आयकर अपीलीय अधिकरण, कोलकाता पीठ 'ए', कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA

श्री संजय गर्ग, न्यायिक सदस्य एवं श्री मनीष बोरड, लेखा सदस्य के समक्ष

Before Shri Sanjay Garg, Judicial Member and Dr. Manish Borad, Accountant Member

I.T.A No.348/Kol/2021
Assessment year: 2010-11

Costal Energy (P) Ltd.....Appellant
Ganesh Complex,
NH-6 Bombay Road,
Raghudevpur,
Howrah- 711322.
[PAN: AACCC7578A]

vs.

ITO, Ward-15(1), Kolkata.....Respondent

Appearances by:
Shri Sunil Surana, AR, appeared on behalf of the appellant.
Shri Subhrajyoti Bhattacharjee, CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : January 24, 2023
Date of pronouncing the order : February 23, 2023

आदेश / ORDER

संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 24.02.2020 of the Principal Commissioner of Income Tax-5, Kolkata [hereinafter referred to as the 'PCIT'] agitating the action of the PCIT in passing the impugned order u/s 263 of the Income Tax Act (hereinafter referred to as the 'Act') exercising his revision jurisdiction.

2. The assessee in this appeal has taken the following grounds of appeal:

"1. For that the action u/s 263 was bad in law since the proceeding-initiated u/s147 itself was bad in law and as such the action u/s 263 revising a bad order itself is bad in law.

2. For that the Ld Pr. CIT erred in invoking the provisions of section 263 when the A.O made enquires in respect of the alleged escapement of income as recorded in the reasons and as such it was not a case of lack of enquiry.

3. For that on the facts and in the circumstances of the case the Ld Pr CIT erred in setting aside the order when there was no issue of any cash deposit in the books or bank account of the assessee and the Ld Pr CIT has not raised any eye brow on the submissions made with regard to the reasons recorded, the details filed and enquiry made by the AO after which the submissions of the assessee was accepted.

4. For that the Ld Pr CIT erred in setting aside the order on the issues other than the issues for which the assessment was reopened u/s 147 when no addition was made on the issued on which the assessment was reopened."

3. The ld. AR of the assessee has contested the validity of the revision order passed by the ld. PCIT u/s 263 of the Act not only on merits but also, inter alia, on the ground that the aforesaid order was null and void as no Document Identification Number (DIN) has been mentioned in the body of the impugned order which was in violation of Circular No.19 of 2019 of CBDT. Since the aforesaid legal issue will be determinative of the very validity of the impugned revision order passed u/s 263 of the Act, therefore, we proceed to adjudicate the said legal issue first.

4. The ld. Counsel for the assessee, inviting our attention to the CBDT Circular No.19 of 2019 dated 14.08.2019, has submitted that as per the aforesaid circular, non-mentioning of the DIN Number on the body of the order makes the order as invalid and deemed to have never been issued. The ld. Counsel has further relied upon the decision of the Coordinate Bench of the Tribunal in the case of Tata Medical Centre Trust vs. CIT reported in [2022] 140 taxman.com 431 (Kolkata Trib.).

5. The ld. DR, on the other hand, has submitted that mere non-mentioning of DIN does not invalidate the order and further that the Circular of the CBDT is directory in nature and not binding on this Tribunal.

6. We have considered the rival submission. We find that the issue is squarely covered by the decision of the Coordinate Bench of the Tribunal in the case of Tata Medical Centre Trust vs. CIT (supra). The relevant part of the order of the Tribunal for the sake of ready reference is reproduced as under:

> *"11. We have heard the rival submissions and perused the material available on record and given our thoughtful consideration to the submissions made by both the parties. Before adverting on the issue in hand, the CBDT Circle No. 19/2009 dated 14.08.2019, copy of which is placed in the paper book pages 68-69, is reproduced hereunder for ready reference:*
>
> ***Circular** No.19**/2019***
>
> ***Government of India***
> ***Ministry of Finance***
> ***Department of Revenue***
> ***Central Board of Direct Taxes***
>
> *New Delhi, dated the **14th** August, 2019*
>
> ***Subject: Generation/Allotment/Quoting of Document Identification Number in Notice/Order/Summons/letter/correspondence issued by the Income-tax Department** – reg.*

With the launch of various e-governance initiatives, Income-tax Department is moving toward total computerization of its work. This has led to a significant improvement in delivery of services and has also brought greater transparency in the functioning of the tax-administration. Presently, almost all notices and orders are being generated electronically on the Income Tax Business Application (ITBA) platform. However, it has been brought to the notice of the Central Board or Direct Taxes (the Board) that there have been some instances in which the notice, order, summons, letter and any correspondence (hereinafter referred to as "communication") were found to have been issued manually, without maintaining a proper audit trail of such communication.

2. In order to prevent such instances and to maintain proper audit trail of all communication, the Board in exercise of power under section 119 of the Income-tax Act, 1961 (hereinafter referred to as ·'the /\ct"), has decided that no communication shall be issued by any income- tax authority relating to assessment, appeals, orders, statutory or otherwise, exemptions, enquiry. investigation, verification of information, penalty, prosecution, rectification, approval etc. to the assessee or any other person, on or after the I st day of October, 2019 unless a computer-generated Document Identification Number (DIN) has been allotted and is duly quoted in the body or such communication.

3. In exceptional circumstances such as, -

- *(i) when there are technical difficulties in generating/ allotting/ quoting the DIN and issuance or communication electronically; or*
- *(ii) when communication regarding enquiry, verification etc. is required to be issued by an income-tax authority, who is outside the office, for discharging his official duties; or*
- *(iii) when due to delay in PAN n1igration PAN is lying with non-jurisdictional Assessing Officer; or*
- *(iv) when PAN or assessee is not available and where a proceeding under the Act (other than verification under section 131 or section 133 of the Act) is sought to be initiated; or*
- *(v) When the functionality to issue communication is not available in the system,*

the communication may be issued manually but only after recording reasons in writing in the file and with prior written approval of the Chief

Commissioner/ Director General of income- tax. In cases where manual communication is required to be issued due to delay in PAN migration, the proposal seeking approval for issuance of manual communication shall include the reason for delay in PAN migration. The communication issued under aforesaid circumstances shall state the fact that the communication is issued manually without a DIN and the date of obtaining of the written approval of the Chief Commissioner/ Director General or Income-Tax for issue of manual communication in the following format-

" .. This communication issues manually without a DIN on account of reason/reasons given in para 3(i)/3(ii)/3(iii)/3(iv)/3(v) of the CBDT Circular No ...dated.....(strike off those which

are not applicable) and with the approval of the Chief Commissioner I Director General of Income Tax vide number .... dated "

4. Any communication which is not in conformity with Para-2 and Para-3 above, shall be treated as invalid and shall be deemed to have never been issued.

5. The communication issued manually in the three situations specified in para 3- (i), (ii) or
(iii) above shall have to be regularised within 15 working days of its issuance, by -

i. uploading the manual communication on the System.
ii. compulsorily generating the DIN on the System;
iii. communicating the DIN so generated to the assessee/any other person as per electronically generated pro-forma available on the System.

6. An intimation of issuance of manual communication for the reasons mentioned in para 3(v) shall be sent to the Principal Director General of Income-tax (Systems) within seven days from the date of its issuance.

7. Further, in all pending assessment proceedings, where notices were issued manually, prior to issuance of this Circular, the income-tax authorities shall identify such cases and shall

upload the notices in these cases on the Systems by 31th October, 2019.

8. Hindi version to follow.

(Sarita Kumari)
Director (ITA.II), CBDT

(F.No. 225/95/2019-ITA.II)

12. From the perusal of above circular, we note that CBDT came out with this circular to mitigate the issues/instances where certain notices, orders, summons, letters and other correspondences which have been issued manually do not have proper audit trail of their communication despite various e-governance initiatives and computerization of its work. Therefore, in order to prevent such instances and to maintain proper audit trail of all the communications, CBDT directed that no communication shall be issued by any Income-tax authority relating to assessment, appeals, orders, statutory or otherwise, exemptions, enquiry, investigation, verification of information, penalty, prosecution, rectification, approval etc. to the assessee or any other person, on or after the 01.10.2019 unless a computer generated DIN has been allotted and is duly quoted in the body of such communication. We note that para 3 of the said circular provides for certain exceptional circumstances when the communication is issued manually, in which case such manually issued communications should contain the fact that the said communication is issued manually without a DIN and the date of obtaining of the written approval of the Chief Commissioner/Director General of Income-tax for issue of said manual communication in the prescribed format. Thus, it is observed from the said circular that all the communications mentioned therein have to be either generated and issued electronically with DIN or in certain exceptional circumstances the communication may be issued manually without DIN, fact of which along with its written approval has to be stated in the body of the said communication, failing which, para 4 of the said circular states that such communication shall be treated as 'invalid' and shall be deemed to have never been issued'.

12.1 On a specific query by the bench to the Ld. CIT, DR to point out if there was any exceptional circumstance which led to the manual issue of the order u/s. 263 of the Act, he pointed out that the only possibility of exceptional circumstance as mentioned in the CBDT Circular, could be as listed in para 3(i) which mentioned that "when there are technical difficulties in generating /allotting/quoting the DIN and issuance of

communication electronically". For this he requested for verification of the case records.

12.2 On this aspect, Ld. Counsel for the assessee submitted that it is undisputed and verifiable fact that the impugned order is not an electronic communication but a manual order as is evident from the perusal of the order itself. It is an order which has been passed manually and page 9 of the said order does not even bare a full and proper signature of the Ld. CIT(E), Kolkata. Page 10 of the said order bears the signature of TRO(E), Kolkata, dated 31.03.2021, and therefore, the exception pointed out by the Ld. CIT, DR does not apply in the present case since it is relevant only to a communication which is issued electronically. He further pointed out that within this para 3 of the CBDT Circular, it is mentioned that when the communication is issued manually, such communication in its body must state the fact that the said communication is issued manually without a DIN and the date of obtaining of the written approval of the prescribed authority for issue of manual communication in the prescribed format has to be stated therein. In the present case, no such fact of issuing the present order manually without a DIN by obtaining an approval from prescribed authority in the prescribed format is mentioned/quoted in the body of the impugned order and, therefore, even if the case records are verified, it will not serve any purpose since the impugned order itself does not contain any such factual notation as contemplated in para 3 of the CBDT circular.

12.3 In order to demonstrate how a communication issued electronically containing a DIN would look like, the Ld. Counsel referred to one such notice u/s. 154 dated 08.10.2020 issued on the assessee, placed at paper book page 53, scanned copy of which is reproduced hereunder for ease of reference:

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE ASSISTANT
COMMISSIONER OF INCOME TAX
CIRCLE 1(1), EXEMPT, KOLKATA

To,	
TATA MEDICAL CENTRE TRUST 1 BISHOP LEFROY ROAD,LEFROY ROAD KOLKATA KOLKATA 700020,West Bengal India	

PAN:	Assessment Year:	Dated:	DIN & Notice No :
AABTT2222Q	2016-17	08/10/2020	ITBA/COM/F/17/2020-21/1028167761(1)

Sir/ Madam/ M/s,

Subject: Proceedings under section 154 - Notice

The assessment/refund order under section 143(3) for the assessment year 2016-17 requires to be amended as there is a mistake apparent form the record within the meaning of section 154/155 of the Income Tax Act, 1961. The rectification of the mistake, as per particular given below, will have the effect of enhancing the assessment /reducing the refund/ increasing your liability.

If you wish to be heard, you are requested to file your submission online on or before 09.10.2020 at 11.30 A.M. Alternatively you may send a written reply so as to reach me on or before the date mentioned above.

Particulars of mistake proposed to be rectified.

1. On verification of records, it is revealed that the assessee had earned interest income amounting to Rs 91.37 lacs on corpus funds and Rs 27.31 lacs on 'Other earmarked funds''. It is observed that though interest received under on 91.37 lacs had been added back to the income side as per I&E account in the assessment order, interest income received on earmarked fund (Rs 21.31 lacs) has not been taken as income. The same needs to be treated as part of Income.
2. An amount of Rs 5,18,29,615 has been deducted towards 'Apportion from patient care fund ' from 'Total Income as per I&E A/c', while computing taxable income for the AY 2015-16. Further it reveals that you had actually added the said amount as receipt under the head Revenue from operation in the I&E account. This amount has been spent towards normal course of activities of the assessee during the year. Thus deduction of Rs 5,18,29,615 as *Apportion from patient care fund* in the I&E A/c from the income of the assessee without corresponding deduction in the expenditure side has actually resulted in irregular increase in Deficit for the AY 2016-17 by the same amount.

SAVYASACHI KUMAR

Note: If digitally signed, the date of digital signature may be taken as date of document.
ROOM NO:5/7,5TH FLOOR, INCOME TAX OFFICE, 10 B, MIDDLETON ROAD, KOLKATA, KOLKATA, West Bengal, 700071
Email: KOLKATA.DCIT.EXMP1@INCOMETAX.GOV.IN, Office Phone:03322296081

* DIN- Document identification No.

12.4 From this notice, Ld. Counsel pointed out that on the top left corner it bears a Bar Code. Further, in the box on the top of right hand side it bears a DIN and Notice No. Also, in the body of the notice, it mentions about the fact that document is digitally signed. Further, in the left bottom of the said notice, there is a legend put with an asterisk (*) mark which says 'DIN'.

12.5 In contrast to this, attention of the bench was invited, both to the show cause notice issued pursuant to revisionary proceeding u/s. 263 of the Act dated 23.03.2021 placed at pages 55 to 57 of the paper book, which was issued manually and does not bear any reference to DIN in terms of CBDT circular so also the impugned order passed u/s. 263 which is also issued manually and does not bear any reference to DIN as required by the CBDT circular. The first page and the last two pages of the impugned order are reproduced hereunder for reference, in the context of quoting DIN as contemplated by CBDT circular:

OFFICE OF THE COMMISSIONER OF INCOME TAX (EXEMPTIONS), KOLKATA
6TH FLOOR, 10B, MIDDLETON ROW, KOLKATA- 700071
Ph: (033)2229-2926, FAX(033)2229-1719

1. Name of assessee : Tata Medical Centre Trust	6. Whether Resident/Resident but not ordinarily resident/non-resident: **Resident**
Address : 1, Bishop Lefroy Road, Kolkata-700020	7. Method of accounting : **Mercantile**
3. PAN/GIR No. AABTT2222Q	8. Previous year : **2015-16**
4. Status : **Trust** (a) If HUF, is higher rate of tax applicable? (b) If company, whether (i) Domestic/Others (ii) Public substantially interested/ Public not substantially interested (iii) Industrial/Non-Industrial (iv) Section 108/other than Sec.108	9. Date(s) of hearing : **As per records**
5. Assessment Year : **2016-17**	10. Date of order : 31.03.2021

ORDER U/S. 263 OF THE INCOME TAX ACT, 1961

The facts of the case are that assessment u/s. 143(3) of the Income Tax Act, 1961 for the A.Y. 2016-17 was completed on 04.12.2018, determining total income at Rs. Nil/-.

On further verification of assessment records, it has been found that the following exemptions were allowed by the Assessing Officer beyond the permissible scope as per Income Tax Act:

(i) In the instant case, the assessee claimed 'Provision for doubtful debts amounting to Rs.37.40 lakh under the head Other expenses as application of fund. As per provision of the Act, mere provision would not be allowable as a deduction and the actual writing off of the debt was a necessary pre-condition. Therefore, only the actual expenditures made during the year can be treated as application. As such, the said amount of Rs.37.40 lakh is required to be added back to the income of the assessee.

(ii) Scrutiny of the assessment order revealed that, an amount of Rs.5,18.29.615 has been deducted towards Apportion from patient care fund (SL. 461) of the table at paragraph 4 of the order from Total income as per I&E A/c', while computing taxable income of the assessee for the AY 2016-17. Further scrutiny revealed that the assessee had actually added the said amount as 'receipt" under the head

In view of the above, the Assessing Officer has erred in allowing capital expenditure of Rs. 4989.53 lakhs towards addition to fixed assets and Rs. 447.4 lakhs towards WIP, which resulted in loss of revenue and therefore, is prejudicial to the interest of revenue. The Assessing Officer is hereby directed to compute income with allowing capital expenditure and WIP.

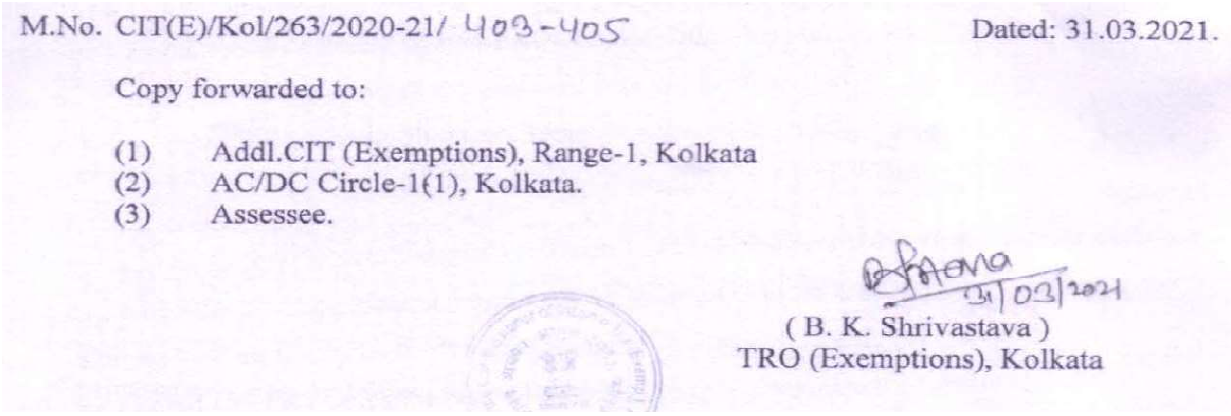
(iv) The assessee Trust created several Trust and Corpus Fund as well as Earmarked Funds in which contributions from donors with direction for utilization for specific purposes are accumulated for future utilization in accordance to the direction of donors. These receipts are not taken to the income since considered as exempt u/s. 11(1)(d) being capital receipt in nature. Interest accrued/ earned on such fund being revenue in nature is considered as Income from Other Sources. While computing income, the assessee Trust separately included interest of Rs. 91.37 lakhs in computation of income recognising the same as revenue receipt, but interest earned on other earmarked funds to the tune of Rs. 27.31 lakhs was not included in income as well as in computation of income separately. During the course of proceedings u/s. 263, it has been contended that apportionment of the interest amount to the I/E Accounts would not change the colour of the receipt. The assessee has also relied upon several court decision to establish that the interest accrued on corpus fund would be corpus in nature. However, the treatment towards interest on corpus fund being revenue in nature in accepted accounting norms, which has been recognized by the assessee itself in other part. The Assessing Officer also has not noticed the same in assessment erroneously and, therefore, the revenue interest income remained outside the ambit for fulfillment of conditions mentioned in section 11(1) for compulsory application of income @ 85% and also outside the ambit of taxation.

As such, the Assessing Officer is directed to compute income taking Rs. 27.31 lakhs as income.

In view of the above facts and circumstances of the case, the Assessment Order passed by the A.O. is therefore erroneous and prejudicial to the interests of the revenue. The A.O. is directed to give effect to the order as per the provision of the Act, and compute income on the basis of issue wise discussions above.

Ordered accordingly,

Sd/-
[Pankaj Kumar]
Commissioner of Income Tax (Exemptions), Kolkata



M.No. CIT(E)/Kol/263/2020-21/ 403-405 Dated: 31.03.2021.

Copy forwarded to:

(1) Addl.CIT (Exemptions), Range-1, Kolkata
(2) AC/DC Circle-1(1), Kolkata.
(3) Assessee.

31/03/2021

(B. K. Shrivastava)
TRO (Exemptions), Kolkata

13. From the above submissions and arguments, we note that it is an undisputed fact that the impugned order u/s. 263 of the Act has been issued manually which does not bear the signature of the authority passing the order. Further, from the perusal of the entire order, in its body, there is no reference to the fact of this order issued manually without a DIN for which the written approval of Chief Commissioner/Director General of Income-tax was required to be obtained in the prescribed format in terms of the CBDT circular. We also note that in terms of para 4 of the CBDT circular, such a lapse renders this impugned order as invalid and deemed to have never been issued.

13.1 It is also important to note about the binding nature of CBDT circular on the Income-tax Authorities for which gainful guidance is taken from the decision of Hon'ble Supreme Court in the case of CIT v. Hero Cycles [1997] 228 ITR 463 (SC) wherein it was held that circulars bind the ITO but will not bind the appellate authority or the Tribunal or the Court or even the assessee.

13.2 In the case of UCO Bank [1999] 237 ITR 889 (SC), Hon'ble Supreme Court while dealing with the legal status of such circulars, observed thus (page 896):

> *"Such instructions may be by way of relaxation of any of the provisions of the sections specified there or otherwise. The Board thus has power, inter alia, to tone down the rigour of the law and ensure a fair enforcement of its provisions, by issuing circulars in exercise of its statutory powers under section 119 of the Income-tax Act, which are binding on the authorities in the administration of the Act. Under section 119(2)(a) , however, the circulars as contemplated therein cannot be adverse to the assessee. Thus, the authority which wields the power for its own advantage under the Act is given the right to forgo the advantage when required to wield it in a*

manner it considers just by relaxing the rigour of the law or in other permissible manners as laid down in section 119. The power is given for the purpose of just, proper and efficient management of the work of assessment and in public interest. It is a beneficial power given to the Board for proper administration of fiscal law so that undue hardship may not be caused to the assessee and the fiscal laws may be correctly applied. Hard cases which can be properly categorized as belonging to a class, can thus be given the benefit of relaxation of law by issuing circulars binding on the taxing authorities."

13.3 In the matter of Nayana P. Dedhia [2004] 270 ITR 572 (AP), the Hon'ble Andhra Pradesh High Court held that the guidelines issued by the Board in exercise of powers in terms of section 119 of the Act relaxing the rigours of law are binding on all the officers responsible for implementation of the Act and, therefore, bound to follow and observe any such orders, instructions and directions of the Board.

13.4 In the decision of DCIT v. Sunita Finlease Ltd. [2011] 330 ITR 491 (CG,) it was held by the Hon'ble High Court of Chhattisgarh in para 16 that the administrative Instruction No. 9/2004 issued by the Central Board of Direct Taxes is binding on administrative officer in view of the statutory provision contained in section 143(2), which provides for limitation of 12 months for issuance of notice under section 143(2).

While giving its finding, the Hon'ble High Court of Chhattisgarh placed reliance on the decisions in the case of UCO Bank (supra) and Nayana P. Dedhia (supra).

13.5 Hon'ble jurisdictional High Court of Calcutta in the case of Amal Kumar Ghosh [2014] 361 ITR 458 (Cal) dealt with the issue relating to CBDT circular which according to the Department cannot defeat the provisions of law. While giving its observations and finding on the issue, the Hon'ble Court referred to the decision of Hon'ble Chhattisgarh High Court in the case of Sunita Finlease Ltd (supra), which are as under:

7. We have considered the rival submissions advanced by the learned Advocates. Even assuming that the intention of CBDT was to restrict the time for selection of the cases for scrutiny within a period of three months, it cannot be said that the selection in this case was made within the aforesaid period. Admittedly, the return was filed on 29th October, 2004 and the case was selected for scrutiny on 6th July, 2005. It may be pointed out that Mrs. Gutgutia was, in fact, reiterating the views taken by the learned Tribunal which we also quoted above. By any process of reasoning, it was not open for the learned Tribunal to come to a finding that the

department acted within the four corners of Circulars No.9 and 10 issued by CBDT. The circulars were evidently violated. The circulars are binding upon the department under section 119 of the I.T. Act.

8. Mrs. Gutgutia, learned Advocate submitted that the circulars are not meant for the purpose of permitting the unscrupulous assessees from evading tax. Even assuming, that to be so, it cannot be said that the department, which is State, can be permitted to selectively apply the standards set by themselves for their own conduct. If this type of deviation is permitted, the consequences will be that floodgate of corruption will be opened which it is not desirable to encourage. When the department has set down a standard for itself, the department is bound by that standard and cannot act with discrimination. In case, it does that, the act of the department is bound to be struck down under Article 14 of the Constitution. In the facts of the case, it is not necessary for us to decide whether the intention of CBDT was to restrict the period of issuance of notice from the date of filing the return laid down under section 143(2) of the I.T. Act. [emphasis supplied by us by underline]

14. Considering the facts on record, perusal of the impugned order, submissions made by the Ld. Counsel and the department, CBDT circular and the judicial precedents including that of Hon'ble Supreme Court and the jurisdictional High Court of Calcutta, we are inclined to adjudicate on the additional ground in favour of the assessee by holding that the order passed by the Ld. CIT(E) is invalid and deemed to have never been issued as it fails to mention DIN in its body by adhering to the CBDT circular no. 19 of 2019. Accordingly, additional ground taken by the assessee is allowed. Having so held on the legal issue raised by the assessee in the additional ground, the grounds relating to the merits of the case requires no adjudication. Accordingly, the appeal of the assessee is allowed in terms of above observations and findings."

7. It is further pertinent to note here that in its recent judgment in the case of "Pradeep Goyel vs. UOI" reported in [2022] 141 taxmanc.com 64(SC), the Hon'ble Supreme Court of India, taking note of the aforesaid CBDT Circular of 2019 to implement the DIN system and also in view of the larger interest and to bring transparency and accountability in the indirect tax administration also, has directed Union of India and GST council to issue advisory/instruction/recommendations regarding implementation of digital generation of DIN for all communications sent

by SGST officers to taxpayers and further directed that concerned States to consider implementing system of e-generation of DIN. The relevant part of the order of the Hon'ble Supreme Court, for the sake of ready reference, is reproduced as under:

> *"1. By way of this Writ Petition under Article 32 of the Constitution of India, the petitioner, a Chartered Accountant by profession, by way of present Public Interest Ligation has prayed for an appropriate writ, order or direction to the respondents – respective States and the GST Council to take all necessary steps to implement a system for electronic (digital) generation of a Document Identification Number (DIN) for all communications sent by the State Tax Officers to taxpayers and other concerned persons.*
>
> *1.1 It is also prayed to direct the GST Council to consider and take a policy decision in respect of implementation of the DIN system by all the Signature Not Verified Digitally signed by R Natarajan Date: 2022.08.02 16:42:03 IST Reason:*
>
> *States.*
>
> *2. It is the case on behalf of the petitioner that by implementing a system for electronic (digital) generation of a DIN, it will usher in transparency and accountability in the indirect tax administration. It is submitted that as such the same is the Government's objective. It is submitted that the same may prevent any abuse by the Departmental Officers of pre-dating communications and ratifying actions by authorizations subsequently made out in the files. 2.1 It is the case on behalf of the petitioner that even Hon'ble the Prime Minister of India had earlier asked the Department of Revenue to come up with specific measures to ensure that the honest taxpayers are not harassed and served better. It is submitted that in pursuance of the directions issued by the Hon'ble Prime Minister, the Central Government had taken a decision as far as back in the year 2019 to implement the DIN system of Central Board of Direct Taxes (CBDT). It is submitted that as per the press note issued by the Ministry of Finance on and from 01.10.2019, every CBDT communication will have to have a Document Identification Number (DIN).*
>
> *2.2 It is averred that the Document Identification Number system, which will bring in transparency and accountability in the tax administration and, as on today, the same has been implemented only by two States, i.e., the States of Karnataka and Kerala. It is submitted by learned counsel*

appearing for the petitioner that GST Council as per Article 279A of the Constitution of India can make recommendations to the States on any matter relating to GST. Therefore, when implementation of the DIN system is in the larger public interest and the objective to implement the DIN system is to bring in transparency and accountability in the indirect tax administration, it is prayed to direct the respondents – States to implement the DIN system. It is prayed to direct the Central Government / CBIC / GST Council to issue directions to the concerned States to implement the DIN system in respect of all communications sent by the State Tax Officers to assessees, taxpayers and other concerned persons.

3. On the copy of the writ petition being served pursuant to the order passed by this Court dated 11.07.2022, Shri Balbir Singh, learned ASG has appeared on behalf of Union of India. He has submitted that Union of India does not dispute that by implementing a system for electronic (digital) generation of a DIN, it will bring in transparency and accountability in the indirect tax administration. He has submitted that even as desired by Hon'ble the Prime Minister of India, the Central Government had taken a decision to implement the DIN system of Central Board of Direct Taxes and on and from 01.10.2019, every CBDT communication will have to have a Document Identification Number (DIN). It is submitted that however, so far as the implementation of the system for electronic (digital) generation of a DIN for all communications sent by the State Tax Officers to taxpayers and other concerned persons is concerned, the same is to be done and/or implemented by the concerned States. It is submitted that it is true that the GST Council in exercise of powers under Article 279A of the Constitution of India can make recommendations to the States and can issue an advisory to all the States to implement the system for electronic (digital) generation of a DIN for all communications sent by the State Tax Authorities/ Officers to taxpayers and other concerned persons, as has been done and implemented by the States of Karnataka and Kerala.

4. We have heard Ms. Charu Mathur, learned counsel appearing on behalf of the petitioner and Shri Balbir Singh, learned ASG appearing on behalf of Union of India.

5. By way of this writ petition under Article 32 of the Constitution of India, the petitioner has prayed for the following reliefs:-

> *"a. Issue a writ of mandamus or any other appropriate writ, order or direction to the respondents to take all necessary steps to implement a system for electronic (digital) generation of a Document*

Identification Number(DIN) for all communications sent by the state tax officers to taxpayers and other concerned persons;

b. Issue a writ of mandamus or any other appropriate writ, order or direction to the GST Council to consider and take a policy decision in respect of implementation of DIN system by all the states;

c. Issue a writ of mandamus or any other appropriate writ, order or direction to the Central Government/CBIC to introduce centralised DIN for the entire country;

d. pass such further order(s) as may be deemed fit and proper in facts and circumstances of the present case, in the interest of justice."

6. It cannot be disputed that implementing the system for electronic (digital) generation of a Document Identification Number (DIN) for all communications sent by the State Tax Officers to taxpayers and other concerned persons would be in the larger public interest and enhance good governance. It will bring in transparency and accountability in the indirect tax administration, which are so vital to efficient governance. Even the Central Government has also taken a decision and as such implemented the DIN system of Central Board of Direct Taxes and on and from 01.10.2019, as every CBDT communication will have to have a Document Identification Number (DIN). But, as on today, only two States, namely, the States of Karnataka and Kerala have implemented the system for electronic (digital) generation of a DIN in the indirect tax administration, which is laudable and to be appreciated.

7. In view of the implementation of the GST and as per Article 279A of the Constitution of India, the GST Council is empowered to make recommendations to the States on any matter relating to GST. The GST Council can also issue advisories to the respective States for implementation of the DIN system, which shall be in the larger public interest and which may bring in transparency and accountability in the indirect tax administration. Therefore, we dispose of the present writ petition by directing the Union of India / GST Council to issue advisory / instructions / recommendations to the respective States regarding implementation of the system of electronic (digital) generation of a DIN in the indirect tax administration, which is already being implemented by the States of Karnataka and Kerala. We impress upon the concerned States to consider to implement the system for electronic (digital) generation of a DIN for all communications sent by the State Tax Officers to taxpayers and other concerned persons so as to bring in

transparency and accountability in the indirect tax administration at the earliest.

With this, the present writ petition stands disposed of. Registry is directed to send copy of this order to the Chief Secretary of all the Respondent States in the Country to take note of the present order and take further steps in the matter."

8. Respectfully following the decision of the Coordinate Bench of the Tribunal in the case of Tata medical Centre Trust (Supra) and further taking note of the aforesaid directions/observations made by the Hon'ble Supreme Court in the case of "Pradeep Goyel vs. UOI" (supra), the impugned order passed by the ld. PCIT is hereby quashed.

9. Even on merits, the ld. counsel has submitted that the impugned order of the CIT(A) is a vague order. Though the ld. PCIT in the impugned order has mentioned that the Assessing Officer has not examined the source of fund or cash deposits in current account of the assessee, however, ld. DR could not point out as to which funds the ld. PCIT has made the aforesaid observation. The ld. counsel has further invited our attention to the impugned order passed u/s 143(3) read with section 147 of the Act to submit that the case of the assessee was reopened to examine the credit of RTGS of Rs.60,00,000/- in the account of the assessee and the assessee duly furnished the information in the record and the Assessing Officer was satisfied that the aforesaid amount was received on account of sale of shares. The Assessing Officer was duly satisfied with the evidences furnished by the assessee and no additions were made. The ld. PCIT has not discussed as to what was the error in the impugned order of the Assessing Officer and what further investigations the Assessing Officer were required to carry out. In view of

this, the impugned order of the PCIT otherwise is not sustainable and the same is hereby quashed.

10. In the result, the appeal of the assessee stands allowed.

Kolkata, the 23rd February, 2023.

Sd/-	Sd/-
[डॉक्टर मनीष बोरड /Dr. Manish Borad]	**[संजय गर्ग /Sanjay Garg]**
लेखा सदस्य /Accountant Member	**न्यायिक सदस्य /Judicial Member**

Dated: 23.02.2023.
RS

Copy of the order forwarded to:
1. Costal Energy (P) Ltd
2. ITO, Ward-15(1), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches