



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

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND
MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA Nos.52 & 53/CTK/2021

Assessment Years : 2013-14 & 2014-15

Bikash Agrwal, C/O. M/s. Bajrang Rice Mill, Hat Pada, Nabrangpur-764059	Vs.	Pr. CIT, Sambalpur
PAN/GIR No.BMFPA 4824 C		
(Appellant)	..	(Respondent)

Assessee by : Shri P.C.Sethi, Adv
Revenue by : Shri Sanjay Kumar, CIT DR

Date of Hearing : 12/8/2024
Date of Pronouncement : 12/8/2024

ORDER

Per Bench

Both the appeals filed by the assessee are directed against the separate orders passed u/s.263 of the Act by the Id Pr. CIT, Sambalpur dated 2.3.2021 and 3.3.2021 in Appeal No.PCIT, Sambalpur/Revision-263/100000162372/2020 and No.PCIT, Sambalpur/Revision-263/100000162373/2020 for the assessment years 2013-14 and 2014-15, respectively.

2. Shri P.C.Sethi, Id AR appeared for the assessee and Shri Sanjay Kumar, Id CIT DR appeared for the revenue.

3. Since the issues involved in both the appeals are similar, therefore, we proceed to discuss the facts for the assessment year 2013-14 and our decision would apply mutatis-mutandis to the assessment year 2014-15.

4. Brief facts of the case are that in this case, the assessment was completed u/s.143(3)/147 of the Act on 19.9.2018. Thereafter, same was revised by Pr. CIT vide impugned order dated 2.3.2021, wherein, the Pr. CIT has directed the Assessing Officer to add back the amount of Rs.49,99,000/- as cash deposit in the bank account to the income assessed u/s.69 of the Act.

5. In this case, action u/s.148 of the Act was taken in the hands of the assessee on the basis of the report received from Investigation Wing that the assessee has made cash deposit of Rs.49,99,000/- in the saving bank account with United Bank of India, Nabarangpur Branch and the source of which needs examination. Therefore, the Assessing Officer completed the proceedings declaring the total income u/s.44AD of the Act, wherein, gross turnover received were declared at Rs.51,12,600/-. Ld PCIT, Sambalpur in his order u/s.263 of the Act has observed that the Assessing Officer has made no enquiry with regard to cash deposits made in the bank account nor any explanation is sought with regard to purchases and sales made by

the assessee during the year more particularly, when the purchases of seasonal goods were made on credit and the sales consideration of the goods received in cash and the creditors against purchases remained outstanding at the end of the year.

6. Before us, Id AR submitted that during the course of assessment proceedings, the assessee has filed copies of purchase and sale register, stock register and details of sundry creditors and after verifying all these details, the Assessing officer is of the view that the source of the cash deposit made in the bank is explained by the assessee. Ld Pr. CIT simply for making roving and fishing enquiry has initiated proceedings u/s.263 of the Act. He further submitted that the observations of Pr. CIT that no meaningful inquiry or investigation was made in this regard is incorrect as the assessee has filed all the details with regard to source of cash deposits. He further submitted that the assessee has filed details before the Investigation Wing and as the Investigation Wing being part of the Income tax Department, if the Pr. CIT or AO had any doubts in their mind, necessary enquiry could have been made from the Investigation Wing to find out the explanation filed by the assessee. Since the Assessing Officer has not doubted the source of cash deposits, the assessee was of the view that all the details filed by him were available with the Assessing Officer, which could have been examined by the Pr. CIT during the proceedings

u/s.263 of the Act. Therefore, he prayed that the order of the Pr. CIT deserves to be struck down.

7. In reply, Id CIT DR supports the order of the PR. CIT and submitted that no enquiry whatsoever was carried out by the Assessing Officer with regard to the source of cash deposits by the assessee during the year. The assessment record of the Assessing Officer which was called for in the last hearing, was also referred to by Pr. CIT and submitted that no enquiry was carried out, which could be seen from the assessment records where no specific query was raised by the Assessing Officer in this regard. He thus submitted that the Pr. CIT has rightly directed the Assessing Officer to add back Rs.49,99,000/- as the Id AO has failed to verify the source of cash deposits and also no satisfactory explanation was given by the assessee during the revisionary proceedings despite of sufficient opportunity provided by Id Pr. CIT. He accordingly, submitted that the order of the Pr. CIT be confirmed.

8. We have considered the rival submissions and perused the material on record. In this case, the assessee was only 19 years old and started his business in the impugned assessment year. As per the details filed, it is found that from January onwards, purchases and sales were done. However, surprisingly, no payment whatsoever was made by the assessee against the purchases made from the cultivators. It was the explanation of the assessee that due to dull period, the cultivators had agreed to sell their

produce on credit basis and the assessee has taken the advantage of this and made credit purchase of goods. However, all the sales were made in cash and the entire amount collected was deposited in the bank account on 27.3.2012. The assessee has filed its return of income u/s.44AD where he was required to produce the evidence in support of the purchases and sales. It is also a matter of record that all the payments against purchases were made to cultivators in the subsequent year that too in cash, which was withdrawn from the bank from time to time. It is also seen that in subsequent year, similar procedure/style was adopted by the assessee where purchases were made on credit basis and cash was deposited in the bank account and subsequently withdrawn and payments were made to cultivators in cash. From the assessment records produced by Id CIT DR, we find that in both the years, no enquiry whatsoever was made by the Assessing Officer with regard to source of cash deposits in the bank account. Only one notice u/s.142(1) was issued asking the assessee to file the details with regard to bank account maintained and financial statement in support of the return and details of investment made. After receiving the details, the assessment was completed at an income declared by the assessee. Even the Assessing Officer has not bothered to call for the records from the bank with regard to cash deposits made by the assessee and proceeded on the basis of the copy of the banks statement filed by the assessee where no explanation was furnished with regard to entries

contained therein. From the perusal of the order sheet also, we find that after issue of notice u/s.142(1) of the Act, no entry of any other proceedings is made and only one entry is made with regard to passing of assessment order. This further established that the Assessing Officer has not made any enquiry whatsoever either from the bank or by an independent enquiry to verify the claim of the assessee regarding credit purchases and payment at a later date in cash to the cultivators. This being so, we are in agreement with Pr. CIT that no meaningful enquiry in any manner was carried out by the Assessing officer nor any investigation made in the matter and, therefore, the order passed by the Assessing Officer is erroneous and prejudicial to the interest of the revenue. However, in the interest of justice, we are not in agreement with Id Pr. CIT that the addition towards bank deposit could be made u/s.69A of the Act, rather, the assessee could be provided an opportunity to explain the source of cash deposits in the bank. Accordingly, we uphold the order of Pr. CIT to the extent that the order is erroneous and prejudicial to the interest of Revenue. However, the order of Pr. CIT is modified with the direction that the issue of bank deposits needs examination, thus the same is sent back to the file of the Assessing officer for making necessary verification of the sources of bank deposits made in cash. Needless to say that the assessee should be provided reasonable opportunity of hearing.

9. In the result, appeals of the assessee stands dismissed as per the above observations.

Order dictated and pronounced in the open court on 12/08/2024.

Sd/-

sd/-

(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 12/08/2024
B.K.Parida, SPS (OS)

(Manish Agarwal)
ACCOUNTANT MEMBER

Copy of the Order forwarded to :

1. The Appellant : Bikash Agrwal, C/O. M/s. Bajrang Rice Mill, Hat Pada, Nabrangpur-764059
2. The Respondent: Pr. CIT, Sambalpur
3. DR, ITAT,
4. Guard file.
//True Copy//

By order

IMPARTIAL, EASY AND
SPEEDY JUSTICE

Sr.Pvt.Secretary
ITAT, Cuttack