

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A": NEW DELHI
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 2051/Del/2024
(Assessment Year: 2013-14)**

Alankit Associates Pvt. Ltd, 205-208, Anarkali Complex, Jhandewalan Extn, New Delhi (Appellant)	Vs.	Pr. CIT, Delhi-3, Delhi (Respondent)
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PAN:AAJCA2725N

Assessee by :	Shri Salil Kapoor, Adv Shri Sumit Lalchandani, Adv Ms. Ananya Kapoor, Adv Shri Shivam Yada, Adv
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Revenue by:	Shri Poojan Rana, Sr. DR
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Date of Hearing	20/11/2024
Date of pronouncement	25/11/2024

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.2051/Del/2024 for AY 2013-14, arises out of the order of the Pr. CIT, Central-3, Delhi [hereinafter referred to as 'ld. PCIT', in short] in Appeal No. ITBA/REV/F/REV5/2023-24/1063408986(1) dated 26.03.2024 against the order of assessment passed u/s 153C of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 31.03.2022 by the Assessing Officer, DCIT, Central Circle-28, New Delhi (hereinafter referred to as 'ld. AO').
2. Though the assessee has raised several grounds, the only effective issue to be decided in this appeal is as to whether the ld PCIT was justified

in invoking his revision jurisdiction u/s 263 of the Act in the facts and circumstances of the instant case.

3. We have heard the rival submissions and perused the material available on record. The return of income for AY 2013-14 was filed by the assessee on 29.09.2013 declaring total income of Rs. 8,090/-. A search and seizure action u/s 132 of the Act was carried out on 18.10.2019 at Alankit Group of companies. During the search & seizure proceedings, documents/ incriminating materials related to the assessee were found. Hence, notice u/s 153C of the Act stood issued to the assessee on 26.02.2021 and assessment proceedings were completed on 31.03.2022 u/s 153C of the Act determining income of Rs. 6,71,48,270/-. The assessee had preferred an appeal before National Faceless Appeal Centre (NFAC) and the same is pending. Pending this appeal, the Id PCIT sought to revise the order passed by the Id AO dated 31.03.2022 by treating the order passed by the Id AO erroneous and prejudicial to the interest of the revenue.

4. Admittedly, the assessment order sought to be revised was framed by the Id AO u/s 153C of the Act on 31.03.2022 and this assessment was framed after obtaining the prior approval of the Id Additional CIT, Central Range-7, New Delhi vide letter F. No. ADDL.CIT/CR-7/153D/2021-22/1759 dated 30.03.2022. This approval obtained from the Id Addl. CIT was not considered erroneous and prejudicial to the interest of the revenue by the Id PCIT in his revision order u/s 263 of the Act. The Id AR before us argued that the Id PCIT in order to revoke his revision jurisdiction u/s 263 of the Act should also hold even the approval proceeding granted by the Id Addl. CIT u/s 153D of the Act to be erroneous and prejudicial to the interest of the revenue. He placed reliance on the decision of this Tribunal in the case of Devender Kumar Gupta Vs. PCIT in ITA Nos. 1890 to 1893/Del/2024 for AYs. 2015-16 to 2018-19 dated 30.08.2024 in support of his contentions.

We have gone through the said decision and we find that the ratio decidendi of the said decision squarely applies to the facts of the instant case before us. The relevant operative portion of the said decision is reproduced herein:-

"9. We find that in the impugned order the Id. PCIT has not taken account of the fact that the assessments were completed after prior approval of the competent authority. Thus, we are of the considered view that at the time of 9) examining the issue as to if the assessment order is erroneous so far as prejudicial to the interest of the Revenue, the Id. revisional authority is not only supposed to see the assessment record of AO, but also the record of the approval which as far as the revisional authority is concerned becomes "record" of the quasi judicial authority whose order is being examined by invoking the revisional jurisdiction. Therefore, without giving a finding that the prior approval u/s 153D was vitiated and was also erroneous so far as prejudicial to the interest of the Revenue, the assessment order independently cannot be held to be erroneous so far as prejudicial to the interest of the Revenue.

9.1 The catena of judicial pronouncements relied by the Id. AR have also laid down the same proposition of law and we will like to refer specifically to the judgement of the Hon'ble Madras High Court in the case of PCIT vs. Prakhar Developers (P) Ltd. (supra) where the Hon'ble Madras High Court has taken into consideration the fact that the Pune Bench order in the case of Ramamoorthy Vasudevan v. PCIT [IT Appeal Nos. 967 & 968/Pune/2016] wherein it was held that the order passed by the PCIT is unsustainable due to lack of jurisdiction in invoking section 263 of the Act for the reason that the same was passed upon taking prior approval u/s 153A of the Act, was not challenged by the Department before the Hon'ble High Court or the Hon'ble Supreme Court and, thus, the Hon'ble Madras High Court in its judgement dated 01.04.2024 has held as follows:-

"8. Even otherwise, as per Section 263 of the Act, the Principal Chief Commissioner or Principal Commissioner or Commissioner may call for and examine the record of any proceeding under this Act and if he considers that any order passed therein by the Assessing Officer, is erroneous in so far as it is prejudicial to the interests of the Revenue may make enquiry as he deems necessary, pass such order thereon as the mrcumstances of the case justify. For passing any order under Sections 143(3) & 153A of the Act, prior approval of Joint Conders Sections required under Section 153A of the Act, or Principal Commissioner or Commissioner as the case may be. Therefore, once prior approval had already been taken by the Assessing Officer and accepted the return submitted by the

assessee, then the same authority cannot exercise power under Section 263 of the Act to reverse the order of Assessing Officer."

10. The judgement which the Id. DR has relied is not applicable as in that judgement, this aspect was not actually examined at all and only for the reason that there also the impugned assessment order was passed u/s 153A of the Act, does not lay down a view contrary to the one we are relying above.

11. In the light of the aforesaid discussion, we are inclined to allow grounds No.2 and 3 for AYs 2015-16 and 2016-17; and ground No.3 in AYs 2017-18 and 2018-19. Consequently, the appeals are allowed and the impugned orders in respective years are quashed."

5. Respectfully following the same, we hold that the revision order passed u/s 263 of the Act by the Id PCIT deserves to be quashed and is hereby quashed. Accordingly, grounds raised by the assessee are allowed.

6. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 25/11/2024.

-Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

-Sd/-
(M BALAGANESH)
ACCOUNTANT MEMBER

Dated:25/11/2024
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi