

**IN THE INCOME TAX APPELLATE TRIBUNAL  
RAJKOT BENCH, RAJKOT  
(Conducted through E-Court at Ahmedabad)**

**BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER &  
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.57/Rjt/2020  
(Assessment Year: 2015-16)

Shri Ramkrishna Transport Company, Nr. Taluka Panchayat Office, Ranava Porbandar, Pin-360550	Vs.	Principal Commissioner of Income Tax(PCIT-4), Jamnagar, Manek Centre, PN Marg, Jamnagar-361008
[PAN No.AAWFS8994B]		
(Appellant)	..	(Respondent)

<b>Appellant by :</b>	Shri Mehul Ranpura, A.R.
<b>Respondent by:</b>	Shri Shramdeep Sinha, CIT DR

<b>Date of Hearing</b>	05.10.2023
<b>Date of Pronouncement</b>	18.10.2023

ORDER

**PER SIDDHARTHA NAUTIYAL, JM:**

This appeal has been filed by the assessee against the order passed by the Ld. Principal Commissioner of Income Tax-4, (in short “Ld. PCIT”), Jamnagar in DIN & Letter No. ITBA/COM/F/17/2019-20/1024745499(1) vide order dated 05.02.2020 passed for Assessment Year 2015-16.

2. The assessee has taken the following grounds of appeals:-

“1. Ld. PR.CIT erred on fact to pass order u/s.263 of I T act-1961 because the order is passed without making enquiries and verifying the assessment records available with him which should have been made by him to establish

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*that order is erroneous hence is prejudicial and without jurisdiction and hence ORMER MY BE QUASHED.*

2. *Without prejudice to above Ld. PR. CIT erred on law because he has added alleged expenditure pertains to A.Y. 2014-15 and in spite knowing fact that income is already considered by appellant as income during the year hence there is no any disallowable the actions of Ld. Pr. CIT is contrary to the natural justice hence bad in law and required to be cancelled.*

3. *Without prejudice to above Ld. PR.CIT has not justified that how the same is prejudicial to the interest of revenue hence the same is void-ab-initio and requires to be quashed.*

4. *Any other grounds presented with the permission of HON ITAT at the time of hearing.”*

3. The brief facts of the case are that the assessee is a firm and return of income was filed declaring total income of Rs. 2,01,160/-. Subsequently, the case of the assessee was selected for limited scrutiny for the reasons (1) payment to related persons mismatch and 2 other expenses claimed in Profit & Loss Account. The assessment was finalized under Section 143(3) of the Act vide order dated 18.09.2017 by making lump sum addition of Rs. 1,00,000/- by disallowing various expenses and thereby assessing the taxable income at Rs. 3,01,160/-. Subsequently, the Principal Commissioner of Income Tax, Jamnagar initiated 263 proceedings on the ground that on verification of the assessment records and the ledger of transport charges for the year under consideration, it is seen that the transportation charges of Rs. 9,22,996/- paid by the assessee firm pertains to the expenditure of preceding

Financial Year i.e. F.Y. 2013-14, relevant to A.Y. 2014-15. The Assessing Officer during the course of assessment proceedings has allowed transportation charges of Rs. 9,22,996/- though the same did not pertain to the year under consideration. Before the PCIT, the assessee submitted that the assessee is a partnership firm engaged in the business of transportation of mining materials. It was submitted that the billings of the assessee for transportation are approved only after the checking and inspection of mining materials supplied to the respective companies. However, occasionally materials supplied by the assessee in the last week of March may be inspected by its customer and passed in the first week of April i.e. next Financial Year by the recipient company and therefore, the bills of the assessee company for transportation charges are also passed by them in the next Financial Year. The assessee submitted that in this case as well, transport charges income account reflects that the assessee had accounted for income of Rs. 9,79,314/- pertaining to the last week of March 2014 (F.Y. 2013-14) in the next Financial Year 2014-15 to match with Form 26AS of F.Y. 2014-15 to avoid mismatch of receipts as per Form 26AS. It was further submitted that the assessee has not claimed expenses of Rs. 9,22,996/- in F.Y. 2013-14. However, the Ld. CIT(A) dismissed the contentions put forth by the assessee and held that the assessment order was erroneous and prejudicial to the interest of the Revenue, with the following observations:-

*“The assessee firm has not disputed the fact that the transport charges of Rs. 9,22,996/- pertaining the preceding year has been debited in the year under consideration. Further it was the contention of the assessee that in order to match the income with 26AS, it has to account for the income & expenses of*

*the preceding year. The contention of the assessee firm is not acceptable because the method of accounting employed by the assessee firm does not allow such kind of split of transaction into mercantile and cash. Therefore, the objection raised by the assessee is not acceptable on the grounds of the discussion made as above.”*

4. The assessee is in appeal before us against the aforesaid order passed by Ld. PCIT holding the assessment order to be erroneous and prejudicial to the interest of Revenue.

5. At the outset, the Counsel for the assessee submitted that the facts of the case and reason for accounting the expenses during the impugned Assessment Year were explained in detail before the PCIT, alongwith fact that looking into the instant facts, no prejudice is being caused to the interest of the Revenue. However, the Ld. PCIT erred in not appreciating the issue under consideration. Secondly, the Counsel for the assessee submitted that the case of the assessee was opened under limited scrutiny assessment to verify the substantial increase in other expenses during the year under consideration. The Counsel for the assessee drew our attention to notice under Section 142(1) of the Act dated 28.08.2017 issued by the Assessing Officer, in which the specific query was made asking for comparison chart of “other expenses” for the said assessment year and preceding year. Further, the assessee drew our attention to reply of the assessee at Pages 11-12 of the Paper Book, in which the assessee had responded to the aforesaid query of the Assessing Officer. Accordingly, it was submitted before us that this issue has been examined during the course of assessment proceedings, more specifically since the assessment proceedings were initiated specifically to examine

this issue, under limited scrutiny assessment. It was submitted that it was explained to the Assessing Officer that since the various parties had deducted TDS only in A.Y. 2015-16 (F.Y. 2014-15), the expenses were recognized by the assessee in F.Y. 2014-15 so as to avoid any mismatch with Form 26AS. Accordingly, it was submitted that in the light of the above facts, the assessment order is neither erroneous, nor prejudicial to the interest of the Revenue.

6. In response, Ld. D.R. placed reliance on the observation made by the Ld. PCIT in the 263 order.

7. On going through facts of the instant case, we observe that the case of the assessee was opened under limited scrutiny assessment scheme specifically to examine the substantial increase in “other expenses” during the year under consideration. Further, during the assessment proceedings, the Assessing Officer asked the assessee to provide a comparison chart of “other expenses” for the said assessment year and preceding assessment year. The assessee had also responded to the specific query raised by the Ld. Assessing Officer on this issue. Therefore, the assessee has been able to demonstrate that the Assessing Officer had given thoughtful consideration to the issue in hand on which the PCIT had initiated 263 proceedings. Further, even during the course of 263 proceedings before PCIT, the assessee gave an explanation as to why the expenses, as a matter of practice were booked during the impugned assessment year. Further, it was submitted before PCIT that the aforesaid expenses had not been claimed by the assessee in F.Y.

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2013-14 and hence prejudice was caused to the interests of the Revenue. Accordingly, looking into the facts of the instant case we are of the considered view that the assessment order is neither erroneous nor prejudicial to the interest of the Revenue. In the result, order passed by the PCIT under Section 263 of the Act is directed to be set-aside.

8. In the result, the appeal of the assessee is allowed.

<b>This Order pronounced in Open Court on</b>	<b>18/10/2023</b>
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**Sd/-**  
**(ANNAPURNA GUPTA)**  
**ACCOUNTANT MEMBER**

Ahmedabad; Dated 18/10/2023

TANMAY, Sr. PS

**TRUE COPY**

**आदेश की प्रतिलिपि अग्रहित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, राजकोट / DR, ITAT, Rajkot
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

**उप/सहायक पंजीकार Dy./Asstt.Registrar)**  
**आयकर अपीलीय अधिकरण, राजकोट / ITAT, Rajkot**