

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'H': NEW DELHI)**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SHRI SUDHIR PAREEK, JUDICIAL MEMBER**

**ITA No:- 473/Del/2021
(Assessment Year- 2015-16)**

M/s Sarang Trade Links, 30/48, Kunwar Vinod Market, Mahavir Chowk, Muzaffarnagar- 251 001.	Vs.	Pr. CIT, Income Tax Office, 13-A, Subhash Road, Dehradun- 248 001.
PAN No: AAZFS8978G		
APPELLANT		RESPONDENT

Assessee by : Shri Ankit Gupta, Adv.
Revenue by : Ms. Sapna Bhatia CIT(DR)

Date of Hearing : 10.07.2024
Date of Pronouncement : 14.08.2024

ORDER

PER SUDHIR PAREEK, JM

This appeal by the assessee is directed against the order dated 18.03.2021 of Learned Principal Commissioner of Income Tax, (Ld. PCIT), Dehradun, pertaining to Assessment Year 2015-16.

2. As per the grounds of appeal, the assessee has challenged the exercise of revisionary power conferred upon the Principle CIT u/s 263 of the Act.

3. When the matter was called for hearing, the Ld. Counsel for the assessee pointed out at the outset that as per the profit and loss account, the assessee is in the regular business of tour and travels and has generated Rs. 5.60 crores during the Financial Year 2014-15 relevant to Assessment Year 2015-16. In this backdrop, the Ld. Counsel referred to the Assessment Order and submitted that relevant inquiries were made and the assessment was framed u/s 143(3) of the Act. However, a show cause notice was issued u/s 263 of the Act alleging infirmities in the Assessment Orders so framed. The Ld. Counsel pointed out that the content of show cause notice was noted in para 2 of the Revisional Order. The reply to the SCN is also reproduced in para 3 of the revisionary order. The Ld. Counsel pointed out that some of the allegations were settled and accepted by the PCIT. However, some of the allegations were retained and the assessment order passed u/s 143(3) was set aside for a fresh assessment on such remaining issues.

4. The Ld. CIT(DR) adverted to the allegations made by the PCIT that despite the issuance of notice u/s 133(6) of the Act for verification of the outstanding liability, the creditor had not responded. Despite such lack of response, the Assessing Officer accepted the bona fide of the creditors, resulting in erroneous order which is prejudicial to the interest of the revenue.

5. The Ld. Counsel referred to the submission that notices U/s 133(6) were issued to three parties by the AO, namely Vardhman Steel outstanding Rs. 2 lakhs; Vardman Ispat outstanding Rs. 3 lakhs and simply money services outstanding Rs.1,74,495.86 at the end of the relevant financial year. The Ld. Counsel in this regard pointed out that notices were issued but these parties have some reasons not to respond. However, the ledger amounts and the banking transactions in subsequent years apparently vouched for the bonafide of the parties. As regards Vardham Ispat, the Ld. Counsel submitted that this was an opening balance of Rs. 3 lakhs under the F.Y. 2014-15. The Ld. Counsel adverted to the ledger account for the immediately subsequent F.Y. 2015-16, to show that the air tickets have been issued against advance receipts and the

outstanding amounts had been liquidated. As regards to outstanding amount of Rs. 3 lakhs, the Ld. Counsel yet again pointed out that there were no transactions in the preceding years, and the opening balance was brought forward from the earlier year and carried forward to the subsequent year, as evidenced by the ledger account. The Ld. Counsel made a similar submission that outstanding have been considerably liquidated from two lakhs to NIL (Vardhman Steel) outstanding Rs. 1,74,495/- in simply money to NIL.

6. The Ld. Counsel referred to the ledger account maintained in the subsequent financial year and adverted to the business transactions carried out and recorded in the ledger to submit that the outstanding amount has been settled in the subsequent F.Y. The Ld. Counsel thus submitted that the little preliminary inquiry in the right perspective by the PCIT would have resolved the issues in the revisional proceedings. A mere non-compliance with the notice issued u/s 133(6) by three parties can be seen with dis-favour when the circumstantial evidences itself vouchers for the bonafide of the outstanding amounts. The Ld. Counsel thereafter

submitted that there another three parties. The Ld. Counsel thereafter referred to para 5 of the revisional order and submitted that other three parties namely M/s Amigo Travells Pvt. Ltd. for Rs., 1,59,910/-, Riya Travels & Tour Pvt. Ltd. for Rs. 1,57,651 and Jet Save (I) Tours Pvt. Ltd. for Rs. 1,09,147.24 were also considered for fresh inquiries without reference in the show cause notice. In this context, the Ld. Counsel submitted that no show cause notice was issued with reference to these three parties. The Ld. Counsel submitted that the assessee learnt about inquiries with these three parties only upon the receipt of the revisional order. Thus, the principle of natural justice inherent in section 263 explicitly has been offended, the action of the PCIT thus in violation and thus, bad in law.

7. It was pointed that large number of transactions have been carried out with Riya Travels & Tour Pvt. Ltd. in the subsequent year which is a matter of record therefore, there is no adverse inference regarding the outstanding qua Riya Travels & Tours is plausible. Same is the case with Jet Save India Pvt. Ltd. of bare looking of the transactions carried out by the assessee and having

regard to the business, the assessee involved in, there was no warrant for the AO to doubt the veracity of the transaction or to indulge in lengthy inquiries. The AO, in his wisdom, has accepted the outstanding amounts as the bonafide in the discharge of this quasi judicial system. The Ld. Counsel thus submitted that the PCIT has imposed unnecessary inquiries by reopening the completed assessment u/s 263 of the Act without the assessment year being erroneous and prejudicial to the interest of revenue. The Ld. Counsel thus urges for the cancellation of the revisional order.

8. The Ld. CIT(DR) on the other hand, relied upon the revisional order.

9. We have carefully considered the rival submissions and perused the case records and material referred to and relied upon during the course of the hearing. As adverted on behalf of the assessee, we have perused the ledger accounts maintained for the three parties involved in the year 2014-15 as well as Financial Year 2015-16. A bare perusal of the case gives the impression that the transaction with these parties have been carried out in the ordinary course the business and there does not appear to be any reason to

suspect the bonafides of the transactions. There can be variety of reason for non-compliance with the notice issued u/s 133(6) of the Act by the Revenue. The assessee is no control over such non-compliance. On appraisal of the facts, it is observed that the assessee has demonstrated the bona fides of the transactions. These transactions are integrally connected to the business of travel and tour carried out by the assessee. Having regard to the volume of business and smallness of outstanding amount involved, the lesser enquiry per se does not deserve prolonged litigation by way of revisional proceedings. We also note that the case of the assessee was subjected to scrutiny assessment u/s 143(3) for the subsequent assessment year 2016-17 as well. Thus the transaction recorded in the subsequent year 2016-17 is also already assessed. Thus, in short either the allegations made towards lack of proper enquiry qua some parties are not borne out from facts on record or the allegations approved in the order were not confronted to assessee. The order of AO thus could not be reviewed.

10. In the absence of the assessment order being erroneous, the revisional action u/s 263 of the Act deserves to be struck down.

Therefore, the revisional order passed u/s 263 of the Act is thus to be set aside and quashed.

Order pronounced in the Open Court on 14.08.2024

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

Sd/-
(SUDHIR PAREEK)
JUDICIAL MEMBER

Dated: 14/08/2024.
Pooja/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	10.7.24
Date on which the typed draft is placed before the dictating Member	16.7.24
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	