

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “B” BENCH, AHMEDABAD**

**BEFORE DR. BRR KUMAR, VICE PRESIDENT &
Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA No.720/Ahd/2024
Assessment Year: 2014-15**

Manishkumar Somabhai Patel, 20, Chandralok Society, Ranip, Ahmedabad – 382 480. [PAN – APRPP 6617 G]	Vs.	The Pr. Commissioner of Income Tax-1, Ahmedabad.
(Appellant)		(Respondent)
Assessee by	Shri S.N. Divetia & Shri Samir Vora, ARs.	
Revenue by	Shri V. Nandakumar, CIT-DR	
Date of Hearing	21.11.2024	
Date of Pronouncement	19.12.2024	

ORDER

PER SUCHITRA KAMBLE, JUDICIAL MEMBER:

This appeal is filed by the Assessee against order dated 27.03.2024 passed by the Principal Commissioner of Income Tax, Ahmedabad – 1 for the Assessment Year 2014-15.

2. The assessee has raised the following grounds of appeal :-

- “1.1 *The Order U/s.263 passed on 27-03-2024 by Pr. CIT Ahmedabad-1, A'bad (for short Pr. CIT) for A.Y. 2014-15 holding that the order of assessment u/s. 147 rws 144B passed on 23.03.2022 by AO accepting the transactions by way of sales of Rs.29,76,004/- to M/s. Dharam Enterprise. Prop. Dharmendra Gajjar as accommodation entries is wholly illegal, unlawful and against the principles of natural justice.*
- 2.1 *The Id. Pr. CIT has grievously erred in law and or on facts in holding that the order of assessment u/s. 147 rws 144B passed on 23.03.2022 by AO accepting the transactions by way of sales of Rs.29,76,004/- to M/s. Dharam Enterprise. Prop. Dharmendra Gajjar as accommodation entries*

were erroneous and prejudicial to the interest of the revenue and directing the AO to make fresh assessment by making addition of all such transactions.

- 2.2 *That in the facts and circumstances of the Id. Pr. CIT ought not to have invoked the powers of revision u/s. 263 and thereby held that the order of assessment u/s. 147 rws 144B passed on 23.03.2022 by AO accepting the transactions by way of sales of Rs.29,76,004/- to M/s. Dharam Enterprise, Prop. Dharmendra Gajjar as accommodation entries were erroneous and prejudicial to the interest of the revenue and directing the AO to make fresh assessment by making addition of all such transactions.*
- 2.3 *The Pr. CIT has failed to appreciate that the issue relating to the transactions by way of sales of Rs.29,76,004/- to M/s. Dharam Enterprise, Prop. Dharmendra Gajjar was the subject matter of reopening u/s. 147 by AO and after having considered the information on Insight Portal and material produced by the appellant, the same were accepted in the order of reassessment passed u/s.147 rws 144B on 23.03.2022 so that it was neither erroneous nor prejudicial to the interest of revenue which could be revised u/s. 263 of the Act rw Explanation-2.*
- 3.1 *The Id. Pr. CIT has grievously erred in law and or on facts in holding that the provision of Explanation-2 to Sec.263 was attracted in the facts of the case.*
- 3.2 *That the in the facts and circumstances of the Id. Pr. CIT ought not to have directed AO to make fresh assessment by making addition of all such transactions.*

It is, therefore, prayed that the order of revision passed u/s. 263 by the respondent should be quashed and direction to make addition should be quashed."

3. The return of income was filed on 29.09.2014 declaring total income of Rs.7,85,229/-. The Assessing Order under Section 147 read with Section 144B of the Income Tax Act, 1961 was passed on 23.03.2022 thereby accepting the returned income. The PCIT observed that the assessee's case was reopened on the basis of outcome of survey in the case of M/s. Dharam Enterprise, Proprietor Dharmendra Gajjar for accommodation entries. The PCIT observed that the Assessing Officer, despite specific reasons for reopening, has not made any addition on account of the accommodation entries. Accordingly, notice under Section 263 of the Act dated 07.03.2024 was issued. In response thereto, the assessee submitted its reply. After taking cognisance of the said reply, the PCIT held that the Assessing Officer erred in

not verifying the issue of accommodation entries obtained from M/s. Dharam Enterprise, Proprietor Dharmendra Gajjar and thus the error resulted in under-assessment and consequential short levy of taxes. Therefore, the PCIT set aside the Assessment Order dated 23.03.2022 for the assessment year 2014-15 with the direction to the Assessing Officer to pass fresh Assessment Order in accordance with law.

4. Being aggrieved by the Order under Section 263 of the Act, the assessee is before us.

5. The Ld. DR submitted that the assessee is an individual and derives income from proprietary business of Siddhi Corporation and share from partnership firm of M/s. Jay Durga Papers as well as interest income. The assessee filed return of income on 29.09.2014 declaring total income of Rs.7,85,229/- for assessment year 2014-15. The Ld. AR submitted that the Assessing Officer was satisfied with the details given by the assessee and, therefore, completed the assessment without making any addition. The Ld. AR submitted that during the assessment proceedings, the assessee on 25.10.2021 uploaded documents/evidences relating to the issue raised by the Assessing Officer in relation to the transactions with M/s. Dharam Enterprise and also details related to the address, e-mail, PAN, bills, vouchers relating to M/s. Dharam Enterprise with various other documents including supporting documents related to genuineness of the sale transactions such as transport bills, vehicle number, registration and VAT/GST returns. The Ld. AR submitted that the PCIT initiated proceedings of revision under Section 263 of the Act on the ground that the Assessing Officer had not made any addition on account of accommodation entries. The assessee filed reply dated 15.03.2024 objecting to the validity of revision proceedings and also contended that since the issue was reopened under Section 147 of the Act and reassessment order passed by the Assessing Officer dated 23.03.2022 is not erroneous or prejudicial to Revenue. The Ld. AR submitted that the PCIT failed to appreciate that the issue relating to the transactions by way of sales of Rs 29,76,004/- to M/s Dharam Enterprise, Proprietor Dharmendra Gajjar was the subject matter of reopening under Section 147 of the Act by the Assessing Officer and after having considered the information on Insight Portal and material produced by the assessee,

the same were accepted in the order of reassessment passed under Section 147 read with Section 144B dated 23.03.2022. Thus, it is not erroneous or prejudicial to the interest of Revenue as per the provisions of Section 263 of the Act read with Explanation-2.

6. The Ld. DR relied upon the order under Section 263 of the Act passed by the PCIT and further submitted that the Assessing Officer has not verified the issue of accommodation entries obtained from M/s. Dharam Enterprise and thus it amounts to under-assessment and consequential short levy of taxes. This resulted into loss of revenue and thus the Assessment Order is erroneous and prejudicial to the interest of Revenue.

7. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that the Assessment Order under Section 147 read with Section 144B of the Act was in respect of the assessee's case reopened under Section 147 thereby issuing notice under Section 148 of the Act. The assessee filed return of income on 28.04.2021 and the assessee while giving the reply relating to statutory notice before the Assessing Officer submitted Balance Sheet and Profit & Loss Account with Audit Report, Bank Statements, unpaid VAT & GST Challan, Statement of total income, VAT Annual Return copy, Ledger copy of M/s. Dharam Enterprise for which reopening has been exercised in assessee's case. After verifying the reply, the Assessing Officer has come to the conclusion and passed the Assessment Order dated 23.03.2022. From the perusal of the invocation of Section 263 of the Act by the PCIT is on very same basis which will amount to second opinion which is not permissible as per the provisions of Section 263 of the Act. Besides this, after going through the records of the details given by the assessee before the Assessing Officer it appears that the assessee has verified all the details including genuine sales made to M/s. Dharam Enterprise amounting to Rs.29,76,004/- and the same was properly explained through books of account and other details including the ledger account of M/s. Dharam Enterprise and sale invoice issued to M/s. Dharam Enterprise. Thus, the very purpose of invoking Section 263 of the Act is not met with in the present case as the Assessing Officer has rightly verified all the details and has taken cognisant view as per Income Tax Act, 1961. The order passed by the

Assessing Officer under Section 147 read with Section 144B of the Act is not at all erroneous or prejudicial to the interest of Revenue and thus invocation of Section 263 of the Act is not justifiable. Hence, appeal of the assessee is allowed.

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

Order pronounced in the open Court on this 19th December, 2024.

Sd/-
(DR. BRR KUMAR)
Vice President

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 19th December, 2024
*PBN/**

Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

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Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad