

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ  
**IN THE INCOME TAX APPELLATE TRIBUNAL,  
" B " BENCH, AHMEDABAD**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER  
And  
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

आयकर अपील सं./ ITA No. 91/AHD/2021

निर्धारण वर्ष/Asstt. Year: 2011-2012

Jayesh Dahyabhai Patel, 101, Saurin Tower (RAVI), Near Vasna Bus Stop, Ahmedabad.  <b>PAN: AERPP0120K</b>	Vs.	The Principal Commissioner of Income Tax, Ahmedabad-3, Ahmedabad.
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(Applicant)		(Respondent)
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Assessee by :	Shri B T Thakkar, AR
Revenue by :	Shri Sudhendu Das, CIT DR

सुनवाई की तारीख/**Date of Hearing** : **09/01/2024**

घोषणा की तारीख /**Date of Pronouncement**: **06/03/2024**

**आदेश/ORDER**

**PER WASEEM AHMED, ACCOUNTANT MEMBER:**

The captioned appeal has been filed at the instance of the Assessee against the order of the Learned Principal Commissioner of Income Tax, Ahmedabad-3, Ahmedabad arising in the matter of assessment order passed under s. 263 of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2011-2012.

2. The only issue raised by the assessee is that the Ld. PCIT u/s 263 of the Act erred in holding the assessment framed u/s 144 r.w.s. 147 of the Act as erroneous in so far prejudicial to the interest of revenue.

3. The necessary facts are that the assessee in the present case is an individual and filed his return of income declaring an income of Rs. 12,24,990/- only dated 11/04/2012 which was processed u/s 143(1) of the Act. Subsequently, the proceedings u/s 147 of the Act, were initiated which came to be completed after making addition of Rs. 1,09,00,000/- u/s 68 of the Act vide order dated 11/10/2018. Subsequently, the Ld. PCIT on examination of the assessment records found that there were deposits of Rs. 1,27,39,000/- in the bank account but the AO verified the sum of Rs. 1,09,00,000/- only. Thus, as per the Ld. PCIT there was no inquiry made by the AO with respect to the remaining deposits of Rs. 18,39,000/- only (1,27,39,000/- minus Rs. 1,09,00,000/-). Accordingly, the Ld. PCIT was of the view that the assessment framed is erroneous in so far prejudicial to the interest of the revenue. On question by the Ld. PCIT, the assessee submitted that the reopening was made u/s 147 of the Act to verify the source of credit in the bank account to the tune of Rs. 1,09,00,000/- which have already been added to the total income of the assessee in the assessment framed under section 143(3)/ 147 of the Act.

3.1 Furthermore, such addition of Rs. 1,09,00,000/- has already been settled under vivad-se-viswas scheme. Accordingly, the assessee contended that there was no error causing prejudicial to the interest of the revenue. However, the Ld. PCIT, disagreed with the contention of the assessee by observing that the AO was under the obligation to conduct the inquiries for the remaining deposits of Rs. 18,39,000/- which has not been done. Thus, the assessment has been framed without conducting proper inquiries. Accordingly, the Ld. PCIT, directed the AO to make fresh assessment by observing as under:

*11. After having considered the position of law and facts and circumstances of the instant case, I am of the considered opinion that the assessment order u/s. 143(3) of the Act dated 20.11.2018 passed by the Assessing Officer is erroneous in so far as it is prejudicial to the interest of revenue in accordance with the Explanation 2(a) & 2(b) below section 263(1) of the Act as the order is passed without making inquiries or verification which should have been made and hence it has made the assessment order passed not only erroneous but also prejudicial to the interest of revenue. Accordingly, the impugned assessment order is set aside with a direction to the Assessing Officer to make requisite inquiries and proper verification with regard to the issues mentioned above and redo the assessment de-novo after due consideration of the facts and law in this regard. The assessee is at liberty to adduce the facts as deemed relevant before the assessing officer at the time of assessment proceedings in consequence to this order and the Assessing Officer shall allow the assessee adequate opportunity of being heard and to make relevant submissions. It may be ensured that the fresh assessment order is passed within the prescribed time as stipulated under section 153(3) of the Act.*

4. Being aggrieved by the order of the Ld. PCIT, the assessee is in appeal before us.
5. The Ld. AR before us filed a paper book running from page 1 to 10 and reiterated the contention as made before the Ld. PCIT.
6. On the other hand, the Ld. DR vehemently supported the order of the Ld. PCIT.
7. We have heard the rival contentions of both the parties and perused the materials available on record. On perusal of the reason recorded for issuing of notice u/s 148 of the Act, we note that the reopening was initiated for the deposits of Rs. 1,09,00,000/- and other deposits and withdrawal in the bank account bearing number 204710110001182. However, the AO while framing the assessment has confined the scope of verification to the tune of Rs. 1,09,00,000/- only and the AO has not gone to the verify the other deposits and withdrawal from the bank which were forming part of the reason recorded for initiating the proceedings u/s 148 of the Act. This fact can be verified from the reason recorded which are available on record.

7.1 It is the settled law that the assessment order becomes erroneous in so far prejudicial to the interest of revenue if the same has been made without conducting proper inquiries. In view of the above, we do not find any infirmity in the revisional order passed by the Ld. PCIT u/s 263 of the Act in the given facts and circumstances and accordingly, we decline to interfere in such order. Hence, the ground of appeal of the assessee is hereby dismissed.

8. In the result, the appeal filed by the assessee is dismissed.

**Order pronounced in the Court on 06/03/2024 at Ahmedabad.**

**Sd/-  
(SIDDHARTHA NAUTIYAL)  
JUDICIAL MEMBER**

**Sd/-  
(WASEEM AHMED)  
ACCOUNTANT MEMBER**

Ahmedabad; Dated  
*Manish*

**(True Copy)**  
06/03/2024