

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "B" JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य एवं श्री राठौड़ कमलेश जयंतभाई, लेखा सदस्य के समक्ष  
BEFORE: SHRI SANDEEP GOSAIN, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA No. 156/JP/2022  
निर्धारण वर्ष/Assessment Year : 2016-17.

Shri Anand Jhawar, C/o CA R.S. Poonia, D-82B, Siwad Area, Kirshna Marg, Bapu Nagar, Jaipur.	बनाम Vs.	The PCIT, Jaipur-2, Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No. ACRPJ 6291 P		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri R.S. Poonia, CA &  
Shri Rajat Choudhary, Advocate.

राजस्व की ओर से / Revenue by: Shri Shailendra Sharma, CIT &  
Smt. Runi Pal, Addl. CIT.

सुनवाई की तारीख / Date of Hearing : 14/03/2023  
उद्घोषणा की तारीख / Date of Pronouncement: 11/04/2023

आदेश / ORDER

PER: SANDEEP GOSAIN, J.M.

This appeal by the assessee is directed against the order dated 31.03.2021 of  
ld. PCIT, Jaipur-2, Jaipur passed under section 263 of the IT Act for the assessment  
year 2016-17. The assessee has raised the following grounds :-

1. That on the facts and in the circumstances of the case and in law, the learned Principal Commissioner of Income Tax (PCIT), Jaipur-2 erred in initiating proceedings u/s 263 of the Income Tax Act, 1961.
2. On the facts and in the circumstances of the case and in law, the appellant prays that the order of the learned PCIT passed u/s 263 of the Income Tax Act, 1961 may be cancelled being void ab-initio and bad in law.

3. On the facts and in the circumstances of the case and in law, learned Principal commissioner of Income Tax, Jaipur-2 erred in holding that assessment order dated 17.12.2018 passed by the Assessing Officer u/s 143(3) of the Act was erroneous and prejudicial to the interest of the revenue, as the scrutiny was Limited Scrutiny despite the issues raised having been duly considered by the learned Assessing Officer while framing the assessment u/s 143(3) of the Act.
4. That on the facts and in the circumstances of the case and in law, the learned PCIT erred in not himself conducting necessary/proper enquiry and verification of issues mentioned in the notice issued u/s 263 of the Act and setting aside the assessment order for a de-novo adjudication on issues mentioned therein which is wrong and contrary to the provisions of the Act, and the Rules made thereunder.
5. That the appellant craves permission to add to or amend to any of the above grounds of appeal or to withdraw any of them.

2. The appeal filed by the assessee is delayed by 334 days. The assessee has explained the delay caused by filing an application dated 19.05.2022 and requested for condonation of delay as under :-

" 1. This present appeal is filed vide dated 29.04.2022 against the order passed by PCIT, Jaipur-2 vide order dated 31.03.2021 with a delay of 334 days.

2. Further, it is submitted that as per the order passed by Hon'ble Supreme Court in Miscellaneous Application No. 21 of 2022 vide order dated 10.01.2022 directed that *"the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial and quasi-judicial proceedings.*

*It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23(4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and*

*(c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.”*

As per this said order the period from 15.03.2020 till 28.02.2022 shall exclude for the purposes of limitation. A copy of order passed by Hon'ble Supreme Court vide dated 10.01.2022 is enclosed for your ready reference.

In view of above submission you are requested that to condone the delay and kindly admit the appeal. So the substantial justice may be delivered to the appellant.

The assessee prays accordingly.”

3. Having considered the rival submissions as well as going through the contents of the application, we are satisfied that the assessee has explained a reasonable cause for not filing the appeal within the period of limitation. Accordingly, we condone the delay of 334 days in filing the present appeal.

4. The brief facts of the case are that the assessee is an Individual and filed his return of income under section 139(1) of the I.T. Act, 1961 dated 15.07.2016 for assessment year 2016-17 declaring a total income of Rs. 14,39,460/-. Further, the assessee filed his revised return of income under section 139(5) of the IT Act, 1961 on 09.02.2017 declaring the total income as declared in the original return. The case of the assessee was selected for Limited Scrutiny under CASS by issuing a notice under section 143(2) of the IT Act, 1961 dated 06.07.2017. As per said

notice issued under section 143(2), the case was selected for Limited Scrutiny on the following issue :

**(a) Whether revision of return is justified.**

Further, assessee received notices under section 142(1) of the IT Act, 1961 on 01.10.2018, 12.10.2018 along with query letter. The AO made specific query regarding the reasons for revision of return of income on Point No. 4 of the query letter which is as under :

**“ Please furnish reasons why you have revised your return of income.”**

In compliance, the assessee submitted proper reply on 06.11.2018 stating the reason for revision of return of income within the stipulated time period along with the required documents/details/information. The AO after being satisfied with the submissions and the evidences furnished by the assessee completed the assessment under section 143(3) of the IT act, 1961 vide order dated 17.12.2018 at the returned income. Thereafter, the Id. Principal CIT-2 called for the assessment record and after examining the assessment record, opined that the Assessing Officer failed to make proper scrutiny of assets, liabilities, creditors and investments of the assessee during the course of assessment proceedings. The Id. Principal CIT not being satisfied with the assessment order passed by the AO under section 143(3) of the IT Act, 1961 dated 17.12.2018, observed that the assessment order is erroneous and prejudicial to the interest of the revenue as the assessment order was passed mechanically without application of mind and, therefore, the Id. Principal CIT proposed to modify the said assessment order in respect of above point in exercise of power vested under section 263 of the IT ACT, 1961 and issued a Show Cause

notice under section 263 of the IT Act, 1961 to the assessee on 10.03.2021 to explain as to why the assessment order passed under section 143(3) on 17.12.2018 may not be revised under section 263 of the IT Act, 1961 and may not be treated as erroneous and prejudicial to the interest of the revenue as the assessment order was passed mechanically without application of mind for the reasons mentioned in the notice.

4.1 In reply to the Show Cause notice under section 263 of the IT Act, 1961 issued by the Id. Principal CIT, the assessee filed his detailed reply/submission dated Nil within the stipulated time period along with the required documents/details/information. The Id. PCIT considered the reply of the assessee dated Nil but could not find favour, and on the findings given in Show Cause notice held that the assessment order dated 17.12.2018 for the assessment year 2016-17 passed by the AO is erroneous in so far as it is prejudicial to the interest of the revenue and liable to revision under the Explanation-2 clause (b) and clause (a) of section 263 of the IT Act. Hence, the assessment order is set aside to be redone de-novo in the light of the observation made in the impugned order with the direction to the AO to verify and examine issue of cash deposits of Rs. 2,32,48,000/-, and finalize the assessment in accordance with the prevailing law to quantify the correct income of the assessee liable to tax for AY 2016-17 after according reasonable opportunity to the assessee. Aggrieved by the order of the Id. Principal CIT under section 263, the assessee is in appeal before us.

5. Before us, the learned A/R of the assessee submitted his submissions as under :-

“ Assessee is an individual and he filed his original return of income u/s. 139 of the I.T. Act, 1961 vide dated 15.07.2016 for A.Y. 2016-17 declaring a total income of Rs. 14,39,460/-. Further, assessee filed his revised return of income u/s. 139(5) of the I.T. Act, 1961 on 09.02.2017 declaring total income amounting to Rs. 14,39,460/-.

That assessee’s case was selected for **Limited Scrutiny under CASS** by issuing a notice u/s. 143(2) of the I.T. Act, 1961 vides dated 06.07.2017. Further, it is submitted that the issue have been identified for examination were:

**Whether revision of return is justified.**

That the Ld. A.O. passed an assessment order on 17.12.2018 by accepting the return of income amounting to Rs. 14,39,460/- as total income of assessee for the year under consideration.

Further, the Revision Proceedings were initiated by Ld. PCIT, Jaipur-2 and issued a notice for revision proceeding u/s. 263 of the I.T. Act, 1961 on 10.03.2021.

Moreover, it is submitted that Ld. PCIT, Jaipur-2 had mentioned in the above said notice that *“I, accordingly, propose to **modify** the order on the above issue under the power vested with me u/s. 263 of the I.T. Act, 1961.”*

Now, we want to draw your attention to the wrong finding made by Ld. PCIT, Jaipur-2 and issues on which arguments is made by us, which are as follows:-

- A. That the case was selected for Limited Scrutiny but the Ld. PCIT Jaipur-2 had travelled beyond the issue of Limited Scrutiny.
- B. That in the show cause notice issued by Ld. PCIT, Jaipur-2 he had proposed to **modify** the order. But, in the order passed u/s. 263 of the I.T. Act, 1961 on 31.03.2021 has stated that he **set aside** the assessment order.

C. That in Para No. 6 of Page No. 4 of 8 of Revision Order Ld. PCIT submitted that No reply has been filed to the notice. Accordingly, the matter is being decided in the basis of information available on record.

In the said circumstances it is submitted that assessee filed proper reply on 24.03.2021 along with required documents/details.

D. That the finding made by Ld. PCIT to examine the issue of Cash deposit of Rs. 2,32,48,000/-.

In this said connection it is submitted that assessee's case was selected for **Limited Scrutiny** for examining the issue of Revision of return of Income. But the Ld. PCIT Jaipur-2 treated the assessment order as erroneous and prejudice to the interest of the revenue on the issue of Cash deposit of Rs. 2,32,48,000/- which is totally incorrect and unlawful in the eyes of Law because **observation made by Ld. PCIT are beyond the points mentioned in Limited Scrutiny.**

Moreover, in this it is submitted that on Point No.3 on Page No. 3 of 8 of Revision Order Ld. PCIT Jaipur-2 has stated that "*Assessee has deposited a sum of Rs. 2,32,48,000/- in cash in his various bank account during the demonetization period.*"

In this said connection it is submitted that the period of demonetization period belongs to A.Y. 2017-18 and this present case is of A.Y. 2016-17. Further, it is also submitted that this said issue of cash deposit during demonetization period was assessed by Jurisdictional Assessing Officer for A.Y. 2017-18.

So, in this it is submitted that the order passed by LD. PCIT, jaipur-2 was totally incorrect and unlawful in the eyes of Law.

**Reliance is placed on following judgments of Jurisdictional ITAT Jaipur :-**

1. **Shri Radha Govind Lashkari v. PCIT, Jaipur-2 (having ITA No. 32/JP/2021) ITAT Jaipur:-** "*We have considered the rival submissions and the facts and circumstances of the case mentioned supra that the*

*case of the assessee was selected for limited scrutiny and accordingly the Id. AO could not travel beyond his jurisdiction. The AO after taking into consideration the evidences and documents filed by the assessee and on examination of the said documents, and on being satisfied himself, accepted the income returned by the assessee. The Id. Pr. CIT has not mentioned that the AO has not examined the issues raised in the limited scrutiny show cause notice. We, therefore, are of the view that the observations made by the Id. Pr. CIT are beyond the points mentioned for limited scrutiny. Thus we find no force in the order of the Id. Pr. CIT which is quashed.*

*In the result, this appeal of the assessee is allowed."*

- 2. Shri Baljeet Yadav v. PCIT Jaipur-1 (having ITA No. 120/JP/2022) ITAT, Jaipur:-** "6.2. *It is evident from the assessment order and impugned order that the assessee's case was selected for scrutiny under CASS for examination of cash deposits made in the bank during the demonetization period. It is prima facie not clear whether it was a limited scrutiny case or a detailed scrutiny case with the approval of the competent authority. To our understanding, it was a limited scrutiny case being selected under CASS for examination of cash deposits made in the bank during demonetization period and, therefore, the authorities below ought to have restricted their examination and enquiries limited for the purpose of cash deposits made by the appellant during the period of demonetization only. By expanding the scope of scrutiny beyond the issue of cash deposits during demonetization period, amounts to exceeding the jurisdiction by the Id. PCIT without following the prescribed procedure and the administrative guidelines under the law. After considering the documentary evidences filed by the assessee in compliance to the enquiries caused by the AO and scrutiny of the documents in respect of the cash deposits, the AO has accepted the cash deposits in the bank during the period of demonetization made by the appellant as duly explained. Thus, the AO to his satisfaction accepted the*

*cash deposits in the bank account of the assessee during the period of demonetization as explained money in accepting the returned income of the assessee under section 143(3) of the IT Act. In our view, the Id. PCIT was not justified in adversely commenting on the said cash deposits of the assessee and adopting a divergent view where two views are possible that too on the issues of agricultural income and unsecured loans, which were not even parameters of selection of the case for scrutiny under CASS. The case laws relied upon by the Id. PCIT are distinguishable on the peculiar facts of the case.*

*7. Respectfully following the Hon'ble Rajasthan High Court in the case of CIT vs. Ganpat Ram Bishnoi (supra), no presumption can be down by the PCIT that the matter has not been enquired into by the AO. Accordingly, we hold that the invocation of jurisdiction by the PCIT is not sustainable. The order passed by the PCIT u/s 263 is hereby set aside.*

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

- 3. M/s Mahendra Singh Dhankar HUF v. ACIT Circe, Jhunjhunu (ITA No. 265/JP/2020) ITAT Jaipur:-** "22. As we have discussed above, in case of limited scrutiny, the AO is duty bound to restrict himself to examine the matters for which matter was selected for limited scrutiny and where the AO takes a view and forms a reasonable belief that some other matters are required to be examined, the same will in effect be traversing beyond the scope of limited scrutiny which is not permissible unless the matter is converted into complete scrutiny and which has not happened during the course of present assessment proceedings. Therefore, the issue of valuation of closing work-in-progress as well as matter relating to agriculture income, which are held by the Id PCIT as matters not been examined by the AO, are matters which are not part of the reasons for which the case was selected for limited scrutiny and are not even remotely connected, therefore, no fault lie on the part of the AO resulting in order being held as erroneous and prejudicial to the interest of

*revenue. As far as matters for which case was selected for limited scrutiny in terms of mis-match of sales turnover, the same has been duly examined by the AO and even the Id PCIT has not recorded any adverse findings in terms of lack of enquiry or inadequate enquiry on part of the AO. In light of aforesaid discussions, we hereby set-aside the order passed by the Id PCIT u/s 263 and the order of the AO is sustained.*

*In the result, the appeal of the assessee is allowed. "*

**4. Rajani Venkata Naga Annavarapu v. PCIT-20, New Delhi (ITA No.**

**1817/Del/2020) ITAT Delhi:-** *"11. From the record, we find that the complete details pertaining to both the issues have been examined by the AO and the replies of the assessee dated 27.10 .2017 along with the details of purchase of property and registration document. The entire details of the said two transactions which are the subject matter of scrutiny have been duly provided and examined by the AO and duly accepted after examination and verification.*

*12. We find that the Id. PCIT has also mentioned at para no . 2 that the case has been selected for limited scrutiny under CASS. On going through order u/s 263 , we find that the order u/s 263 passed by the Id. PCIT dwelled into the issue of "re-computation of capital gains" which is beyond the mandate of the limited scrutiny issued by the CBDT. Hence , the directions of the Id. PCIT which are beyond the selection criteria of scope of scrutiny for the instant year cannot be held to be legally valid.*

*13. In the result, the appeal of the assessee is allowed."*

**Moreover, we are submitting that the compilation of case laws submitted by Ld. D/R. were old cases and before the Instruction No. 20/2015 and Instruction No. 05/2016 issued by CBDT on unauthorized expansion of the scope of Limited Scrutiny. So, in the said circumstances these case laws are not applicable in this case.**

The assessee prays accordingly."

6. On the other hand, the Id. D/R has submitted that the Id. Principal Commissioner may call for and examine the records of any proceeding under the Act. For this purpose, he does not need to show any reason. It is a part of his administrative control to call for records and examine them. He further submitted that the Id. Principal Commissioner may consider that any order passed under the Act by the AO is erroneous in so far as it is prejudicial to the interests of the revenue. This consideration, having regard to the language of section 263, apparently is a consideration which he exercises by calling for and examining the records as indicated above. During this particular stage of consideration, there is no question of the assessee appearing or making any submission. If after calling for and examining the records the Pr. Commissioner "considers" that the order of the AO is erroneous, in so far as it is prejudicial to the interests of the revenue. He has referred to the Explanation 2 and submitted that the order passed by the AO shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue if in the opinion of the Id. PCIT or Id. CIT the order is passed without making enquiry or verification which should have been made. Further, if the order is passed allowing any relief without enquiring into the claim. Thus, in the case in hand, the AO has not conducted any enquiry on the issue of cash deposits of Rs. 2,32,48,000/- during the year. The Id. D/R submitted that the specific provisions of section 263 of the Act lays down that a satisfaction that an order passed by the Authority under the Act is erroneous and prejudicial to the interests of the revenue is the basic pre-condition for exercise of jurisdiction under section 263 of the Act. Both are twin conditions that have to be conjointly present. Once such satisfaction is reached, jurisdiction to exercise the power would be available subject to observance of the

principles of natural justice which is implicit in the requirement cast by the section to give the assessee an opportunity of being heard. The above conditions have been fulfilled in the instant case. In view of the above submissions, it is requested that the order of Pr. CIT may kindly be upheld.

7. We have heard the Id. Counsels of both the parties and have perused the relevant material placed on record. We have carefully perused the assessment order passed by the AO under section 143(3), show cause notice issued by the Id. PCIT under section 263 of the IT Act, 1961 as well as the impugned order passed under section 263. We have also deliberated upon the decisions cited in the orders passed by the authorities below as well as cited before us. As per the facts of the case, the assessee is an Individual and filed his return of income on 15.07.2016 declaring total income of Rs. 14,39,460/- for the year under consideration. Thereafter revised return of income was also filed on 09.02.2017 declaring the same amount of income. The case of the assessee was selected for "Limited Scrutiny" under CASS for examining the issue " Whether revision of return is justified ". In this regard assessee received notices under section 142(1) of the IT Act, 1961 wherein specific queries during the course of assessment with regard to revising the return was raised by the AO for which required reply along with documents were submitted by the assessee. The AO, after satisfying himself passed the assessment order dated 17.12.2018 thereby accepting the returned income for the year under consideration. However, thereafter the Id. Principal CIT examined the assessment order of the assessee and opined that the AO failed to make enquiry with reference to the explanation offered by the assessee during the course of assessment proceedings. For sake of convenience, the show cause notice under section 263 of the IT Act,

1961 for the AY 2016-17 dated 10.03.2021 issued by the Id. PCIT is reproduced below :-

“ The assessment record in your case for AY 2016-17 was called for and examined. It is seen that your case was selected for limited scrutiny to verify whether revision of return is justified.

2. Assessment was completed u/s 143(3) on 17.12.2018 at the returned income of Rs. 14,39,460/- by the ITO, Ward 6(2), Jaipur (A0).

3. On perusal of the assessment records, it is seen that Cash deposit of Rs. 2,32,48,000/- during demonetization period, difference of Sundry creditors of Rs. 3,94,22,340/- in respect of preceding assessment year 2016-17 and investment of Rs.8,00,00,000/- in respect of short term capital gain shown of Rs. 6,12,196/- were not verified by the AO during the assessment.

4. In view of the above, it appears that the assessment order passed u/s 143(3) of the I.T. Act, 1961 in your case for A.Y. 2016-17 on 17.12.2018 is erroneous in so far as it is prejudicial to the interest of the revenue.

5. I, accordingly, propose to modify the order on the above issue under the power vested with me u/s 263 of the IT Act, 1961. You are, hereby, allowed an opportunity to show cause as to why the order passed u/s 143(3) on 17.12.2018 by the ITO, Ward 6(2), Jaipur may not be revised u/s 263 of the I.T. Act, 1961.

6. Therefore, you may submit reply on the Email Id of the undersigned, i.e. [jaipur.pcit2@incometax.gov.in](mailto:jaipur.pcit2@incometax.gov.in) on and before 17.03.2021. Please note that in case of failure to submit the written submission on the aforesaid date, the matter will be decided on merits on the basis of material available on record without any further communication in this regard.”

On the basis of above show cause notice, the Id. PCIT proposed to modify the said assessment order in respect of above point in exercise of powers vested under section 263 of the IT Act.

7.1. Thereafter, revision proceedings were initiated by the Id. PCIT under section 263 of the IT Act, 1961 on the ground that assessee had deposited Rs. 2,32,48,000/- in cash after declaration of demonetization on 08.11.2016 in his bank account and revised the return for the year under consideration containing comparison chart regarding details of AY 2016-17 and details of AY 2015-16, in which according to Id. PCIT there were increase in current assets, debtors, creditors etc. for which the AO has not enquired. Therefore, it was concluded by the Id. PCIT that the order of assessment was erroneous and prejudicial, consequently set aside the same with a direction to the AO to verify and examine the issue of cash deposit of Rs. 2,32,48,000/-.

7.2. At the very outset, the Id. A/R submitted that the Id. Principal CIT wrongly assumed the jurisdiction under section 263 and has wrongly appreciated the factual position. In this regard the Id. A/R drawn our attention to para 6 at page 4 of the Revision Order wherein it is mentioned as under :-

*" 6. No compliance has been made to the show cause notice dated 10.03.2021. Another opportunity was given by issuing another notice on 18.03.2021 for filing reply by 24.03.2021. No reply has been filed to the notice. Accordingly, the matter is being decided on the basis of information available on record."*

The Id. A/R further submitted that he had filed detailed reply on 24.03.2021 along with required documents/details and the same has already been placed on record in paper book page 5 which goes to show that the findings of Id. Principal CIT to the effect that no compliance has been made to the show cause notices dated 10.03.2021 and 18.03.2021 is factually incorrect. As far as observations made by Id.

PCIT that during demonetization the assessee had deposited a sum of Rs. 2,32,48,000/- in the year under consideration, in this regard we noticed that period of demonetization is covered by AY 2017-18 and not AY 2016-17 and as far as verification of deposit of cash by assessee of Rs. 2,32,48,000/- is concerned, the same stands already assessed in AY 2017-18 by the AO while passing order of assessment dated 24.12.2019 under section 143(3) of the IT Act, 1961. Thus in this way the initiation of proceedings by Id. PCIT were on factually wrong facts.

7.3 Even otherwise, admittedly, the assessment for the year under consideration was for Limited Scrutiny under CASS and accordingly the AO could not have travelled beyond his jurisdiction. The AO after taking into consideration the documents and evidences filed by the assessee and on examination of the said documents and on being satisfied himself, accepted the income returned by the assessee. The Id. PCIT has not mentioned that the AO has not examined the issue raised in the Limited Scrutiny show cause notice. We, therefore, are of the view that the observations made by the Id. PCIT are beyond the points mentioned for Limited Scrutiny.

7.4. Since it was a Limited Scrutiny case, therefore, authorities below ought to have restricted their examination and enquiry limited for the purpose for which scrutiny was being done. Thus by expanding the scope of scrutiny beyond the issue of Limited Scrutiny, in our view amounts to exceeding the jurisdiction of Id. PCIT without following the prescribed procedure and the administrative guidelines under the law. In the present case, the AO after considering the documentary evidences filed by the assessee in compliance to the enquiries caused by the AO, the AO accepted the issue duly explained. Even the Hon'ble Rajasthan High Court in the

case of CIT vs. Ganpat Ram Bishnoi, supra, had held that no presumption can be drawn by the Id. PCIT that the matter has not been enquired into by the AO. Accordingly, investigation of jurisdiction by Id. PCIT was held to be not maintainable. On this proposition, we also draw strength from the following decisions :-

**1. Shri Radha Govind Lashkari v. PCIT, Jaipur-2 (having ITA No.**

**32/JP/2021) ITAT Jaipur:-** *“We have considered the rival submissions and the facts and circumstances of the case mentioned supra that the case of the assessee was selected for limited scrutiny and accordingly the Id. AO could not travel beyond his jurisdiction. The AO after taking into consideration the evidences and documents filed by the assessee and on examination of the said documents, and on being satisfied himself, accepted the income returned by the assessee. The Id. Pr. CIT has not mentioned that the AO has not examined the issues raised in the limited scrutiny show cause notice. We, therefore, are of the view that the observations made by the Id. Pr. CIT are beyond the points mentioned for limited scrutiny. Thus we find no force in the order of the Id. Pr. CIT which is quashed.*

*In the result, this appeal of the assessee is allowed.”*

**2. Shri Baljeet Yadav v. PCIT Jaipur-1 (having ITA No. 120/JP/2022) ITAT,**

**Jaipur:-** *“6.2. It is evident from the assessment order and impugned order that the assessee’s case was selected for scrutiny under CASS for examination of cash deposits made in the bank during the demonetization period. It is prima facie not clear whether it was a limited scrutiny case or a detailed scrutiny case with the approval of the competent authority. To our understanding, it was a limited scrutiny case being selected under CASS for examination of cash deposits made in the*

*bank during demonetization period and, therefore, the authorities below ought to have restricted their examination and enquiries limited for the purpose of cash deposits made by the appellant during the period of demonetization only. By expanding the scope of scrutiny beyond the issue of cash deposits during demonetization period, amounts to exceeding the jurisdiction by the Id. PCIT without following the prescribed procedure and the administrative guidelines under the law. After considering the documentary evidences filed by the assessee in compliance to the enquiries caused by the AO and scrutiny of the documents in respect of the cash deposits, the AO has accepted the cash deposits in the bank during the period of demonetization made by the appellant as duly explained. Thus, the AO to his satisfaction accepted the cash deposits in the bank account of the assessee during the period of demonetization as explained money in accepting the returned income of the assessee under section 143(3) of the IT Act. In our view, the Id. PCIT was not justified in adversely commenting on the said cash deposits of the assessee and adopting a divergent view where two views are possible that too on the issues of agricultural income and unsecured loans, which were not even parameters of selection of the case for scrutiny under CASS. The case laws relied upon by the Id. PCIT are distinguishable on the peculiar facts of the case.*

*7. Respectfully following the Hon'ble Rajasthan High Court in the case of CIT vs. Ganpat Ram Bishnoi (supra), no presumption can be down by the PCIT that the matter has not been enquired into by the AO. Accordingly, we hold that the invocation of jurisdiction by the PCIT is not sustainable. The order passed by the PCIT u/s 263 is hereby set aside.*

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

- 3. M/s Mahendra Singh Dhankar HUF v. ACIT Circe, Jhunjhunu (ITA No. 265/JP/2020) ITAT Jaipur:-** *“22. As we have discussed above, in case of limited scrutiny, the AO is duty bound to restrict himself to examine the matters for which matter was selected for limited scrutiny and where the AO takes a view and forms a reasonable belief that some other matters are required to be examined, the same will in effect be traversing beyond the scope of limited scrutiny which is not permissible unless the matter is converted into complete scrutiny and which has not happened during the course of present assessment proceedings. Therefore, the issue of valuation of closing work-in-progress as well as matter relating to agriculture income, which are held by the Id PCIT as matters not been examined by the AO, are matters which are not part of the reasons for which the case was selected for limited scrutiny and are not even remotely connected, therefore, no fault lie on the part of the AO resulting in order being held as erroneous and prejudicial to the interest of revenue. As far as matters for which case was selected for limited scrutiny in terms of mis-match of sales turnover, the same has been duly examined by the AO and even the Id PCIT has not recorded any adverse findings in terms of lack of enquiry or inadequate enquiry on part of the AO. In light of aforesaid discussions, we hereby set-aside the order passed by the Id PCIT u/s 263 and the order of the AO is sustained.*

*In the result, the appeal of the assessee is allowed. “*

- 4. Rajani Venkata Naga Annavarapu v. PCIT-20, New Delhi (ITA No. 1817/Del/2020) ITAT Delhi:-** *“11. From the record, we find that the complete details pertaining to both the issues have been examined by*

*the AO and the replies of the assessee dated 27.10.2017 along with the details of purchase of property and registration document. The entire details of the said two transactions which are the subject matter of scrutiny have been duly provided and examined by the AO and duly accepted after examination and verification.*

*12. We find that the Id. PCIT has also mentioned at para no . 2 that the case has been selected for limited scrutiny under CASS. On going through order u/s 263 , we find that the order u/s 263 passed by the Id. PCIT dwelled into the issue of "re-computation of capital gains" which is beyond the mandate of the limited scrutiny issued by the CBDT. Hence , the directions of the Id. PCIT which are beyond the selection criteria of scope of scrutiny for the instant year cannot be held to be legally valid.*

*13. In the result, the appeal of the assessee is allowed."*

The case laws relied upon by the Id. PCIT and the Id. D/R are distinguishable on the peculiar facts of the case. Therefore, considering the totality of facts and circumstances of the case, we are of the considered view that in case of Limited Scrutiny, the AO is duty bound to restrict himself to examine the matters for which matter was selected for Limited Scrutiny and where the AO takes a view and forms a reasonable belief that some other matters are required to be examined, then in that eventuality, the same will in effect be traversing beyond the scope of limited scrutiny which is not permissible unless the matter is converted into complete scrutiny and which has not happened during the course of present assessment proceedings.

7.5. As far as the issue of deposit of cash by assessee during demonetization period is concerned, the same was not part of the reason for which the case was selected for Limited Scrutiny and was not even remotely connected. Therefore, it

was beyond the mandate of limited scrutiny as directed by CBDT Instructions. Since no fault lies on the part of the AO resulting in order being held as erroneous and prejudicial to the interest of revenue and even otherwise the said issue accrued during the assessment year 2017-18 has already been dealt with separately by order of assessment passed under section 143(3) of the I. T. Act, 1961 for the Assessment Year 2017-18.

7.6. In the light of aforesaid discussion, we are of the view that the directions of the Id. PCIT are beyond the selection criteria of scope of scrutiny for the instant case. Therefore, the same cannot be held legally valid and hence we hereby set aside the order passed by Id. PCIT under section 263 and consequently the order of the AO is sustained.

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

Order pronounced in the open court on 11/04/2023.

Sd/-

( राठौड़ कमलेश जयंतभाई )  
(RATHOD KAMLESH JAYANTBHAI)  
लेखा सदस्य / Accountant Member

Sd/-

(संदीप गोसाईं)  
(SANDEEP GOSAIN)  
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 11/04/2023.

Das/

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

1. अपीलार्थी / The Appellant- Shri Anand Jhawar, Jaipur.
2. प्रत्यर्थी / The Respondent- The PCIT, Jaipur-2, Jaipur.
3. आयकर आयुक्त / CIT

4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File {ITA No. 156/JP/2022}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar