

THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "D" BENCH

**Before: Ms. Suchitra Kamble, Judicial Member
And Shri Makarand V. Mahadeokar , Accountant Member**

**ITA Nos. 1026 & 1027/Ahd/2024
Assessment Year 2013-14 & 2014-15**

Anil Exports (India), C/o Vinod Texworld Pvt. Ltd. 185/2, Saijpur, Gopalpur, Piplej Pirana Road, Piplaj, Ahmedabad PAN: AARFA4926G (Appellant)	Vs	DCIT, Circle-2(1)(1) Ahmedabad (Respondent)
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**Assessee by: Shri Sudhir Mehta, A.R.
Revenue by: Shri Prothviraj Meena, CIT-D.R.**

Date of hearing : 17-10-2024
Date of pronouncement : 29-10-2024

आदेश/ORDER

PER : SUCHITRA KAMBLE, JUDICIAL MEMBER:-

These two appeals are filed by the assessee against the order of the Principal Commissioner of Income Tax, PCIT, Ahmedabad-1, in proceeding u/s. 147 vide order dated 19/03/2024 passed for the assessment year 2013-14 & 2014-15.

2. The grounds of appeal are as under:-

“1. The Learned PCIT has erred in law in setting aside the re-assessment order passed u/s. 147 r.w.s. 144B of the Income Tax Act and holding that the Assessing Officer has not verified the information, though on the very same information the case was reopened and examined/verified and no additions were made.

2. The Learned PCIT has erred in law in holding that the order of the A.O. is found erroneous and prejudicial to the interest of the Revenue, though the Learned PCIT has not established the same.

3. The Learned PCIT has erred in law invoking revisionary powers under section 263 of the act by issuing notice, which is barred by limitation since the assessment order was passed on 30.07.2015 and the notice u/s 263 was issued on 29.02.2024 which is beyond the specified time limit. The re- assessment order passed without making any additions; therefore, the time limit for invocation under Section 263 of the act has to be considered from the original assessment order.

4. The Learned PCIT erred in law in directing the assessing officer to consider the same information again, which was already considered while passing the order under Section 147 r.w.s. 144B of the Act.

5. The Learned PCIT has failed to establish that the re-assessment order passed is erroneous in so far as it is prejudicial to the interest of revenue.

6. The Learned PCIT erred in law, invoking Section 263 of the Act for enhancing the income, tax, or penalty of the assessee.

7. The appellant craves leaves to add, alter and or to amend all or any of the grounds of the appeal.”

3. Firstly we are taking No. 1026/Ahd/2024. The return of income for assessment year 2013-14 was filed on 02-09-2024 declaring total income of Rs. 10,87,490/-. The assessment order u/s. 143(3) of the Act was passed on 03-07-2015 determining total income of Rs. 11,70,590/-. The Assessing Officer has accepted the income of the assessee. Thereafter, reassessment proceedings initiated and order u/s. 147 r.w.s. 144B was passed on 28-03-2022 by accepting the returned income. The Pr. CIT observed that the reasons for reopening was accommodation entry from entry operator Shri Sanjay Govindram Agrawal (also known as Sanjay Tribereval). In the

course of the assessment proceedings, the Assessing Officer has not made any addition despite specific information about accommodation entries as per the observation of the Pr. CIT. Accordingly, notice u/s. 263 of the Act was issued on 29-02-2024. In response to the same, the assessee submitted its reply along with copies of correspondences made with the Assessing Officer during the assessment proceedings. After taking cognizance of the same, the Pr. CIT set aside the assessment order passed u/s. 147 r.w.s. 144B of the Income Tax and directed the Assessing Officer to pass a fresh assessment order.

4. Being aggrieved by the order u/s. 263 of the Act, the assessee filed before us.

5. The Id. A.R. submitted that the Pr. CIT was not right in setting aside the re-assessment order passed u/s. 147 r.w.s. 144B of the Act thereby holding that the Assessing Officer has not verified the information though on the very same information, the case of the assessee was reopened, examined and verified by the Assessing Officer and no additions were made after going through the details submitted by the assessee during the assessment proceedings conducted. The Id. A.R. further submitted that while Pr. CIT invoking revisionary powers u/s. 263 of the Act by issuing the notice which is barred by limitation. Since the assessment order was passed on 30-07-2015 and notice u/s. 263 was issued on 29-02-2022 which is beyond the specified limit. The re-assessment order passed without making any addition, therefore, the time limit for invocation u/s. 263 of the Act has to be considered from the original assessment order. The Pr. CIT also was not

correct in directing the Assessing Officer to consider the information again which is already considered while passing the order u/s. 147 r.w.s. 144B of the Act. The Id. A.R. relied various case laws which are as under:-

- 1.ITA No. 513/Ahd/2024 Dipikaben Kaniyalal Prajapati Vs Principal Commissioner 2 [2023] 149 taxmann com 240 (Calcutta) of Income-tax
2. Principal Commissioner of Income tax v Usha Polychem India (P) Ltd
3 [2021] 131 taxmann com 117 (Madras)
Commissioner of Income-tax Chennai v Barry-Wehmiller International Resources (P) Ltd
4. [2020] 117 taxmann.com 799 (Karnataka)
Commissioner of Income-tax v International Society For Krishna Consciousness
5. [2022] 139 taxmann com 89 (Mumbai - Trib)
Vipul Modi v Principal Commissioner of Income-tax
6. [2022] 135 taxmann com 335 Mumbai - Trib)
Aishwarya Rai Bachchan v Principal Commissioner of Income-tax-8

6. The Id. D.R. submitted that the information was received from the portal and the Pr. CIT has categorically mentioned that the Assessing Officer in respect of reopening proceedings has not verified the documents and therefore the assessment order passed u/s. 147 of the Act is erroneous and prejudicial to the interest of revenue. The Id. D.R. further submitted that the Assessing Officer has not verified the information available on insight portal wherein it was clearly stated out that the assessee has transacted with the sham entities managed and operated by Shri Sanjay Agrawal, entry operator

and there was a transaction of Rs. 81,56,331/- deposits and withdrawals. The Id. D.R. relied on the order of the Pr. CIT passed u/s. 263 of the Act.

7. We have heard both the parties and perused the materials available on record. The contention of the Id. A.R. that the Pr. CIT has invoked section 263 in respect of assessment order u/s. 143(3) dated 30-07-2015 is not justifiable as the Pr. CIT in para 1 of the order u/s. 263 categorically mentioned that the initiation of section 263 is in respect of order u/s. 147 r.w.s. 144B passed on 25-03-2022. Thus, this contention of the Id. A.R. is rejected. While coming to the observations of the Pr. CIT that the reopening has not taken into account the accommodation entries and the Assessing Officer has not taken the cognizance of the information which was given while recording the reasons for reopening is not justified. After going through the reassessment order u/s. 147 r.w.s 144B as the Assessing Officer after verifying the data has categorically mentioned that the assessee has filed the response to all the notices and furnished the details which does not find any discrepancies and therefore accepted the assessee's return of income. Further at the time of hearing, the assessee has produced all the details related to the said lenders (parties), confirmations of these parties along with bank statements and ledger accounts which has categorically given all the details related to the business transactions of the assessee and therefore all these documents were present before the Assessing Officer and the assessee has taken a right view to accept the return of income of the assessee. The PCIT has overlooked all these evidences and has expressed his different view which amounts to second opinion and therefore invocation of section 263 is not justifiable. There is no prejudicial to the

interest of revenue in the present case while passing the assessment order u/s. 147 r.w.s. 144B of the Act and assessment order at any point of time appears to be erroneous. Thus, the order passed u/s. 263 of the Act is not justifiable. Hence, the appeal of the assessee in ITA No. 1026/Ahd/2024 is partly allowed.

ITA No. 1027/Ahd/2024 A.Y. 2014-15

8. The grounds of appeal are as under:-

“1. The Learned PCIT has erred in law in setting aside the re-assessment order passed u/s. 147 r.w.s. 144B of the Income Tax Act and holding that the Assessing Officer has not verified the information, though on the very same information the case was reopened and examined/verified and no additions were made.

2. The Learned PCIT has erred in law in holding that the order of the A.O. is found erroneous and prejudicial to the interest of the Revenue, though the Learned PCIT has not established the same.

3. The Learned PCIT has erred in law invoking revisionary powers under section 263 of the act by issuing notice, which is barred by limitation since the assessment order was passed on 70.04.2016 and the notice u/s 263 was issued on 29.02.2024 which is beyond the specified time limit. The re- assessment order passed without making any additions; therefore, the time limit for invocation under Section 263 of the act has to be considered from the original assessment order.

4. The Learned PCIT erred in law in directing the assessing officer to consider the same information again, which was already considered while passing the order under Section 147 r.w.s. 144B of the Act.

5. The Learned PCIT has failed to establish that the re-assessment order passed is erroneous in so far as it is prejudicial to the interest of revenue.

6. The Learned PCIT erred in law, invoking Section 263 of the Act for enhancing the income, tax, or penalty of the assessee.

7. The appellant craves leaves to add, alter and or to amend all or any of the grounds of the appeal.”

9. As regards to ITA No. 1027/Ahd/2024 for A.Y. 2014-15, the issue is identical and therefore, the observations made in assessment year 2013-14 hereby are applicable in the present assessment year as well. Thus, ITA No. 1027/Ahd/2024 is also partly allowed.

10. In the result, both the appeals are partly allowed.

Order pronounced in the open court on 29-10-2024

Sd/-
(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER
Ahmedabad : Dated 29/10/2024

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद