

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'A', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA

Before Shri Sanjay Garg, Judicial Member and Shri Sanjay Awasthi, Accountant Member

I.T.A. No.1695/Kol/2024
Assessment Year: 2018-19

Swal Limited **Appellant**
1/1, Ananindra Nath Thakur Sarani,
3rd Floor, Kolkata-700016.
(PAN: AAHCS5978F)

vs.

Principal Commissioner of Income Tax, **Respondent**
Kolkata-1, Kolkata.

Appearances by:

Shri Miraj D. Shah, AR appeared on behalf of the appellant.

Shri Subhendu Datta, CIT, DR appeared on behalf of the Respondent.

Date of concluding the hearing :October 03, 2024

Date of pronouncing the order :October 03, 2024

आदेश / ORDER

संजय गर्ग, न्यायिक सदस्य द्वारा/ Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the revision order dated 30.11.2023 of the Ld. Pr. Commissioner of Income Tax, Kolkata-1, Kolkata (hereinafter referred to as the "Ld. Pr. CIT") passed u/s. 263 of the Income-tax Act, 1961 (hereinafter referred to as the "Act").

2. There is a delay of 196 days as informed by the Registry. An application for condonation of delay has been filed by the assessee, wherein, it has been explained that no notice of hearing for passing of the order was received by the assessee from the Ld. Pr. CIT. That the assessee has come to the knowledge of the impugned order of the Ld. Pr. CIT only when the assessee received notice for the consequential assessment proceeding. Thereafter, the assessee checked the Income

Tax Portal and came to know of the passing of the impugned order of the Ld. Pr. CIT. In view of the explanation given, we find that there is a reasonable cause to the assessee for late filing of the appeal, the delay in filing the present appeal is hereby condoned.

3. At the outset, the assessee in this appeal has contested the very validity to exercise the revision jurisdiction by the Ld. Pr. CIT u/s. 263 of the Act. At the outset, Ld. Counsel for the assessee invited our attention to page 38 of the paper book, which is annexure to the copy of the notice issued to the assessee u/s. 148A(b) of the Act. Opening para of the said Annexure reads as under:

“You had invested in penny scrip M/s. Sunstar Realty Development Ltd. having scrip code 535141 and Stampede Capital Limited during the FY 2017-18 relevant to AY 2018-19 to the tune of Rs.58,62,110/- and 2,19,000/- respectively. It is also found from information that you had received an amount of Rs.10,00,000/- from M/s. Gokul Vintrade Pvt. Ltd.”

4. The Ld. AR of the assessee, therefore, has explained that in this case, the reopening of the assessment was proposed for three grounds i.e. the assessee has invested in penny scrip of M/s. Sunstar Realty Development Ltd. and M/s. Stampede Capital Limited during the financial year (in short, “the FY”) 2017-18 relevant to Assessment Year (in short, “the AY”) under consideration and further, that the assessee had received an amount of Rs. 10 lakh from M/s. Gokul Vintrade Pvt. Ltd. which was unexplained. The Ld. Counsel has further invited our attention to page 114 of the paper book which is an order passed u/s. 148A(d) of the Act, to submit that the aforesaid three issues were duly examined, the reply and submissions of the assessee were considered and thereafter, the proposal to reopen of the assessment u/s. 147 of the Act was dropped by the Assessing Officer (in short “the AO”) by taking permission from the competent authority i.e. Ld. Pr. CIT. The Ld. Counsel bringing our attention to the impugned order of Ld. Pr. CIT has

submitted that now same Pr. CIT, while exercising his revisional jurisdiction u/s. 263 of the Act, has set aside the assessment order on the same very issues which has been fully examined and considered by the AO by serving notice u/s. 148A(b) and discussed in the order u/s. 148A(d) and the proposal to reopen the assessment was dropped vide order dated 31.10.2022. It is also an admitted fact that the said proposal was dropped after taking permission of the Ld. Pr. CIT, which means that the Ld. Pr. CIT was also duly applied his mind on the same issues before giving approval to drop the same. Therefore, subsequently the exercise of revisional jurisdiction by the same Ld. Pr. CIT on the same issues cannot be held to be justified. Therefore, the impugned revision order passed u/s. 263 of the Act is not sustainable and the same is hereby quashed. Appeal of the assessee stands allowed.

5. In the result, the appeal of the assessee stands dismissed.

Order is pronounced in the open court.

Sd/-
[Sanjay Awasthi]
लेखा सदस्य/Accountant Member

Sd/-
[Sanjay Garg]
न्यायिक सदस्य/Judicial Member

Dated: 03.10.2024.

JD

Copy of the order forwarded to:

1. **Appellate – M/s. Swal Limited**
2. **Respondent – Pr. Commissioner of Income Tax, Kolkata-1.**
3. AO, NFAC, Delhi
4. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches

