आयकर अपीलीय अधिकरण, हैदराबाद पीठ

IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' B ' Bench, Hyderabad

Before Shri R.K. Panda, Accountant Member
AND
Shri K. Narasimha Chary, Judicial Member

ITA No.745/Hyd/2020		
Assessment Year: 2015-16		
M/s. United Rail Road Consultants (P) Ltd., Secunderabad PAN:AAACU8136E	Vs.	Dy. C.I.T Central Circle 1(3) Hyderabad
(Appellant)		(Respondent)
Assessee by:	Shri M.V. Joshi, C.A appeared for Shri P. Murali Mohan Rao, CA	
Revenue by:	Shri Jeeval Lal Lavidiya, DR	
Date of hearing:	12/01/2023	
Date of pronouncement:	30/01/2023	

ORDER

Per R.K. Panda, A.M

This appeal filed by the assessee is directed against the order dated 19.3.2020 passed u/s 263 of the I.T. Act, 1961 by the learned Pr.CIT (Central)- Hyderabad, relating to A.Y.2015-16.

2. Facts of the case, in brief, are that the assessee company was engaged in the business of providing consultancy services. It filed its return of income for the A.Y 2015-16 on 29.9.2015 declaring total income of Rs.2,29,74,860/-. The case was selected for scrutiny through CASS in the limited scrutiny to verify "**Large other expenses claimed in the Profit & Loss A/c and mismatch in sales turnover reported in Audit Report &**

ITR". Accordingly, statutory notices u/s 143(2) & 142(1) were issued to the assessee. In response to the same, the AR of the assessee appeared before the Assessing Officer from time to time and filed the requisite details and thereafter the Assessing Officer completed the assessment u/s 143(3) on 29.12.2017 determining the total income of the assessee at Rs.2,58,54,170/- wherein he made (a) addition of Rs.3,32,680/- on account of disallowance of travels and tours expenditure; (b) disallowance of Rs.6,03,320/- on account of vehicle hire charges being 10% of the total traveling and tour expenditure and (c) Rs.19,43,388/- on account of disallowance of site and other expenses.

3. Subsequently, the learned PCIT called for the record and on examination and verification of the same, he noted that the assessee had admitted interest income of Rs.10,33,764/- whereas as per Form No.26AS the assessee was in receipt of Rs.20,45,315/- as interest income. Thus, there is short admission of interest income to the extent of Rs.10,11,551/- in the return. However, the Assessing Officer passed the assessment order without examining the issue and without making any inquiry about the correct interest income earned by the assessee. He, therefore, was of the opinion that the order passed by the Assessing Officer has become erroneous and prejudicial to the interest of the Revenue. He, therefore, issued notice u/s 263 of the I.T. Act and asked the assessee to explain as to why the said order should not be revised as per the provisions of section 263 of the I.T. Act.

3.1 The assessee filed detailed written submission the gist of which that the assessment was completed by making various

additions amounting to Rs. 28,79,388/- after thorough examination of all the issues by applying the provisions of law. Therefore, there is no mistake in application of law or short coming in the enquiry and hence provisions of section 236 cannot be invoked. Various decisions were also relied on by the assessee before the PCIT.

3.2 Without prejudice to the above, it was submitted that the Assessing Officer had verified the interest declared and since the income did not pertain to the current year, he did not add the same. It was further argued that once no sum is credited in the books of account any figure reflected in Form 26AS cannot be treated as income of the assessee as Form 26AS does not form part of books of account. The onus of collecting independent evidence to treat the total amount as reflected in 26AS will be on the Assessing Officer. It was submitted that the assessee being a company is following mercantile system of accounting and only the income which has accrued in the relevant year was accounted in the books of account. Referring to provisions of section 199, it was submitted that once the TDS was deducted, a credit to the same has to be given to the assessee irrespective of the year to which it relates. Relying on various decisions, it was argued that the initiation of 263 proceedings is not called for and the same should be dropped.

4. However, the learned PCIT/CIT was not satisfied with the arguments advanced by the assessee. He observed that the assessee has declared interest income of Rs.10,33,764/- as against the interest income of Rs.20,45,315/- as per Form 26AS from the deductor Axis Bank Ltd. However, a perusal of the

assessment record showed that the Assessing Officer had not at all enquired into this fact. There is neither any question asked, nor any inquiry made during the assessment proceedings. Therefore, the learned PCIT held that since no view has been taken by the Assessing Officer on this issue of interest income, there is no scope for a different view taken by the PCIT. So far as the argument that 26AS cannot be treated as part of the books of account is concerned, he noted that this being an information on record and since the interest declared by the assessee is substantially differing from the interest as appearing in 26AS, it becomes the bounden duty of the Assessing Officer to examine the reasons for the difference and come to a proper conclusion which the Assessing Officer failed to do. In view of the above, the learned PCIT/CIT held that the order passed by the Assessing Officer has become erroneous and prejudicial to the interest of the Revenue as envisaged in section 263 of the I.T. Act. He, therefore, set aside the assessment order passed by the Assessing Officer with a direction to redo the same after necessary verification.

4.1 Aggrieved with such order of the learned PCIT/CIT, the assessee is in appeal before the Tribunal by raising the following grounds of appeal:

> *"1. The Revisionary Order passed u/s 263 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act) dated 19.03.2020 by the Pr. CIT(Central) is erroneous both on facts and in law to the extent the order is prejudicial to the interest of the appellant.*
>
> *2. On the facts and circumstances of the case, the Pr. CIT has grossly erred in setting aside the already completed assessment order u/s 143(3) of the Act and directing to redo the assessment, without appreciating the fact that A.O. has examined the issues raised by PR CIT, in the course of original assessment proceedings.*
>
> *3. The Pr. CIT erred in invoking provisions of Section 263 of the Act on the issues other than those covered under limited scrutiny notice issued while completing original assessment u/s 143(3) of the Act.*

4 On the facts and in the circumstances of the case, the revisionary order passed u/s 263 of the Act, basing on change of opinion is beyond law and un-sustainable to the test of appeal.

5. On the facts and in the circumstances of the case the Ld. Pr. CIT has erred in passing the revisionary order by taking a different stand on an issue from that of considered view already taken by AO in the course of original scrutiny assessment and directing the AO to re-examine an issue which was already examined and determined.

6. The Ld. Pr.CIT ought to have appreciated that there is no lapse on the part of AO to examine the issues raised by Pr.CIT but AO has no necessity to record all the issues examined and satisfied by tie AO.

7. On the facts and circumstances of the case, the Pr. CIT ought to have appreciated/noticed that the income by way of interest from Axis Bank found in For No.26AS relates to interest recognized in different financial years

8. The Ld. Pr.CIT ought to have appreciated the fact that AO has examined the issues during the course of assessment proceedings, when the T assessment order is passed by a quasi-judicial authority; the same is to be considered as final when there is neither wrong application law nor omission.

9. The learned Pr.CIT erred in passing the order on a non-existent entity.

10. The appellant may, add or alter or amend or modify or substitute or delete and/or rescind all or any of the grounds of appeal at any time before or at the time of hearing of the appeal".

5. The assessee has also raised the following additional grounds:

"*11. The Hon'ble ITAT is requested to kindly admit the grounds which are taken for the first time before them, as per the ratio laid down by the Hon'ble Supreme Court in the case of National Thermal Power Corporation Ltd vs. CIT (1998) 229 ITR 383 (S.C).*

12. The learned Pr.CIT ought to have considered the basic fact that the order sought to be revised was framed on non-existent entity and consequently revisionary proceeding shall be void ab-initio.

13. The learned Pr. CIT erred in not appreciating the fact that the order sought to be revised was selected under limited scrutiny, thereby the order passed u/s 263 is not as per law.

14. The appellant may, add or alter or amend or modify or substitute or delete and/or rescind all or any of the grounds of appeal at any time before or at the time of hearing of the appeal".

6. The learned Counsel for the assessee referring to the decision of the Hon'ble Supreme Court in the case of National Thermal Power Corporation Ltd vs. CIT (1998) 229 ITR 383 (S.C) submitted that the additional grounds being purely in legal nature and since all facts are already on record, the additional grounds should be admitted for adjudication.

7. After hearing both the sides and considering the fact that all material facts necessary for the adjudication of the additional grounds, which are purely legal in nature are available on record, therefore, relying on the decision of the Hon'ble Supreme Court in the case of NTPC vs. CIT (Supra), the additional grounds raised by the assessee are admitted.

8. The learned Counsel for the assessee strongly challenged the order passed by the learned PCIT/CIT setting aside the order passed by the Assessing Officer. Referring to the assessment order passed u/s 143(3) dated 29.12.2017, he submitted that a perusal of the same would show that the case was selected for scrutiny through CASS in the limited scrutiny to verify "Large other expenses claimed in the profit & loss A/c and mismatch in sales turnover reported in audit report & ITR". Therefore, the Assessing Officer is prohibited from adverting the issues except for those on the basis of which the case had been selected for scrutiny. Thus, it was forbidden for the Assessing Officer to verify interest income offered and income as per Form 26AS as the same fell beyond the reason for which the case of the assessee was taken up for limited scrutiny. He submitted that the learned PCIT in the garb of power vested under him u/s 263 could not have stretched the scope of jurisdiction vested with the Assessing Officer. For the above proposition, he relied on the

decisions of the Delhi Bench of the Tribunal in the cases of (i) Balvinderkumar Vs. PCIT (125 Taxmann.com 83), (ii) and Pawansut Media Services P Ltd vs. PCIT in ITA No.534/Del/2021 and (iii) Mumbai Bench in the case of R&H Property Developers (P) Ltd vs. PCIT in ITA No.1906/Mum/2019.

8.1 Referring to various pages of the Paper Book, he submitted that the company Unique Rail Road Consultants Pvt. Ltd (PAN: AAACU8136E) has amalgamated with United Rail Road Consultants (P) Ltd (PAN: AACU 2794A) as per the Hon'ble High Court order dated 13.07.2015 and company master data is from ROC. He submitted that the Assessing Officer had passed the order u/s 143(3) of the Act on 29.12.2017 which is on a non-existent company and therefore, the assessment order became void ab initio. Therefore, the order passed by the learned PCIT/CIT under section 263 on a non-existing company also becomes void and ab initio. For the above proposition, he relied on the decision of the Coordinate Bench of the Tribunal in the case of M/s. Vivimed Labs Ltd vs. DCIT in ITA No.2312/Hyd/2018 and also in the Hon'ble Supreme Court in the case of PCIT vs. Maruti Suzuki India Ltd. He also relied on various other decisions.

9. The learned Counsel for the assessee in his yet another plank of arguments submitted that since the amount received are offered for taxation in the succeeding A.Ys, therefore, there is no loss of revenue to the Department and therefore, on this count also, the order passed by the learned PCIT/CIT u/s 263 cannot be sustained. For the above proposition, he relied on the decision of the Delhi Bench of the Tribunal in the case of

Income Tax Officer vs. Paragaon XT in ITA No.363/Del/2015 order dated 14.3.2019 for the A.Y 2010-11. He accordingly submitted that the order passed by the learned PCIT u/s 263 of the I.T. Act should be set aside and the grounds raised by the assessee should be allowed.

10. The learned DR, on the other hand, strongly relied on the order of the learned PCIT/CIT. He submitted that where there is a huge difference between the interest income shown by the assessee and interest income as reflected in Form 26AS, the Assessing Officer was duty bound to look into the same and pass appropriate order after calling for details from the assessee. However, in the instant case, the Assessing Officer has neither raised any query nor the assessee has given any details to this extent. Therefore, the learned PCIT was fully justified in invoking the jurisdiction u/s 263 of the I.T. Act and thereby setting aside the order passed by the Assessing Officer with certain directions. He also relied on the following decisions:

i) Hon'ble Supreme Court in the case of Smt. Taradevi Aggarwal (88 ITR 323 (S.C)

ii) Hon'ble Supreme Court decision in the case of Smt. Rampyari Devi Sarogi (67 ITR 84 (S.C)

iii) Hon'ble Delhi High Court in the case of Gee Vee Enterprises Ltd (99 ITR 375 (Del.)

iv) ITAT Mumbai decision in the case of Radiant Life Care Mumbai (P) Ltd (ITA 895 & 896/Mum/2021 dated 31.5.2022

11. We have heard the rival arguments made by both the sides, perused the orders of the AO and the learned Pr.CIT/CIT and the paper book filed on behalf of the assessee. We have also

considered the various decisions cited before us by both sides. A perusal of the assessment order passed u/s 143(3) shows that the case was selected for limited scrutiny to verify the "Large Other Expense claimed in the Profit & Loss Account and mismatch in sales turnover reported in audit report and ITR". To be specific, para 1 of the assessment order reads as under:

> *"The assessee company deriving income from Business, Capital Gains and other sources. The assessee company has filed its return of income on 29.09.2015 by admitting an income of Rs.2,29,74,860/-. This case was selected for scrutiny through CASS in the Limited Scrutiny to verify the "Large Other Expense claimed in the Profit & Loss Account and mismatch in sales turnover reported in audit report and ITR". Accordingly, notice u/s 143(2) and notice u/s 142(1) were issued to the assessee".*

12. Thus, it is seen that the case was selected for limited scrutiny to verify the large expenses claimed in the profit & loss account and mismatch in the sales turnover and not on account of mismatch in the interest income in the P&L A/c and interest income as reflected in Form 26AS. Under these circumstances, the question that arises is as to whether the Assessing Officer could have gone beyond the mandate given to him as per CBDT guidelines and as to whether the order is erroneous.

13. We find the Mumbai Bench of the Tribunal in the case of R&H Property Developer (P) Ltd vs. PCIT (Supra) while adjudicating an identical issue has quashed the 263 proceedings by observing as under:

> *"6.We have heard the authorized representatives for both the parties, perused the orders of the lower authorities and the material available on record, as well as the judicial pronouncements relied upon by them. Admittedly, the case of the assessee was selected for limited scrutiny under CASS for the reason viz. "large investment in property (AIR) as compared to total income". Insofar the fact that the case of the assessee was selected for limited scrutiny for the aforesaid reason is concerned, the same as observed by us hereinabove is not disputed and is clearly discernible from the order passed by the Pr. CIT under Sec. 263 of the Act. We find*

that as per the CBDT guidelines/instructions bearing F. No. 225/26/2006, ITA-II(Pt.), dated 08.09.2010, scrutiny of cases selected on the basis of information received through AIR returns would be limited only to aspects of the information so received. In order to appreciate the issue under consideration, we deem it fit to cull out the CBDT instruction, dated 08.09.2010, which reads as under: "

F.No.225/26/2006-ITA.II (Pt.)
Government of India,
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes,

New Delhi, dated the 8th September, 2010

To

All Chief Commissioners of Income Tax,
All Directors General of Income Tax,

Sir/Madam,

Subject: Selection of cases for scrutiny on the basis of data in AIR returns and subsequent assessment proceedings-regarding.

Reference is invited to Board's letter of even number dated 23rd May, 2007 regarding scope of enquiry in the scrutiny cases selected only on the basis of information received through the AIR returns.

2. The above mentioned guidelines have been reconsidered by the Board and it has been decided that the scrutiny of such cases would be limited only to the aspects of information received through AIR. However, a case may be taken up for wider scrutiny with the approval of the administrative Commissioner, where it is felt that apart from the AIR information there is a potential escapement of income more than Rs. 10 Lacs.

3. It has also been decided that in all the cases which are picked for scrutiny only on the basis of AIR information, the notice u/s 143(2) of Income Tax Act 1961 should clearly be stamped with "AIR Case".

This should be immediately brought to the notice of all the officers working in your region.

Yours faithfully,
(AjayGoyal)
Director (ITA.II)"

Now, the case of the assessee before us was selected for limited scrutiny, for the reason, that there was viz. "large investment in property (AIR) as compared to total income". A perusal of the queries raised by the A.O in the course of the assessment proceedings reveals, that though he had queried the assessee as regards justifiability of certain expenses etc., which though did not form part of the reason for which the case was selected for limited scrutiny, but then, no addition/disallowance on those issues was made by him while framing the assessment vide his order passed under Sec. 143(3), dated 10.10.2016. Accordingly, it can safely be concluded that the assessment framed by the A.O fell within the realm of the limited purpose for which the case of the assessee was selected for scrutiny assessment viz. "large investment in property (AIR) as compared to total income".

7.As observed by us hereinabove, as per the CBDT Instruction F. No.225/26/2006-ITA-II (Pt.),dated 08.09.2010, in a case which had been selected for scrutiny assessment on the basis of information received through the AIR returns, the scrutinising of such case would be limited only to the aspects of the information received through AIR. However, the case may thereafter be taken up for wider scrutiny with the approval of the administrative commissioner, where it is felt that apart from the AIR information there is potential escapement of income of more than Rs.10,00,000/. Accordingly, the CBDT had in clear and unequivocal terms clarified that for broadening the

scope of a case selected for limited scrutiny as per AIR information, the approval of the administrative commissioner would be required. In the case of before us, it is an admitted fact that the case of the assessee was selected for "limited scrutiny" for the reason viz. "large investment in property (AIR) as compared to total income". In fact, itis neither a fact nor the case of the revenue that the said case was thereafter taken up for wider scrutiny with the approval of the administrative commissioner. In the backdrop of the aforesaid facts, we are of the considered view that as the scope of the assessment framed by the A.O under Sec.143(3), dated 10.10.2016 was circumscribed by the limited reason for which the case of the assessee was selected for scrutiny assessment, therefore, he was absolutely divested of his powers from traversing on issues which did not fall within the realm of the limited purpose for which the said case was selected for scrutiny assessment. As regards the contention advanced by the ld. D.R, that the expenses booked under the head "other expenses" of Rs.30,56,712/-primarily comprised of expenses incurred by the assessee in context of the property under consideration viz. (i) maintenance charges: Rs.21,48,531/-; (ii) M.M.C expenses: Rs.1,60,000/-; and (iii) property tax: Rs.5,59,158/-, therefore, the same fell within the realm of the scope of the limited purpose for which the case of the assessee was selected for scrutiny assessment, we are afraid that the said contention does not find favour with us. In our considered view making of an "Investment" and "incurring of expenses" are two different aspect sand the same are not found to be either overlapping or interchangeable .We are of a strong conviction that the A.O in the garb of scrutinising the investment made by the assessee in property, or which limited purpose its case was selected for scrutiny assessment, could not have traversed beyond that and adverted to issues pertaining to incurring of the expenses in respect of the said property ,for the reason, that the same could also be construed as a part of the investment made by the assessee in the aforesaid property.

8.We shall now in the backdrop of our aforesaid observations deliberate on the validity of the order passed by the Pr. CIT under Sec. 263. As observed by us hereinabove, the Pr. CIT had held the order passed by the A.O under Sec. 143(3),dated 10.10.2016 as erroneous, insofar it was prejudicial to the interest of the revenue, for the reason, that he had failed to carry out proper investigation as regards the allowability of the expenditure claimed by the assessee to have been incurred for the purpose of its business. We are of a strong conviction that now when the case of the assessee was selected for limited scrutiny for the reason viz." large investment in property (AIR) as compared to total income", therefore, no infirmity could be attributed to the assessment framed by the A.O on the ground that he had failed to deal with other issues which did not fell within the realm of the limited reason for which the case of the assessee was selected for scrutiny assessment. In other words, the Pr. CIT in the garb of his revisional jurisdiction u/s 263 cannot be permitted to traverse beyond the jurisdiction that was vested with the A.O while framing the assessment. To sum up, revisional jurisdiction cannot be exercised for broadening the scope of jurisdiction that was vested with the A.O while framing the assessment. As a matter of fact, what cannot be done directly cannot be done indirectly. Accordingly, in terms of our aforesaid observations, we are of the considered view that as the A.O had aptly confined himself to the issue for which the case of the assessee was selected for limited scrutiny, therefore, no infirmity can be attributed to his order, for the reason, that he had failed to dwell upon certain other issues which were clearly beyond the realm of the reason for which the case of the assessee was selected for limited scrutiny as per the AIR information. We thus not being able to concur with the view taken by the Pr. CIT that the order passed by the A.O under Sec. 143(3), dated 10.10.2016is erroneous, therefore, set aside his order and restore the order passed by the A.O. As we have quashed the order passed by the Pr. CIT under Sec. 263 on the ground of invalid assumption of jurisdiction by him, therefore, we refrain from adverting to and therein adjudicating the contentions advanced by the ld. A.R on the merits of the case, which thus are left open.

14. We find the Delhi Bench of the Tribunal in the case of Balvinderkumar vs. PCIT (Supra) following the above decision has quashed the 263 proceedings by holding that in case of limited scrutiny, the Assessing Officer cannot go beyond the reasons for which the matter was selected for limited scrutiny and therefore, it would not be open to pass a revisionary order u/s 263 by the CIT on other aspects. Relevant observations of the Tribunal from Para 8 onwards read as under:

> *"8. We have gone through the record in the light of the submissions made on either side. There is no dispute that the case of the assessee was picked up for scrutiny under the category of limited scrutiny. This fact is established from the assessment order and also the notice issued under section 143(2) of the Act. It is also not in dispute that the CBDT issued the instructions relied upon by the assessee and for the sake of convenience we extract the relevant portions thereof hereunder: -*
>
> *"CBDT Instruction No. 7/2014 The reason(s) for selection of cases under CASS are displayed to the Assessing Officer in AST application and notice u/s 143(2), after generation from AST, is issued to the taxpayer with the remark ".Selected under Computer Aided Scrutiny Selection (CASS)". The functionality in AST is being modified suitably to flag the reasons for scrutiny selection in AIR/CIB/26AS cases. This functionality is expected to be operationalized by 15th October, 2014. Further, the Assessing Officer while issuing notice under section 142(1) of the Act which is enclosed with the first questionnaire would proceed to verify only the specific aspects requiring examination/verification. In such cases, all efforts would be made to ensure that assessment proceedings are completed expeditiously in minimum possible number of hearings without unnecessarily dragging the case till the time-barring date.*
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> *CBDT Instruction No. 20/2015*
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> *3. As far as the returns selected for scrutiny through CASS-2015 are concerned, two type of cases have been selected for scrutiny in the current Financial Year- one is 'Limited Scrutiny' and other is Complete Scrutiny'. The assessees concerned have duly been intimated about their cases falling either in 'Limited Scrutiny' or 'Complete Scrutiny' through notices issued under section 143(2) of the Income-tax Act, 1961 ('Act'). The procedure for handling 'Limited Scrutiny' cases shall be as under:*
>
> *(a) ....*
>
> *(b) The Questionnaire under section 142(1) of the Act in 1Limited Scrutiny * cases shallre nut in confined only to the specific reasons/issues for which case has been picked up for scrutiny. Further, the scope of enquiry shall be restricted to the Limited Scrutiny' issues.*
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> *CBDT Instruction No. 5/2016*

"4. It is further clarified that in cases under 'Limited Scrutiny \ the scrutiny assessment proceedings would initially be confined only to issues under 'Limited Scrutiny' and Questionnaires, enquiry, investigation etc. would be restricted to such issues. Only upon comers ion of case to ITA No. 485/Del/2020 Balvinder Kumar 'Complete Scrutiny' after following the procedure outlined above, the AO may examine the additional issues besides the issue(s) involved in 'Limited Scrutiny'. The AO shall also expeditiously intimate the taxpayer concerned regarding conducting 'Complete Scrutiny' in such cases."

CBDT Letter dated 30.11.2017 J Instances have come to notice of CBDT where some Assessing Officers are travelling beyond their jurisdiction while making assessments in Limited scrutiny cases by initiating inquiries on new issues without complying with mandatory requirements of the relevant CBDT Instructions dated 26-9-2014, 29-12-2015 and 14-7-2016. These instances have been viewed very seriously by the CBDT and in one case the Central Inspection Team of the CBDT was tasked with examination of assessment records on receipt of a I lee at ions of several irregularities. Amongst other irregularities, it was found that no reasons had been recorded for expanding the scope of limited scrutiny, no approval was taken from the PCIT for the conversion of the limited scrutiny case to a complete scrutiny case and the order sheet was maintained very perfunctorily. This gave rise to a very strong suspicion of mala fide intentions."

9. The above CBDT instructions and the letter clearly establish that it's not open for the learned Assessing Officer to travellers beyond the reason for selection of the matter for limited scrutiny and on that aspect the assessment order in this case is in accordance with the instructions governing the field. In such circumstances it has to be seen whether the Ld. PCIT is justified in holding the assessment order to be erroneous insofar as it is prejudicial to the interest of the Revenue for the learned Assessing Officer not considering the aspects which are beyond the purview of limited scrutiny.

10. In the Deccan Paper Mills Co. Ltd. vs. CIT in ITA 1013 AND 1635/PUN/2015, Pune Bench of the Tribunal held, that, "40. Now, coming to the aspect of book profits which was considered by the Commissioner and the order of the Assessing Officer was held to be erroneous and prejudicial to the interest of revenue. In this regard, it may be pointed out that the case of assessee was picked up for scrutiny under CASS for the limited purpose of verifying the Chapter VI-A deduction. Once the case is picked up for specific purpose under CASS, then it is outside the purview of the Assessing Officer to look into any other aspect other than the aspect for which it is picked up. Hence, the Assessing Officer has not formed any opinion in respect of computation of book profits in the hands of assessee. Once, no such opinion has been formed by the Assessing Officer, the Commissioner has erred in holding the order of the Assessing Officer to be erroneous and prejudicial to the interest of revenue in this regard. Accordingly, we reverse the findings of the Commissioner.

ITA No. 485/Del/2020 Balvinder Kumar Accordingly, we hold that the order passed by the Commissioner under section 263 of the Act is invalid and the same is quashed for both the assessment years."

In M/s R.H. Property vs. PCIT, ITA No. 1906/Mum/2019 it was held that,-

"As a matter of fact, what cannot be done directly cannot be done indirectly. Accordingly, in terms of our aforesaid observations, we are of the considered view that as the A. O had aptly confined himself to the issue for which the case of the assessee was selected for limited scrutiny, therefore, no infirmity can be attributed to his order for the reason. that he had failed to dwell upon certain other issues which were clearly beyond the realm of the reason for which the case of the assessee was selected for limited scrutiny as per the AIR information. We thus not being able to concur with the view taken by the Jr. CIT that the order passed by the A.O under Sec. 143(3), dated 10.10.2016is erroneous, therefore, set aside his order and restore the order passed by the A.O. As we have quashed the order passed by the Pr. CIT under Sec. 263 on the ground of invalid assumption of jurisdiction by him, therefore, we refrain from adverting to and there in adjudicating the contentions advanced by the Id. A. R on the merits of the case, which thus are left open."

11. Similarly, is the view taken consistently by the benches of this Tribunal in the other two cases also, relied upon by the assessee. In the circumstances, in view of the consistent view taken in similar matters we are of the considered opinion that when the assessing officer is bound to follow the CBDT instructions and while following such instructions and after verification of the material furnished by the assessee on the aspect covered by the limited scrutiny, is not open for the Ld. PCIT to say that not adverting to the other aspects of the competition would render the assessment order erroneous and prejudicial to the interest of the Revenue. With this view of the matter we find that the impugned order cannot be sustained and, therefore, the same is liable to be quashed. We accordingly quash the same."

15. Since the case of the assessee in the instant case was selected for limited scrutiny to verify ""Large Other Expense claimed in the Profit & Loss Account and mismatch in sales turnover reported in audit report and ITR" therefore, the Assessing Officer could not have travelled beyond the reasons for which the case was selected for limited scrutiny. Therefore, the order cannot be said to be erroneous. It is the settled proposition of law that for invoking the jurisdiction u/s 263, the twin conditions namely the order is erroneous and the order is prejudicial to the interest of the Revenue must be satisfied. However, the order passed by the Assessing Officer in the instant case cannot be held to be erroneous although the same may be

prejudicial to the interest of the Revenue. Thus, the twin conditions are not satisfied. Therefore, we are of the considered opinion that the learned PCIT/CIT could not have initiated proceedings u/s 263 of the I. T. Act 1961. We, therefore, quash the order passed by the learned PCIT/CIT setting aside the order passed by the Assessing Officer u/s 143(3). The grounds raised by the assessee are accordingly allowed.

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

Order pronounced in the Open Court on 30th January, 2023.

Sd/-	**Sd/-**
(K. NARASIMHA CHARY) **JUDICIAL MEMBER**	**(R.K. PANDA)** **ACCOUNTANT MEMBER**

Hyderabad, dated 30th January, 2023
Vinodan/sps

Copy to:

S.No	Addresses
1	M/s. United Rail Road Consultants (P) Ltd C/o P Murali & Co. C.As, 6-3-655/2/3 Somajiguda, Hyderabad 500082
2	Dy.CIT Central Circle 1(3) Hyderabad
3	Pr. CIT-Central ,Hyderabad
4	CIT-, Hyderabad
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order