

**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
(CONDUCTED THROUGH VIRTUAL COURT)**

**BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER &
SHRI BHAGIRATH MAL BIYANI, ACCOUNTANT MEMBER**

I.T.A. No.90/Ind/2022
(Assessment Year: 2017-18)

Lt. Suresh Chandra Katariya Through L. H. Rakesh Katariya, 10 Roomayan, Mahavir Nagar, Ratlam, M.P. 457001	Vs.	PCIT-1, Indore
PAN No.ADXPK2918F		
(Appellant)	..	(Respondent)

Appellant by :	Shri Pankaj Mongra, C.A.
Respondent by :	Shri Ashish Porwal, Sr. D.R.

Date of Hearing	02.02.2023
Date of Pronouncement	22.02.2023

ORDER

PER SUCHITRA KAMBLE - JM:

This appeal is filed by the assessee against the order dated 07.03.2022 passed by the Ld. PCIT-1, Indore for A.Y. 2017-18.

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

“1. That having regard to the facts and circumstances of the case the Ld. Pr. CIT has erred in law and on facts in assuming jurisdiction u/s. 263 and further erred in holding the assessment order of AO dt. 23.12.2019 erroneous and prejudicial to the interest of the revenue.

2. That in the case and in view of the matter action of Ld. Pr. CIT erred in assuming jurisdiction u/s 263 and passing the impugned order under this section is bad in law and against the facts and circumstances of the case.

3. That having regard to the facts and circumstances of the case the Ld. Pr. CIT has erred in law and on facts in holding the assessment order as erroneous due to alleged lack of enquiry on the part of the AO for not examining the cash deposit of

Rs. 1,76,00,009/- in the bank account of the assessee during the specific period of 01.01.2017-31.03.2017.

4. The appellant craves leave to add, amend, alter, vary and/or withdraw all the grounds of appeal above.

5. The appellant craves leave to refer to any material, documents placed on record.”

3. The assessee filed return of income for A.Y. 2017-18 on 28.10.2017 declaring total income of Rs. 4,71,520/-. The case was selected for limited scrutiny through CASS. Notice under Section 143(2) was issued on 09.08.2018 and was duly served upon the assessee. Notice under Section 142(1) dated 19.03.2019 and 27.03.2019 was issued for furnishing the information. No compliance was made by the assessee, therefore, the Assessing Officer against issued notices. Vide notice under Section 133(6) dated 10.10.2019 the bank was asked to furnish required information on 18.10.2019. Bank statement was received from HDFC Bank and further show-cause notice under Section 142(1) dated 08.11.2019 was issued. The assessee replied on 19.11.2019 alongwith copy of computation of income, copy of acknowledgement, copy of cash book, audit report etc. and thus the Assessing Officer examined all the details filed by the assessee while passing order under Section 143(3). The Principal CIT issue show-cause notice under Section 263 r.w.s. 264 on 24.12.2021 issued on large cash deposit in bank account during the year. The legal heir of the assessee filed the reply/written submission placing before the Pr. CIT. The Pr. CIT thereafter directed the Assessing Officer to frame the assessment de novo after examining the details.

4. Being aggrieved by the order under Section 263 the assessee filed appeal before us.

5. The Ld. A.R. submitted that at the time of assessment proceedings and before the CIT(A), the assessee has given the details related to the cash deposits in bank. Therefore, order under Section 263 is not justifiable. The verification and proper enquiry was made by the Assessing Officer.

6. The Ld. D.R. relied upon the order of the PCIT passed under Section 263 of the Act.

7. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that the Assessing Officer has issued 133(6) notice to the bank and obtained the bank statement received from HDFC Bank. As relates to large cash deposit in bank account the assessee has given the details as per the returns filed by the assessee. The assessee has also submitted the bank account for the period i.e. 01.01.2017 to 31.03.2017 thereby explaining that 90 % of sales of the assessee's business are in cash and due to leaves after the Diwali and holidays the said amount / cash was deposited on various dates in which same cash was related to demonetization period as well. The assessee before the Assessing Officer as well as before the PCIT has explained the details and therefore, invocation of Section 263 which is a revisionary jurisdiction of PCIT does not apply in the present case as the

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relevant verification was done by the Assessing Officer at the time of assessment proceedings. Therefore, the appeal of the assessee is allowed.

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

Order pronounced on 22/02/2023 by placing the result on the Notice Board as per Rule 34(4) of the Income Tax (Appellate Tribunal) Rule, 1963.

This Order pronounced in Open Court on 22/02/2023

Sd/-
(BHAGIRATH MAL BIYANI)
ACCOUNTANT MEMBER
Ahmedabad; Dated 22/02/2023
TANMAY, Sr. PS

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

TRUE COPY

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, इंदौर/ DR, ITAT, Indore
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

(Sr. Private Secretary)
ITAT, Indore