

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES," B-Bench" JAIPUR

श्री राठौड़ कमलेश जयन्तभाई, लेखा सदस्य एवं श्री नरेन्द्र कुमार, न्यायिक सदस्य के समक्ष
BEFORE: SHRI RATHOD KAMLESH JAYANTBHAI, AM & SHRI NARINDER KUMAR, JM

आयकर अपील सं./ITA. No. 753/JPR/2024
निर्धारण वर्ष / Assessment Year : 2018-19

M/s Gravita India Ltd. Saurabh, Diggi Malpura Road Harsulia Mod, Phagi, Jaipur.	बनाम Vs.	The PCIT-2, Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AAACG6753F		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assessee by : Shri P. C. Parwal, C.A.
राजस्व की ओरसे / Revenue by: Shri Ajay Malik (CIT)

सुनवाई की तारीख / Date of Hearing : 16/07/2024
उदघोषणा की तारीख / Date of Pronouncement: 18/07/2024

आदेश / ORDER

PER: NARINDER KUMAR, JUDICIAL MEMBER

On 12.05.2021 Assessing Officer, National e-Assessment Centre, Delhi, passed assessment order relating to the assessment year 2018-19, qua the assessee company-appellant herein.

Vide said order, income of the assessee was computed, while making addition of Rs. 1,11,24,400/- u/s 80JJAA of the Income Tax Act, 1961 (hereinafter referred to as the "Act").

Above deduction u/s 80JJAA of the Act, claimed by the assessee was disallowed, as the assessee did not substantiate its claim by producing documentary evidence.

The Assessing Officer also initiated penalty proceeding 270A of the Act, due to misreporting/under-reporting of the income.

2. However, on 29.03.2024, Learned PCIT, Jaipur-2 passed the impugned order, which is under challenge by the assessee, before this Appellant Tribunal.

3. Vide impugned order, Learned PCIT, while exercising powers u/s 263 of the Act held that the above said assessment order dated 12.05.2021 is erroneous in so far as the same is prejudicial to the interest of revenue.

Accordingly, while setting aside the assessment order, the Assessing Officer was directed to examine the issue and pass suitable order after affording opportunity of being heard, to the assessee.

That is how, the assessee is before this Appellant Tribunal.

4. Argument heard. File perused.

5. As to what led Learned PCIT to pass the impugned order, para 2 thereof would reveal that the assessee company was found to have debited a sum of Rs. 28,72,000/- relating to expenditure incurred on Corporate Social Responsibility (hereinafter referred to as the "CSR"), and

further that the FAO had allowed the same without examining or verifying said aspect involved.

Learned PCIT was of the view that instead of allowing the above said expenditure incurred on CSR, the FOA should have disallowed the same in view of the provisions of Section 37(1) of the Act.

Before passing the impugned order, a show cause notice dated 22.02.2023, u/s 263 of the Act, was issued by Learned PCIT to the assessee company by way of said notice. The assessee company was called upon to explain as to why the assessment order dated 12.05.2021 be not revised u/s 263 of the Act.

6. As is available from the impugned order, the assessee company did not furnish any reply, initially, but, on 31.01.2024 presented its response opposing the proposed revision.

However, after going through the impugned order, the records and considering the submissions put forth on behalf of the assessee, Learned PCIT passed the impugned order setting aside the assessment order and issued directions to the Assessing Officer, as already noticed above.

7. Ld. AR for the assessee-appellant has put forth sole argument that the Assessing Officer observed in the assessment order that the case was selected for limited scrutiny assessment on two issues, *firstly*, on the issue

of duty drawback and *secondly*, on the issue of deduction from total income under Chapter VI-A.

The assessment order, vide which addition as regards the deduction claimed u/s 80JJAA of the Act was made, is stated to have already been challenged by way of appeal, as submitted by Ld. AR for the assessee, in the course of arguments.

8. The contention is that when the case was selected for limited scrutiny assessment, Learned PCIT could not go beyond the limited scope of scrutiny i.e. two issues referred to above, but, Learned PCIT exceeded the scope and considered a new aspect i.e. debit entry relating to expenditure incurred on CSR, while referring to the provisions of Section 37(1) of the Act, and as such, the impugned order deserves to be set aside.

In support of his contention, Ld. AR has relied on the decision of Jaipur Bench in case of **Mahendra Singh Dhankhar (HUF) v. Assistant Commissioner of Income Tax**, (2021) 204 DTR 377(JP Trib.) .

9. On the other hand, Ld. DR for the department has submitted that he stands by the impugned order passed by Learned PCIT, and further that present appeal deserves to be dismissed.

10. Admittedly, the case was selected for limited scrutiny assessment only on two issues i.e. duty drawback & deduction from total income under Chapter VI-A.

It is also admitted that show cause notice u/s 263 of the Act was issued by Learned PCIT to the assessee in respect of debit entry of a sum of Rs. 28,72,000/- relating to expenditure incurred on CSR, while referring to the provisions of Section 37(1) of the Act.

Section 37 falls in Chapter- IV of the Act, which relates to computation of total income and particularly relates to any expenditure (not being expenditure of the nature described in Sections 30 to 36 and not being in the nature of capital expenditure or personal expenses of the assessee), laid out or expended wholly or exclusively for the purposes of the business or profession.

In **Mahendra Singh Dhankhar (HUF)** case (supra), it was observed that scope of enquiry in case of selected scrutiny is limited to the extent of the issues for which case is selected for scrutiny under CASS. It was further observed that Learned PCIT cannot be permitted to traverse beyond the jurisdiction that was vested with the AO while framing the assessment. In other words, where a matter is selected for limited scrutiny, revisional jurisdiction conferred on PCIT u/s 263 of the Act cannot be exercised for

broadening the scope of jurisdiction that was originally vested with the AO while framing the assessment.

11. We find that having regard to the two issues, which were subject matter of limited scrutiny by the Assessing Officer, Learned PCIT had no jurisdiction to revise the said assessment dated 12.05.2021, while exercising powers u/s 263 of the Act, and while attracting the provisions of section 37 of the Act, by enlarging the scope of jurisdiction as regards the above said debit entry relating to the expenditure incurred on Corporate Social responsibility.

As a result, the impugned order passed by Learned PCIT is not sustainable.

Result

13. For the foregoing reasons and discussion, this appeal is allowed and the impugned order passed by the Learned PCIT u/s 263 of the Act is hereby set aside.

Order pronounced in the open court on 18/07/2024.

Sd/-

(राठौड़ कमलेश जयन्तभाई)
(RATHOD KAMLESH JAYANTBHAI)
लेखा सदस्य / Accountant Member
जयपुर / Jaipur
दिनांक / Dated:- 18/07/2024
*Santosh

Sd/-

(नरेन्द्र कुमार)
(NARINDER KUMAR)
न्यायिक सदस्य / Judicial Member

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- M/s Gravita India Ltd., Jaipur.
2. प्रत्यर्थी / The Respondent- PCIT-2, Jaipur.
3. आयकरआयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्डफाईल / Guard File ITA No. 753/JPR/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar