

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER  
AND  
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.760/PUN/2024

निर्धारण वर्ष / Assessment Year : 2018-19

Udaising U. Jadhav, N-3, Nakshatrum, Premlok Park, Chinchwad, Dist. Pune 411 033 Maharashtra PAN : AIMPJ1766G	Vs.	Pr.CIT-3, Pune
Appellant		Respondent

Assessee by : Shri Piyush Bafna  
Revenue by : Shri Ajay Kumar Keshari

Date of hearing : 23.09.2024  
Date of pronouncement : 23.09.2024

**आदेश / ORDER**

**PER INTURI RAMA RAO, AM :**

This is an appeal filed by the assessee directed against the order of Id. Principal Commissioner of Income Tax, Pune-3, dated 14.02.2024 passed u/s.263 of the Income-tax Act, 1961 (hereinafter also called 'the Act') for the assessment year 2018-19.

2. Briefly, the facts of the case are that the appellant is an individual deriving income under the head "Business". The Return of Income for the A.Y.2018-19 was filed on 30.10.2018 declaring income of Rs.12,58,650/-. Against the said return of income, the assessment was

completed by the Assessing Officer (AO) vide order dated 05.04.2021 passed u/s.143(3) r.w.s.143(3A) & 143(3B) at a total income of Rs.20,58,650/-. The Id. PCIT, on examination of the assessment record, found that the appellant infact received remuneration to the tune of Rs.37,00,000/- from the following partnership firms based on the information reflected in Form No.26AS whereas the appellant had disclosed remuneration from partnership of Rs.32,00,000/- only.

S.No.	Name of the Partnership Firm	Remuneration Received Rs.
1	M/s. Business Solutions	29,00,000/-
2	M/s. Fitness 18	5,00,000/-
3	M/s. Shri Ganesh Associates	3,00,000/-
	Total	Rs.37,00,000/-

The Id. PCIT further held that though in the assessment order the AO made addition of Rs.8,00,000/- only, the same was not included while computing the tax liability of the appellant. Thus, the Id. PCIT formed opinion that the assessment order passed by the AO is erroneous and prejudicial to the interest of the Revenue. Accordingly a show cause notice u/s.263 was issued to the appellant on 07.12.2023 for which no compliance was made and another notice was issued on 24.01.2024 which also remained uncomplied. In the circumstances, the Id. PCIT vide order dated 14.02.2024 passed *ex parte* order setting aside the assessment order to the file of AO for passing assessment order afresh after making necessary enquiries on the issue.

3. Being aggrieved, the appellant is in appeal in the present appeal. The appellant filed the following additional ground contending that no valid notice u/s.263 was issued by the PCIT :

*“On the facts and in the circumstances of the case and in law, the order passed u/s.263 by the ld. PCIT-3 is not valid since there is no valid and proper service of show cause notice u/s.263 and, therefore, the same may please be quashed.*

4. During the proceedings before this Tribunal, the ld. CIT-DR has shown the Bench the acknowledgement for proof of service of show cause notice u/s.263, the scanned copy of which is reproduced below :

NOTICE FOR THE HEARING / A.Y. 2018-19 / 3088 /  
 Proceedings u/s 263 of I.T. Act 1961  
 प्राप्ति स्वीकृती / ACKNOWLEDGEMENT / 3088

TO,  
 Received DN / Challan / RD / AY / Rs. Date:  
 उदासिंग उमाकान्त जाधव,  
 पानेवाले  
 N. 3 603 Nakshatrum Prem Lax Park  
 Addressed to  
 Chinchwad, Pune. 411033

को / on \_\_\_\_\_

पानेवाले का / Receiver's  
 हस्ताक्षर और नाम / Signature & Name

CHINCHWAD  
 411033  
 29-12-24  
 UELY.  
 135

5. Thus, the additional ground of appeal filed by the appellant is misconceived and dismissed as such.

6. We heard the rival submissions and perused the material on record. On merits of the case, the contention of the ld. AR that it is only a mere inadequate enquiry and not lack of enquiry, therefore, the ld. PCIT ought not to have exercised jurisdiction u/s.263, cannot be accepted for the reasons that the AO had not made necessary enquiries,

which are required in the facts of the case. Moreover, the Id. PCIT had only set-aside the assessment order for passing assessment order afresh after making necessary enquiries on the issue. Therefore, no prejudice is caused to the appellant. The Id. AR had failed to show that there is an apparent mistake in exercise of jurisdiction u/s.263 and the appellant had failed to comply with the notices issued by the Id. PCIT u/s.263. Further, the Id. AR had failed to demonstrate as to how the assessment order by the AO is not erroneous and prejudicial to the interest of the Revenue. In the light of this discussion, we hold that the Id. PCIT had rightly exercised jurisdiction u/s.263 of the Act.

7. In the result, the appeal filed by the appellant stands dismissed.  
Order pronounced on this 23<sup>rd</sup> day of September, 2024.

**Sd/-**  
**(VINAY BHAMORE)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 23<sup>rd</sup> September, 2024.  
Satish

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

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

आदेशानुसार / BY ORDER,

// True Copy //

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