

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE "A" BENCH : PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

I.T.A.No.952/PUN./2024
Assessment Year 2012-2013

Shri Ashish Mahendra Chandiwal, Plot No.17, Behind New Jain Temple, Dadawadi, JALGAON. PIN - 425001 PAN ACTPC2281Q Maharashtra.	vs.	The Income Tax Officer, Ward - 1 (1), O/o. Pr. Commissioner of Income Tax-1, Kendriya Rajaswa Bhawan, Old Agra Road, NASIK - 422 002. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri Jayesh P Doshi, CA
For Revenue :	Shri Amol Khairnar, CIT-DR

Date of Hearing :	09.10.2024
Date of Pronouncement :	14.10.2024

ORDER

PER SATBEER SINGH GODARA, J.M.

This assessee's appeal for assessment year 2012-2013, arises against the learned PCIT, Nashik-1, Nashik's Din and Order No.ITBA/REV/F/REV5/2023-24/1062852443(1), dated 18.03.2024, in in proceedings u/s.147 of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties. Case file perused.

2. The assessee pleads the following substantive grounds in the instant appeal :

GROUND 1:

FOUNDATIONS OF APPEAL

a) The learned 'PCIT Nasik 1' erred in issuing notice U/S 263 of the Income Tax Act, 1961 where Appellant has already opted for Vivad Se Vishwas, 2020 and paid taxes and form 3 i.e., certificate U/S 5(1) if Direct Tax Vivad Se Vishwas 2020 is issued on 07/02/2021 and form 4 i.e., intimation of payment of taxes is filed by Appellant on 19/02/2021.

b) Learned PCIT failed to appreciate and ought to have held that in view of sec. 5 of Vivad Se Vishwas, 2020, he has no revisional powers for the assessment year for Appellant has opted Vivad Se Vishwas, 2020.

c) In view of the above Appellant prays the order passed u/s 263 of the Act be held as void ab initio and bad in law.

GROUND II: WITHOUT PREJUDICE TO ABOVE

a) The learned PCIT has erred in passing the order under Section 263 of the Act inspite the fact, the Assessment Proceeding initiated under Section 263 was already dropped by Income Tax Department.

b) He failed to appreciate the contention put forth by the appellant on this count has not been even considered in the order passed by him.

c) He failed to appreciate and ought to have held that once the Assessment Order in pursuance of Section 263 order has been dropped, no fresh proceeding under Section 263 can be initiated.

d) In view of the above facts and circumstances of the case the order passed by 'PCIT, Nasik 1' under Section 263 be set aside and held as void as initio.

GROUND III: GENERAL

The Appellant craves leave to add to amend and / or alter the above grounds of appeal at the time of hearing.”

3. It emerges at the outset that the assessee's instant appeal hardly requires our detailed adjudication. This is for the precise reason that learned PCIT had passed his earlier revision order dated 19.03.2021 terming the Assessing Officer's sec.143(3) r.w.s.147 assessment/re-assessment dated 27.12.2019 as an erroneous one causing prejudice to the interest of the Revenue. The assessee appears to have preferred his appeal before the tribunal which restored the matter back to the learned PCIT vide order dated 25.08.2022.

4. Learned CIT-DR could hardly dispute the clinching fact emerging from the case file at page-10 that the assessing authority's consequential sec.143(3) r.w.s.263 assessment/order already dropped the same on 24.03.2022 [page-10 in case file]. This being the most clinching aspect of the matter, we are of the considered view that if at all; the learned PCIT had to invoke his revision jurisdiction afresh; the same would hardly include the former round of assessment herein dated 27.12.2019 and therefore, we conclude that his impugned order dated 18.03.2024 once again directing the Assessing Officer to frame a *de novo* assessment in assessee's case is not sustainable in law since the taxpayer/appellant has already succeeded in the Assessing Officer's consequential proceedings. The assessee succeeds in its instant sole substantive ground in very terms.

All other pleadings in the assessee's instant appeal stand rendered academic.

5. This assessee's appeal is allowed in above terms.

Order pronounced in the open Court on 14.10.2024.

Sd/-
[DR. DIPAK P. RIPOTE]
ACCOUNTANT MEMBER

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 14th October, 2024

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The Pr. CIT, Nashik-1, Nashik. concerned
4.	D.R. ITAT, "A" Bench, Pune.
5.	Guard File.

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches,
Pune.