

आयकर अपीलीय अधिकरण
गुवाहाटी पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
GUWAHATI BENCH AT KOLKATA**

[वर्चुअल कोर्ट]
[Virtual Court]

डॉ. मनीष बोराड, लेखा सदस्य
एवं
श्री संजय शर्मा, न्यायिक सदस्य
के समक्ष

Before

**DR. MANISH BORAD, ACCOUNTANT MEMBER
&
SRI SONJOY SARMA, JUDICIAL MEMBER**

**I.T.A. No.: 40/GTY/2021
Assessment Year: 2015-16**

***Amit Ghorawat.....Appellant
[PAN: AGQPG 1008 C]***

Vs.

PCIT, Guwahati-1, Guwahati.....Respondent

Appearances by:

*Sh. Ghansham Chirania &
Sh. Nishant Bhansali, CA, appeared on behalf of the Assessee.*

Sh. N.T. Sherpa, JCIT, appeared on behalf of the Revenue.

Date of concluding the hearing : May 15th, 2023

Date of pronouncing the order : May 23rd, 2023

ORDER

Per Manish Borad, Accountant Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short "AY") 2015-16 is directed against the

order passed u/s 263 of the Income Tax Act, 1961 (in short the “Act”) by Id. Pr. Commissioner of Income-tax, Guwahati-1, Guwahati [in short Id. “Pr. CIT”] dated 28.03.2021 arising out of the assessment order framed u/s 143(3) of the Act dated 27.06.2017.

2. The assessee is in appeal before the Tribunal raising the following grounds:

“1. that on the fact and circumstances of the case and in law, Ld. PCIT, Guwahati-1 erred in law as well in fact by passing the order under section 263 of the Income Tax Act, 1961 (the Act) which is contrary to the material on record and provisions of the Act.

2. that on the fact and circumstances of the case and in law, Ld. PCIT, Guwahati-1 erred in holding that learned Assessing Officer (AO) passed the order under section 143(3) of the Act for the impugned assessment year 2015-16 without making required enquiries/investigations.

3. that on the fact and circumstances of the case and in law, Ld. PCIT, Guwahati-1 has erred in deciding the case ex-parte in violation of the principles of natural justice.

4. that on the fact and circumstances of the case and in law, Ld. PCIT, Guwahati-1 has erred in holding that deduction under section 80-IE has been wrongly allowed without considering the fact.

5. that the Ld. PCIT, Guwahati-1 has erred in law as well as in fact by invoking section 263 for admissibility of deduction under section 80-IE whereas the same was not a reason for scrutiny under section 143(3) as the same was limited scrutiny.

6. that on the fact and circumstances of the case and in law, Ld. PCIT, Guwahati-1 has erred by not providing reasonable opportunity of being heard.

7. that the Ld. PCIT, Guwahati-1 has erred in law as well as in fact by not considering the papers and documents in record.

8. that the Ld. PCIT, Guwahati-1 has erred in law as well as in fact by holding original assessment done by the learned AO under section 143(3) is erroneous and prejudicial to the interest of the revenue.

9. that the Ld. PCIT, Guwahati-1 has erred in law as well as in fact by setting aside the original assessment order and directing the AO to examine and enquire.

10. that the Ld. PCIT, Guwahati-1 has erred in law as well as in fact by failure to examine the records of the proceeding before issue of notice and passing of order under section 263.

11. The appellant craves leave to add, amend alter or otherwise raise any other ground of appeal.”

3. The assessee has filed the copy of written submission dated 19.03.2021 before ld. Pr. CIT in respect of the revisionary proceedings u/s 263 of the Act. However, ld. Pr. CIT had not considered the said submission and passed the order *ex-parte*. When we asked ld. D/R that whether he has any objection if the impugned order is restored back to the file of ld. Pr. CIT for fresh adjudication after considering the documents to be filed by the assessee, ld. D/R was fair enough not to oppose.

4. We, therefore, under the given facts and circumstances of the case, in the interest of justice and being fair to both the parties, are of the considered view that since the assessee did not get fair opportunity to file the documents before ld. Pr. CIT, we set aside the impugned order and restore it back to the file of ld. Pr. CIT for afresh adjudication. Needless to mention that proper opportunity of being heard should be provided to the assessee. The assessee is also directed to remain vigilant and file necessary documents, if considered, in support of its grounds of appeal and should not take adjournment, unless otherwise required for reasonable cause. In

case after providing sufficient opportunity to the assessee, there is no compliance before the ld. Pr. CIT, then ld. Pr. CIT can pass the speaking order in accordance with law.

5. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Kolkata, the 23rd May, 2023

Sd/-
[Sonjoy Sarma]
Judicial Member

Sd/-
[Manish Borad]
Accountant Member

Dated: 23.05.2023

Bidhan (P.S.)

Copy of the order forwarded to:

- 1. Amit Ghorawat, Fairdeal Warehousing Corporation, Main Road, Fatasil, Guwahati-781 009.**
- 2. PCIT, Guwahati-1, Guwahati.**
3. CIT(A)-
4. CIT-
5. CIT(DR), Guwahati Bench, Guwahati.

//True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata