

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "F", MUMBAI**

**BEFORE JUSTICE (RETD.) C V BHADANG, HON'BLE PRESIDENT &
SHRI B.R. BASKARAN, ACCOUNTANT MEMBER**

**ITA NO.1140/MUM/2024
Assessment Year 2018-19**

Fortune Cars Pvt. Ltd.,
D-232, TTC Industrial Area, MIDC,
Uran Phata, Nerul,
Navi Mumbai – 400 706.
PAN:AAACF-1857-F

- Appellant

Vs.

Pr. Commissioner of Income Tax-6, Mumbai
Room No.501, 5th Floor,
Aaykar Bhavan, M.K. Road,
Mumbai – 400 020

- Respondent-

Appellant by : Shri V G Ginde
Respondent by : Ms. Rajeshwari Menon –SR.DR

Date of Hearing : 05/06/2024
Date of Pronouncement : 10/06/2024

ORDER

PER B.R. BASKARAN, ACCOUNTANT MEMBER :

The assessee has filed this appeal challenging the revision order dated 27/02/2024 passed by Pr. Commissioner of Income Tax [in short the ld. PCIT], u/s. 263 of the Act and it relates to the Assessment Year 2018-19.

2. The ld.Counsel appearing on behalf of the assessee submitted that the Assessing Officer had completed the assessment for the year under consideration u/s. 143(3) of the Act. The ld. PCIT initiated revisional proceedings u/s. 263 of the Act alleging that the assessment order passed by the Assessing Officer is erroneous and prejudicial to

the interest of the Revenue. The case of the ld PCIT is that the addition of Rs.2.27 crores made by the Assessing Officer in respect of difference in valuation of stock has been made while computing income under the head business. However the said addition should have been made either u/s 68 or u/s 69 of the Act and tax should have been charged at the higher rates prescribed u/s. 115BBE of the Act.

3. The ld PCIT noticed that the assessee did not respond to the notices issued by him and he proceeded to pass the impugned revision order ex-parte directing the Assessing Officer to reassess the total income as per observations made by him in the said order.

4. The ld A.R submitted that two proceedings were going on simultaneously for the present assessment year, i.e., revision proceeding u/s 263 of the Act by Ld PCIT and the penalty proceedings u/s 271(1)(c) of the Act by the AO. The assessee, however, uploaded the replies to the notices issued by ld PCIT u/s. 263 of the Act against the penalty proceedings that was pending at the very same point of time. Hence, the reply so filed by the assessee did not reach the hands of ld PCIT and it has resulted in passing of the impugned ex-parte order.

5. Accordingly, the ld.A.R submitted that the assessee may be provided with one more opportunity to furnish those replies before the ld. PCIT and explain the case.

6. We have heard ld. Departmental Representative and perused the record. Having regard to the submissions made by ld A.R, we are of the view that, in the interests of natural justice, the assessee may be provided with one more opportunity to present its case properly before ld PCIT. Accordingly, the order passed by ld PCIT is set-aside and all

the issues are restored to his file for passing a fresh order after affording adequate opportunity of being heard to the assessee. We also direct the assessee to fully co-operate with Id PCIT for expeditious completion of the set aside revision proceedings.

7. In the result, the appeal filed by the assessee is treated as allowed.

Order pronounced in the open court on 10 June, 2024.

Sd/-

[Justice (Retd) C V Bhadang]
President

Mumbai, Date : 10 June, 2024

VM.

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The PCIT/CIT concerned
- 4) The D.R, "F" Bench, Mumbai
- 5) Guard file

Sd/-

(B.R. Baskaran)
Accountant Member

By Order

Dy./Asstt. Registrar
I.T.A.T, Mumbai