IN THE INCOME TAX APPELLATE TRIBUNAL, PANAJI BENCH, GOA

BEFORE HON'BLE SHRI PAVANKUMAR GADALE, JUDICIAL MEMBER

AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

ITA Nos. 103/PAN/2024

Assessment Year : 2018-19

Veerendra Basavaraj Koujalagi
C/o. Shri Laxmi Complex,
Sadashiv Nagar, Belgavi-590001
PAN : AGRPK3086D . . . . . *Appellant*

V/s

The Pr. Commissioner of Income Tax,
Hubali. . . . . *Respondent*

Appearances

Assessee by : Mr Shivanand Halbhavi ['Ld. AR']

Revenue by : Capt. Pradeep Arya ['Ld. DR']

Date of conclusive Hearing : 24/06/2025

Date of Pronouncement : 28/07/2025

ORDER

PER G. D. PADMAHSHALI;

The assessee's captioned appeal impugns DIN & Order 1063626985(1) dt. 29/03/2024 passed by Pr. Commissioner of Income Tax, Hubali ['Ld. PCIT'] u/s 263 of the Income-tax Act, 1961 ['the Act'] which sought to revise order of assessment dt. 26/04/2021 passed u/s 143(3) r.w.s. 144B of the Act by National Faceless e-Asstt. Centre, Delhi ['Ld. AO'] anent to assessment year 2018-19 ['AY'].

2. The primary grievance in the present appeal loops round the powers of revisionary authority to revise an assessment order passed in pursuance of limited scrutiny assessment as against complete scrutiny.

3. Briefly stated facts born out of case records and as solidified by the rival parties are that; the assessee is a resident individual engaged in trading business of steel & iron etc., and for year under consideration e-filed his return of income ['ROI/ITR'] on 30/10/2018 declaring total income of ₹1,77,15,710/-. The ROI was summarily processed u/s 143(1) of the Act first and subsequently vide notice dt. 22/09/2019 issued u/s 143(2) of the Act selected for scrutiny. The consequential assessment vide order dt. 26/04/2021 was framed u/s 143(3) r.w.s. 144B of the Act wherein two additions were made viz; (1) value of sale consideration of ₹1,62,81,966/- not reflected in books of accounts and (2) Unexplained cash credit of ₹46,85,459/-.

4. Following culmination of assessment proceedings, the assessment records were called upon and perused u/s 263 of the Act wherein it was revealed to the Ld. PCIT that, for the year under consideration the assessee had huge investment of ₹5,77,76,211/- into certain partnership firms, mutual funds and shares of limited company etc., which for the year under consideration collectively yielded certain exempt income. Against such earnings of exempt income, neither the assessee nor the assessing officer had disallowed any expenditure in view of the section 14A of the Act. Upon coming to conclusion that the assessment was culminated without conducting inquiries / verification into earning of exempt income *vis-à-vis* disallowance of expenditure (if any) incurred towards earning of such exempt income, by issue of notice u/s 263 of the Act, the Ld. PCIT called upon the assessee to showcase as to why the order of assessment framed without verification of 14A disallowance should not be set-aside.

5. The assessee objected the revisionary proceedings with a cannonball point that '*format of notice issued u/s 143(2) of the Act by the Ld. AO was meant for 'limited scrutiny'*. It was alleged before the Ld. PCIT that, by the very nature of limited scrutiny assessment, the Ld. AO dealt with issues exclusively raised therein which *inter-alia* were; (1) income from real estate business and (2) deduction claimed for industrial undertakings etc. The issue of 14A disallowance since was out of the scope of limited scrutiny notice, therefore no revisionary action is permissible u/s 263 of the Act on the subject matter. Not finding favour with the assessee's contention & submissions, the Ld. PCIT proceeded the revisionary action & set-aside the order of assessment for Ld. AO's failure to carry out inquiry & verification of audited financial statements and examine the nature & source of exempt income and corresponding expenditure (if any) incurred in relation to earning of such exempt income and applicability of provisions of section 14A of the Act.

6. Pending the direction issued by the Ld. PCIT on the subject matter/issue, the assessee came in present appeal opposing the set-aside of assessment order for limited issue on the following grounds;

1. ***The order passed by the learned PCIT is not as per Law and facts of the case.***

2. The learned PCIT is not justified in invoking the powers under section 263 of the Income Tax Act, 1961 on the issues which are beyond the issues mentioned in Limited Scrutiny.

3. The learned PCIT is not justified in invoking the powers under section 263 of the Income Tax Act, 1961 on the issues which are beyond the issues mentioned in Limited Scrutiny.

4. The learned PCIT is not justified in travelling beyond jurisdiction by converting into a Limited Scrutiny to Complete Scrutiny.

7. In the course of physical hearing, the Ld. AR Mr Halbhavi reiterated assessee's solitary contention & submissions as were made in the revisionary

proceedings before the Ld. PCIT and to drive home his sole & substantive contention has relied upon catena of judicial precedents. *Per contra* the Ld. DR Capt. Arya dismantled the assessee's sole argument by pinpointing contrary notings from the statutory records.

8. We have heard the rival parties on limited issue; subject to rule 18 of ITAT Rules, 1963 perused material placed on records, considered the facts of the case in light of settled legal position.

9. We note that, there is no dispute that the limited issue under revision was neither inquired nor verified by the Ld. AO to test the applicability of provisions of section 14A of the Act, therefore there is much less subject/issue to adjudicate on merits in this case. On the other hand both the rival parties are in compelling agreement that, the revisionary action would turn bad in law if the subject matter/issue of disallowance of 14A falls outside the preview of scope of scrutiny assessment.

10. The only dispute thus remains is the scope of scrutiny assessment. The appellant on the basis of format of notice issued to him u/s 143(2) of the Act claims that the scrutiny in his case was 'limited'. *Au contraire* the Revenue on the basis of assessment records claims that it was as 'complete scrutiny'.

11. We observed that, although the first notice dt. 22/09/2019 issued u/s 143(2) of the Act r.w.r. 12E of IT-Rules does makes no mention as to *'whether class of scrutiny is limited or complete'*, however it makes it clear that there are ***certain issues*** which needs to be clarified/verified in the return of income and therefore case is selected for scrutiny and ***such issues initially are*** as under; (i)…, (ii)…, etc.'. Furthermore we also observed that, the assessment order dt. 26/04/2021 opens with para 1 as; *'the case was* ***selected for complete scrutiny*** *assessment under the E-assessment Scheme, 2019 on the following issues; (i). . (ii). . etc.'*.

12. The copy of order sheet of assessment proceedings placed on record by the Revenue vide letter dt. 09/04/2025 evidently reveals the statutory notings that, by order sheet entry dt. 19/03/2021 (placed on internal pg 5-6 of order-sheet) the appellant's case was selected for ***'complete scrutiny'*** with reasons "1… & 2…etc.,'.

13. On a specific query the Ld. AR solidified that, the copy of said assessment order was duly communicated to the assessee against which no rectification application for objecting aforestated para 1 was filed anytime until now. Thus the appellant could neither deface the former order-sheet entry/notings nor could lay any deprecative material to decay the statutory records of the Revenue. In view therefore, we hold that the Revenue has made out its case by establishing on records that, proceedings sought to be revised u/s 263 was selected for ***complete scrutiny*** and misplaced issue of 14A disallowance was within the scope of such scrutiny assessment.

14. We are also mindful to state that, vide letter F. No. 225/157/2017/ITA.II dt. 23/06/2017 the Central Board of Direct Taxes ['Board/CBDT'] revised the format of scrutiny notices to enable better & smooth e-proceedings. Vide such letter the Board laid two separate formats one for limited scrutiny and one for completer scrutiny under computer aided scrutiny scheme ['CASS']. In addition to above it is also bought to our notice from Board's Instruction no 20/2015 dt. 29/12/2015 issued on the subject of selection of cases under CASS mechanism for scrutiny that, in cases where selection is based on information from AIR/CIB/26AS data, the scope of scrutiny shall be restricted to those issue emanating from such AIR/CIB/26AS data as the case may be. The Board in former instruction also clarified that, the issuance of notice u/s 143(2) and subsequent notices u/s 142(1) shall invariably state the scope of scrutiny as 'limited' when the selection was so made.

15. Both the formats of notice perused in the light of assessment records and we find that there is much less mention of limited scrutiny anywhere in the assessment proceedings/records under consideration. Admittedly the case of the appellant was selected under regular course and not owning to information from AIR/CIB/26AS of the Act. The records therefore ostensibly notes that the case of the appellant was selected for complete scrutiny & not for limited as claimed by the appellant.

16. Going further we hold that, these formats of notices or forms of notices are sub-servient to the execution of provisions of the statute and therefore they can neither override the provisions of law nor the rules made thereunder. The notices are not set-out or prescribed under any provisions of the Act or rules. These prescribed formats act as tools in administrating the execution of law, and by no means they are laws, and

therefore *per-se* they do not carry the force of law. The instructions as to how to perform tasks including issuance of notice etc., or in that matter how to handle situations, they are not legally enforceable in the same way as statutes or regulations. We therefore of the view that, the format or form of notices can never override & outdo the substance contained therein.

17. In the present case the appellant failed to dismantle the Revenue's stand that the case of the assessee for the year under consideration was selected under CASS for complete scrutiny. On the other hand the appellant could hardly prove with any corroborative material that assessment in his case was for limited scrutiny on the issues raised therein the notice issued u/s 143(2) of the Act. Further the form/format of notice relied to by the appellant to claim the scope of scrutiny in his case was 'limited' in our considered view could hardly of any help because the ***'substance of notice issued u/s 143(2) of***

the Act, overpowered the form/format'. We say so because, the impugned notice has clearly set-out the scope by not confining the scope to only issues identified therein but kept open unlimitedly. The notings of order-sheet entries and the text (para 1) in the body of assessment order copiously confirms the scope of assessment proceedings carried in pursuance to statutory notice was not limited to issues raised therein.

18. In view of the aforestated findings, observation & discussion, we do not find any merits in the contention of the appellant assessee and in consequence see no reason to interfere with impugned revisionary order as the issue subjected for *de-novo* adjudication was as admitted by the appellant that never been dealt with by the Ld. AO in the course of assessment proceedings.

19. Insofar as the revisionary jurisdiction is concerned, it is trite law that, section 263 of the Act, empowers the revisionary authority to revise any order passed under

the provisions of Act, and so long as the order sought to be revised is valid & legal in the eyes of law, it shall be well within the realm of the revisionary authority to revise it, subject to fulfilment of twofold condition laid therein.

20. In the present case, the appellant could hardly challenge the revisionary jurisdiction on non-satisfaction of twin condition laid in section 263 of the Act. *Albeit* in the case under consideration the aforesaid twin satisfaction admittedly drawn from the assessment records which triggered the revisionary jurisdiction and thus empowered the Ld. PCIT to conclude the proceedings by making necessary inquiry and according an opportunity of being heard to the appellant that the Ld. AO committed grave mistake by gambolling to verify & vouch applicability of provisions of section 14A of the in view of exempt income earned by the appellant assessee.

21. In these facts & circumstances, we find substantial force in the action of Ld. PCIT, and same can be buttressed in the light of the decision of Hon'ble Supreme Court the in the case of '*Malabar Industrial Co Ltd. Vs CIT'* reported in 243 ITR 83, the para 9 of which read as;

> ***'There must be some grievous error in the order passed by the Income-tax Officer, which might set a bad trend or pattern for similar assessments, which on a broad reckoning, the Commissioner might think to be prejudicial to the interests of Revenue Administration. In our view this interpretation is too narrow to merit acceptance. The scheme of the Act is to levy and collect tax in accordance with the provisions of the Act and this task is entrusted to the Revenue. If due to an erroneous order of the Income-tax Officer, the revenue is losing tax lawfully payable by a person, it will certainly be prejudicial to the interests of the revenue'***
>
> ***(Emphasis supplied)***

22. In the event of grievous failure on the part of the Ld. AO to inquire & verify; (i) investment capable of earning exempt income (ii) exempt income earned and (iii) applicability of provisions of section 14A of the Act r.w.r. 8D of IT-Rules etc., the action of Ld. PCIT in holding the order of assessment as erroneous and prejudicial to the interest of the Revenue is perfectly lawful & tenable by negative application of decision rendered by Hon'ble Bombay High Court in the case of 'CIT Vs Gabriel India Ltd' reported at 203 ITR 108, which indeed relied by the appellant, wherein the Hon'ble lordship's at para 14 have held as;

> ***'We, therefore, hold that in order to exercise power under sub-section (1) of section 263 of the Act there must be material before the Commissioner to consider that the order passed by the Income-tax Officer was erroneous in so far as it is prejudicial to the interests of the Revenue.'***
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> ***(Emphasis supplied)***

23. In omnibus, in the absence of necessary inquiries into investments, earning of exempt income and corresponding disallowance of expenditure in earning such exempt income in terms of section 14A of the Act r.w.r 8D of IT-Rules, 1962, in the light of former judicial precedents (supra), the action of Ld. PCIT in holding the order of assessment as erroneous & prejudicial to the interest of revenue is very well sustainable in law. Ergo we find no infirmity with the direction of impugned revisionary order passed u/s 263 of the Act.

24. The substantive grounds raised by the assessee thus stands dismissed, and in consequence the appeal.

U/r 34 of ITAT Rules, 1963 the order pronounced in the open court on date mentioned hereinbefore.

-S/d-	**-S/d-**
PAVAN KUMAR GADALE	**G. D. PADMAHSHALI**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Panaji/Dt: 28th July, 2025.

Copy of the Order forwarded to :

1. The Appellant.	2. The Respondent.	3. The CIT(A)/NFAC Concerned
4. PCIT Concerned	5. DR, ITAT, Panaji Bench, Goa	6. Guard File

By Order,
Sr. Private Secretary / AR ITAT, Panaji.