

आयकर अपीलीय न्यायाधिकरण में, हैदराबाद 'ए' बेंच, हैदराबाद
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' A ' Bench, Hyderabad

श्री मंजूनाथ जी, माननीय लेखा सदस्य एवं श्री रवीश सूद, माननीय न्यायिक सदस्य
SHRI G. MANJUNATHA, HON'BLE ACCOUNTANT MEMBER
AND
SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER

आयकर अपील सं./I.T.A.No.544/Hyd/2024
(निर्धारण वर्ष/ Assessment Year: 2018-19)

SLR Infrastructure Private Limited, Hyderabad. PAN : AAJCS5863K (अपीलार्थी/ Appellant)	Vs.	The Deputy Commissioner of Income Tax, Circle 3(1), Hyderabad. (प्रत्यर्थी/ Respondent)
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri A. Srinivas, Advocate.
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Ms. U. Mini Chandran – CIT-DR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	10.09.2025
घोषणा की तारीख/ Date of Pronouncement	:	17.10.2025

ORDER

PER MANJUNATHA G., A.M :

This appeal filed by the assessee is directed against the order of the Principal Commissioner of Income Tax, Hyderabad - 1, dated 25.03.2024 passed under Section 263 of the Income Tax

Act, 1961 (for short “the Act”) and pertains to the assessment year 2018-19.

2. The brief facts of the case are that, the assessee company is engaged in the business of civil contracts in infrastructure sector such as irrigation projects, filed its return of income for AY 2018-19 on 15-10-2018 declaring a total income of Rs. 2,28,44,290/-. The case has been selected for scrutiny for verification of genuineness of expenses and the assessment has been completed under Section 143(3) r.w.s. 143(3A) & 143(3B) of the Income Tax Act, 1961 on 09-04-2021 and accepted the income returned by the assessee.

3. The case has been, subsequently taken up for revision proceedings. A Show-Cause Notice under Section 263 of the Act, dated 21-04-2024 was issued and served on the assessee. The Ld. Pr. CIT in the said show-cause notice called upon the assessee to explain as to why the assessment order passed by the A.O. under Section 143(3) read with Section 143(3A) and 143(3B) on 09-04-2021 shall not be revised in terms of Section 263 of the Act, because the assessment order passed by the A.O. is erroneous in

so far as it is prejudicial to the interest of the revenue on the issue of genuineness of expenditure incurred by the assessee. In the said show-cause notice, the Ld. Pr. CIT observed that, although the case was selected for scrutiny to verify genuineness of expenditure, but the A.O. completed the assessment without carrying out required enquiries, he ought to have been carried out in light of provisions of Section 263 of the Act, in respect of sub-contract expenditure paid to Malreddy Dharma Reddy and Venkat Rami Reddy Nimmanpalli, which is evident from the material available on record where it is clearly established that although the above two parties have not filed return of income to prove the genuineness of the payment made by the assessee, but the A.O. has allowed deduction towards sub-contract payment made to the above parties. Therefore, opined that, the assessment order passed by the A.O. is erroneous insofar as it is prejudicial to the interest of the revenue.

4. In response to the show-cause notice issued by the Ld. Pr. CIT, the assessee submitted that the assessment order passed by the A.O. is neither erroneous nor prejudicial to the interest of

revenue because, the A.O. has verified the issue of sub-contract payments made to the above two parties by issuing a specific show cause notice under Section 142(1), dated 09-01-2020, where the A.O. has called for specific details of sub-contract payments made by the assessee and consequent TDS deduction under Section 194C of the Act. The assessee, in response to the notice issued by the A.O., has furnished all the details, including bills and vouchers submitted by the sub-contractors, payments made to them through banking channels, and TDS deducted on the said payments. The A.O., after considering relevant facts, has rightly accepted the genuineness of the payments made by the assessee and completed the assessment. Therefore, it cannot be said that the assessment order passed by the A.O. on this issue is erroneous insofar as it is prejudicial to the interest of the revenue.

5. The Ld. Pr. CIT, after considering relevant submissions of the assessee and also taking note of the relevant facts, has observed that, on perusal of the material/information furnished by the assessee, it is evident that, although the assessee has filed certain evidences to prove the genuineness of the payments to the above

two parties namely Malreddy Dharma Reddy and Venkat Rami Reddy Nimmanpalli, including details of payment made through banking channels and TDS deducted on said payment, but failed to furnish formal agreement with the sub-contractors, which is clearly shows the non-genuineness of the payments made by the assessee. Further, the assessee confirmed that it has supplied material like steel, cement, gravel, etc., and also expenses like Diesel, Transportation, etc., were also stated to have been borne by the assessee. Since majority of the expenses has been incurred by the assessee, the payment made to the above two parties need to be examined in light of relevant agreement between the parties and bills submitted for carrying out works. Since the assessee could not furnish relevant bills in support of works carried out by the sub-contractors, the genuineness of the payment made to the above two parties is not established. Although the assessee could not establish the genuineness of the expenditure, but the A.O. simply allowed the payment made to the above two parties, which renders the assessment order passed by the A.O. erroneous in so far as it is prejudicial to the interest of the Revenue. Therefore, rejected the explanation of the assessee and set aside the

assessment order passed by the A.O. under Section 143(3) r.w.s. 143(3A) & 143(3B) of the Income Tax Act, 1961 on 09-04-2021 and directed the A.O. to pass suitable order after examining the link between the payments made and actual work carried out by these sub-contractors.

6. Aggrieved by the order of Ld. Pr. CIT, the assessee is now, in appeal before the Tribunal.

7. The Learned Counsel for the assessee Shri A. Srinivas, Advocate, submitted that the Ld. Pr. CIT erred in invoking his powers of revision under Section 263 of the Act, even though the assessment order passed by the A.O. is neither erroneous nor prejudicial to the interest of the revenue on the issue of sub-contractors' expenses paid to Malreddy Dharma Reddy and Venkat Rami Reddy Nimmanpalli. The learned counsel for the assessee, referring to the assessment order passed by the A.O. under Section 143(3) read with Section 143(3A) and 143(3B) on 09-04-2021, and relevant notices issued under Section 142(1) of the Act on various dates, submitted that the case was selected for scrutiny to verify the genuineness of the expenditure which covers

sub-contract expenditure incurred in the name of the above two persons. The A.O. issued a specific notice under Section 142(1), dated 09-01-2020, and called for various details about sub-contract expenses incurred by the assessee. The assessee has furnished all the details, including relevant bills submitted by the sub-contractors, payments made through banking channels, and TDS deducted on payments made to sub-contractors. The assessee has also furnished relevant income tax returns filed by the sub-contractors, wherever the parties have filed the return of income. In the case of Malla Reddy Dharma Reddy and Venkata Rami Reddy NimmaPalli, the assessee could not furnish relevant income tax returns filed by them because, Malla Reddy Dharma Reddy **was** expired during COVID period without filing return of income. In respect of the other party, the role of the assessee is to deduct TDS on the payments made to the sub-contractors, but filing return of income by the sub-contractors is not in the control of the assessee. Therefore, merely for the reason of non-filing of return by sub-contractors, the genuineness of the payments made to the above two parties cannot be doubted, more particularly when the assessee has furnished all the details. Although these

evidences have been submitted to the Ld. Pr. CIT, but the Ld. Pr. CIT, without appreciating the relevant facts, simply set aside the assessment order passed by the A.O. under Section 143(3) r.w.s. 143(3A) & 143(3B) of the Income Tax Act, 1961, dated 09-04-2021 in terms of Section 263 of the Act. Therefore, it is submitted that the order passed by the Ld. Pr. CIT should be quashed.

8. The Ld. CIT-DR Ms. U. Mini Chandra, on the other hand, supporting the order of the Ld. Pr. CIT, submitted that there is no dispute with regard to the fact that the assessee could not file relevant income tax returns filed by the above two sub-contractors. Further, the assessee could not file relevant bills furnished by the sub-contractors along with agreements, if any, between the assessee and the sub-contractors. Mere making payment through banking channels and deducting TDS on sub-contractors' payments does not prove the genuineness of the payments. The A.O., without appreciating the relevant facts, simply accepted the return filed by the assessee, without carrying out the required enquiries he ought to have been carried out in light of the provisions of Section 263 of the Act. The Ld. Pr. CIT,

after considering the relevant facts, has rightly held that the assessment order passed by the A.O. is erroneous insofar as it is prejudicial to the interest of the revenue. Therefore, she submitted that the order of the Ld. Pr. CIT should be upheld.

9. We have heard both parties, perused the material available on record, and had gone through the orders of the authorities below. There is no dispute with regard to the fact that the assessee's case was subjected to regular assessment under Section 143(3) of the Act, where the assessment was taken up for the purpose of verification of the genuineness of expenses, which covers sub-contract expenses incurred by the assessee. It is also not disputed that the A.O. completed the assessment proceedings under Section 143(3) r.w.s. 143(3A) & 143(3B) of the Income Tax Act, 1961 on 09-04-2021 without making any additions towards sub-contract expenses incurred by the assessee, including payments made to the above two parties, even though the A.O. had caused the required enquiries by issuing notices under Section 142(1) of the Act, dated 09-01-2020, 15-12-2020, and 17-02-2021. The A.O. had called for specific details about sub-

contract expenses incurred by the assessee and relevant TDS deducted under Section 194C of the Act, which is evident from annexure forming part of notices issued under Section 142(1), where the A.O. had specifically called for return of income filed by the sub-contractors for the relevant assessment years. In response to notices under Section 142(1) of the Act, the assessee has furnished relevant details, including bills submitted by the sub-contractors, payment made to them through banking channels and TDS deducted on sub-contract payments. The A.O. after considering relevant submissions, has accepted the return of income without making any additions.

10. The provisions of section 263 of the Act deal with revisionary powers of the Principal Commissioner or Commissioner. As per section 263 of the Act, the Ld.PCIT may conduct enquiry or call for relevant information and after giving opportunity of being heard to the assessee, pass order enhancing or modifying the assessment or cancelling the assessment and directing a fresh assessment, if the said assessment is prejudicial to the interest of the Revenue. Explanation 2 to section 263 defines the circumstances, under

which the assessment order can be treated as erroneous and as per the said explanation, the order passed by the Assessing Officer shall be deemed to be erroneous, in so far as it is prejudicial to the interest of the Revenue, if in the opinion of the Principal Commissioner, the order passed is without making enquiries or verification, which should have been made and so on. From the plain reading of the said provisions, it is abundantly clear that in order to invoke jurisdiction u/s 263 of the Act, the twin conditions embedded there in must be satisfied, i.e. firstly, the order is erroneous and secondly, the same is also prejudicial to the interest of the Revenue. Whether a particular assessment order passed by the Assessing Officer is erroneous or not, depends upon the subjective satisfaction of the Ld.PCIT. Before assuming jurisdiction, the PCIT should satisfy with valid reasons that the assessment order passed by the Assessing Officer on particular issue is erroneous, which caused prejudice to the interest of the Revenue. Unless the PCIT brings out the reason and explain how the assessment order passed by the Assessing Officer is erroneous then, in our considered view, simply for the purpose of further verification, the assessment order cannot be set aside, in terms of

section 263 of the Act and this legal principle is supported by plethora of judicial precedents including the decision of Hon'ble Supreme Court in the case of PCIT Vs Cartier Leafin Private Ltd. (2023) 146 taxmann.com 281 (SC), wherein, Hon'ble Supreme Court dismissed the SLP filed by the department against Hon'ble High Court order and accepted the fact that, where due enquiry was made by the Assessing Officer during the assessment proceedings by applying his mind and accepted the claim of operating loss, which was a possible view, there was no basis to invoke revisionary proceedings on the ground that the books of accounts and transactions of share trading activity carried out by the assessee vis-à-vis the D-mat accounts of the assessee have not been examined by the Assessing Officer during the assessment proceedings. This principle, further supported by the decision of Hon'ble Supreme Court in the case of Malabar Industries Co.Ltd (2000) 243 ITR 83 (SC), wherein, it is clearly held that in order to invoke jurisdiction u/s 263, the order of the ITO in question, must not only be erroneous but also the error in the order of the ITO must be of such a kind, that it can be said that it is prejudicial to the interest of the Revenue. In other words, merely, because, the

Assessing Officer's order is erroneous, the PCIT cannot interfere. Again, merely because, the order of the Assessing Officer is prejudicial to the interest of the Revenue then, again that is not enough to confer jurisdiction on the PCIT to interfere in revision. The sum and substance of the ratios laid down by various courts including the Hon'ble Supreme Court is that before invoking jurisdiction u/s 263, the PCIT must give reasons to come to a conclusion that the issues in question were not examined by the Assessing Officer, in light of relevant provisions of the Act and evidences placed on record.

11. In this legal background, if we examine the facts of the present case, it is undisputedly clear that during the course of assessment proceedings, the A.O. raised queries by issuing notices under Section 142(1) of the Act, on the issue of sub-contract payments made by the assessee, including sub-contract payments made to the above two parties. In response, the assessee has submitted all the details and also explained explanation as to why the above two sub-contractors have not furnished the return of income. In our considered view, once the

issue on which the Ld. Pr. CIT assumed his jurisdiction was subject matter of verification from the A.O. during the course of assessment proceedings, then it cannot be said that the A.O. did not carry out the required enquiries, he ought to have carried out in light of Explanation 2 to Section 263 of the Act. This is because, unless the Ld. Pr. CIT makes out a case that, it is a case of lack of enquiry, then there is no scope for the Ld. Pr. CIT to invoke jurisdiction under Section 263 of the Act. The law is very clear insofar as assumption of jurisdiction by the Ld. Pr. CIT that the twin conditions provided therein that (i) the order passed by the A.O. is erroneous and (ii) it is prejudicial to the interest of the revenue should be satisfied. In the present case, going by the reasons given by the Ld. Pr. CIT in his order passed under Section 263 of the Act, there is no dispute with regard to the observation of the Ld. Pr. CIT that the assessee has furnished all details, including relevant bills submitted by the sub-contractors and TDS deducted on the payment made to them. However, the Ld. Pr. CIT doubted the genuineness of the payments only on the ground that there is no formal agreement between the assessee and the sub-contractors, and further, the sub-contractors have not

furnished return of income. In our considered view, absence of a formal agreement between the parties is not a ground for doubting the genuineness of the payments made by the assessee, more so, when other evidences furnished by the assessee proves that the transactions between the assessee and sub-contractors are genuine, which were incurred in the normal course of business of the assessee.

12. Insofar as the observation of the Ld. Pr. CIT with regard to non-furnishing of return of income by the sub-contractors, in our considered view, the obligation of the assessee is to deduct TDS on payments made to sub-contractors in terms of Section 194C of the Act. Filing of return of income by the sub-contractors is not within the domain of the assessee and beyond the control of the assessee. Therefore, non-furnishing of return of income by the sub-contractors is not a ground for disbelieving or doubting the genuineness of the payments made by the assessee. Since the assessee has furnished all the relevant evidences, including relevant bills submitted by the sub-contractors and also proved the nature of work executed by them, in our considered view, the

reasons given by the Ld. Pr. CIT to set aside the assessment order passed by the A.O. on the issue of sub-contract payment made to the above two parties is devoid of merit and cannot be accepted.

13. Coming back to the case laws relied upon by the learned Counsel for the assessee. The learned counsel for the assessee relied upon the decision of Hon'ble ITAT, Hyderabad Benches in the case of N.A.M. Expressway Ltd. Vs. ACIT in ITA No. 580/Hyd/2024 dated 28.01.2025. We find that, the Coordinate Bench of ITAT had considered an identical issue of 263 order passed by the Ld. Pr. CIT and, after considering relevant facts, held as under:

“10. We have heard both the parties, perused the material on record and gone through the orders of the authorities below. We have also carefully considered the relevant case laws referred to by both the parties in support of their contentions. The Ld.PCIT assumed jurisdiction u/s 263 of the Act and set aside the assessment order passed by the Assessing Officer u/s 143(3) of the Act dated 21.04.2021 and directed the Assessing Officer to reexamine the issue of ICDS adjustment of Rs.10.07 crores and amortization expenses u/s 37(1) of the Act, in light of amortization claimed for the A.Y.2017-18 and amortization claimed for the A.Y.2018-19 under consideration. According to the PCIT, although the assessee reported other income of Rs.1.98 crores, but has claimed reduction of Rs.10.07 crores towards Ind AS impact, which resulted in excess loss of Rs.8.09 crores. The Ld.PCIT further observed that as per the Profit & Loss account for A.Y.2017-18, the assessee company claimed deduction of Rs.85.35 crores towards amortization u/s 37(1) of the Act, whereas, the total amortization allowable for the assessment year 2017-18 was only Rs.73.93 crores. Since the company claimed and was allowed excess amortization and the cascading effect resulted in excess

claim of WDV of intangible assets of Rs.11.41 crores for the year under consideration. Therefore, the Ld.PCIT opined that failure to verify the issues in right perspective of law, in terms of explanation 2 to section 263(1) of the Act, renders the assessment order passed by the Assessing Officer erroneous and prejudicial to the interest of the Revenue.

11. The provisions of section 263 of the Act deals with revisionary powers of the Principal Commissioner or Commissioner. As per section 263 of the Act, the Ld.PCIT may conduct enquiry or call for relevant information and after giving opportunity of being heard to the assessee, pass order enhancing or modifying the assessment or cancelling the assessment and directing a fresh assessment, if the said assessment is prejudicial to the interest of the Revenue. Explanation 2 to section 263 defines the circumstances, under which the assessment order can be treated as erroneous and as per the said explanation, the order passed by the Assessing Officer shall be deemed to be erroneous, in so far as it is prejudicial to the interest of the Revenue, if in the opinion of the Principal Commissioner, the order passed is without making enquiries or verification, which should have been made and so on. From the plain reading of the said provisions, it is abundantly clear that in order to invoke jurisdiction u/s 263 of the Act, the twin conditions embedded there in must be satisfied, i.e. firstly, the order is erroneous and secondly, the same is also prejudicial to the interest of the Revenue. Whether a particular assessment order passed by the Assessing Officer is erroneous or not, depends upon the subjective satisfaction of the Ld.PCIT. Before assuming jurisdiction, the PCIT should satisfy with valid reasons that the assessment order passed by the Assessing Officer on particular issue is erroneous, which caused prejudice to the interest of the Revenue. Unless the PCIT brings out the reason and explain how the assessment order passed by the Assessing Officer is erroneous then, in our considered view, simply for the purpose of further verification, the assessment order cannot be set aside, in terms of section 263 of the Act and this legal principle is supported by plethora of judicial precedents including the decision of Hon'ble Supreme Court in the case of PCIT Vs Cartier Leaflyn Private Ltd. (2023) 146 taxmann.com 281 (SC), wherein, Hon'ble Supreme Court dismissed the SLP filed by the department against Hon'ble High Court order and accepted the fact that, where due enquiry was made by the Assessing Officer during the assessment proceedings by applying his mind and accepted the claim of operating loss, which was a possible view, there was no basis to invoke revisionary proceedings on the ground that the books of accounts and transactions of share trading activity carried out by the assessee vis-à-vis the D-mat accounts of the assessee have not been examined by the Assessing Officer during the assessment proceedings. This principle, further supported by the decision of Hon'ble Supreme Court in the case of Malabar Industries Co.Ltd (2000) 243 ITR 83 (SC), wherein, it is clearly held that in order to invoke jurisdiction u/s

263, the order of the ITO in question, must not only be erroneous but also the error in the order of the ITO must be of such a kind, that it can be said that it is prejudicial to the interest of the Revenue. In other words, merely, because, the Assessing Officer's order is erroneous, the PCIT cannot interfere. Again, merely because, the order of the Assessing Officer is prejudicial to the interest of the Revenue then, again that is not enough to confer jurisdiction on the PCIT to interfere in revision. The sum and substance of the ratios laid down by various courts including the Hon'ble Supreme Court is that before invoking jurisdiction u/s 263, the PCIT must give reasons to come to a conclusion that the issues in question were not examined by the Assessing Officer, in light of relevant provisions of the Act and evidences placed on record.

12. In this legal background, if we examine the facts of the present case, it is undisputedly clear that during the course of assessment proceedings, the Assessing Officer had raised query vide notices with respect to both the issues discussed by the PCIT in his show cause notice, which is evident from the notice issued u/s 142(1) of the Act dated 11.01.2021, where, the annexure to said notice contains questions pertaining to details of amortization expenses of Rs.80.61 crores and relevant computations and further details with regard to deduction of Rs.10.07 crores on account of Ind AS adjustment. The assessee vide letter dated 20.01.2021 had explained the issue with detailed submissions and the Assessing Officer after considering the relevant submissions of the assessee has completed the assessment u/s 143(3) of the Act on 21.04.2021, without any adjustment on the issues discussed by the Ld.PCIT. From the above, it is very clear that the Assessing Officer has thoroughly examined the issues in light of relevant provisions of the Act and has taken a plausible view and therefore, in our considered view, merely for the reasons that the Assessing Officer has not discussed the issue in the body of the assessment order, the PCIT cannot assume jurisdiction and hold that the assessment order passed by the Assessing Officer is erroneous, in so far as it is prejudicial to the interest of the Revenue.

13. Coming back to two issues questioned by the PCIT in 263 proceedings. According to the Ld.PCIT, the Assessing Officer has allowed excess allowance of loss of Rs.8.09 crores towards Ind AS adjustment. The assessee has claimed Ind AS adjustment of Rs.10.07 crores and reduced from the total income, while computing the income from business and profession and which consist of three items of income and expenditure. The assessee has debited Rs.2.93 crores towards unwinding of interest on major maintenance expenses on the ground that no expenditure has been incurred for the year under consideration and it is only, the provision in the books. The assessee has reduced Rs.11.13 crores towards government grant and credited to Profit & Loss account.

The assessee has received Government Grant towards construction of roads and the same has been reduced from the cost of the asset for claiming amortization over the period of concessionaire agreement in terms of section 43 of the Income Tax Act coupled with CBDT Circular 9/2014. In this regard, the assessee has filed details and explained that the total grant received from the Government has been reduced from the cost of construction of roads and balance amount has been amortised and debited to Profit & Loss account. Since the grant from the government has been accounted in the books of accounts, the same has been amortised over the period of concessionaire agreement and credited to Profit & Loss account. Since the amortization was net of grants, the assessee has reduced the income credited to Profit & Loss account towards said grant in the statement of total income. In our considered view, the method of accounting followed by the assessee for treatment of Government grant in the books of accounts and for the purpose of income computation and disclosure standards is in accordance with ICDS standards and therefore, adjustment made in the statement of total income cannot result in any excess allowance of loss for the year under consideration. Similarly, the assessee has incurred finance charge, processing fees, other financial charges etc. totalling to Rs.4.24 crores, on account of secured term loans and the same has been amortised over a period of two years including the year under consideration. The assessee has debited a sum of Rs.2.36 crores in the Profit & Loss account for the year under consideration out of Rs.4.24 crores and the balance amount of Rs.1.87 crores has been deferred to subsequent financial year in the books of accounts. Further, for the purpose of computation of income, deduction has been claimed for total amount of Rs.4.32 crores. This fact has been explained right from the beginning, We find that the accounting treatment given for finance and other charges in the books of accounts and deduction claimed towards entire amount of charges in the statement of total income is in accordance with the provisions of the Act. From the details furnished by the assessee and discussion herein above, in our considered view, there is no excess allowance of loss as claimed by the Ld.PCIT in his show cause notice towards Ind AS impact of Rs.10.07 crores. Therefore, we are of the considered view that the Ld.PCIT erred in setting aside the assessment order on this issue.

14. Coming back to the second issue discussed by the Ld.PCIT. The Ld.PCIT observed that the assessee claimed deduction of Rs.85.35 crores towards amortization u/s 37(1) for the A.Y.2017-18 as against Rs.73.93 crores and because of this cascading effect for the year under consideration was Rs.10.79 crores, on account of excess claim of WDV of intangible assets. The assessee has explained the issue in light of relevant notes to account and provisions of the Act. According to the assessee, for the A.Y.2017-18, it has claimed amortization of Rs.85.35 cores which consist of three items. i.e, amortization of intangible asset

u/s 37(1) and Circular 9/2014 issued by CBDT for Rs.73.93 crores, amortisation of preliminary expenses u/s 35D of the Act for Rs.24.93 lakhs and adjustment towards grant income disclosed in the books allowable under the Act for Rs.11.16 crores. Going by the explanation furnished by the assessee, in light of relevant financial statements, we find that the Ld.PCIT himself misread the financial statements and claimed that the assessee has claimed excessive amortization of Rs.85.35 crores instead of Rs.73.93 crores towards amortization of intangible assets, without considering other two items of amortisation claimed by the assessee. From the reasons given by the assessee, in light of explanation of the learned counsel for the assessee, we find that the Ld.PCIT, without any reason, simply set aside the assessment order on this issue to the Assessing Officer for further verification. In our considered view, the Ld.PCIT does not have any power to set aside the assessment order for further verification. Going by the plain reading of section 263, it is very clear that the Ld.PCIT can set aside the assessment order, if the said assessment is prejudicial to the interest of the Revenue and the prejudice caused to the Revenue is to be brought on record with reasons. In the present case, the Ld.PCIT without discussing as to how the deduction claimed u/s 37(1) for amortization has caused prejudice to the interest of the Revenue, simply came to the conclusion and claimed that the Assessing Officer has allowed excess claim of WDV of intangible assets, without properly reading the financial statements of the assessee. From the reasons given by the Ld.PCIT, we find that the Ld.PCIT has not applied his mind before invoking jurisdiction u/s 263 of the Act. In our considered view, the explanation 2 to section 263 has given power to the PCIT to revise the assessment order, if the PCIT satisfies that the order is passed without making enquiries or verification, which should have been made, but such conclusion can be drawn only on the basis of reasons given by the Ld.PCIT, to prove that because of erroneous order passed by the Assessing Officer, the lawful revenue payable to the Government has not been paid. Therefore, we are of the considered view that, even on this count also, assumption of jurisdiction by PCIT and setting aside the assessment order in terms of section 263 of the Act is incorrect.”

14. The learned counsel for the assessee had also relied upon the decision of ITAT, Chennai Benches in the case of M/s. Good Earth Fertilizers Co.P. Ltd. Vs. ITO in ITA No. 424/Chny/2022 dated 24.02.2023. We find that the ITAT, Chennai Benches, had

considered an identical issue of the order passed by the Ld. Pr. CIT under Section 263 and, by following the decision of Hon'ble Supreme Court in the case of Malabar Industrial Co. Ltd. Vs. CIT reported in (2000) 243 ITR 83 (SC) held as under:

9. We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. The provisions of Sec.263 of the Act, conferred suo-moto revisional powers to the PCIT, if the PCIT satisfies that the assessment order passed by the AO is erroneous in so far as it is prejudicial to the interest of the Revenue. In order to assume jurisdiction u/s.263 of the Act, twin conditions must be satisfied viz., (i) the order of the AO must be erroneous and (ii) further, it should be prejudicial to the interest of the Revenue. Unless, twin conditions embedded therein, are satisfied, the PCIT cannot revise the assessment order u/s.263 of the Act. In this case, the PCIT has revised the assessment order on the issue of bill discounting charges debited to P & L A/c and also loans & advances given to various companies including investments in subsidiary companies. According to the PCIT, although, the AO seems to have been called for necessary details with regard to two issues in the assessment proceedings, but not examined the issue of applicability of provisions of Sec.14A of the Act, and Sec.36(1)(iii) of the Act, with reference to bill discounting charges debited to P & L A/c and corresponding investments with subsidiary companies. The PCIT further was of the opinion that the AO has not examined the fact that when the company is not carrying on any business operations, where was the question of bills being existence for its bill discounted, in respect of a

specific query, the assessee could not respond to the issue of period for which the amount was borrowed. Therefore, the PCIT opined that the assessment order passed by the AO is erroneous in so far as it is prejudicial to the interest of the Revenue and thus, set aside the assessment order and direct the Assessing Officer to redo the assessment after giving reasonable opportunity of hearing to the assessee.

10. In light of above factual and legal back ground, if you examine the fact of the present case, we find that the assessment order passed by the AO is neither erroneous nor prejudicial to the interest of the Revenue, for the simple reason that the issue questioned by the PCIT in 263 proceedings has been thoroughly examined by the AO in assessment proceedings. In fact, the sole purpose for taking up for scrutiny assessment is to verify expenses incurred for earning exempt income and investments / advances appeared in the balance sheet. The assessee has filed its financial statement, as per which, the only expenses debited into P & L A/c was finance cost of Rs.38,20,324/- and said finance cost represents bill discounting charges of Rs.38,20,324/-. The financial statement of the assessee was made available to the AO. Further, the AO has raised a specific query on the issue. From the above, it appears that the issue was subject matter of discussion by the AO during the course of assessment proceedings, although, there is no specific discussion in the assessment order. Therefore, we are of the considered view that the revision order passed by the AO on this issue in light of provisions of

Sec.14A of the Act seems to be incorrect, because, for application of provisions of Sec.14A of the Act, there should be an exempt income and in this case, exempt income is absent. Therefore, the question of application of provisions of Sec.14A does not arise.

11. In so far as the second observation of the PCIT with regard to application of provisions of Sec. 36(1)(iii) of the Act, and disallowance of proportionate interest which is paid towards borrowed capital and not used for business purpose, we find that sole basis for the PCIT to come to conclusion that the assessee has paid interest on loans and diverted interest-bearing funds to sister concerns for non-business purpose. We find that once gain the observation of the PCIT is devoid of merits. The assessee has discounted bills receivables with M/s.VCF and source of said income is out of the proceeds from bill discounting activity and not out of borrowing on which interest has been paid by the assessee. Therefore, the question of application of provisions of Sec.36(1)(iii) of the Act, and consequent disallowance of interest towards funds given to subsidiary companies does not arise. Even assuming for a moment said bill discounting charges are in the nature of interest, but fact remains that the main object of the assessee is to receive money and advance loans and said objects are in the nature of Investment Company, and activity carried out by the assessee in the normal course of its business cannot be considered as separate activity, because the object of the company is also investment activity. Therefore, amount of bill discounting charges paid as

per object of the company cannot be considered for disallowance u/s 36(1)(iii) of the Act, because, one of the objects of the assessee company is to make investment in subsidiary companies. In our considered view, on this aspect also assumption of jurisdiction by the PCIT fails.

12. It is a well settled principle of law by various decisions of courts including the decision of the Hon'ble Supreme Court in the case of in the case of Malabar Industrial Co. Ltd. v. CIT reported in [2000] 243 ITR 83 (SC), that failure on the part of the AO to apply his mind during the course of assessment proceedings, is sufficient ground for invoking Section 263 of the Act, and the order in such case is erroneous in so far as it is prejudicial to the interest of the Revenue. In our considered view, the PCIT is grossly erred in setting aside the assessment order with one-line cryptic observation that the AO has not applied his mind on two issues without bringing on record, how the Revenue is prejudiced from those issues. Further, in the show cause notice also the PCIT has failed to give any plausible reasons 'as to how' the assessment order passed by the AO is erroneous in so far as it is prejudicial to the interest of the Revenue. From the above, it is clear that the PCIT has simply assumed jurisdiction and set aside the assessment order without satisfying himself about erroneous order passed by the AO, which caused prejudice to the interest of the Revenue on both issues.

13. At this stage, it is pertinent to refer to the decision of ITAT Chennai in the case of M/s.S.R. Trust v. ITO in ITA No.213/Chny/2012 where the

Tribunal had considered an identical issue of 263 order passed by the PCIT and after considering relevant facts held as under:

11. *It is a well settled principle of law by the decision of the Hon'ble Supreme Court in the case of Malabar Industrial Co. Ltd. (supra), where it has been held that the phrase 'prejudicial to the interest of the Revenue u/s.263 of the Act', has to be read in conjunction with the expression erroneous order of the AO. Further the Courts observed that every loss of Revenue as a consequent of an order of the AO, cannot be treated as prejudicial to the interest of the Revenue. At this juncture, it is relevant to discuss various case laws relied upon by the Ld.Counsel for the assessee, on provisions of Sec.263 of the Act:*

- *The Hon'ble Apex Court in the case of CIT Vs. Max India Ltd.(295 ITR 282) has held that when an ITO adopted one of the courses permissible in law and it has resulted in loss of revenue or where two views are possible and the ITO has taken one view with which the CIT did not agree, it cannot be treated as an erroneous order prejudicial to the interest of revenue. The Madras High Court followed the above decision of the Supreme Court in the case of CIT Vs. Tamilnadu Warehousing Corpn. (292 ITR 310).*
- *The Punjab and Haryana High Court followed the above decision of Supreme Court in the case of CIT Vs. Nahar Exports Ltd. (173 Taxman 3 P & H).*
- *The jurisdictional Madras High Court in the case of CIT Vs. Mepco Industries Ltd. (294 ITR 121) has held that the order to be revised under section 263 should not only be erroneous but also prejudicial to the interest of revenue. It held that where two views are possible order cannot be termed as erroneous. The powers under section 263 cannot be exercised merely because a different view is possible - SC dismissed the SLP against 259 ITR 502 CIT Vs. Arvind Jewellery (266 ITR 101) St.*
- *In the case of CIT vs. Bharat Aluminum Co. Ltd. (303 ITR 256), the Hon'ble High Court of Delhi has held that for revision under section 263, the Commissioner of Income-tax has to be satisfied of two conditions viz. (i) the order of the AO sought to be revised is erroneous and (ii) It is prejudicial to the interest of Revenue. If one of them is absent, he cannot invoke the provisions of section 263.*
- *Hon'ble Delhi High Court in the case of Commissioner of Income-tax v. Sunbeam Auto Ltd [2010] 189 Taxman 436 (Delhi) where in it was held that "The submission of the revenue was that while passing the assessment order, the Assessing Officer did not consider the aspect specifically whether the expenditure in question was revenue or capital expenditure. That argument predicated on the assessment order, which apparently did not give any reason while allowing the entire expenditure as revenue expenditure. However, that, by itself, would not be indicative of the fact that the Assessing Officer had not applied his mind to the issue. There are judgments galore laying down the principle that the Assessing Officer in the assessment order is not required to give detailed reasons in respect of each and every item of deduction, etc. Therefore, one has to see from the record as to whether there was application of mind before allowing the expenditure in question as revenue expenditure. One has to keep in mind the distinction between 'lack of inquiry' and 'inadequate inquiry'. If there was any inquiry, even inadequate, that would not, by itself, give occasion to the Commissioner to pass orders under section 263 merely because he has different opinion in the matter. It is only in cases of 'lack of inquiry' that such a course of action would be open".*

12. *In this case, on perusal of facts available on record, we find that four issues questioned by the PCIT in their show cause notice issued u/s.263 of the Act, has been thoroughly examined by the AO during the course of assessment proceedings, which is evident from notice issued by the AO and reply furnished by the assessee. Even during revision proceedings, the PCIT did not specify 'how and why' the assessment order passed by the AO is erroneous in so far as it is prejudicial to the interest of the Revenue. Further, if you go by the observations of the PCIT, it is abundantly clear that the PCIT has set aside the assessment order for further verification which in our considered view is not permissible u/s.263 of the Act, even after insertion of Explanation (2) to sec. u/s.263 of the Act. Therefore, considering the facts and circumstances of the case and also by following the ratio laid down by various case laws discussed hereinabove, we are of the considered view that the assessment order passed by the AO is neither erroneous nor prejudicial to the interest of the Revenue and thus, we quashed the order passed by the PCIT u/s.263 of the Act.*

14. In this view of the matter and considering the facts and circumstances of the case and also by following the ratios laid down in above case laws considered herein above, we are of the considered view that the assessment order passed by the AO is neither erroneous nor

prejudicial to the interest of the Revenue. Further, if you go by the observation of the PCIT which is abundantly pleaded that the PCIT has set aside the assessment order for further verification which in our considered view is not permissible u/s.263 of the Act, even after insertion of Explanation (2) to Section 263 of the Act, and thus, we quashed the order passed by the PCIT u/s.263 of the Act.

15. In this view of the matter, considering the facts and circumstances of the case, and also by following the decisions relied upon by the learned counsel for the assessee as discussed herein above, we are of the considered view that, the assessment order passed by the A.O. is neither erroneous nor prejudicial to the interest of the revenue. The Ld. Pr. CIT, without appreciating the relevant facts, simply set aside the assessment order passed by the A.O. under Section 143(3) r.w.s. 143(3A) & 143(3B) of the Income Tax Act, 1961, dated 09-04-2021. Thus, we quashed the order passed by the Ld. Pr. CIT under Section 263 of the Income Tax Act, 1961.

17. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the Open Court on 17th October, 2025.

Sd/- (श्री रवीश सूद) (RAVISH SOOD) न्यायिक सदस्य/JUDICIAL MEMBER	Sd/- (मंजूनाथ जी) (MANJUNATHA G.) लेखा सदस्य/ACCOUNTANT MEMBER
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Hyderabad, dated 17.10.2025.
TYNN/sps

आदेशकी प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1.	निर्धारिती/The Assessee	:	SLR Infrastructure Private Limited, Hyderabad, G-2, 8-2-293/K/53 and 54, Gowrishankar Residency, Phase III, Kamalapuri Colony – 500073, Telangana.
2.	राजस्व/ The Revenue	:	The Deputy Commissioner of Income Tax, Circle 3(1), Hyderabad.
3.	The Principal Commissioner of Income Tax, Hyderabad.		
4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, हैदराबाद / DR, ITAT, Hyderabad		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Hyderabad