

IN THE INCOME TAX APPELLATE TRIBUNAL, RANCHI BENCH, RANCHI

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER

I.T.A. No. 104/Ran/2022 (Assessment Year-2013-14)

(Virtual Hearing)

Sriram Marketing Services, Rajdhanwar, Giridih-825412 (Jharkhand) PAN No. AAFFS 5061 G	Vs.	Pr.CIT, Dhanbad.
Appellant/ Assessee		Respondent/ Revenue

Assessee represented by	Shri R.R. Mittal, C.A.
Department represented by	Shri Shrawan Kumar, CIT-DR
Date of hearing	05/03/2025
Date of pronouncement	28/03/2025

ORDER

PER: BENCH

1. This appeal by the assessee is directed against the order of the learned Principal Commissioner of Income Tax, Dhanbad [in short, the Id. PCIT] passed under Section 263 of the Income Tax Act, 1961 (in short, the Act) dated 26/12/2022 for the Assessment Year (AY) 2013-14.
2. In this case, the assessment under Section 147 r.w.s. 144B of the Act was passed on 24/09/2021. In the assessment order it has been mentioned that the assessee had made cash deposits of ₹ 4,18,39,194/- in his bank account maintained with United Bank of India, Ranchi during the F.Y. 2012-13. On the basis of such information, the case of assessee was reopened under Section 147 of the Act after recording reasons and getting approval from the competent authority, notice under Section 148 of the Act was issued to the assessee on 13/03/2020. In response to that, the assessee filed its return of income on 19/03/2020 declaring loss of ₹ 26,32,390/-. Statutory notices under Section

142(1) and 143(2) of the Act were issued to the assessee from time to time and were duly served on the assessee. In response to that, the assessee filed its reply which was duly considered by the Assessing Officer who accepted the income declared by the assessee and no addition was made on the issue of deposits in the said bank accounts.

3. However, the Id. PCIT vide its order for the A.Y. 2013-14 passed under Section 263 of the Act dated 26/12/2022, set aside the order of Assessing Officer dated 24/09/2021 on the ground that the Assessing Officer did not make any enquiry or investigation to ascertain the nature, source and genuineness of ₹ 2,68,72,976/- and directed the Assessing Officer to make a fresh assessment on the issues discussed above because it has resulted in an order which was erroneous and prejudicial to the interests of revenue.
4. The appellant has challenged the impugned order of the Id. PCIT dated 26/12/2022 on the following grounds of appeal:

- "1. *On the facts and circumstances of the case, the order passed by the Id. Principal Commissioner of Income Tax is bad in law, void ab initio without jurisdiction as the order u/s 263 is passed by the Ld. PCIT is not based on a correct appreciation of law and facts.*
2. *On the facts and circumstances of the case, the order passed u/s 263 by Id. PCIT, may be quashed and set aside on the ground that the Id. PCIT did not consider the submission by the appellant in the proceeding u/s 263.*
3. *On the facts and circumstances of the case, the Ld. PCIT is not correct in initiating revision proceeding based on his opinion and start fishing and roving inquiries in matters or orders which are already concluded.*
4. *The Id. PCIT, even in the notice u/s 263 has not specifically brought on record under the given facts and circumstances why the assessment order is erroneous or what enquiry was not done by the Assessing Officer (NFAC) so as to be prejudicial to the interest of the Revenue when on the contrary all the facts were scrutinized by the Assessing Officer (NFAC) and he has arrived at a plausible opinion on the application of mind.*
5. *The Ld. PCIT erred in not accepting the fact that, where the claim was allowed by the AO after raising queries and on being satisfied with the explanation of the*

assessee. Such a decision cannot be held to be "erroneous" simply because in his order he did not meet the expectation of the Learned. PCIT.

6. *Other grounds if any, would be urged at the time of hearing."*

5. During the course of hearing before us, the learned counsel for the appellant submitted before the Bench that there was a discrepancy in the amount of cash deposits as claimed by the department and claimed by the assessee. As per the department, the cash deposit was at ₹ 4,18,39,194/- but as per the assessee, the cash deposit was at ₹ 2,04,97,097/-. Accordingly, this Bench vide its order dated 17/01/2025 asked the Id. CIT-DR to place on record that whether the actual cash deposits claimed to have been made by the assessee was at ₹ 4,18,39,194/- or ₹ 2,04,97,097/-. In compliance to the Bench's direction, the department has filed details of cash deposits made by the appellant in the United bank of India (Now Punjab National Bank) which is given as under:

Details of cash deposits in bank a/c of MIS. Shriram Marketing Services PAN: AAFFS5061G during F.Y. 2012-13 with United Bank of India (Now Punjab National Bank) as per account statement provided by the bank.			
Sl. No.	A/c No.	Date of cash deposit	Amount deposited
1	0755250020184'	31.08.2012	2,00,000
2		28.02.2013	3,65,000
3		28.02.2013	10,000
4		10.04.2012	20,000
5		21.04.2012	10,000
6		30.04.2012	9,50,000
7		02.05.2012	9,64,387
8		02.05.2012	10,000
9		03.05.2012	5,00,000
10		05.05.2012	4,00,000
11		09.05.2012	15,500
12		14.05.2012	8,000
13		19.05.2012	9,50,000
14		22.05.2012	9,50,000
15		23.05.2012	7,25,000
16		11.06.2012	9,50,000
17		15.06.2012	9,50,000
18		18.06.2012	9,50,000
19		20.06.2012	10,000
20		02.07.2012	10,000

21		09.07.2012	6,00,000
22		10.07.2012	6,75,730
23		11.07.2012	100, 000
24	' 0059050048595	23.07.2012	9,50,000
25		27.07.2012	9,50,000
26		14.08.2012	9,50,000
27		17.09,2012	9,00,000
28		10.10,2012	2,93,000
29		22.11.2012	5,00,000
30		10.12.2012	11,000
31		29.12.2012	2,00,000
32		17.01.2013	20,000
33		14.02.2013	10,000
34		28.02.2013	10,000
35		06.03.2013	10,000
36		13.03.2013	5,00,000
37		15.03.2013	11,000
38		15.03.2013	15,480
39		15.03.2013	5,00,000
40		16.03.2013	5,00,000
41		19.03.2013	5,00,000
42		20.03.2013	9,00,000
43		21.03.2012	5,00,000
44		22.03.2013	5,00,000
45		30.03.2013	5, 00,000
46		22.03.2013	1,00,000
47	'0838250020543	26.03.2013	43,000
		Total	2,04,97,097

As per reported submitted by the Id. CIT-Departmental Representative, the amounts come to ₹ 2,04,97,097/-

6. The learned senior counsel , on the other hand, has made a written submission, explained the position in detail as under:

" The assessee is a partnership firm and was filling the regular Income Tax return till AY. 2011-12, there were huge losses in the whole group, and bank accounts became NPA proceeding for recovery was initiated by the Banks and all businesses came to stand still in the whole group. Partners in this firm went into a deep Depression and the whole business operation collapsed in July 2013. Due to the said reason returns for the AY 201314 and subsequent years could not be filed.

During the period under consideration, the Firm was dealing in Mobil Lubricants, BSNL recharge coupons and Trading of Iron Ores.

Subsequently, notice U/s 148 was received for escapement of income on 13/03/2020 based on the AIR information regarding the deposit of cash in the Bank account of the firm and deduction of TDS on Commission and Rent during the Assessment Year. In compliance with the notice U/s 148 return was filed on 19/03/2020.

The Reason as communicated to us for the escapement of income was "The assessee failed to file its return of Income. An aggregate amount of Rs.41839194/- was deposited in cash into the assessee's bank account. TDS was made u/s 194H out of the payments to the assessee by Bharat Sanchar Nigam Ltd. TDM, Dumka. From the TDS data, it is evident that an aggregate amount of Rs.705980/- was paid towards commission or brokerage to the assessee by Bharat Sanchar Nigam Ltd. TDM, Dumka during the F.Y. 2012-13. Also, an amount aggregating to Rs.26166996/- was paid to the assessee during F.Y. 2012-13 towards rent, by the administrator of Orissa Cooperative Housing Corporation, Keuta, Sahi Choudhary Bazar, Katak Orissa-753001, out of which TDS was made u/s 194I. Since the assessee did not file the return for the A.Y. 2013-14, the entire amount of payment received by it during such F.Y., which was Rs.2,68,72,976/-, may be treated as income escaped assessment."

From the perusal of Para 2 of the Assessment order, it can be seen based on the information, the case was reopened u/s 147 after recording reasons and getting approval from the competent authority. Notice u/s 148 of the I.T. Act, 1961 was issued to the assessee on 13.03.2020. The assessee filed its return of income on 19.03.2020 declaring income of Rs. (-) 26,32,390/-. Thereafter, notices u/s 142(1) of the I.T. Act, 1961 were issued to the assessee on 04.02.2021 and 28.07.2021 requesting him to furnish the requisite information in connection with the assessment proceedings. Thereafter, notice u/s 143(2) of the Act was issued on 25.02.2021 and was duly served on the assessee. In response to these notices, the assessee filed its response which has been carefully perused. After considering the facts and circumstances of the case, the material available on record, reply filed by the assessee in response to notice u/s 142(1) of the Income Tax Act, 1961, the explanation/ reply of the assessee is accepted and no addition is made on the above-mentioned issues. Therefore, the returned income of the assessee was accepted by the Assessing Officer at the National Faceless Assessment Centre Delhi.

On the receipt of the order, the assessee made an application to the Assessing officer for the withdrawal of the prosecution case u/s 276CC for not filing of return of Income filed in 2017. The assessing officer sent the letter to the standing counsel of the department for his opinion on 06/09/2022 and the same was sent to PCIT, Dhanbad for direction. Copy enclosed at the page.

Show Cause notice U/s of 263 of the I. T. Act, 1961 for the A.Y. 2013-14 against order u/s 147 r.w.s 143(3) dated 16/11/2022 was received from Principal Commissioner of Income Tax, Dhanbad. A detailed reply was filed, however PCIT, Dhanbad ignored the submission made and passed order U/s 263.

While passing the order PCIT ignored the fact that the case was assessed by NFAC and all the details and submissions were filed on the e-filing portal and duly verified by the Assessing officer.

Aggrieved by the above order assessee has filed this appeal."

The learned counsel, therefore, has made argument that it is not a fit case where action under Section 263 of the Act was required to be passed as the necessary enquiry, verification were made by the Assessing Officer while passing the order under Section 147 read with section 143(3) of the Act. Since the information on the basis of which the case was reopened was found to be incorrect as has been confirmed by the revenue, the order passed by the Assessing Officer is not an erroneous one and prejudicial to the interest of revenue and therefore, the impugned order passed under Section 263 may be quashed. The learned counsel for the assessee also placed reliance on the various decisions of the Hon'ble courts and the Tribunal in support of its claim that the impugned order under Section 263 should not have been passed in this case.

7. We have considered the rival submissions of the both the parties and it is found that the Id. PCIT has assumed jurisdiction under Section 263 on a wrong premise as cash deposits in the bank accounts were not Rs. 4,18,39,194/- but was Rs. 2,04,97,097/-. As the necessary enquiries have already been made by the Assessing Officer under NFAC and the assessee has already explained the source of that deposits to the satisfaction of the AO/NFAC who has clearly recorded in assessment order as under:

"In response to these notices the assessee filed its response which has been carefully perused. After considering the facts and circumstances of the case, material available on record, reply filed by the assessee in response to notice u/s 142(1) of the Income Tax Act, 1961, the explanation/reply of the assessee is accepted and no addition is made on the above mentioned issues. Therefore, returned income of the assessee is accepted."

We, therefore, quash the order passed by the Id. PCIT under Section 263 of the Act. In the result, grounds of appeal raised by the assessee are allowed.

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

Order announced in open court on 28th March, 2025.

Sd/-
(GEORGE MATHAN)
JUDICIAL MEMBER

Sd/-
(RATNESH NANDAN SAHAY)
ACCOUNTANT MEMBER

Ranchi, Dated: 02/04/2025

**Ranjan*

Copy to:

1. Assessee
2. Revenue
3. CIT
4. DR
5. Guard File

By order

Sr. Private Secretary, ITAT, Ranchi