

**IN THE INCOME TAX APPELLATE TRIBUNAL "PATNA" BENCH, PATNA
VIRTUAL HEARING AT KOLKATA**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**ITA Nos. 83/PAT/2023
Assessment Yea: 2014-15
&
ITA Nos. 95/PAT/2019
Assessment Yea: 2014-15**

Sidheshwar Prasad Verma Jai Nath Bhawan, G.T. Road, Civil Lines, Sasaram, Rohtas, Bihar-821115. (PAN: ABQPV2085F)	Vs	ITO, ward-3(4), Sasaram.
(Appellant) (Respondent)		

Present for:

Appellant by : Shri K. N. Prasad, Advocate & Shri Vishal Kr.
Advocate
Respondent by : Shri Ashwani Kr. Singal, JCIT, DR

Date of Hearing : 03.04.2025
Date of Pronouncement : 03.04.2025

ORDER

Per Bench :

ITA No. 95/Pat/2019 filed by the assessee is against the order passed u/s. 263 of the Income Tax Act, 1961 (hereinafter referred to as the "Act") by Ld. Pr. Commissioner of Income-tax-1, Patna (hereinafter referred to as the "Pr. CIT") vide order dated 26.02.2019 for Assessment Year 2014-15. ITA No. 83/Pat/2023 filed by the assessee against the order of the Ld. CIT(A), NFAC, Delhi vide order dated 20.02.2023 for AY 2014-15 confirming the assessment order passed as a consequence of the order passed u/s. 263 of the Act.

2. Shri K. N. Prasad, Advocate & Shri Vishal Kr. Advocate represented on behalf of the assessee and Shri Ashwani Kr. Singal, JCIT, DR appeared on behalf of the revenue.

3. It was submitted by the Ld. AR that the original assessment in the case of the assessee came to be completed on 31.08.2016 u/s. 143(3) of the Act. It was the submission that this was a limited scrutiny assessment for verification in respect of the large cash deposits in the savings bank account. It was the submission that the assessment was completed without considering the explanation of the assessee. For the purpose, the assessee has placed before us the order sheet entries which are available in pages 3 to 5 of second paper book filed on 19.08.2024. The ld. AR also drew our attention to pages 6 to 27 of the said paper book which is a copy of the reply filed by the assessee before the Assessing Officer along with the bank account statement. It was the submission by the Ld. AR that the Ld. Pr. CIT took the view that as the assessment order did not give a detailed reasons for accepting the returned income of the assessee, the Ld. Pr. CIT held that the assessment order was erroneous and prejudicial to the interest of the revenue. It was the submission that in the course of the assessment proceedings all details in respect of the limited scrutiny issue was provided. It was the submission that in the order u/s. 263, the ld. Pr. CIT has also directed the Assessing Officer to verify the income shown from agriculture which was not part of the limited scrutiny proceeding. It was the submission that the order of the Ld. Pr. CIT was liable to be quashed as the Ld. Pr. CIT has not shown any error much less an error which has caused prejudice to the revenue in the order passed u/s. 143(3) of the Act passed by the Assessing Authority.

4. In reply, the Ld. CIT, DR submitted that the Assessing Officer has not given any observations in the assessment order but has only made a

statement that the submissions of the assessee in this respect was examined and found no adverse inference. It was the submission that this was not a speaking order. It was the submission that this was a case of inadequate enquiry. It was the submission that more than inadequate enquiry this was practically an assessment done without examining any of the details provided by the assessee. It was the submission that the order u/s. 263 is liable to be upheld.

5. We have considered the rival submissions. It would be worthwhile to extract the order of the Ld. Pr. CIT-1, Kolkata for better understanding the facts in the present case, the same reads as follows:

“In the instant case order u/s 143(3) of the Income Tax Act, 1961, dated 31/08/2016 was passed by the Assessing Officer (A.O) accepting the total income returned of Rs.6,11,130/- for the A.Y. 2014-15.

On perusal of the assessment record it is noticed that A.O. failed to verify huge cash deposits amounting to Rs. 70,77,702/- deposited in various bank accounts. Further, A.O. failed to verify the Income shown from agriculture. The overlooking of these facts has made the assessment in this case erroneous in so far as it is prejudicial to the interest of the revenue.

Accordingly, notice was sent to the assessee intimating that PCIT-I, Patna was proposing to revise the order dated 31/08/2016. In response the assessee filed his reply stating that his accounts were scrutinized during the assessment proceeding. In support, he has quoted from the assessment order, wherein the AO has simply reproduced the assessee's submissions while appending one line that 'The submissions of the assessee in this regard were examined and found no adverse inference'. However, the record does not indicate that any enquiries were made to ascertain the veracity of the submissions made by the assessee. Therefore, it is evident the enquiries which were necessary were not conducted.

Accordingly, the order u/s 143(3) dated 31/08/2016 is held to be erroneous in so far as it is prejudicial to the interests of revenue and is set aside u/s. 263 of the Income Tax Act, 1961. The A.O. will redo the order after giving the assessee due opportunity of being heard.”

6. A perusal of the order of the Ld. Pr. CIT clearly shows that he has not found any error much less an error which has caused prejudice to the interest of the revenue. The original assessment order was a limited scrutiny assessment for verification of large cash deposits. A perusal of the

order sheet entry clearly shows that the Assessing Officer has called for the details and has examined the same. Admittedly, in the assessment order, the AO has mentioned that the submissions of the assessee in this regard were examined and no adverse inference was found. Part of the explanation of the assessee has also been extracted by the Assessing Officer in the original assessment order. These explanations of the assessee have not been found to be erroneous nor has any adverse inference been found by the Ld. Pr. CIT in respect of the evidence which has been placed by the assessee before the Assessing Officer. The issues for which the original assessment has been initiated having been completed by the Assessing Officer and the details having been called for and examined by the Assessing Officer until and unless it is shown that there is an error in the findings of the Assessing Officer, it cannot be said that the powers u/s. 263 of the Act of the Ld. Pr. CIT would get activated. As no such error has been pointed out by the ld. Pr. CIT-1, Patna in his order in respect of the original assessment order passed by the Assessing Officer, the order passed u/s. 263 of the Act passed by the Ld. Pr. CIT-1, Patna is found to be unsustainable and consequently quashed. As we have already quashed the order passed u/s. 263 of the Act by the Ld. Pr. CIT-1, Patna in the assessee's appeal in ITA No. 95/Pat/2019, the appeal of the assessee in ITA 83/Pat/2023, which is against the consequential assessment order passed u/s. 143(3) read with section 263 by the Assessing Officer passed in consequence to the order passed u/s. 263 by the ld. Pr. CIT-1, Patna is also allowed and the consequential assessment order stands quashed.

7. In the result, both the appeals of the assessee stand allowed.

Order dictated and pronounced in the open court.

Sd/-
(Rakesh Mishra)
Accountant Member

Sd/-
(George Mathan)
Judicial Member

Dated: 3rd April, 2025

JD, Sr. P.S.

Copy to:

1. The Appellant: Shri Sidheshwar Prasad Verma, Sasaram
2. Respondent – ITO, ward-3(4), Sasaram
3. Pr. CIT-1, Patna
4. DR, ITAT, Patna
5. Guard file.

True Copy

By Order

Assistant Registrar
ITAT, Patna