

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

**BEFORE SH. SHAMIM YAHYA, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR US, JUDICIAL MEMBER**

ITA No.34/AGR/2021  
(Assessment Year : 2016-17)

Gunjan Gupta A-45, Sector - 26 Noda - 201 301, Uttar Pradesh <b>PAN No. ABUPG 5419 J</b> <b>(APPELLANT)</b>	Vs.	Pr. CIT Agra - 1  <b>(RESPONDENT)</b>
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Assessee by	-None-
Revenue by	Dr. Arun Kumar Yadav- CIT(D.R.)

Date of hearing:	06.12.2023
Date of Pronouncement:	08.12.2023

**PER SHAMIM YAHYA, AM :**

This appeal filed by the assessee is directed against the order of learned Pr. Commissioner of Income Tax (PCIT) - 1, Agra dated 24.03.2021 pertaining to Assessment Year 2016-17.

2. The grounds of appeal filed by assessee, which reads as under:

- “1. That the Ld. AO made an addition without appreciating the facts of the case that Assessing officer is not competent for making the assessment under Income Tax Act 1961 because it was not under its Jurisdiction. So, Principal Commissioner of Income Tax, Agra is also not justified to pass an order u/s 263 without under its jurisdiction.
2. That the honourable PCIT, Agra has urged to reopen the assessment under section 263 without appreciating the facts of the case that assessee is Income Tax Payer since last 25 years and

*assessment for A.Y. 2014-15 was completed under section 143(3) with capital amounting to Rs.22441756.00/-."*

3. In this case, learned Pr. CIT observed that on perusal of assessment records, it was noted that the case was selected under limited scrutiny for the reason – “substantial increase in capital in a year”. Capital of Rs.2,35,09,650/- was introduced during the year. It was also observed that the assessee has not shown any capital in the return filed for A.Y. 2015-16 and as per ITR filed for A.Y. 2016-17, the capital was of Rs.2,35,09,650/-. The assessee had not furnished any reply explaining the capital introduced. Hence, Pr. CIT noticed that instead of the entire capital a meagre amount of Rs.18,80,772/- being 8% of the above amount was disallowed and added to the income of the assessee. In this regard, Pr. CIT issued a notice to the assessee. The assessee replied in this regard. Assessee *inter alia* has challenged the jurisdiction of Assessing Officer. The Pr. CIT in this regard was not convinced and held as under:

*“4. The reply submitted by the assessee has been carefully considered vis-à-vis the material available on record. The assessee's contention regarding AO having no jurisdiction over the assessee is not acceptable. From a perusal PAN history on ITBA it is found that the PAN of the assessee was lying with ITO, Ward-2(1)(1)/ITO-2(1)(5), Agra from 26. 12. 2002 to 27.11.2018 and now it is lying with Circle-2(1)(1), Agra. As the returned income was above Rs. 15,00,000/- for AY 2016-17, the case of the assessee was transferred to the Circle-2(1)(1), Agra as per CBDT instructions. Regarding request of the assessee to transfer her case to Noida, it is noticed from the records that the DCIT, Circle-1, Noida and Pr. CIT, Noida, vide letters dated 15.10.2018 and 22.10.2018 respectively had conveyed their objection to the proposed transfer of the case of the assessee to the AO at Noida. In this regard, the assessee has placed her reliance on the judgment of ITAT, Kolkata in the case of M/s Rungta Irrigation Limited vs. ACIT, Central Circle-3(1) Kolkata. However, the facts of the case relied upon are different from the case of the assessee. In the case of M/s Rungta Irrigation Limited vs. ACIT, Central Circle-3(1)*

*Kolkata, the tribunal held that the order issued by the CIT, Delhi was invalid as the jurisdiction of the assessee has been transferred from Delhi to Ranchi and the AO of Ranchi has not issued any notice in this regard. However, in the case of the assessee no such transfer order was passed by the Pr. CIT concerned. The ITO-2(1)(5), Agra, who issued the notice u/s 143(2) dated 03.07.2017 and DCIT, Circle-2(1)(1), Agra who passed assessment order, both AOs being under the jurisdiction of Addl./Joint CIT, Range-2(1), Agra had concurrent jurisdiction over the assessee.*

5. *Regarding sudden increase in capital, it is noticed that the assessee has filed her ITR-4 for AY 2016-17 showing capital of Rs.2,35,09,650/-. For AY 2015-16, a copy of ITR-2 (Invalid) is placed on file in which no detail of capital is mentioned. It is also noticed that the assessee failed to file the relevant papers/documents before the AO during assessment proceedings. Further, the assessee has filed a copy of ITR-2 for AY 2015-16 along with her submissions, wherein no detail of capital accounts mentioned. Thus the assertion made by the assessee that the capital of Rs.2,35,09,650/- is fully explained as per previous ITR records needs verification.*

6. *After careful consideration of reply and material available on record, it is held that the order passed by DCIT, Circle-2(1)(1), Agra is erroneous as well as prejudicial to the interest of the revenue on the issue mentioned above. Therefore, the assessment order passed u/s 143(3) of the I.T. Act dated 20.12.2018 by the DCIT, Circle-2(1)(1), Agra is hereby cancelled with the directions to the pass a fresh order after examining the issue as discussed above and after affording an opportunity of being heard to the assessee.”*

4. Against this order, assessee has filed order before us.

5. We have heard the Learned DR. Despite several notices, none appeared on behalf of the assessee. Hence, we proceed to adjudicate the issue by hearing the learned DR and perusing the records. On careful consideration of the facts and the order of Pr. CIT, we find that learned PCIT has passed a reasonable order. We do not find any infirmity in the same. Hence, we upheld the same.

6. In the result, this appeal filed by assessee stands dismissed.

**Order pronounced in the open court on 08.12.2023**

**Sd/-**

**(YOGESH KUMAR US)  
JUDICIAL MEMBER**

**Sd/-**

**(SHAMIM YAHYA)  
ACCOUNTANT MEMBER**

Date:- 08.12.2023

*Priti Yadav, Sr. PS\**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI