

**आयकर अपीलीय अधिकरण 'बी' न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'B' BENCH, CHENNAI**

**माननीय श्री वी. दुर्गा राव, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI V. DURGA RAO, JUDICIAL MEMBER AND**  
**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./ ITA No.399/Chny/2022  
(निर्धारण वर्ष / Assessment Year: 2012-13)

<b>M/s. Results Investments Pvt. Ltd.</b> 480, Khivraj Complex, Second Floor, Anna Salai, Nandanam, Chennai – 600 035.	<b>बनाम/ Vs.</b>	<b>DCIT</b> Corporate Ward-5(3), Chennai.
<b>स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AACCR-8029-F</b>		
(□ पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थी की ओरसे/ <b>Appellant by</b>	:	Shri K. Ramakrishnan (C.A)-Ld. AR
प्रत्यर्थी की ओरसे/ <b>Respondent by</b>	:	Shri S. Senthil Kumaran (CIT) – Ld. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	28-03-2023
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	13-04-2023

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. By way of this appeal, the assessee challenges the validity of revisional jurisdiction u/s. 263 as exercised by Ld. Principal Commissioner of Income Tax, Chennai-4 (Pr.CIT) for Assessment Year 2012-13 vide order dated 30-03-2022. The grounds raised by the assessee read as under: -

1. The order of The Commissioner of Income tax is contrary to law, facts and circumstances of the case.
2. The Commissioner of Income tax erred in setting aside the assessment order on the ground that the original order passed by the Assessing officer is erroneous and prejudicial to the interest of the revenue.

3. The Commissioner of Income Tax erred in concluding that the interest income should be treated as income from other sources and hence no expenses would be adjusted against that income.

4. The Commissioner of Income tax erred in ignoring the facts submitted before him with regard to treatment of interest income as business income on the ground that the appellant company is a finance company engaged in the business of investments.

5. The Commissioner of income tax erred in disallowing the entire expenditure incurred by the company including that of employee cost and other statutory expenses like audit fees, ROC filing fees etc.

2. The Ld. AR advanced arguments and submitted that considering the date of original scrutiny assessment framed u/s. 143(3), the revisional order is barred by limitation. The Ld. AR further submitted that the case was reopened and another assessment was framed u/s. 143(3) r.w.s. 147 which was under challenge before first appellate authority at the time of revision and therefore, the doctrine of merger would apply. Lastly, Ld. AR raised plea of consistency and submitted that the interest income earned by the assessee has been accepted as business income in all the other years.

The Ld. CIT-DR, on the other hand, controverted the arguments of Ld. AR and submitted that though the case was reopened, the issue of head of income was never examined by Ld. AO and therefore, the revision of the order was justified. Having heard rival submissions, our adjudication would be as under.

3. From the case records, it emerges that the assessee is engaged in the business of making investment. The assessee earned interest income from fixed deposits kept with Bank and offered the same as business income. In the computation income, it computed business income of Rs.810.51 Lacs as per applicable provisions governing computation of business income. The financial statements would show

that income from operations mainly constitute interest income from fixed deposits. The return was selected for scrutiny and notices u/s. 142(1) was issued from time to time requiring the assessee to file the requisite details. The Ld. AO, inter-alia, called for financial statements as well as brief note on the nature of business carried on by the assessee during the year, details of deposits and working of book profits u/s 115JB. The assessee submitted that it was incorporated for the purpose of carrying on activities of an investment company. It was also submitted that all the money was kept in fixed deposits and the main source of income was interest on fixed deposits. After considering assessee's replies / submissions, an assessment was framed u/s 143(3) on 30-01-2015 accepting the returned income of the assessee. Thus, the assessment attained finality.

4. Subsequently, the case was reopened and notice u/s. 148 was issued on 25-03-2019. The reassessment proceeding stem from the opinion of Ld. AO that the assessee claimed various expenditure in profit and loss account whereas the assessee derived income only on account of interest earned against fixed deposits. The assessee claimed expenses that were not having any nexus with earning of such income. To deal with the same, the case was reopened and another assessment was framed u/s. 143(3) r.w.s 147 of the Act on 06-12-2019. In the assessment order, the Ld. AO disallowed various expenditure such as salary and staff welfare expenses, travelling expenditure, rent and building maintenance and other expenses by holding an opinion that all such expenditure was not incurred to earn the interest income as well as few of the expenditure was in the nature of capital expenditure. Finally, aggregate disallowance of Rs.289.47

Lacs was made and assessment proceedings were completed. The assessee preferred further appeal against the same on 16-12-2019.

5. In the meanwhile, assessment order framed u/s 143(3) r.w.s. 147 dated 06-12-2019 was subjected to revision by Ld. Pr. CIT and a show cause notice was issued on 14-02-2022 requiring the assessee to raise objections against proposed revision. In the notice, it was, inter-alia, stated that interest income was to be treated as income from other sources and no expenses were to be allowed as deduction. The entire interest income was to be assessed as income from other sources without deduction of any expenditure.

6. The assessee vide reply dated 19-02-2022 submitted that the reassessment proceedings were pending for adjudication before Ld. First Appellate Authority. The twin condition that the order should be erroneous as well as prejudicial to the interest of Revenue was not fulfilled in the present case. The Ld. AO considered assessee's various replies during original scrutiny assessment proceedings and accepted the returned income after having satisfied himself with all the aspects. Therefore, it could not be said that the impugned issue as flagged in the show-cause notice was not examined by Ld. AO. Further, the assessment was reopened calling for further details from the assessee. The assessee also justified the treatment of interest income as business income. The assessee's replies were again considered and Ld. AO disallowed various expenditure by holding an opinion that the same did not have nexus with the interest income. Nevertheless, interest income was accepted as business income. The jurisdiction u/s 263 could not be resorted to substitute the view taken by Ld. AO. When Ld. AO applied his mind on a particular issue, it was not open for

revisional authority to make a revision of the order by dis-agreeing with the same since Ld. AO had exercised quasi-judicial power vested with him in accordance with law and arrived at a conclusion. This conclusion could not be branded as erroneous simply because the revisional authority does not feel satisfied with the conclusion. The assessee also raised a plea that Clause (c) of Sec.263(1) puts a bar on initiation of revision when an appeal is pending before Ld. CIT(A). Reliance was placed on the decision of Hon'ble Madras High Court in the case of **Smt. Renuka Philip vs. ITO (409 ITR 567)** as well as the decision of Hon'ble Allahabad High Court in **CIT vs. VAM Resorts and Hotels Pvt. Ltd. (418 ITR 723)**. The assessee assailed the revision on merits also on the ground that the assessee was engaged in the business of making investment as was evident from its Memorandum / Articles of Association and accordingly, it had to ensure that all its funds generated revenue. Putting money into fixed deposits was one of the modes of making investment.

7. However, rejecting assessee's submissions, Ld. Pr. CIT held that the order passed u/s. 143(3) r.w.s. 147 on 06-12-2019 was erroneous and prejudicial to the interest of the Revenue. The same was accordingly set-aside with a direction to Ld. AO to allow only expenditure incurred exclusively to earn the taxable income and pass fresh assessment order after affording opportunity of hearing to the assessee. Aggrieved, the assessee is in further appeal before us.

### **Our findings and Adjudication**

8. From the stated facts, it emerges that the assessee is into the business of making investments. It has made investment in bank fixed deposits and the interest income so earned by the assessee has been

offered as business income. The original return of income was scrutinized accepting the returned income after considering assessee's replies and submissions as well as after considering the nature of assessee's business. Subsequently, the case was reopened to disallow certain expenditure by holding an opinion that the same did not have any nexus with the interest income. In the reassessment order, certain expenditure was disallowed which was subjected to further appeal. During the pendency of further appeal, the revisional authority has sought revision of the order on the ground that the interest income as earned by the assessee was to be treated as income from other sources and all the expenditure was to be disallowed.

9. We find that the nature of assessee's business was duly examined by Ld. AO during original assessment proceedings and the interest income was assessed as business income. The assessment framed u/s 143(3) has attained finality and this order was passed on 30-01-2015. The subject matter of reassessment proceedings was limited only to disallow the expenditure claimed against interest income and not to disturb the head of income. Therefore, the issue flagged by revisional authority would be arising out of assessment framed on 30-01-2015 and not out of reassessment order passed on 06-12-2019. Considering the date of original assessment order, the revisional order would be barred by limitation in terms of sub-section (2) of Sec.263 which provides that no such revision shall be made after the expiry of 2 years from the end of the financial year in which the order sought to be revised was passed. Therefore, the limitation period, in the present

case, would expire on 31-03-2017 and accordingly, the revision would be barred by limitation and bad-in-law. We order so.

10. Proceeding further, the case of the assessee would also be covered under Clause (c) of Sec.263(1) which puts a bar on initiation of revision u/s 263 when an appeal is pending before Ld. CIT(A). The cited decision of Hon'ble High Courts clearly supports the case of the assessee. Therefore, the revision would be bad-in-law on the principle of doctrine of merger also.

11. Another aspect is that, it could not be said that the issue flagged in the revisionary order was not examined by Ld. AO. The nature of assessee's business was duly appreciated by Ld. AO during original assessment proceedings and the head of income was duly accepted during original scrutiny assessment proceedings. Therefore, Ld. AO had taken one of possible views in the matter and that view could not be said to be contrary to law or unsustainable. Therefore, revision could not be held to be justified on this account also.

12. Lastly, rule of consistency also favors the case of the assessee. The income earned by the assessee has been accepted as business income in AYs 2008-09, 2009-10, 2011-12, 2013-14, 2014-15, 2015-16 u/s 143(1). The case was scrutinized u/s 143(3) for AY 2010-11 wherein also this position was not disturbed.

13. Considering the stated position, the impugned revisionary order could not be sustained in the eyes of law and we have no hesitation in quashing the same.

14. The appeal stand allowed in terms of our above order.

Order pronounced on 13<sup>th</sup> April, 2023.

**Sd/-**  
**(V. DURGA RAO)**  
**न्यायिक सदस्य / JUDICIAL MEMBER**

**Sd/-**  
**(MANOJ KUMAR AGGARWAL)**  
**लेखक सदस्य / ACCOUNTANT MEMBER**

चेन्नई / Chennai; दिनांक / Dated : 13-04-2023  
EDN/-

**आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF