

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**NAGPUR BENCH, NAGPUR**

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND**  
**SHRI K.M. ROY, ACCOUNTANT, MEMBER**

**ITA no.581/Nag./2024**  
(Assessment Year : 2014-15)

Dattu Sampat Vankhede  
Lauva Kadgaon Road  
Lava, Wadi, Nagpur 440 023  
PAN – AUGPV1832M

..... Appellant

v/s

Principal Commissioner of Income Tax-2  
Nagpur

..... Respondent

Assessee by : Shri Dilip Lohiya  
Revenue by : Shri Sandipkumar Salunke

Date of Hearing – 28/01/2025

Date of Order – 29/01/2025

**ORDER**

**PER K.M. ROY, A.M.**

This appeal by the assessee is emanating from the impugned order dated 22/02/2021, passed under section 263 of the Income Tax Act, 1961 ("*the Act*") by the learned Principal Commissioner of Income Tax (Appeals)-2, [*learned PCIT*], for the assessment year 2014-15.

2. In its appeal, the assessee has raised following grounds:-

*"1. The order passed by the Pr. Commissioner of Income Tax, Nagpur-2 U/s 263 under the Income Tax Act, 1961 is illegal, invalid and bad in law.*

*2. The Pr. Commissioner of Income Tax, Nagpur-2 ought to have considered order passed U/s. 143(3) rws 147 since all the issues of sale of two immovable property transaction were discussed and considered at the time of original reassessment u/S 147 and the assessing officer has accepted the contentions of the assessee and without finding any new income as a escaped income is not erroneous nor prejudicial to the interest of revenue, therefore, again on*

same issue or income order passed U/s. 263 for reassessment afresh is unjustified, unwarranted and excessive.

3. The order passed by the Pr. Commissioner of Income Tax, Nagpur-2 on the ground with direction to reassess the income of the assessee afresh after examining the relevant details and other issues and conduct proper enquiry, as may be relevant and necessary and then pass a speaking assessment order, for reassessment proceedings completed U/s 143(3) rws 147 on 12.10.2018 without any addition after accepting the contentions of the assessee on the sale of two agriculture land at Rs.90 Lakhs so there is no finding of new income as escapement of income, therefore order passed U/s 263 is unjustified, unwarranted and excessive.

4. The Pr. Commissioner of Income Tax, Nagpur-2 passed the order U/s. 263 without going into provisions of the law of reassessment U/s 147 and

merits of the case, therefore the order passed is unjustified, unwarranted and excessive. 5. The Pr. Commissioner of Income Tax, Nagpur-2 passed the order U/s. 263 without jurisdiction and without going into provisions of the law of section 263 of the Income Tax Act, 1961 which confers power on the CIT to revise an assessment order not on the recommendation of the AO therefore the order passed is unjustified, unwarranted and excessive.

6. a) Whether the revision U/s 263 of the Income Tax Act, 1961 allowed the Assessing Officer to initiate the proposal of revision U/s 263 of the Income Tax Act, 1961 of own order without jurisdiction is justified and allowable under the Act?

b) Whether the revision order U/s 263 of the Income Tax Act, 1961 allowed after issuance of a notice U/s 148 initially formed a reason to believe that an income had escaped assessment, reassessment order passed U/s 143(3) rws 147 of the Income Tax Act, 1961 after accepting the contention of the assessee, has as a matter of fact not escaped assessment, is justified and allowable under the Act?

7. The Pr. Commissioner of Income Tax, Nagpur-2 erred in law for revision order U/s 263 of the Income Tax Act, 1961 without going into the provisions of law and without following the judicial pronouncements awarded by the various Honorable High Courts and ITAT. A) The honorable Delhi High Court in the case of The Pr CIT-7 Vs Prosperous Buildcon P Ltd ITA.239/2019 Dt.19.10.2023 has found resonance with the judgement by 3 High Courts in the following cases.

(i) CIT v. Jet Airways (1) Ltd. (2011) 331 ITR 236 (Bom);

(ii) CIT v. Mohmed Juned Dadani [2013] 355 ITR 172 (Guj);  
Manu/GJ/0061/2013

(iii) Oriental Bank of Commerce v. Addl. CIT Manu/DE/1935/2014

therefore, the revision U/s 263 is not allowable in law as a matter of facts of the case, hence the order passed U/s 263 for revision of a reassessment order is illegal, invalid and bad in law.

B) *Alfa Laval Lund AB C/o Alfa Laval(India) Ltd Vs CIT(IT/TP), Pune, dated 02.11.2021, Pune Bench. The Pune co-ordinate bench took the view that passing the order U/s 263 of the Act on the basis of the proposal of AO then it became a case of jurisdiction deficit resulting into vitiating the impugned order.*

8. *In view of the facts and circumstances of the case and in law, the learned Pr CIT-2 is not justified in passing the order U/s 263 for revision with a direction to reassess the income of the assessee afresh. Therefore, it is the humble request from the assessee accept the appeal and cancel the revision order and revised assessment order by NFAC.*

