering the reply filed by the assessee objecting to the revision proceedings, the learned PCIT held that the assessment order passed by the Assessing Officer is erroneous and prejudicial to the interest of revenue. Accordingly he set aside the order passed by the Assessing Officer under section 143(3) of the Act on 30.12.2017 and directed him to make the assessment afresh duly considering the above said three issues.

5. Since the assessment has been selected for limited scrutiny, the Bench asked learned DR about the issues on which the return of income filed by the assessee was taken up for scrutiny. The learned DR submitted that he also does not know the same, since he does not have assessment record. Hence, it is not clear as to whether the three issues cited by learned PCIT in his revision order fell within the scope of limited scrutiny or not. If any of the issues did not fall within the scope of limited scrutiny, it is quite natural that the Assessing Officer would not have made inquiry about the same. We also noticed that the revision order passed by learned PCIT is also silent on the scope of limited scrutiny.

6. Under these set of facts, we are of the view that the impugned order passed by learned PCIT requires fresh examination at his end duly considering the scope of limited scrutiny. Accordingly, we set aside the order passed by learned PCIT and restore all the issues to his file for examining the case of the assessee afresh in the light of the discussion made supra. After affording adequate opportunity of being heard, learned PCIT may take appropriate decision in accordance with law.

7. In the result, appeal filed by the assessee is treated as allowed for statistical purposes.

Pronounced in the open court on 24.1.2023.

Sd/-
(RAHUL CHAUDHARY)
Judicial Member

Sd/-
(B.R. BASAKARAN)
Accountant Member

Mumbai; Dated : 24/01/2023

Copy of the Order forwarded to :

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

//True Copy//

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BY ORDER,
(Assistant Registrar)
ITAT, Mumbai