

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'C' BENCH: CHENNAI**

श्री यस यस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री जगदीश, लेखक सदस्य के समक्ष  
**BEFORE SHRI SS VISWANETHRA RAVI, JUDICIAL MEMBER AND**  
**SHRI JAGADISH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.314 & 315/Chny/2022  
निर्धारण वर्ष /Assessment Years: 2012-13 & 2013-14

Subramanian Shanmuganathan,  
New No.16, Sathullah Street,  
T.Nagar, Chennai-600 017.  
[PAN: AAYPS 9235R]

**Vs.** The Principal Commissioner of  
Income Tax,  
Madurai-1.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by  
प्रत्यर्थी की ओर से /Respondent by

: Shri N. Arjun Raj, Advocate  
: Shri R. Clement Ramesh Kumar, CIT

सुनवाई की तारीख/Date of Hearing

: 08.08.2024

घोषणा की तारीख /Date of Pronouncement

: 29.10.2024

**आदेश / ORDER**

**PER JAGADISH, A.M :**

Aforesaid two appeals filed by the assessee for Assessment Years (AYs) 2012-13 & 2013-14 arises out of the orders of Learned Principal Commissioner of Income Tax, Madurai-1 [hereinafter "PCIT"] dated 12.03.2021 & 22.03.2021.

2. There is a delay of 363 days in filing both the appeals by the assessee. The assessee has filed condonation petition stating the reasons for delay in filing the appeals. We have considered the petition

: - 2 - :

of delay in filing the appeals and satisfied that there was sufficient cause for not filing the appeals within the prescribed time limit. Hence, the delay is condoned accordingly.

3. The only effective ground of appeal in both the appeals of assessee are against revision order passed by Ld. CIT(A) u/s. 263 of the Act holding the order passed by the A.O is erroneous and prejudicial to the interest of Revenue.

**ITA No.314/Chny/2022 for A.Y 2012-13:**

4. The assessee has filed return of income for the A.Y 2012-13 admitting total income of Rs. 15,91,970/- and agricultural income of Rs. 10 Lakhs. The A.O on the basis of information received from Investigation Wing that the assessee has purchased property at T. Nagar, Chennai along with his wife for Rs. 5.2 Cr. against document value of Rs.1.2 Cr. and the seller, Shri P. Seeman, has accepted that he has received amount of Rs. 4.4 Cr. in cash from the assessee and his wife for sale of property has reopened the assessment. In response to notice u/s. 148 of the Act, the assessee has filed return of income on 20.07.2017 declaring total income of Rs. 24,74,520/-. The A.O in the order passed u/s. 143 r.w.s 147 of the Act has accepted the returned income. The Ld. PCIT after examining the case record held

*:- 3 -:*

the order passed by A.O is erroneous and prejudicial to the interest of Revenue as the A.O in the reassessment proceeding has accepted the return of income without examining and verifying as under:

- a) *The A.O has not examined the claim of the assessee that no cash payment was made for the purchase of property during the assessment proceedings to ascertain the genuineness of the claim: and*
- b) *The A.O has also failed to verify the genuineness of sundry creditor and debtor during the course of assessment proceedings.*

5. The Ld. Authorized Representative (A.R) of the assessee has argued that the A.O has reopened the proceedings with regard to specific issue and when he was satisfied with regard to the said issue and taken a decision, the PCIT should not have passed the revision order directing the A.O to re-decide the same. The Ld. AR has relied on the decision of Hon'ble High Court of Calcutta in the case of PCIT v. Usha Polychem India (P.) Ltd. [2023] 149 taxmann.com 240 (Calcutta). The Ld. AR has further argued that the directions rendered by PCIT in para 7 cannot be enforced by the A.O as the power of A.O to make fresh enquiry is restricted to the reasons for which the case was reopened. The Ld. AR has relied on the decision of Hon'ble High

Court of Bombay in the case of CIT v. Jet Airways (I) Ltd. [2011] 331 ITR 236 (Bombay).

6. The Ld. Departmental Representative (DR), on the other hand, supported the order of Ld. PCIT and argued that the A.O has not examined/cross verified as to whether any cash payments were made by the A.O for the purchase of property. The Ld. DR has further argued that the A.O has accepted the difference in proprietary capital account filed in the original return and filled during reopened assessment, without making any verification and also without verifying the genuineness of sundry creditor filed during reassessment proceedings.

7. We have heard the rival submissions, and perused the materials available on record. The A.O has reopened the assessment on the basis of information that the assessee and his wife have purchased an immovable property for Rs. 1.20 Cr. However, the seller has admitted that he has received a cash of Rs.4.4 Cr. over and above the document value of the property. The A.O during reassessment proceedings has not made any enquiry regarding the cash paid for the above property. The Ld. PCIT after examining the case record has

*:- 5 -:*

found that the A.O has passed the assessment without making enquiries about cash deposit and making enquiry about sundry debtor and creditor submitted during the reassessment proceedings. The Ld. PCIT has held the assessment order passed by A.O u/s 147 of the Act, is erroneous and prejudicial to the interest of Revenue as the A.O has not made enquiries or made verification which should have been done.

8. The Explanation 2 to Section 263 of the Act clearly stipulates that an order passed by the A.O shall be deemed to be erroneous in so far as it is prejudicial to the interest of Revenue if in the opinion of Ld. PCIT the order is passed without making enquiries or verification which should have been made. The Ld. PCIT after examination of assessment record has also noticed that assessee during reassessment proceeding has submitted revised capital account, sundry debtors and sundry creditors and assessing officer has not verified the same. The Ld. AR has relied on the decision of Hon'ble High Court of Calcutta in the case of PCIT v. Usha Polychem India (P.) Ltd., supra, which is distinguishable of facts as the A.O in the present case has not made any enquiry on the issue for which the case was reopened. The Ld. PCIT has clearly brought out that assessment

order has been passed without making enquiry/verification and therefore, we uphold the order of Ld. PCIT. In view of the above, we uphold the order passed by the Ld. PCIT.

**ITA No.315/Chny/2022 for A.Y 2013-14:**

9. The fact of the case for A.Y 2013-14 is identical except that the A.O has reopened the assessment as the assessee has made a cash deposit of Rs. 9,24,57,000/- in his saving bank account but has not filed return of income. The A.O in the assessment order has passed order u/s. 147 of the Act and has accepted the return without making any enquiry. The Ld. PCIT after examination of case record has noticed that as per balance sheet filled opening capital balance as on 01.04.2023 was Rs.1,70,45,635, but the closing capital balance as on 31.03.2013 was Rs 77,35,435/- and A.O has not made any enquiry or examined the difference. The assessment order has been passed for both the year AY. 2012-13 and 2013-14 on 12.09.2017 and assessee has made similar submission. The Ld. PCIT has held both reassessment orders erroneous and prejudicial to the interest of Revenue u/s. 263 of the Act vide orders dated 12.03.2021. The Ld. AR has made identical submissions as in A.Y 2012-13. As the facts are

: - 7 - :

identical and arguments of Ld. AR and Ld. DR are identical, the finding given in A.Y 2012-13 is applicable for A.Y 2013-14 as well.

11. In the result, both the appeals filed by the assessee are dismissed.

*Order pronounced on 29<sup>th</sup> October, 2024.*

Sd/-  
(यस यस विश्वनेत्र रवि)  
**(SS Viswanethra Ravi)**  
न्यायिक सदस्य / **Judicial Member**

Sd/-  
(जगदीश)  
**(Jagadish)**  
लेखा सदस्य / **Accountant Member**

चेन्नई/Chennai, दिनांक/Dated: 29<sup>th</sup> October, 2024.

EDN/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Madurai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF