

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI

श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री जगदीश, लेखक सदस्य के समक्ष
BEFORE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1395/Chny/2024
निर्धारण वर्ष /Assessment Year: 2018-19

Prospira India Automotive Products
Pvt. Ltd.,
No.136, Vaipur B Block,
Eraiyr Village, Mathur B.O.,
Mathur, Kanchipuram – 602 105.
[PAN: AACCN 8800A]

Vs. The Principal Commissioner of
Income Tax-1,
Chennai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Dr. Abhishek Murali, C.A
: Shri Nilay Baran Som, CIT

सुनवाई की तारीख/Date of Hearing

: 18.09.2024

घोषणा की तारीख /Date of Pronouncement

: 11.12.2024

आदेश / ORDER

PER JAGADISH, A.M :

Aforesaid appeal filed by the assessee is against the order of Learned Principal Commissioner of Income Tax, Chennai-1 [hereinafter "PCIT"] dated 13.03.2024 passed u/s. 263 of the Income-tax Act, 1961 (hereinafter "the Act").

2. The main ground of appeal in this appeal of assessee is against the order of Ld. PCIT setting aside the order of A.O passed u/s. 143(3)

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r.w.s 144B of the Act and directing A.O to pass fresh order after examining the aspect discussed in the impugned order u/s. 263 of the Act.

3. The brief facts of the case are that the assessee-company has filed return of income on 30.11.2017 admitting a loss of Rs.5,51,32,492/-. The assessment was completed on 05.05.2021 u/s. 143(3) r.w.s 144B reducing the loss to Rs.1,04,78,439/-. The Ld. PCIT after examination of record has found that the assessee has claimed provision towards warranty expenses of Rs. 2,79,85,926/-, as against the actual expenditure of warranty expenses of Rs.1,61,16,134/-. The Ld. PCIT held that the A.O in the assessment order has allowed the provision for warranty expenses without examining the actual expenditure incurred for warranty and therefore, the assessment order passed by A.O is erroneous and prejudicial to the interest of revenue.

4. The Ld. Authorized Representative (A.R) of the assessee has submitted that the matter had already been examined by the A.O during the course of assessment proceedings therefore, revision of order is not sustainable. The Ld. AR has relied on the order of Virtusa Consulting Services P. Ltd. vs. DCIT [2021] 128 TM 22 (Mad.), where

the A.O after conducting enquiries calling for records and documents allowed the claim of the assessee, then invocation of section 263 of the Act was unjustified. The Ld. AR has further submitted that the provision of warranty has been claimed on real and scientific basis and the Hon'ble Supreme Court in the case of Rotork Controls India (P.) Ltd. [2009] 180 Taxman 422 (SC) has upheld the claim of provision for warranty on such provisions. The Ld. AR therefore, prayed to quash the order of Ld. PCIT.

5. The Ld. Departmental Representative (DR), on the other hand, has supported the order Ld. PCIT and argued that the A.O in the assessment order has not examined the warranty expenditure and allowed the claim of provision for warranty without making necessary verification. The Ld. DR has further argued that the provision has been made on the basis of estimate which has always been 11-12% higher than the actual, therefore, it cannot be said that provision was made on scientific basis and prayed to uphold the order of Ld. PCIT.

6. We have heard the rival submissions, and perused the materials available on record. On perusal of notice u/s. 142 of the Act, it was found that the A.O has called for details of other expenses but has not

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specifically enquired or verified the provisions for warranty expenses debited and allowed the same. As per Explanation 2 to Section 263 of the Act, an order passed by the A.O is deemed to be erroneous in so far as it is prejudicial to the interest of revenue, if in the opinion of the Pr. Commissioner or Commissioner, the order is passed without making enquiry or verification which should have been made. In this case, in the opinion of Ld. PCIT, the A.O has allowed the provisions, without making the necessary verification and therefore he held the assessment order erroneous and prejudicial to interest of revenue. We do not find any infirmity in the order of Ld PCIT. The Ld. PCIT in his order has only directed the A.O to verify the claim made by the assessee and pass fresh order. In view of the above, we uphold the order of Ld. PCIT.

7. In the result, the appeal filed by the assessee is dismissed.

Order pronounced on 11th December, 2024.

Sd/-
(मनु कुमार गिरि)
(Manu Kumar Giri)
न्यायिक सदस्य / Judicial Member

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

चेन्नई/Chennai, दिनांक/Dated: 11th December, 2024.

EDN/-

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

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