

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: E: NEW DELHI

BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
AND
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER

ITA No.3516/Del/2017
Assessment Year: 2012-13

M/s Nidhi Agro Pvt. Ltd. 101A, Plot A-2, Entertainment City, Sector-38A, Noida- 201301, UP PAN AAACN 8759 L	vs.	The PCIT-1, Jhandewalan, New Delhi 110055.
(Appellant)		(Respondent)

For Assessee :	None
For Revenue :	Ms. Sarita Kumari, CIT DR

Date of Hearing :	12.04.2023
Date of Pronouncement :	18.04.2023

ORDER

PER CHANDRA MOHAN GARG, J.M.

This appeal filed by the assessee is directed against the order dated 28.03.2017 of the Ld. PCIT, New Delhi relating to Assessment Year 2012-13.

2. When the case was called for hearing neither the assessee nor any authorise representative appeared despite several notices. It is also pertinent to mention that earlier on behalf of assessee Advocate Shri Shailesh Gupta appeared but thereafter, since four hearings

none is appearing nor any adjournment application has been filed. Therefore we have no alternate but to proceed to adjudicate the appeal ex-party qua assessee after hearing the arguments of Ld. CIT(DR).

3. From the grounds raised by the assessee and submissions noted by the Ld. PCIT in the impugned order dated 28.03.2017 passed u/s. 263 of the Income Tax 1961 (for short the 'Act'). The main contention of assessee is that the Ld. PCIT has failed to appreciate the facts of the case, documents and information available in the assessment records, information and explanation submitted by the assessee during the course of assessment proceedings as well as during proceedings u/s. 263 of the Act. It is also a contention of assessee that the Ld. PCIT has erred in invoking revisionary jurisdiction u/s. 263 of the Act, merely based on borrowed opinion of PCIT-3, Kolkata without application of his own mind. It is also a contention that during the course of search no incriminating documents in respect of share capital have been found and proceeding u/s. 153C of the Act are pending in this case.

4. The Ld. CIT(DR) drawing our attention towards relevant part of revisionary order submitted that the assessee filed certain details whereas the Assessing Officer has not conducted any enquiry or investigation and merely accepted the explanation of the assessee without any reasoning and consideration therefore the Ld. PCIT was right and correct in invoking revisionary proceedings u/s. 263 of the Act. Therefore, the Ld. PCIT was correct in holding the assessment order as erroneous and prejudicial to the interest of Revenue.

5. On careful consideration of the above submissions, we note that the contention of assessee has noted in grounds of appeal have not been substantiated by the assessee by way of filing any paper book showing the documents, information available in the assessment records, information and explanation submitted by the assessee during the course of assessment proceedings as well as proceedings u/s. 263 of the Act. So far as allegation of borrowed satisfaction is concerned impugned revisionary order clearly reveals that the Ld. PCIT has received information from PCIT-3, Kolkata, but before invoking revisionary jurisdiction he has properly applied

his mind to the facts of the case and rightly hold the impugned assessment order as erroneous and prejudicial to the interest of revenue. Therefore, we are unable to see any valid reason to interfere with the findings arrived by the Ld. PCIT. From the operative part of the impugned revisionary order, we note that the Ld. PCIT has directed the AO to make fresh assessment after properly examining the issue of share capital and premium received by the assessee and has also directed to him to allow due opportunity of hearing to the assessee. Therefore, in our humble view there is no prejudice to the assessee as during assessment proceedings it may have an opportunity to substantiate and explain his stand by way of supporting documents etc., regarding issue of share capital received by him. Consequently, we hold that no interference is called for the revisionary order of Ld. PCIT and thus we uphold the same.

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

Order pronounced in the open court on 18.04.2023.

Sd/-

(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

Dated: 18th April, 2023.

Sd/-

(CHANDRA MOHAN GARG)
JUDICIAL MEMBER

NV/-

Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

// By Order //

Asstt. Registrar, ITAT, New Delhi