

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
'D' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मंजुनाथ. जी, लेखा सदस्य के समक्ष

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND  
SHRI MANJUNATHA.G, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.: **1383 & 1384/CHNY/2017**

निर्धारण वर्ष/Assessment Years: 2007-08 & 2013-14

**Saravana Global Holdings Ltd.,**  
(Formerly known as Saravana  
Foundations Ltd)  
No.15, New Giri Road,  
Opp. Accord Hotel,  
T.Nagar,  
Chennai – 600 017.

**The DCIT,**  
vs. Central Circle – III(4),  
Chennai.

**PAN: AASCS 5545H**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri K. Ravi, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri A. Sasikumar, CIT

सुनवाई की तारीख/Date of Hearing

: 08.08.2023

घोषणा की तारीख/Date of Pronouncement

: 11.08.2023

**आदेश /ORDER**

**PER MAHAVIR SINGH, VICE PRESIDENT:**

These appeals by the assessee are arising out of the revision orders passed by the Principal Commissioner of Income Tax, Central-1, Chennai in C.No.1523/PCIT/C-1/5/2016-17 &

1523/PCIT/C-1/3/2016-17 dated 31.03.2017 & 29.03.2017. The assessments were framed by the DCIT, Central Circle 3(4), Chennai for the assessment years 2007-08 & 2013-14 u/s.153C r.w.s. 153A & 143(3) of the Income Tax Act, 1961 (hereinafter the 'Act'), vide orders of even date 31.03.2015.

### **ITA No.1383/CHNY/2017**

2. The only issue in this appeal of assessee is as regards to the revision order passed by the PCIT u/s.263 of the Act revising the assessment framed by the AO u/s.153C r.w.s. 153A of the Act dated 31.03.2015. For this, assessee has raised the following ground Nos.2 to 6:-

Revision of orders prejudicial and erroneous to revenue

2. The Learned Commissioner of Income tax, erred in passing the order u/s 263 of the Act, when the pre-requisite conditions that is, the order sought to be revised is erroneous and prejudicial to the interests of the revenue is not present to justify the initiation of Revision proceeding U/s. 263.

3. The Learned Commissioner of Income Tax erred in passing order u/s.263, while the Assessing Officer examined the issue at the time of assessment which is clear from the questionnaire issued before completing the assessment.

Inadequate Enquiry

4. The Learned Commissioner of Income tax, Central 1 Chennai erred in not considering the principle laid down by the Hon'ble Delhi High Court that there is a difference between lack of enquiry and adequacy of

enquiry and that it is only when there is no enquiry that jurisdiction u/s.263 of the Act can be invoked.

5. The Learned Commissioner of Income Tax, Central I Chennai erred in not considering that he may assume jurisdiction u/s 263 of the Act only in cases of "lack of enquiry and not in cases even 1 the enquiry is considered inadequate.

6 The Learned Commissioner of Tax, Central I erred in passing the revisionary order u/s.263, since the Commissioner had not given any reason or indicated any material evidence which he was in possession so as to satisfy himself, that the assessment order was erroneous and prejudicial to the interests of the revenue. The materials gathered during the course of a search was in the possession of the Assessing officer. It was on the basis of a seized document that the questionnaire came to be issued and replies considered.

3. Brief facts are that the assessee is an infrastructure and real estate company and forms part of the Challani group. A search and seizure action was conducted on the premises of Indo Asian Finance Ltd., belonging to Challani Group on 19.04.2012 by the Income-tax Department u/s.132 of the Act. During the course of search, certain loose sheets and documents belonging to the assessee were seized. Consequently, a notice u/s.153C of the Act was issue and assessee furnished return of income for the relevant assessment year 2007-08 on 31.12.2014. Consequently, assessment was framed u/s.153C r.w.s.153A of the Act vide order dated 31.03.2015.

3.1 Subsequently, the PCIT on examination of assessment records issued a show-cause notice dated 28.03.2017 requiring the

assessee to explain as to why the assessment framed by AO vide order dated 31.03.2015 u/s.153C r.w.s.153A of the Act be not revised u/s.263 of the Act for the relevant assessment year 2007-08. The PCIT in his show-cause notice noted that the AO has not considered the seized document vide Annexure ANN/SSK/IAFL/B&D/F found at the premises of M/s.Indo Asia Finance Ltd. It was noticed that as per an agreement for sale dated 03.06.2006, one of the directors of Saravana Foundations Ltd., now known as Saravana Global Holdings Ltd i.e, the assessee-company, Shri. Jayanthilal Challani, gave a general power of attorney to Shri T. Krishnarajan S/o Shri Thanga Nadar residing at Madurantakam, Therai Street to purchase certain land from Mr.B. Govindraj and others at Madurantakam Taluk for Saravana Foundations Ltd. It was noted that in view of the above Shri T.Krishnarajan S/o Shri Thanga Nadar residing at Maduranthakam Theradi Street, purchased the above stated land from Shri B.Govindaraj & others at Madurantakam Taluk for a consideration of Rs.2,63,000/- as per document. The PCIT noted that as per certain sale voucher dated 06.06.2006 attached to this sale agreement an amount of Rs.19,12,500/- was disbursed by Shri T.Krishnarajan to the land owners. According to PCIT, this was not considered by the AO or no clarification or details have been called for from the assessee with

respect to the said transaction as per said seized document. According to PCIT, the AO not enquired into the above aspect or no verification carried out before passing the said assessment order dated 31.03.2015, the assessment is erroneous so far as to prejudicial to the interest of Revenue as the sale amount disbursed amounting to Rs.19,12,500/- remained untaxed. The assessee replied that the seized document, as pointed out in the notice u/s.263 of the Act, the AO formed the opinion that the seized material belong to the assessee company and accordingly, initiated proceedings u/s.153C r.w.s. 153A of the Act vide notice dated 28.10.2014. Further, the Id.counsel stated that the AO vide a common questionnaire dated 12.11.2014 for the assessment years 2007-08 to 2013-14 wanted to enquire about the seized material, for which the assessee's counsel specifically answered the query that the sale agreement for purchase of land from Shri Krishnan for an amount of Rs.19,12,500/- was executed by Shri Jayanthilal without the knowledge of the Board and the payments are not made from the company and this issue can be sorted out with Shri Jayanthilal directly.

3.1 However, the PCIT was not convinced with the answer of the assessee and hence on merits, he observed as under:-

*6.2 However, such contentions of the learned AR are not acceptable. As noticed, the full facts pertaining to said transaction have not been furnished by the assessee company during the present proceedings. Though it has been submitted that the sale agreement for purchase of land was executed by Shri Jayanthilal without the knowledge of the Board, from the return of income in ITR-6 pertaining to A.Y. 2007-08 filed by the assessee company earlier, it is noticed that Shri Jayathilal is shown as a Director under the relevant part relating to Boards of Managing Director and Directors etc. of the said return. The hard copy of the said return in Form ITR-6 was filed by the assessee company earlier on 31.12.2014. From the said document, i.e. the said ITR-6, filed by the assessee company during that time, it clearly shows that Shri Jayanthilal was a working Director having control over the affairs of the Board and was also aware of the affairs of the assessee company. Under these circumstances and having regard to the said sale agreement for purchase of land for consideration of Rs. 19,12,500/- executed by T.Krishnarajan, on behalf of Shri Jayanthilal, Director of M/s. Saravana Foundations Ltd., it indicates and further shows that such transaction was made for and on behalf of the assessee company and from user of funds of the assessee company during the previous year relevant to A.Y. 2007-08*

Accordingly, the PCIT held that the assessment framed by the AO for the assessment year 2007-08 u/s.153C r.w.s. 153A vide order dated 31.03.2015 is erroneous and prejudicial to the interest of Revenue. He directed the AO to re-decide the issue after conducting necessary enquiries and verification with regard to the said issue. Aggrieved, assessee is in appeal before the Tribunal.

4. Before us, the Id.counsel for the assessee Shri K.Ravi took us through the assessment order and argued that there cannot be any revision of the assessment framed u/s.153C r.w.s.153A of the Act in

the case of search conducted by the Income-tax Department u/s.132 of the Act. He particularly drew our attention to the relevant provisions of section 153A to 153C of the Act and stated that these provisions relating to search assessment are code in itself and the assessment framed in these provisions cannot be made subject matter of revision u/s.263 of the Act. The Id.counsel argued that the assessment in case of search or requisition made on or after 01.06.2003 by inserting the provisions of section 153A or 153C of the Act and this opens with non-obstante clause and overrides other provisions of the Act. According to him, no revision can be carried out u/s.263 of the Act for assessments framed u/s.153A or 153C of the Act.

4.1 As regards to assumption of jurisdiction by PCIT for revision of the assessment order, the Id.counsel for the assessee drew our attention to the assessment order that the assessee filed complete details before the AO and he stated that the AO has already formed an opinion in regard to seized material belonging to the assessee company and accordingly initiated proceedings u/s.153C r.w.s. 153A vide notice dated 28.10.2014 to assess or reassess the total income of the assessee for the relevant assessment year 2007-08. The Id.counsel further submitted that the AO vide common questionnaire

dated 12.11.2014 for the assessment years 2007-08 to 2013-14 wanted to enquire about seized material on record and assessee has subsequently answered the query that the agreement for purchase of land from Shri Krishnan for a sum of Rs.19,12,500/- was executed from one Shri Jayantilal and not by the assessee company. The Id.counsel for the assessee totally denied this transaction.

5. On the other hand, the Id.CIT-DR, Shri A.Sasikumar argued that the AO while framing assessment has not considered this seized document vide Annexure ANN/SSK/IAFL/B&D/F found at Indo Asia Finance Ltd. The Id.CIT-DR stated that the PCIT has only set aside the assessment order and remanded the matter back to the file of the AO for verification and accordingly, take a fresh decision.

6. We have heard rival contentions and gone through facts and circumstances of the case. As regards to the argument of the assessee that in the case of search assessments u/s.153A or 153C of the Act, no revision proceedings u/s.263 of the Act can be initiated, we are of the view that in the provisions of section 263 of the Act, there is no exclusion or exception craved out. The provision of section 263 of the Act is very clear that any order passed by the AO if it is erroneous insofar as it is prejudicial to the interests of the

Revenue, the PCIT, after giving the assessee an opportunity of being heard and after making or causing to be made such enquiry as he deems necessary, can pass a revision order. Hence, this objection to the revision order is dismissed as such.

6.1 As regards to the merits of the case, we noted from the assessment order that the AO in his assessment order passed u/s.153C r.w.s. 153A of the Act dated 31.03.2015 made a passing reference to the filing of details as "filed the details called for" and this was with the prior approval of Joint Commissioner of Income-Tax, Central Range – 3, Chennai as required u/s.153D of the Act. We noted that the above seized document found from the premises of Indo Asia Finance Ltd., which contains the details of agreement for sale dated 13.03.2006 of Shri Jayanthilal Challani, one of the Directors of Saravana Foundations Ltd., now known as Saravana Global Holdings Ltd., i.e., assessee-company, who gave a power of attorney to Shri T. Krishnarajan to purchase certain lands from Shri B.Govindaraj and others. The seized documents are never examined by the AO as is apparent from the assessment order and to counter the same, the assessee has not filed any evidence before us. Even otherwise, there is no evidence that the transaction has been carried out by Shri Jayanthilal on his own and not behalf of the

assessee company. This has to be established. Hence, we find no infirmity in the revision and hence, the same is confirmed. Accordingly, this appeal of assessee is dismissed.

**ITA No.1384/CHNY/2017**

7. The only issue in this appeal of assessee is against the revision order passed by the PCIT u/s.263 of the Act revising the assessment framed by the AO u/s.143(3) of the Act vide order dated 31.03.2015 for the relevant assessment year 2013-14. For this assessee has raised following ground Nos. 3 to 5:-

Revision of orders prejudicial and erroneous to revenue

3. The Learned Commissioner of Income tax, has erred in considering the assessment order as erroneous without establishing that there was no incorrect assumption of facts or an incorrect application of Law.

4. The Learned Commissioner of Income tax, erred in holding that the order was erroneous and prejudicial to revenue when all the records and details sought by the assessing officer had been produced at the time of assessment as stated in the assessment order dated 31/03/2015 vide para 5 of the order.

Inadequate Enquiry

5. The Learned Commissioner of Income tax, failed to recognize that inadequacy of enquiry cannot clothe him with power to exercise jurisdiction u/s.263 of the Act.

8. As regards to the ground No.2 i.e, doctrine of merger, the ld.counsel for the assessee has not argued this ground despite

pointing out to him and hence, this ground is dismissed as 'not-pressed'.

9. Brief facts are that the assessee company is a manufacturer of insulators and also deals in financing and real estate business. The assessee company forms part of group of companies of Challani Group, engaged in the business of jewellery, real estate and manufacturing activities. The assessee company was searched u/s.132 of the Act on 19.04.2012 at the business and residential premises of the group including the assessee company. Consequent to search conducted, notice u/s.142(1) of the Act dated 22.07.2014 was issued and in response to the same, the assessee filed its return of income on 03.02.2015. Subsequently, assessment was completed u/s.143(3) of the Act dated 31.03.2015 whereby the AO noted that the assessee's gross turnover is at Rs.38,19,91,439/- as per the profit and loss account and net loss before tax is at Rs.35,11,45,238/-. The AO noted in the assessment order that the assessee has incurred total expenses in the profit & loss account at Rs.73,31,36,677/- but no details or evidences have been produced. Hence, the AO estimated 1% of the total expenses and disallowed the same at Rs.73,31,366/- and added to the returned income of the assessee.

9.1 Subsequently, the PCIT examined the case records and issued show-cause notice as to why the assessment framed by the AO u/s.143(3) dated 31.03.2015 be not treated as erroneous and prejudicial to the interest of Revenue for the reason that the AO framed assessment without verifying the details and expenses as the assessee failed to file details of expenses despite a query was raised vide questionnaire dated 14.11.2014 vide queries Nos.14,15,19 & 20 of the said letter issued to the assessee. The assessee has not filed requisite reply / details as required by the assessee vide questionnaire dated 14.11.2014 asking the details of sundry debtors, details of loans and advances, accounts squared off during the year, details of provisions created and details of expenses incurred and claimed in the P & L account vide queries nos.14,15,19 and 20 of the letter. The PCIT accordingly revised the assessment and directed the AO to redo the assessment for the relevant assessment year 2013-14 by observing in para 8 as under:-

*“8. In view of the foregoing discussions, the said assessment order dated 30.3.2015, passed by the AO, for A.Y.2013-14 u/s 143(3) of the Act, is thus held as erroneous and prejudicial to the interests of revenue. Hence the same is set-aside u/s 263 of the Act and the AO is directed to re-do the assessment, with regard to the various issues including those points raised under CASS, for A.Y.2013-14 in the case of the assessee, after conducting necessary enquiries and verification with regard to such issues, in*

*accordance with law, in the preceding paras, and after giving due opportunity to the assessee.”*

Aggrieved, assessee came in appeal before the Tribunal.

10. Before us, the Id.counsel for the assessee argued that the AO has examined the details in regard to sundry debtors, details of loans and advances, accounts squared off during the year, details of expenses claimed in the P & L account and various such other specific details as asked for vide queries Nos.14, 15, 19 & 20 of questionnaire dated 14.11.2014 issued by AO. He pointed out the AO has specifically disallowed 1% of total expenses by observing in para 8, that means the AO has applied his mind to the issue and adjudicated the issue and recorded this fact in the assessment order passed u/s.143(3) of the Act. Hence, Id.counsel stated that once the AO has formed an opinion and that is one of the possible opinion or view, revision power acquired by PCIT u/s.263 of the Act is without any basis because the assessment order cannot be said to be erroneous.

11. On the other hand, the Id.CIT-DR heavily relied on the revision order and stated that the assessee has not at all produced evidences before the AO during assessment proceedings and the

same is noted by AO in his assessment order. He stated that now the CIT(A) has only directed the AO to redo the assessment after conducting necessary enquiries and verification with regard to the allowability of expenses. Hence, he stated that the revision order is as per law and he relied on the same.

12. After hearing rival contentions and going through the facts of the case, we noted that the AO while framing assessment has gone into the details filed by the assessee and noted that the assessee's gross turnover is at Rs.38.19 crores whereas net loss in the profit and loss account declared is Rs.35.11 crores. The AO also examined the expenses incurred by the assessee and made disallowance of the same in the absence of details. The AO recorded this fact in para 8 of the assessment order which reads as under:-

*“8. Expenses of Rs.73,31,36,677/- have been claimed for which no details of evidences have been produced. Hence, 1% of the total expenses are hereby disallowed and added back to the total income. (Addition : Rs.73,31,366/-)”*

We noted that the AO himself recorded while issuing questionnaire along with notice u/s.142(1) of the Act dated 14.11.2016 and asked certain details including the details of expenses incurred and claimed in the profit & loss account. We noted that once the AO has

raised a query and gone into the details, the AO has formed one of the possible views and once there is one of the possible views, the revision is not possible. Accordingly, the revision order passed by PCIT u/s.263 of the Act is quashed and the appeal of the assessee is allowed.

13. In the result, the appeals filed by the assessee in ITA No.1383/CHNY/2017 is dismissed and in ITA No.1384/CHNY/2017 is partly-allowed.

Order pronounced in the open court on 11<sup>th</sup> August, 2023 at Chennai.

Sd/-

(मंजुनाथ. जी)

**(MANJUNATHA.G)**

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

**(MAHAVIR SINGH)**

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 11<sup>th</sup> August, 2023

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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