

**आयकरअपीलीयअधिकरण, अहमदाबादन्यायपीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL,**  
**"D" BENCH, AHMEDABAD**

**BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**  
**And**  
**SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

आयकरअपीलसं./ITA No.342/AHD/2020  
(निर्धारणवर्ष/Asstt. Year: 2015-16)

Sterling Greenwoods Ltd., Ground Floor, Sunrise Center, Opp. Drive in Cinema, Ahmedabad-380054  <b>PAN: AACCS6819A</b>	Vs.	PCIT-4, Ahmedabad
<b>(Applicant)</b>		<b>(Respondent)</b>

Assessee by :	Shri S. N. Divetia & Shri Samir Vora, A.Rs.
Revenue by :	Dr. Darsi Suman Ratnam, CIT D.R.

सुनवाईकीतारीख/**Date of Hearing** : **28/02/2024**  
घोषणाकीतारीख/**Date of Pronouncement**: **15/05/2024**

**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-4, (in short "Ld. PCIT"), Ahmedabad order dated 09.03.2020 passed for A.Y. 2015-16.

2. The only issue raised by the assessee is that the Ld. PCIT erred in holding the assessment framed u/s 143(3) 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 a limited company and engaged in the business of real and resort. The assessee was selected for limited scrutiny to verify the items detailed below:

"i) *Mismatch between income and receipts credited in the profit & loss account considered under the other heads of income and income from the heads "Other than*

*business/professional income"(Source of information: Schedule BP and Part-B: Total income)*

- ii) Higher turnover reported in Service Tax Return as compared to Income-tax Return*
- iii) Unsecured loans from persons who have not filed their returns of income(source of information; Tax Audit Report).*
- iv) Tax credit claimed in ITR is less than tax credit available in 26AS statement.*
- v) Large investment in property (form No,37QB) as compared\_ to total income,*
- vi) Mismatch in sales turnover reported in audit report and Income-tax return."*

3.1 After due verification, the returned income (loss) declared in the income tax return was accepted by the AO in the assessment order framed under section 143(3) of the Act dated 22-12-2017.

4. Subsequently, the Id. PCIT Rajkot-1 on perusal of the assessment record found that the AO has not examined certain issues as detailed below:

*"2.1 However the Pr. CIT commenced proceedings u/s 263 vide notice dt 13-1-2020 mainly for the reasons that the AO did not examine the following issues:*

- (i) The un-reported sales as shown in ITS statement against its PAN and applicability of the stamp duty value as per the provisions of sec 43CA to six transactions which resulted into under assessment by Rs.57,64,491/-.*
- (ii) Under reporting of lease rental income from GWLR*
- (iii) How decrease in Revaluation reserve balanced in books."*

4.1 Finally, the learned PCIT for the said reason set aside the assessment order being erroneous insofar prejudicial to the interest of the revenue by exercising the power conferred under section 263 of the Act and directed the AO to make fresh assessment after necessary enquiries as per the provisions of law.

5. Being aggrieved by the order of the Ld. PCIT, the assessee is in appeal before us.

5.1 The Ld. AR before us filed a paper book running from pages 1 to 493 and contended that the case for the assessment u/s 143(3) of the Act was selected for limited scrutiny as evident from the notice issued u/s 142(1) of the Act, placed on pages 1-3 of the paper book. As per the Ld. AR, the case was selected for limited

scrutiny to verify the items mentioned in the notice discussed above. Thus, the scope of scrutiny assessment was very limited and therefore there was no possibility for the AO to have verified items specified by the Id. PCIT in his order. Accordingly, the Ld. AR contended that the Ld. PCIT cannot hold the assessment order as erroneous in so far prejudicial to the interest of the revenue on allegation of non-verification issues which were beyond the jurisdiction of the AO. The CBDT vide several circulars and instruction issued on different dates has also clarified that the AO cannot travel beyond the issue for which limited scrutiny was initiated. Thus, it was prayed that the order passed by the Ld. PCIT is liable to be quashed.

6. On the other hand, the Ld. DR submitted that one of the items for scrutiny was with respect to the verification of mismatch between the income and receipts. Therefore, the AO could have verified the provisions of section 43CA of the Act. Likewise, there was a loss declared by the assessee in the income tax return and there was also a mismatch in the sales turnover. So, by implication there should have been an enquiry about the under reporting of lease rental income, but the AO has not done. The Id. DR vehemently supported the order of the Id. PCIT.

7. We have heard the rival contentions of both the parties and perused the materials available on record. At the threshold, we note that the case of the assessee was selected for limited scrutiny which is evident from the notice issued u/s 142(1) of the Act placed on pages 1 to 3 of the paper book and from the assessment order. On perusal of the notice, the case was selected for scrutiny for verification/ examination of the items listed above. So, it was a case of limited scrutiny and there was no option for the AO to verify anything other than the issue for which the case was selected for limited scrutiny. In other words, there was no possibility for the AO to inquire about the verification of the items pointed out by the Id. PCIT in his order discussed above. We also note that the CBDT on different occasions has instructed the assessing officers to confine the scope of verification/examination to the extent of the reasons for which the case was selected under limited scrutiny. In this regard CBDT instruction No. 05/2016[F.NO.225/269/2015-ITA.11], DATED 14-7-2016 reads as under:

Vide Instruction [No. 20/2015 dated 29.12.2015](#) in File of even number, Board has laid down Standard Operating Procedure for handling of cases under 'Limited Scrutiny' which were selected through Computer Aided Scrutiny Selection in 'CASS Cycle 2015'. In these cases, it was stated that the general scope of enquiry in scrutiny proceedings should be restricted to the relevant parameters which formed the basis for selecting the case for scrutiny. However, in revenue potential cases, it was further provided that 'Complete Scrutiny' could be conducted, if there was potential escapement of income above a prescribed monetary limit, subject to the approval of administrative Pr. CIT/CIT/Pr. DIT/DIT.

**2.** In order to ensure that maximum objectivity is maintained in converting a case falling under 'Limited Scrutiny' into a 'Complete Scrutiny' case, the matter has been further examined and in partial modification to Para 3(d) of the earlier order dated 29.12.2015, Board hereby lays down that while proposing to take up 'Complete Scrutiny' in a case which was originally earmarked for 'Limited Scrutiny', the Assessing Officer ('AO') shall be required to form a reasonable view that there is possibility of under assessment of income if the case is not examined under 'Complete Scrutiny'. In this regard, the monetary limits and requirement of administrative approval from Pr. CIT/CIT/Pr. DIT/DIT, as prescribed in Para 3(d) of earlier Instruction dated 29.12.2015, shall continue to remain applicable.

**3.** Further, while forming the reasonable view, the Assessing Officer would ensure that:

a.	there exists credible material or information available on record for forming such view;
b.	this reasonable view should not be based on mere suspicion, conjecture or unreliable source; and
c.	there must be a direct nexus between the available material and formation of such view.

**4.** It is further clarified that in cases under 'Limited Scrutiny', the scrutiny assessment proceedings would initially be confined only to issues under 'Limited Scrutiny' and questionnaires, enquiry, investigation etc. would be restricted to such issues. Only upon conversion of case to 'Complete Scrutiny' after following the procedure outlined above, the AO may examine the additional issues besides the issue(s) involved in 'Limited Scrutiny'. The AO shall also expeditiously intimate the taxpayer concerned regarding conducting 'Complete Scrutiny' in such cases.

**5.** It is also clarified that once a case has been converted to 'Complete Scrutiny', the AO can deal with any issue emerging from ongoing scrutiny proceedings notwithstanding the fact that the reason for such issue have not been included in the Note.

**6.** To ensure proper monitoring in cases which have been converted from 'Limited Scrutiny' to 'Complete Scrutiny', it is suggested, that provisions of section 144A of the Act may be invoked in suitable cases. To prevent possibility of fishing and roving enquiries in such cases, it is desirable that these cases should invariably be picked up while conducting Review or Inspection by the administrative authorities.

**7.** The above Instruction shall be applicable from the date of its issue and would cover the cases selected under CASS 2015 which are pending scrutiny cases as well as cases selected/being selected under the CASS 2016.

7.1 Further, the CBDT recently vide circular **F. NO. 225/402/2018/ITA.II, DATED 28-11-2018** clarified as under:

*Under CASS cycles 2017 and 2018, some of the cases were selected for scrutiny as a 'Limited Scrutiny' case. In limited Scrutiny' cases, Assessing Officer cannot travel beyond the issue(s) for which the case was selected. The idea behind such a stipulation is to*

*enforce checks and balances upon powers of an Assessing Officer to do fishing and roving enquiries in cases under 'Limited Scrutiny'.*

**2.** *In this regard, several representations have been received in the Board from the field authorities that in several cases under 'Limited Scrutiny', information pointing out specific tax-evasion for the relevant year, given by any law-enforcement/intelligence/regulatory authority or agency is available with the concerned Assessing Officer, however, in view of the restrictive nature of enquiry/investigation which can be made in 'Limited Scrutiny' cases, the same presently cannot be acted upon.*

**3.** *The matter has been considered by the Board. In order to enable proper enquiry/investigation in pending 'Limited Scrutiny' cases which were selected through CASS cycles of 2017 and 2018, where credible material or information has been/is provided by any law-enforcement/intelligence/regulatory authority or agency regarding tax-evasion by an assessee, it has been decided by the Board that issues arising from such information can also be examined during the course of conduct of assessment proceedings in such 'Limited Scrutiny' cases with prior administrative approval of the concerned Pr. CIT/CIT.*

**4.** *It is pertinent to mention that unlike CASS 2015 and 2016 cycles, where consideration of any additional issue lead to the conversion of case to 'Complete Scrutiny' as laid down in instruction No. 5/2016 dated 14.07.16, the pending 'Limited Scrutiny' cases of CASS 2017 and 2018 cycles would not be taken up for 'Complete Scrutiny' as the present directive is only to facilitate consideration of those issues wherein specific information of tax-evasion has been furnished by any law-enforcement/intelligence/regulatory authority or agency. Therefore, in such 'Limited Scrutiny' cases, Assessing Officer shall not expand the scope of enquiry/investigation beyond the issue(s) on which the case was flagged for 'Limited Scrutiny' & issue arising from nature of information mentioned in para 2 and 3, above.*

**5.** *The following procedure shall be adopted while examining the additional issue:*

i.	<i>The Assessing Officer shall duly record the reasons for expanding the scope of 'Limited Scrutiny' to the extent mentioned in para 2 and 3, above;</i>
ii.	<i>The same shall be placed before the Pr. CIT/CIT concerned and upon his approval, further issue can be considered during the assessment proceeding;</i>
iii.	<i>The Assessing Officer shall issue an intimation to the assessee concerned that additional issue would also be considered during the course of pending assessment proceeding;</i>
iv.	<i>To ensure proper monitoring in these cases, provisions of section 144A of the Income-tax Act, 1961 may be invoked in suitable cases. Further, to prevent fishing and roving enquiries in these cases, it is desirable that these cases are invariably picked up for Review/Inspection by the administrative authorities.</i>

**6.** *The above directive shall be applicable from the date of its issue and shall apply to the pending 'Limited Scrutiny' cases which were selected under the CASS 2017 and 2018 cycles. It is reiterated that the grounds mentioned in para 3 above are the only grounds on which a 'Limited Scrutiny' case of CASS 2017 and 2018 cycles can be expanded in its scope and that too only to the extent of the issues referred to by the law-enforcement/intelligence/regulatory authority or agency.*

7.2 From the above it clear that the AO can only extend the scope of limited scrutiny by converting the same into complete scrutiny after following the

procedure laid down for the same or can verify the issue regarding which specific information of tax evasion received from law-enforcement/intelligence/regulatory authority after previous approval of PCIT/CIT. But in the case of the present assessee, no such fact was available on record, therefore the AO cannot travel beyond the reason for which the case of the assessee was selected for limited scrutiny. Accordingly, we hold that the Ld. PCIT cannot exercise his power u/s 263 of the Act, to verify those items which were not subject matter of the scrutiny. Thus, we hold that the Ld. PCIT has exceeded his jurisdiction by holding the assessment as erroneous in so far prejudicial to the interest of the revenue on account of non-verification of the deduction of items discussed above. The contention of the Ld. Counsel that the limited scrutiny was not converted into regular scrutiny was also not controverted by the Ld. DR appearing on behalf of the revenue. In view of the above, we hold that the revisional order passed by the Ld. PCIT is not sustainable. Hence, we quash the same. Thus, the ground of appeal filed by the assessee is allowed.

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

**Order pronounced in the Court on 15/05/2024 at Ahmedabad**

**Sd/-**

**(SUCHITRA KAMBLE)  
JUDICIAL MEMBER**

Ahmedabad; Dated 15/05/2024

*Tanmay*

**आदेशकीप्रतिलिपियेभित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. संबंधितआयकरआयुक्त/ Concerned CIT
4. आयकरआयुक्त(अपील) / The CIT(A)
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण/ DR, ITAT,
6. गार्डफाईल / Guard file.

**Sd/-**

**(WASEEM AHMED)  
ACCOUNTANT MEMBER**

आदेशानुसार/ BY ORDER,

उप/सहायकपंजीकार (Dy./Asstt.Registrar)  
आयकरअपीलीयअधिकरण, अहमदाबाद / ITAT, Ahmedabad

1. Date of dictation :03/05/2024 (Dictated by Hon'ble Member over his dragon software)
2. Date on which the typed draft is placed before the Dictating Member 03/05/2024
3. Date on which the approved draft comes to the Sr.P.S./P.S. - /05/2024
4. Date on which the fair order is placed before the Dictating Member for Pronouncement /05/2024
5. Date on which the file goes to the Bench Clerk.. : /05/2024
6. Date on which the file goes to the Head Clerk.....
7. The date on which the file goes to the Assistant Registrar for signature on the order.....
8. Date of Dispatch of the Order.....