

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
RAIPUR BENCH: RAIPUR**

श्री रवीश सूद , न्यायिक सदस्य, एवं  
श्री अरुण खोडपिया, लेखा सदस्य के समक्ष  
**BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER AND  
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.110/RPR/2023  
निर्धारण वर्ष /Assessment Year: 2018-19

Sabita Agrawal  
237, Behind Gayatri Mandir  
Samta Colony, Raipur – 492 001

v. PCIT  
Sambalpur  
Odisha – 768 004

[PAN: AGNPB 8023 B]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri Ravi Agrawal, C.A.  
प्रत्यर्थी की ओर से /Respondent by : Smt. Ila M. Parmar, CIT-D.R.

सुनवाई की तारीख/Date of Hearing : 21.08.2023

घोषणा की तारीख /Date of Pronouncement : 14.09.2023

**आदेश / ORDER**

**PER ARUN KHODPIA, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is directed against the order of the Learned Principal Commissioner of Income Tax (PCIT) – Sambalpur under Section 263 of the Income-tax Act, 1961, dated 09.02.2023, and pertains to assessment year 2018-19, arose out of the order of Ld AO, National e-Assessment Centre, Delhi, U/s 143(3) of the IT Act, dated 12/02/2021.

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2. The assessee has raised the following grounds of appeal:

- "1. *That on the facts and circumstances of the case and in law, the order passed by the Principal Commissioner of Income-tax, Sambalpur (Odisha), u/s 263 of the Income tax Act, 1961, setting aside the assessment framed under section 143(3) of the Act as erroneous and prejudicial to the interest of the revenue., is without jurisdiction and bad in law, and therefore, liable to be quashed.*
2. *That the appellant reserves the right to add, alter or modify any ground of appeal."*

3. The brief facts of the case are that, the assessee is an individual engaged in the business of purchase and sale of Kendu leaves. The assessee has filed return of income for A.Y. 2018-19 on 29.09.2018 disclosing the total income of Rs. Nil. Subsequently, the case of assessee was selected for 'complete' scrutiny on the issue of "Income from Forest Produce" and assessment was completed under Section 143(3) read with Sections 143(3A) and 143(3B) of the Income-tax Act, 1961 accepting the total income of the assessee as Rs. Nil dated 12.02.2021. In due course of time, the assessment reports of the assessee for the relevant assessment year were called for and examined by the PCIT, Sambalpur by virtue of the statutory powers vested with him under Section 263(1) of the Act. On verification of the assessment reports, Learned PCIT has observed that the AO had not examined/verified the certain issues during the course of assessment proceedings, even though he ought to have done so keeping in view the scope and nature of scrutiny as 'complete' one. The Learned PCIT invoked the provision of Section 263 of the Act and the issue

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pertaining to receipt of unsecured loan of Rs.1,26,10,000/- during the Financial Year 2017-18 relevant to Assessment Year 2018-19 was raised. The issue raised by the Learned PCIT in para – 4 of the order under Section 263 of the Act is extracted as under:

"4. On perusal of the assessment records, it is seen that, the assessee has received unsecured loan of Rs.1,20,10,000/- during the FY 2017-18 relevant to the AY. 2018-19 from the following 10 persons/entities.

| Sl. No. | Name of the Loan Creditors        | PAN          | Amount of unsecured loan received during F.Y. 2017-18 (In Rs.) |
|---------|-----------------------------------|--------------|--|
| 1.      | Mohd. Iqbal Dalla, Raipur         | ACSPD 9833 E | 33,00,000  |
| 2.      | Padma Kamdar, Raipur              | AKFPK 9900 N | 3,00,000   |
| 3.      | Pankaj Agrawal HUF, Raipur        | AAIHP 6560 P | 11,80,000  |
| 4.      | Pankaj Kumar Agrawal, Raipur      | ACIPA 2172 M | 8,60,000   |
| 5.      | Puspa Devi Agrawal, Raipur        | ACIPA 2171 I | 10,40,000  |
| 6.      | Royal Chemist, Raipur             | AEVPK 0940 C | 7,50,000   |
| 7.      | Sakuntala Devi, Pithora           | AGFPA 7655 N | 5,00,000   |
| 8.      | Sankarlal Agrawal HUF, Raipur     | AAOHS 6716 F | 7,50,000   |
| 9.      | Shree Shyam Enterprises, Raipur   | ACIPA 2172 M | 29,30,000  |
| 10.     | Shri Dhaniram Laminates Pvt. Ltd. | AACCM 8218 R | 10,00,000  |
|         |                                   | Total        | 1,26,10,000  |

During the course of assessment proceedings, vide notice us 142(1) dated 10.01.2020, the assessing officer had asked the assessee to furnish the details of unsecured loans/deposits taken

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during the year including squared up loans in the following format along with the confirmation from creditors.

| Name & Address of the lender | PAN | Opening Balance | Fresh loans received during the year | Amount repaid during the year | Source for the payment |
|------------------------------|-----|-----------------|--------------------------------------|-------------------------------|------------------------|
|                              |     |                 |                                      |                               |                        |

*In response to the same, the assessee furnished above mentioned details along with the loan confirmations from the above mentioned loan creditors. However, the identity, genuineness of the loan transactions and creditworthiness of the loan creditors were not at all examined during the assessment proceedings. Moreover, no verification of bank accounts and analysis of financial accounts of the loan creditors were carried out by the assessing officer. The same should have been examined by the A.O. properly, but the A.O has failed to do so while completing the scrutiny assessment, which has made the assessment order both erroneous and prejudicial to the interest of revenue."*

4. Pertaining to aforesaid issue, a show-cause notice was issued to the assessee and assessee filed a detailed submission through e-proceedings on 21.01.2023. The submission of assessee was not found convincing/satisfactory by the Learned PCIT, therefore, by using the provision of Explanation - 2 to sub section - 1 of Section 263, Learned PCIT observed that the order passed by the Learned AO shall be deemed to be erroneous in so far as it is prejudicial to the interest of the Revenue. Accordingly, the assessment order dated 12.02.2021 was cancelled under Section 263(1)(i) of the Act and the Assessing Officer was directed to conduct enquiry/verification of issues mentioned in para - 4 of the order of PCIT and thereafter to frame a fresh assessment order.

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5. Aggrieved by the order of Learned PCIT, the assessee filed this appeal before ITAT, raising the issue as per aforesaid grounds of appeal.

6. At the outset, Learned AR of the assessee submitted that the order passed by the PCIT, Sambalpur under Section 263 of the Income-tax Act, 1961 is without jurisdiction and bad in law and therefore, liable to be quashed. In order to substantiate the issues challenged by the assessee, Learned AR raised multiple contentions against the order of Learned PCIT.

**First contention** raised by the Ld AR is that the Learned PCIT is not having jurisdiction over the case of the assessee since, the assessee's address is of Raipur, Chhattisgarh, whereas, the PCIT has jurisdiction over Sambalpur range in state Odisha. While making the submissions before the Learned PCIT, assessee assailed this issue of jurisdiction as also before us. Learned AR drew our attention to the response submitted to Learned PCIT dated 21.01.2023 along with a copy of request for transfer of Income-tax file from Rourkela, Ward-3, Odisha to Raipur Ward 2(1). **The second contention** raised by the assessee is regarding the submission of the details pertaining to receipt of unsecured loan of Rs.1,26,10,000/- during the relevant assessment year. Regarding this contention, Learned AR drew our attention to pages - 42 to 45 of the paper book of the assessee furnished therein. The notice under sub-section-1 of Section 142 of the Income-tax Act, 1961 along with questionnaire issued by the AO during the assessment proceeding under Section 143(3) wherein the AO has categorically asked a

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question regarding the details of unsecured loan/deposits taken during the year by the Assessee. In response, the assessee has furnished the details in the format provided by the Assessing Officer in the questionnaire also the confirmation of accounts of the unsecured loan creditors were submitted before the Learned Assessing Officer. Since no further enquiry or any addition was made by the Ld AO, it shows that the question raised by Ld AO and answered by the assessee were found to be satisfactory by the Ld AO, thus, Learned AO has taken a view that there was no reason to make any addition on account of identity, creditworthiness and genuineness of the loan creditors/transactions. Once a view has been formed by the Assessing Officer, Ld PCIT cannot assume jurisdiction u/s 263 by alleging that the AO had not made without enquiry or verification. The **third contention** raised was pertaining to limited scrutiny viz a viz complete scrutiny, Ld AR submitted that the Ld PCIT was wrong in assuming the jurisdiction u/s 263 on an issue which was not specified in the notice for scrutiny assessment. It was the prayer of Learned AR that since the issue of jurisdiction, limited scrutiny and once the submissions pertaining to the query raised by the Learned PCIT was duly submitted before the learned Assessing Officer and Learned Assessing Officer has passed an order accepting the returned income of the assessee. It was therefore the prayer of Ld AR that Learned PCIT was wrong in assuming the jurisdiction by invoking the provision of section 263, thus, the order passed under Section 263 deserves to be quashed.

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7. Learned CIT-DR on behalf of the Revenue has strongly supported the order of Learned PCIT under Section 263 of the Act.

8. We have heard rival contentions and perused the material available on record. Admittedly the case of the assessee was picked up for complete scrutiny. Even if there is a particular issue which was suggested under the complete scrutiny to be examined by the Learned AO, it was the obligation of the Learned AO to examine the case of the assessee under 'complete' scrutiny and all the issues which requires attention of the Learned AO should have been properly enquired into and deliberated upon. Regarding **First contention** of the invalid assumption of jurisdiction by the Ld PICT, It is observed that the application for transfer of file by the assessee dated 29/11/2017 was made to the Assessing Officer, Ward - 2(1), Raipur, Chhattisgarh, whereas since the file was laying in the jurisdiction of the Income-tax Officer, Ward-3, Rourkela, Odisha, therefore, the application for transfer of jurisdiction/file should have been made with the person having charge over such file/Pan i.e, Assessing Officer, Rourkela, Ward-3, Odisha. Under such circumstances, wherein the assessment of the assessee was completed u/s 143(3) by the Additional/ Joint/ Deputy/ Asst. Commissioner of Income Tax/ Income Tax Officer, National e-assessment Centre, Delhi under faceless regime, and the PAN of assessee a/w jurisdiction is lying with the ITO Rourkela, Ward-3, Odisha, which was

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known to the assessee, as evident from the request letter of the assessee to transfer her jurisdiction from Raurkela to Raipur, though the request was made before a wrong authority. On such facts and circumstances the issue of jurisdiction raised by the assessee, which was not commented upon by the Learned PCIT, but was having a valid jurisdiction over the case of the assessee, thus, we do not found any infirmity in assumption of jurisdiction by the Ld PCIT U/s 263 of the Act.

9. Regarding **second contention** raised by the Ld AR pertaining to details of unsecured loan. On perusal of the order of Learned PCIT, who had categorically observed under para 9 of the order as under:

"9. *It is pertinent to mention here that the case had been picked up for "complete" scrutiny. In spite of this the AO has displayed a purely lackadaisical and casual approach while completing the assessment. On verification of proceedings of assessment, it is seen that the A.O. had issued a notice u/s 142(1) dated 10.01.2020 to the assessee calling for various information/details along with the details pertaining to unsecured loan. The assessee has furnished only the summary details of unsecured loan creditors and the copies of confirmations obtained from them. However, no efforts have been made to verify the identity, genuineness, and creditworthiness of the loan creditors. From the assessment records as well as from case history records available in system, no information could be gathered regarding whether following information/ query were sought/raised by the A.O. or the same were ever furnished by the assessee. Needless to say, the documents/details or query as under are basic details for verification of identity, genuineness of any transaction and creditworthiness of a creditor.*

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- i. *Copy of Bank account statement of the creditor and the recipient reflecting the corresponding transactions.*
- ii. *Enquiry regarding nature of business, sources of income, ITR filing status of the loan Creditors.*
- iii. *Examination/query regarding source of fund in the hands of the creditors.*
- iv. *Any third party query (if needed) as additional evidence for verification*

*However, there is no evidence regarding whether the above documents/details were ever been furnished by the assessee or ever been examined by the A.O. Without examination of the basic details, the assessment has been completed and hence it can easily be concluded that it is a clear case of lack of inquiry/deficient query."*

10. With such observations, Learned PCIT observed that the requisite information as explained by the Learned PCIT were not enquired into by the Learned AO and therefore it was a clear case of lack of inquiry/deficient query. It was the observation of Learned PCIT that the AO had squarely failed in performing his duty in verifying the identity, genuineness, and creditworthiness of the loan creditors as well as loan transactions. Since the Learned AO has enquired into the said aspect by issuing a questionnaire and response was also furnished by the assessee. However, Learned AO chooses not to enquire further pertaining to identity, creditworthiness, and genuineness of the loan creditors/transactions. On careful consideration of the facts of the issue, we are of the opinion that Learned PCIT was correct in invoking the provision of section 263 for such lackadaisical approach of the Learned AO wherein he do not found it necessary to look into the

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documents pertaining to unsecured loan submitted by the assessee, also Ld AO has opted not to enquire further so as to verify the conditions mandated by the provisions of the Act pertaining to Identity, Creditworthiness and Genuineness of loan creditors and unsecured loans received by the assessee during the relevant Assessment Year, as mentioned in para 9 of the order of Learned PCIT (extracted supra).

11. The **next and 3<sup>rd</sup> contention** raised by the Learned AR with respect to initiation of revisionary proceedings on an issue not covered by the limited scrutiny assessment. On this aspect, we observed from the assessment order under section 143(3) itself that the case of the assessee was selected for complete scrutiny with certain glaring issue which was notified in the notice. Mentioning of a particular issue in the complete scrutiny cannot convert, treated or construe the complete scrutiny assessment in/as limited scrutiny assessment. Therefore, the assessee's contention that the case of the assessee had been picked up for limited scrutiny cannot be vouched for. Under such facts and circumstances, since all the allegation of the assessee are found be devoid and bereft of any merit, as observed hereinabove, we do not find any infirmity in the order of Learned PCIT in assuming jurisdiction by invoking provisions of Explanation 2 of sub section (1) of Section 263 of the Act, consequently, the same deserves to be upheld and we do so. Resultantly, ground and contentions raised in the present appeal by the assessee are rejected.

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12. In the result, appeal of the assessee stands dismissed, in terms of our observations.

Order pronounced on the 14<sup>th</sup> day of September 2023, in Raipur.

Sd/-  
(रवीश सूद)  
**(RAVISH SOOD)**  
न्यायिक सदस्य/**JUDICIAL MEMBER**

Sd/-  
(अरुण खोडपिया)  
**(ARUN KHODPIA)**  
लेखा सदस्य/**ACCOUNTANT MEMBER**

रायपुर/Raipur,

दिनांक/Dated: 14<sup>th</sup> September, 2023.

**Priti Yadav, Sr.PS (on Tour)**

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त (अपील) / The CIT(A)-1, Raipur (C.G)
4. The Pr.CIT-1, Raipur (C.G)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच, रायपुर /  
The DR, ITAT, Raipur Bench, Raipur.
6. गार्ड फाईल/Guard File

आदेशानुसार / By Order

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur