

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'C', KOLKATA
[Before Shri Rajesh Kumar, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 215/Kol/2022
Assessment Year : 2017-18

Govardhan Overseas Pvt. Ltd. PAN: AAACG 9580 G	Vs	PCIT, Kolkata-2
Appellant		Respondent

Date of Hearing	01.02.2023
Date of Pronouncement	03.02.2023
For the Assessee	Shri P.K. Himmat Singka, AR
For the Revenue	Shri G. Hukugha Sema, CIT

ORDER

Per Shri Sonjoy Sarma, JM:

This appeal by the assessee is directed against the order passed by the Id. PCIT-2, Kolkata dated 24.03.2022 pertaining to the A.Y. 2017-18 which in turn have arisen from the order passed by the Id. AO u/s 143(3) of the I.T. Act dated 07.11.2017. The assessee has raised the following grounds of appeal:

"i. That on facts and in the Circumstances of the case and in law, Ld. PCIT grossly erred in initiating the revision proceeding u/s 263 even though the Assessment Order u/s 143(3) dated 26-12-2019 passed by the AO was neither erroneous non prejudicial to the interest of the revenue.

ii. That the order dated 24-03-2022 u/s 263 of the Act by the Ld. PCIT, Kolkata-2 has been made without satisfying preconditions contained in the Act and is therefore without jurisdiction and thus deserves to be quashed as such.

iii. That the order dated 24-03-2022 u/s 263 framed by the Ld. PCIT, Kolkata-2 in a very casual manner without due diligence without considering the explanation and is based on fundamental misconception of the facts and provision of law and thus not in accordance with law and therefore untenable.

iv. That on fact in the circumstances of the case and in law, the order passed by the PCIT u/s 263 of the Act, setting aside the assessment framed u/s 143(3) of the Act as erroneous and prejudicial to the interest of revenue is without jurisdiction, bad in law and void ab-initio.

v. That the finding of Ld. PCIT that order of AO is erroneous and prejudicial to the interest of revenue on the following basis is factually incorrect, legally misconceived, contrary to evidence on record and in any way initiation of revision proceedings is vague, arbitrary and based on surmises consideration and therefore unsustainable.

(a) The assessee had allegedly paid Rs. 32,40,861/- PF & ESI, Bonus & Leave Encashment after due date required to be added with total income and brought to tax despite PF & ESI Rs. 2,56,610/- were paid within due dates of respective act and balance Rs. 29,84,253/- on account of bonus and leave encashment were paid within due date of filing income tax return u/s 139(1)."

2. At the outset, ld. counsel for the assessee submitted before us that assessee did not want to press the instant appeal as in the case of assessee in pursuant to order u/s 263 passed by the ld. Pr. CIT dated 24.03.2022, ld. AO was framed an assessment order dated 31.01.2023 u/s 143(3) read with section 263 without making any addition in terms of the revisionary order passed u/s 263 of the Act. Therefore, the ld. AR fairly submitted that he may be allowed to withdraw this appeal, since the matter become infructuous. On the other hand, ld. DR has no objection on such prayer made by the ld. AR of the assessee.

3. We after considering the submission made by the parties and considering the prayer made by the ld. AR of the assessee, we dismiss the appeal as withdrawn.

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

Order pronounced in the open court on 03.02.2023.

Sd/-

Sd/-

(Rajesh Kumar)
Accountant Member

(Sonjoy Sarma)
Judicial Member

Dated: 03.02.2023

Biswajit, Sr. PS

Copy of the order forwarded to:

1. Appellant- Govardhan Overseas Pvt. Ltd., C/o. P.K. Himmatsinghka & Co., 41, B.B. Ganguly Street, Central Plaza, 2nd Floor, Kolkata -700012.
2. Respondent – PCIT, Kolkata-2.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata