

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH, COCHIN**

Before Shri Sanjay Arora, Accountant Member and
Shri Manomohan Das, Judicial Member

ITA No. 70/Coch/2023
(Assessment Year:2010-11)

Lakeshore Hospital and Rsearch Centre Ltd. XVI Maradu, NH 47 Bye Pass Netoor P.O., Kochi 682040 [PAN:AAACL4923A]	vs.	Asst. CIT, CorporateCircle 1(1), C.R. Building, IS Press Road Kochi 682018
(Appellant)		(Respondent)

Assessee by:	Ms. Rohini V. Thampi, CA
Revenue by:	Smt. J.M. Jamuna Devi, Sr. D.R.

Date of Hearing:	17.10.2023
Date of Pronouncement:	11.12.2023

ORDER

Per Sanjay Arora, AM

Per the instant Appeal the assessee-company challenges the dismissal of it's appeal contesting it's assessment under section 143(3) read with section 263 of the Income Tax Act, 1961 ("the Act" hereinafter) dated 13.10.2015 for assessment year (AY) 2010-11, i.e., pursuant to revision order dated 20.03.2015, by the Commissioner of Income Tax (Appeals), NFAC, Delhi [CIT(A)] vide it's order dated 21.11.2023.

2. The issue on quantum is concerned with the disallowance of provision for bad and doubtful debts under section 36(1)(vii) of the Act, claimed in the sum of Rs.25,72,309, and which the assessee explains to have not written off in accounts for administrative reasons. Vide the impugned order the Id. CIT(A) has declined adjudication inasmuch as the assessing authority has there by only given effect to the

revision order u/s. 263 of the Act; relevant part of the revision order, read out during hearing, reading as under:

“6.4 It may also not be out of place to mention here that the order of the AO against which the instant appeal has been filed is merely *an order giving effect to the clear cut decision of the CIT in his order u/s. 263 directing the AO to disallow the provision for bad debts.* No separate independent finding of the AO arises out of the order giving effect passed by the AO against which this instant appeal has been filed. The decisions and the findings of the CIT contained in his order u/s 263 cannot be a subject matter of appeal before CIT(Appeals) and nor can any decision be given by a CIT(Appeals) on the findings contained in the order u/s 263. In view of the above, the grounds of appeal raised by the appellant in this appeal does not arise out of the order passed by the AO in which he has simply given effect to the directions of the CIT and against which this appeal has been filed.

6.5 As stated above the issue also is squarely covered against the assessee by the decision of the ITAT quoted above.” (emphasis, ours)

3. We have heard the parties, and perused the material on record. It is well-settled that there is no overlap between the powers of the first appellate authority and the revisionary authority under the Act, and for which reference may be made to *Explanation 1(c)* to section 263(1) of the Act. The crux of the matter therefore is if the direction issued by the Pr. CIT in revision is specific, or that the Assessing Officer (AO) was at liberty to adjudicate the matter after hearing the assessee-appellant. We would therefore be required to examine the relevant finding/s per the revision order to ascertain the correctness of the finding by the first appellate authority, whose order is under challenge before us. The revisionary authority has per the s. 263 order, after discussing the issue as to allowance of provision for bad and doubtful debts at paras 3 & 4 of his order, including the assessee’s reply, issued specific finding followed by direction to the AO at para 5 of his order for disallowance thereof. The same leaves no scope for any adjudication in the matter by the AO in the set-aside proceedings. The said order having not been challenged by the assessee, has since attained finality, foreclosing the assessee’s case. No fresh cause of grievance and, thus, action, arises on it being given effect to, i.e., on an assessment pursuant to the specific directions consequent to the revisionary proceedings. This is precisely what stands held and,

accordingly, the basis of the impugned order, no infirmity wherein has been pointed out to us. We, accordingly, for the reasons stated, affirm the same, and decline interference. We decide accordingly.

4. In the result, the assessee's appeal is dismissed.

Order pronounced on December 11, 2023 under Rule 34 of The Income Tax(Appellate Tribunal) Rules, 1963.

Sd/-
(Manomohan Das)
Judicial Member

Sd/-
(Sanjay Arora)
Accountant Member

Cochin, Dated: December 11, 2023

n.p.

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File
- 6.

By Order

Assistant Registrar
ITAT, Cochin