

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E', NEW DELHI**

Before Sh. C. M. Garg, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

ITA No. 791/Del/2021 : Asstt. Year : 2011-12

Manmohan Singh Sehgal, C/o Ajay Arun Mehta & Associates, Chartered Accountants, Shop No. 25, DDA Market, B Block, Preet Vihar, Delhi-110092	Vs	PCIT, Delhi-10,
(APPELLANT)		(RESPONDENT)
PAN No. ABAPS6153M		

Assessee by : Sh. C. S. Anand, Adv.

Revenue by : Sh. Subhra J. Chakraborty, CIT-DR

Date of Hearing: 20.07.2023

Date of Pronouncement: 14.09.2023

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of Id. PCIT, Delhi-10 dated 15.03.2021.

2. Following grounds have been raised by the assessee:

"1. That since the re-assessment order dt.11.07.2018 passed u/s 147/143(3) by the learned ITO Ward 48(4) Delhi (which is sought to be revised by the learned PCIT Delhi 10) was patently without jurisdiction, the impugned revisionary proceedings were also without jurisdiction and illegal.

2. That the impugned revisionary proceedings initiated and conducted by the learned PCIT Delhi 10 w.r.t. the assessment order dt.11.07.2018 passed by the learned ITO Ward 48(4) Delhi working under the learned PCIT Delhi-16' Charge, are without jurisdiction and illegal.

3. That the impugned order passed u/s 263 on 15.03.2021 is liable to be annulled /quashed because the learned PCIT Delhi-10 had not taken into consideration the submissions which were made by the assessee in the form of a letter (containing 24 points) which were e-mailed on 15.03.2021

4. That the impugned order passed u/s 263 is liable to be annulled because the re-assessment order dt. 11.07.2018 u/s 147/143(3) was not erroneous in so far as it is prejudicial to the interest of Revenue.

5. That the impugned order passed u/s 263 is liable to be annulled/quashed because the learned PCIT Delhi-10 had himself not conducted any enquiry /investigation, in order to verify as to whether the import purchases were bogus.

6. That the impugned order passed u/s 263 is liable to be annulled because the learned PCIT Delhi-10 had failed to disprove that the assessee had not made import purchases.

7. That the learned PCIT Delhi-10 had failed to appreciate that since all the import purchases of Rs.1,27,13,757/- were fully accounted for and recorded in the books of account, the provision of section 69C were not at all attracted in the case of the assessee.

8. That the learned PCIT Delhi-10 had failed to appreciate that since the material representing import purchases of Rs.1,27,13,757/- were already sold (duly credited to the Trading and P & L A/c for FY 2010-11 & FY 2011-12), no addition on account of so called bogus purchases could had been made.

9. That the learned PCIT Delhi-10 had failed to appreciate that during the first round of assessment proceedings (which travelled upto ITAT), the sources of the funds were thoroughly examined."

3. The pertinent facts of the appeal are as under:
- Assessment u/s 143(3) has been completed on 28.03.2014 making certain additions/disallowances.
 - Aggrieved, the assessee filed appeal before the Id. CIT(A) who after getting the remand report from the Assessing Officer deleted the additions.
 - The revenue filed appeal before the ITAT against the order of the Id. CIT(A) which has been adjudicated vide order dated 28.11.2019.
 - Meanwhile, the case has been reopened u/s 147 and Assessment Order u/s 143(3) r.w.s. 147 has been passed on 11.07.2018, after duly considering the order of the Id. CIT(A) in the case of the assessee and accepted the returned income.
 - The said Assessment Order passed u/s 143(3) r.w.s. 147 dated 11.07.2018 was the subject matter of provisions of Section 263 invoked by the Id. PCIT who set aside the Assessment Order dated 28.03.2014.
 - Consequent to the order u/s 263 of the Id. PCIT, the Assessing Officer passed order u/s 143(3) r.w.s. 263 r.w.s. 144B on 30.03.2022 making the same additions/disallowances made in the Assessment Order dated 28.03.2014.

4. For the sake of ready reference, the addition made in both the Assessment Orders is tabulated as under:

	Addition/disallowance made by AO vide Reassessment Order dt. 30.03.2022 passed u/s 143(3) r.w.s. 263 r.w.s. 144B	Addition/disallowance made by AO vide Assessment Order dt. 28.03.2014 passed u/s 143(3)
Addition made u/s 69 by doubting the sale of old gold ornaments	79,10,335	79,10,385
Addition made towards Business Income	5,90,376	5,90,376
Disallowance of Business Expenses	10,00,000	10,00,000
Addition made u/s 40(a)(ia)	2,81,514	2,81,514
Addition made u/s 68 on account of Sundry Creditors	42,80,624	42,80,624
Addition made u/s 68 on account of accretion in Capital	1,15,43,077	1,15,43,077
Addition made u/s 2(22)(e)-Deemed Dividend	10,00,000	10,00,000

5. Thus, we find that the assessee was a subject matter of,

- ❖ Assessment u/s 143(3) dated 28.03.2014.
- ❖ Assessment u/s 143(3) r.w.s. 147 dated 11.07.2018.
- ❖ Revision u/s 263 dated 15.03.2021.
- ❖ Assessment u/s 143(3) r.w.s. 263 dated 30.03.2022.

6. Hence, it can be said that the assessee has been scrupulously scrutinized by various provisions of the Income Tax Act by examining the same issue multiple times.

7. It is also an undisputed fact on record that all the additions made by the AO vide Assessment Order dated 28.03.2014 were subject matter of appeal before the Tribunal which are the same additions made by the AO vide order dated 30.03.2022 r.w.s. 263 of the Income Tax Act, 1961 and the

issues in the Assessment Order dated 28.03.2014 stands adjudicated in ITA No. 3956/Del/2015 vide order dated 28.11.2019. Hence, the order passed by the Id. PCIT u/s 263 of the Income Tax Act, 1961 becomes damp squib and hence the appeal of the assessee is liable to be allowed.

8. In the result, the appeal of the assessee is allowed.
Order Pronounced in the Open Court on 14/09/2023.

Sd/-

(C. M. Garg)
Judicial Member

Dated: 14/09/2023

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR