

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "B", PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.994/PUN/2024  
निर्धारण वर्ष / Assessment Year: 2019-20

Patwardhan Hospital, Bansilal Nagar Padampura, Station Road, Chhatrapati Sambhajnagar, Aurangabad- 431001. PAN : AA EFP2233Q	Vs.	PCIT-1, Nashik.
Appellant		Respondent

Assessee by : Shri S.N. Puranikh  
Revenue by : Shri Ajay Kumar Keshari

Date of hearing : 27.08.2024  
Date of pronouncement : 30.08.2024

**आदेश / ORDER**

**PER SATBEER SINGH GODARA, JM:**

This assessee's appeal for assessment year 2019-20 arises against the PCIT-1, Nashik's order dated 19.03.2024 passed in case no. ITBA/REV/F/REV5/2023-24/1062957332(1) involving proceedings u/s 263 of the Income Tax Act, 1961; in short "the Act".

Heard both the parties at length. Case file perused.

2. It emerges at the outset that the assessee is aggrieved against the learned PCIT's revision directions holding the Assessing Officer's regular assessment dated 22.09.2021 as an erroneous one causing prejudicial to interest of Revenue for the sole reason that latter had not assessed the assessee's alleged suppressed professional receipts; declared as additional income, during the course of survey dated 26.02.2019, u/s 115BBE of the Act.

3. Shri Puranikh vehemently argued that the PCIT herein has erred in law and on facts in assuming section 263 revision's jurisdiction thereby directing the Assessing Officer to invoke section 115BBE *qua* assessee's professional receipts declared during survey. He further invites our attention to the case records that the assessee had duly filed all the relevant details pertaining to the impugned additional income which had rightly been assessed at normal rate than that suffering higher rate of taxation u/s 115BBE of the Act.

4. Learned CIT-DR on the other hand draws strong support from the PCIT's impugned revision directions, reading as under :-

*"06. The submissions of the assessee have been considered.*

*6.1 The present revision proceedings u/s 263 of the Act have been initiated on the ground that the assessment order passed u/s 143(3) of the Act by the AO for A.Y.2019-20 is erroneous and prejudicial to the interests of the revenue, as the assessee has declared the amount of Rs.70,90,144/- as his additional income, and the same should have*

*been taxed as per the provisions of section 115BBE of the Act. The AO has failed to do so and had accepted the returned income filed by the assessee.*

*6.2 On perusal of assessee's submission filed during the revisionary proceedings, it is seen that the assessee has declared an amount of Rs.70,90,144/- on account of excess stock over and above regular income during the survey proceedings. It is pertinent to mention here that, if the survey might not have been conducted, this income could not have been unearthed. It is therefore, not a voluntary disclosure of the assessee, but had disclosed this income (i.e. unexplained investment) only after survey action. Therefore, section 69 is squarely applicable and required to be taxed under provisions of section 115BBE of the Income Tax Act. The relevant portion of the section 69 is read as under:*

*“69. Unexplained investments.*

*Where in the financial year immediately preceding the assessment year the assessee has made investments which are not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of the investments or the explanation offered by him is not, in the opinion of the [Assessing Officer] [Substituted by Act 4 of 1988, Section 2, for "Income-tax Officer" (w.e.f. 1.4.1988).], satisfactory, the value of the investments may be deemed to be the income of the assessee of such financial year.”*

*During the assessment proceedings, the AO has failed to consider the same by adding the whole amount of declaration of Rs.70,90,144/- by applying the provisions u/s 115BBE of the Act. Considering the overall facts of the case, it is clearly established that all these details have escaped proper scrutiny in the hands of A.O, Therefore, it can be inferred safely that AO has failed to cause proper inquiries and consequential verifications which rendered assessment order erroneous and prejudicial to the interest of revenue.*

*7. In the light of the detailed discussion made hereinabove, I am of the considered opinion that the assessment order passed u/s. 143(3) of the Act for Assessment Year 2019-20 on 22.09.2021 by the then AO, is erroneous in so far as it is prejudicial to the interests of Revenue, because the assessment has been made not only without proper verification but also without applying the relevant provisions of the Act properly. Therefore, the provisions of section 263 of the I.T. Act, 1961 are hereby invoked and assessment order passed by the AO on the above issue is hereby set aside as mentioned in para 03 above.*

*The AO is directed that the assessment order be framed afresh as per the provisions of law, after considering proper facts and submissions of the assessee on the issue set-aside herein above, after*

*affording proper opportunity to the assessee within the time allowed under the Income-tax Act, 1961.”*

5. We have given our thoughtful consideration to the assessee's foregoing contentions and find no merit therein. We wish to make it clear that there is hardly any dispute between the parties about the fact that this assessee is an "Orthopaedic" hospital providing maternity and other similar facilities. That being the case, we are of the considered view that the Rule 6F(3)(i) stipulates that such a "person" carrying out specified profession(s) i.e. "medical" herein is supposed to maintain a daily "case register" in Form No.3C prescribing the relevant particulars including the patients' names, nature of services rendered, fees received and data of receipt etc. We find that the assessee's instant case file nowhere indicates compliance thereof which could take us to the conclusion that its impugned additional income has been derived from regular business activities only. We thus conclude that once the learned Assessing Officer had not carried out his detailed enquiry(ies) to this clinching fact for the purpose of assessing the assessee's additional/surrendered income during survey; the same renders his assessment dated 22.09.2021 as an erroneous one causing prejudicial to interest of the Revenue. Learned PCIT has rightly

assumed his section 263 revision's jurisdiction in light of Malabar Industrial Co. Ltd vs. CIT (2000) 243 ITR 83 (SC) in these facts and circumstances. We thus uphold the learned PCIT's revision direction in very terms.

6. This assessee's appeal is dismissed.

Order pronounced on this 30<sup>th</sup> day of August, 2024.

Sd/-  
**(G. D. PADMAHALI)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 30<sup>th</sup> August, 2024.

*Sujeet*

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-1, Nashik.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "B" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.