

**आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**INDORE BENCH, INDORE**  
**BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER**  
**AND**  
**SHRI B.M. BIYANI, ACCOUNTANT MEMBER**

**ITA No. 405/Ind/2024**  
**Assessment Year : 2014-15**

Nirmal Kumar Jain, 2A, Scheme No. 71-C, Footi Kothi Square, Indore (Assessee/Appellant)	<b><u>बनाम/</u></b> Vs.	PCIT, Central (Bhopal), Bhopal (Revenue/Respondent)
<b>PAN: ABZPJ8975D</b>		
Assessee by	Shri Subhash Chand Jain, CA	
Revenue by	Shri Ram Kumar Yadav, CIT DR	
Date of Hearing	29.08.2024	
Date of Pronouncement	30.08.2024	

**आदेश / O R D E R**

**Per B.M. Biyani, A.M.:**

Feeling aggrieved by revision-order dated 26.03.2024 passed by learned Pr. Commissioner of Income-Tax (Central), Bhopal ["PCIT"] u/s 263 of Income-tax Act, 1961 ["the Act"] which in turn arises out of assessment-order dated 30.03.2022 passed by learned ACIT, Central, Bhopal ["AO"] u/s 153C r.w.s. 143(3) of the act for Assessment-Year ["AY"] 2014-15, the assessee has filed this appeal on the grounds raised in Appeal-Memo (Form No. 36).

2. The background facts leading to present appeal are such that a search u/s 132 was conducted upon "P.N. Group, Guna" on 09.01.2020 wherein certain incriminating material relating to assessee was found. Pursuant thereto, information was passed by search-authorities to assessee's AO and necessary satisfactions were recorded and proceedings u/s 153C were taken against assessee for six AYs 2014-15 to 2019-20. Ultimately, the AO completed assessments of six AYs 2014-15 to 2019-20 u/s 153C and assessment of search year 2020-21 u/s 143(3) vide a consolidated assessment-order dated 30.03.2022. Subsequently, Ld. PCIT examined the record of assessment-proceeding and viewed that the assessment-order passed by AO u/s 153C for AY 2014-15 is erroneous in so far it is prejudicial to the interest of revenue which attracts revisionary-jurisdiction u/s 263. Accordingly, the PCIT issued show-cause notice dated 05.01.2024 and finally passed revision-order dated 26.03.2024. Aggrieved by such revision-order, the assessee has come in this appeal before us.

3. Ld. AR for assessee carried us to revision-order and demonstrated that there is one single issue for which the PCIT undertook revision. The PCIT has noted that the assessee had outstanding loans on 01.04.2013 amounting to Rs. 1,79,40,463/-. The assessee paid average rate of interest 12% per year on such loans amounting to Rs. 24,81,221/- whereas the assessee had given loan to one MNHRC Ltd. amounting to Rs. 3,15,86,669/- at the rate of 9% per year and received interest of Rs. 27,55,050/-. Thus, the assessee had taken loan at a higher rate of 12% and given loan at a lower rate of 9%, hence the excess interest of 3% paid by assessee amounting to Rs. 5,38,214/- (3% of Rs. 1,79,40,463/-) was not in order and required to be added back to assessee's income. The PCIT also observed that

the AO has not even examined this issue during assessment-proceeding. Therefore, the assessment-order passed by AO is rendered erroneous-cum-prejudicial to the interest of revenue warranting revisionary action u/s 263.

4. We have heard learned Representatives of both sides peacefully and considered their submissions and perused the impugned order in the light of applicable provisions of Income-tax Act.

5. On a careful consideration, we find that the PCIT has revised the assessment-order of AY 2014-15 passed by AO u/s 153C for the sole reason that the AO has not examined the claim of excess interest of 3% paid by assessee on loans taken in comparison to the interest received on loans given. This premise taken by Ld. PCIT is not based on any incriminating material having been found in the search and transmitted to AO by the search-authorities. Undisputedly, the AY 2014-15 was a 'completed/unabated year' since no assessment relating to that year was pending as on the date of search and therefore the AO could examine only the 'incriminating material' relating to assessee found during search and transmitted to him by search-authorities. The AO had no jurisdiction to make any addition or disallowance *de hors* incriminating material. This is a settled proposition for assessment to be made u/s 153A/153C as per landmark judgement of Hon'ble apex court in **PCIT Vs. Abhisar Buildwell Pvt. Ltd. (2023) 454 ITR 212 (SC)**. The facts of case shows that the PCIT has revised AO's order for the issue of disallowance of excessive interest paid by assessee on loans taken in comparison to the interest received on loans given. The issue raised by PCIT does not emanate from any of the incriminating material in possession of AO and therefore the AO did not have

any jurisdiction or authority to enter into the issue raised by PCIT. When it is so, the PCIT is apparently wrong in revising AO's order and directing the AO to reframe assessment for such an issue. Needless to mention that the PCIT has directed the AO to do something which is not within the domain, jurisdiction or authority of AO while framing assessment u/s 153C. Faced with this situation, we straightaway hold that the impugned revision-order passed by Ld. PCIT is not a valid order. Other pleadings made by Ld. AR are rendered academic when we have held so. We, thus, quash the revision-order and restore the original assessment-order passed by AO. The assessee succeeds in this appeal.

**6. Resultantly, this appeal is allowed.**

Order pronounced in open court on 30.08.2024
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Sd/-  
(VIJAY PAL RAO)  
JUDICIAL MEMBER

sd/-  
(B.M. BIYANI)  
ACCOUNTANT MEMBER

**Indore**

*दिनांक* /Dated : 30.08.2024

CPU/Sr. PS

Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File

By order  
Assistant Registrar  
Income Tax Appellate Tribunal  
Indore Bench, Indore