9. *That the learned Pr CIT-2 has erred in law and the act was not justified in proceeding with passing the order U/s 263 without going into provisions of the law of section 263 of the Income Tax Act, 1961 which confers power on the CIT to revise an assessment order not on the recommendation of the AO and all the issues of sale of two Agriculture land exempted transaction were discussed and considered at the time of reassessment u/S 147 on the basis of initially formed the reason to believe and the assessing officer has accepted the contentions of the assessee without finding of any new income as a escaped income, therefore, again on same issue order passed U/s. 263 for reassessment afresh is without jurisdiction against the principles of natural justice thereby rendering the order void ab-initio.*

10. *That interest charged U/s. 234A, 234B, 234C and 234D of the Act may kindly be deleted.*

11. *The appellant, therefore, pray that the appeal may be allowed and orders may be passed rendering justice to the appellant.*

12. *The appellant craves leave to add, amend, or modify any grounds of appeal with due permission."*

3. There is a delay of 1,299 days in filing the present appeal before us.

The assessee has submitted a detailed affidavit which is reproduced below:–

*"The deponent is citizen of India and doing the Agriculture activity for the lively hood of the family at Village Lava Kadhgaon Road Gram panchayat Wadi Nagpur.*

1. *That the deponent/assessee has received order U/s. 263 of the Pr Commissioner of Income Tax-2, Nagpur dated 22/02/2021 through its counsel on 04/10/2024.*

2. *That in the case of the deponent/assessee original assessment U/s. 143(3) rws 147 was completed on 12/10/2018 accepting the returned income at Rs. 18,460/- without any addition on the issue of reassessment.*

3. That, the deponent/assessee has not filed appeal against order U/s. 143(3) before the Commissioner of Income Tax and after completion reassessment U/s. 143(3) rws 147 the Pr. Commissioner of Income Tax-2, Nagpur has initiated proceedings U/s. 263 on the initiation of proposal by AO and accordingly passed the order U/s. 263 on 22/02/2021 by setting aside the order passed by AO on 12/10/2018 and order U/s 263 passed with a direction to reassess the income afresh. The deponent/assessee could not take the objection against the order of the PR Commissioner of Income Tax-2, Nagpur as the assessee is not in receipts of any notices of the revision proceedings and order in this regards.

5. That, in response to order U/s. 263 the assessing officer (NFAC) has passed order U/s. 143(3) r.w.s. 263 on 22/03/2022 and made addition of Rs. 2,32,50,000/-. The deponent/assessee could not preferred the appeals against the order before the Commissioner of Income Tax (Appeals), NFAC as the assessee was unaware about the reassessment proceedings and order passed.

6. That, the earlier counsel for the deponent/ assessee has not filed appeal before the Hon'ble Income Tax Appellate Tribunal, Nagpur Bench, Nagpur against the Order U/s. 263 of Pr. Commissioner of Income Tax-2, Nagpur.

7. That, earlier the matter of 148 was handled by Shri J P Joshi CA R/o. Nagpur and he has not filed the appeal before the Income Tax Appellate Tribunal, Nagpur Bench, Nagpur. The deponent/assessee was in under bonafied impression that the counsel has filed appeal before Hon'ble the Income Tax Appellate Tribunal. But when the deponent/assessee approached new counsel on 29/05/2024 with respect of appeal before Commissioner of Income Tax (Appeals) against order U/s. 143(3) r.w.s. 263 of the Act thereafter the counsel advised to assessee for filing of appeal before Hon'ble the Income Tax Appellate Tribunal, Nagpur Bench, Nagpur. Due to wrong advice of earlier counsel assessee has not filed appeal.

The assessee has applied for certified copy of the order U/s 263 with JAO on 29.05.2024 but no response received then assessee has filed an application to the Pr CIT-2 on 08.07.2024 and copy of the same is given to the JAO on 13.09.2024 after this the assessee has received the certified copy dated 01.10.2024 of the order U/s 263 dated 22.03.2022 on 04.10.2024 with a remark on last page of the order that copy of the order 263 served on the daughter of the assessee on 06.04.2021 but not served on the assessee and the same is misplaced by the daughter and not received by the assessee so he could not file the appeal. That when the aforesaid order was received by the daughter was under depression due to medical problems of her mother prevalent since 2021 and for which treatment was also going on hence due to continuous medical problem the order has not been communicated to the assessee hence no further course of action has been taken within a specific time limit.

8. The deponent/assessee has filed appeal before the Hon'ble Income Tax Appellate Tribunal, Nagpur Bench Nagpur on 13/11/2024 and requested Hon'ble Income Tax Appellate Tribunal, Nagpur Bench Nagpur that delay in filing of appeal days may kindly be condoned due to aforesaid reason."

4. No satisfactory evidence has been brought on record to justify the bona fide conduct of the assessee. The reasons do not impress confidence and moreover the same being nebulous and contradictory do not impress confidence. Accordingly, we refrain from condoning the delay. Since the assessee fails to satisfy the issue of limitation at the very onset, it is not necessary to adjudicate the matter on merit. Consequently, the grounds raised by the assessee are dismissed.

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

Order pronounced in the open Court on 29/01/2025

**Sd/-  
V. DURGA RAO  
JUDICIAL MEMBER**

**Sd/-  
K.M. ROY  
ACCOUNTANT MEMBER**

**NAGPUR, DATED: 29/01/2025**

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

*Pradeep J. Chowdhury  
Sr. Private Secretary*

True Copy  
By Order

Sr. Private Secretary  
ITAT, Nagpur