

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI "F" BENCH: NEW DELHI**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER &  
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

**ITA No.2107/Del/2024**

**[Assessment Year : 2014-15]**

RAV Tools & Components Pvt.Ltd. 432 Sector 22 Faridabad Haryana-121005 <b>PAN-AAFCR6907D</b>	vs	PCIT, Faridabad.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	Shri Vivek Bansal, Adv. Shri Vishal Chechi, Adv. & Shri Sanjay Goel, Adv.	
<b>Respondent by</b>	Ms. Anu Krishna Agarwal, CIT DR	
<b>Date of Hearing</b>	17.12.2024	
<b>Date of Pronouncement</b>	20.12.2024	

**ORDER**

**PER PRADIP KUMAR KEDIA, AM :**

The instant appeal has been filed at the instance of the assessee seeking to assail the First Appellate order dated 21.03.2024 passed by Ld. Pr. Commissioner of Income Tax, Faridabad ["Ld.Pr. CIT"] u/s 263 of the Income Tax Act, 1961 ["the Act"] arising from the assessment order dated 29.03.2022 passed u/s 147 r.w.s 144B of the Act pertaining to assessment year 2014-15.

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

1. *"That under the facts and circumstances of the case, Ld. PCIT, Faridabad has erred in law as much as in fact in invoking powers u/s 263 of the Income Tax Act, 1961 ("the Act") and in passing impugned order dated 21-03-2024 generated though DIN & Order No: ITBA/REV/F/REV5/2023-24/1063081170(1) in respect of AY 2014-15.*
2. *That under the facts and circumstances of the case, Ld. PCIT has failed to appreciate that neither the assessment order passed u/s 147 r.w.s 144B of the Act dated 29-03-2022 generated through DIN: ITBA/AST/S/147/2021-22/1041878682(1) was erroneous nor the same was prejudice to the interest of revenue, therefore, invocation of power u/s 263 of the Act was not available to him.*

3. *That under the facts and circumstances of the case, Ld. PCIT has failed to appreciate that the assessment order dated 29-03-2022 was invalid on the ground that the assessee was not provided with the complete copy of reasons and also the sanction obtained from Appropriate Authority u/s 151 of the Act which was contrary to the decision of Hon'ble Supreme Court in the case of GKN Drive Shaft India Ltd. Vs ITO [2002] 125 taxman 963 and also decision of Delhi High Court in the case of Sabh Infrastructure Ltd. Vs ACIT [2017] 398 ITR 198(Delhi), therefore, power u/s 263 of the Act could not be invoked in respect of an invalid order passed in contravention of rules laid down in the aforementioned decisions.*
4. *That under the facts and circumstances of the case, Ld. PCIT has failed to appreciate that the assessment order dated 29-03-2022 passed by the Ld. AO was in violation of principles of natural justice as the AO has never provided the material/information in his possession to the assessee whereby it was claimed that assessee is beneficiary of Rs. 14,00,000/-received from the bogus concerns of so-called Sh. Himanshu Verma or bogus expenses of Rs. 5,00,000/- particularly in view of the submission that assessee has no such dealing or such transaction in its books of account. Thereafter, it was the onus of the AO to bring such material on record to show that the assessee's denial is incorrect or false.*
5. *That under the facts and circumstances of the case, Ld. PCIT has failed to understand that the AO is legally wrong in observing that the assessee cannot question the authenticity of the notice issued by the department and the copy of approval accorded by the competent authority u/s 151 of the Act which according to AO is an internal document of the department.*
6. *That under the facts and circumstances of the case, Ld. PCIT has failed to appreciate that before him also the assessee has stated that the assessee has not done any transaction with Sh. Himanshu Verma, M/s Broanze Star Techsoft Pvt. Ltd. and M/s Royal Merage Financial Consultants Pvt. Ltd and also required to supply such details available in the record of the department, which are not described or brought on record by the PCIT to satisfy the condition of actual loss of revenue on existence of such transactions being prejudicial to the interest of the revenue. Ld. PCIT has rejected such submission on the ground that assessee has not brought any new fact or judgement. The material regarding these allegations are necessary to be brought on record by the department to fulfill the interest of justice.*
7. *That under the facts and circumstances of the case, Ld. PCIT has failed to appreciate that the grounds relating to the invalidity of assessment order being jurisdictional aspect, can be raised at any stage of the proceedings and if the assessment order is invalid on Jurisdictional ground, the subsequent action of invoking powers u/s 263 of the Act would also be an incompetent jurisdiction and for such proposition reliance before Ld. PCIT was placed on the decision*

*in the case of Kanwar Singh Saini vs. High Court of Delhi (2012) 4 SCC 307.*

8. *That under the facts and circumstances of the case, the order dated 21-03-2024 passed u/s 263 of the Act by the Ld. PCIT is prayed to be vacated and or any other relief, which is sought proper in the facts and circumstances of the case may be granted to the assessee.*
9. *That each of the ground is independent and without prejudice to each other.”*

2. As per the captioned appeal, the assessee has challenged the assumption of jurisdiction under s. 263 of the Act by the Ld. Pr. CIT, Faridabad.

3. When the matter was called for hearing, the Ld. Counsel for the assessee at the outset submitted that the re-assessment order in the instant case was framed under s. 147 r.w.s. 144B of the Act vide order dated 23.09.2022 based on reasons recorded as under:-

*“The reasons for reopening of your assessment for the AY 2014-15 has already been conveyed to you in the notice u/s 143(2) dated 17.02.2022 which is reproduced as under:-*

*“Bogus expenses to the tune of Rs.5,00,000/- from bogus concern of Shri Himashu Verma (the assessee company has obtained bogus accommodation entries amounting to Rs.14,00,000/- from bogus concern of Sh. Himashu Verma during the financial year 2013-14).”*

*You are required to file your submissions within 4 days of receipt of this communication falling which your case will be completed based on the materials available on record.”*

3.1. With reference to the aforesaid reasons, the inquiries were made in the re-assessment proceedings and the AO ultimately made an addition of INR 5,00,000/- under s. 69C of the Act in tune of the reasons so recorded. However, another allegation of INR 14,00,000/- towards bogus accommodation entries made in reasons recorded was found to be untrue in the course of re-assessment proceedings. Hence while framing the re-assessment order, the allegations made towards bogus accommodation entries of INR 14,00,000/- was rightly dropped. The Ld. Pr. CIT in 263 proceedings however alleged that the AO has committed error in not making proper inquiry while departing from the reasons recorded qua INR 14,00,000/-. The Ld. Pr. CIT thus alleged that the AO has wrongly excluded INR 14,00,000/- for the purposes of re-assessment on account of bogus accommodation entries without proper inquiry.

3.2. In this backdrop, the Ld. Counsel for the assessee submitted that it was pointed out before the AO that alleged transactions of bogus accommodation entries with Shri Himanshu Verma was never not carried out in FY 2013-14 relevant to AY 2014-15. The AO having satisfied himself that no transactions with Shri Himanshu Verma or connected entity if any, was found in the books. There was no warrant to make the additions as rightly done by the AO, the AO did not make the additions and such rightful action could not be disturbed under s. 263 of the Act.

4. The Ld. Counsel for the assessee pointed out that for the first time in 263 proceedings, the name of M/s. Broanze Star Techsoft Pvt.Ltd. and M/s. Royal Merage Financial Consultants Pvt.Ltd. have appeared where it is alleged that the assessee has obtained INR 7,00,000/- each by way of accommodation entries. The Ld. Counsel for the assessee pointed out that no such amount has been received either from any of these two companies or from Shri Himanshu Verma. The Ld. Pr. CIT himself ought to have been examined these facts from the records of the assessee at the time of 263 proceedings. No inquiry has been made by Ld. Pr. CIT while making such serious allegations. The Ld. Counsel for the assessee reiterated that even before the Ld. Pr. CIT, it was categorically stated that the assessee had not received any credit in the books from these two companies. The Ld. Counsel for the assessee thus submitted that firstly, the reasons recorded alleging receipt of accommodation entries is without any premise and thus the re-assessment order itself has been framed on vague and cryptic reasons. The assessee has fully cooperated in the re-assessment proceedings and provided the requisite details. The Quasi-judicial function performed by the AO ought not have been set aside by the Ld. Pr. CIT in a mechanical manner without bringing any relevant fact before the assessee.

5. The assessee has categorically denied having received any credits from the two companies which are alleged to be accommodation entries providers. On being asked by the Bench, the assessee also furnished affidavit dated 17.12.2024 by the Tribunal to the effect that the assessee has not received alleged amount of INR 14,00,000/- either from Shri Himanshu Verma or his

alleged concerns namely, M/s. Broanze Star Techsoft Pvt.Ltd. and M/s. Royal Merage Financial Consultants Pvt.Ltd.

6. In the light of the circumstances narrated on behalf of the assessee and in the wake of averments of the assessee duly recorded in 263 proceedings that no such entries have been received coupled with the affidavit of the assessee, we see no error in the re-assessment order. The order passed under s. 263 of the Act is thus quashed.

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

Order pronounced in the open Court on 20<sup>th</sup> December, 2024.

**Sd/-**

**(VIMAL KUMAR)  
JUDICIAL MEMBER**

**Sd/-**

**(PRADIP KUMAR KEDIA)  
ACCOUNTANT MEMBER**

*\* Amit Kumar \**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI