

IN THE INCOME TAX APPELLATE TRIBUNAL
Mumbai "A" Bench, Mumbai.

Before Smt. Kavitha Rajagopal (JM) &
Shri Omkareshwar Chidara (AM)

ITA No. 3411/MUM/2025 (Assessment Year : 2018-19)

Asit C. Mehta Investment Intermediates Limited Nucleus House, Saki Vihar Road, Mumbai-400 072. PAN : AAACA5009N Appellant	Vs.	Pr.CIT Room No. AB-629 Aayakar Bhavan M.K. Road, Mumbai-20 Respondent
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Assessee by	:	Shri Yogesh Thar & Shri Vinayak Bhat
Revenue by	:	Shri Rajesh Kumar Yadav
Date of Hearing	:	26/08/2025
Date of pronouncement	:	24/11/2025

ORDER

Per Omkareshwar Chidara (AM) :-

In the above cited case, the Ld. PCIT has issued a notice and assumed revisionary jurisdiction under section 263 of the Income Tax Act. The crux of the issue is that Ld. PCIT issued a notice for the hearing on 5.12.2024, in which it was mentioned that the Ld. AO did not enquire into the aspect of genuineness of claim of 'Business Associate Expenses', paid by appellant company. It was also mentioned that in earlier years, 25% of such expenses was disallowed by Ld. AO and hence in this year also, it is incumbent on the part of Ld. AO to enquire into this expenditure and pass an order. The Ld. AO did not enquire about this aspect and hence, the assessment order is erroneous and prejudicial to the interest of Revenue, it was held by Ld. PCIT and hence the assessment order passed by Ld. AO was set aside with a direction to redo the assessment after conducting necessary enquiries.

2. Aggrieved by the above order of Revision under section 263, the appellant company filed an appeal to the ITAT with the following grounds of appeals :

1. GROUND NO. 1: REVISION ORDER PASSED BY THE LD. PCIT U/S. 263 OF THE ACT AGAINST THE RE-ASSESSMENT ORDER PASSED U/S. 147 R.W.S. 144B OF THE ACT DATED MARCH 07, 2023 IS BAD IN LAW:

1.1 On the facts and in the circumstances of the case and in law, the Id. PCIT erred in invoking the revision proceedings and consequently passing the revision order against the re-assessment order u/s. 147 r.w.s. 144B of the Act alleging it to be erroneous and prejudicial to the interest of the revenue.

1.2 The Appellant prays that the revision order passed by the Id. PCIT u/s. 263 of the Act be quashed.

2. GROUND NO. 2: DISALLOWANCE OF BUSINESS ASSOCIATE EXPENDITURE AMOUNTING TO RS. 15,08,43,50

2.1 On the facts and in the circumstances of the case and in law, the Id. PCIT erred in disallowing the business associate expenditure amounting to Rs. 15,08,43,505/-.

2.2 The Appellant prays that the disallowance of business associate expense amounting to Rs. 15,08,43,505/- be deleted.

3. Before ITAT, Ld. AR of the appellant company, has initiated the argument and submitted that the Revision order passed by Ld. PCIT is barred by limitation because the issue sought to be examined by Ld. AO does not emanate from the present assessment order. This issue of Business Associate Expenses was dealt with by Ld. AO in the original assessment order. Subsequently, the Ld. AO issued a notice under section 148 of the Act and made an addition relating to an accommodation entry of Rs. 12 lakh. Now, the Ld. PCIT sought to reverse the assessment order passed by Ld. AO under section 143(3) read with section 147 of the Act and in this assessment, the issue dealt was only about an accommodation entry. The Ld. AR of appellant company has argued that when the Ld. PCIT wanted to exercise Revisionary jurisdiction on the issues of reopened assessment, he should confine the jurisdiction only to the issue discussed in that assessment. The Ld. AR of the appellant submitted that the issue of "Business Associate Expenses" was not the issue of reopened assessment and hence Ld. PCIT cannot exercise the revisionary jurisdiction on this

issue. This issue was discussed by Ld. AO in the original assessment passed under section 143(3) of the Act without making an addition under this head. The Ld. AR's main argument is that if an issue relating to the original assessment is sought to be revised by Ld. PCIT, then, Ld. PCIT had to issue the notice within two years of completing the original assessment and not reopening assessment, because the limitation period starts from the completion of original assessment. Counting the period from the passing of original assessment, the limitation period of two years already expired and hence the order under section 263 of the Act of Ld. PCIT should be quashed. Even otherwise also, on merits, the issue was covered in favour of the appellant by the order of ITAT vide ITA No. 3550/Mum/2016, where it was held that the disallowance of "Business Associate Expenses" by Ld. AO is not correct as the expenditure is genuine and allowable under section 37(1) of the Act. Hence, the Ld. AR of the appellant company finally concluded his arguments and summed up stating that the order under section 263 of the Act is barred by limitation and even also on merits, the issue was covered in favour of the appellant by the order of ITAT in earlier years. The Ld. AR relied on the decision of Hon'ble Apex Court in the case of Alagendran Finance Ltd. (293 ITR 101)(SC) and Hon'ble Jurisdictional High Court's decision of CIT Vs. ICICI Bank (343 ITR 74)(Bom) for the proposition that the Revision Order is barred by limitation. Hence, it was pleaded that the order under section 263 of the Act may be quashed.

4. The Ld. DR relied on the order of Ld. PCIT under section 263 of the Act, where it was mentioned that the issue of "Business Associate Expenses" was not discussed and enquired into by Ld. AO in the reopened assessment. It was argued by Ld. DR that the Ld. AO has the power to discuss and take up other issues when the reopening of assessment was done as per law. Even though, the reopening of assessment was done for the purpose of "accommodation entry", the Ld. AO could enquire into the genuineness of "Business Associate Expenses" in the reopened assessment and this was not

by Ld. AO. Moreover, in the earlier years, the Ld. AO disallowed part of the expenses and hence Ld. AO committed a mistake in reopened assessment by not conducting enquiries into the “Business Associate Expenses”. Consequently, the Ld. PCIT is correct in assuming revisionary jurisdiction under section 263 of the Act relating to the reopening assessment. If the date of completion of reopened assessment is taken, the assumption of jurisdiction by Ld. PCIT is within time and the order under section 263 of the Act is valid. Moreover, no enquiries were caused by Ld. AO relating to “Business Associate Expenses” and in the case of Malabar Industrial Co., the Hon'ble Supreme Court has adjudicated that non-conducting enquiries amounts to “error” and Hon'ble Supreme Court upheld the order of Ld. PCIT under section 263 of the Act. Thus, the Ld. DR concluded that by saying that the order of Ld. PCIT is valid and correct and the same should be upheld.

5. Heard both sides. There is sufficient force in the argument of Ld. AR of the appellant company that the limitation period starts from passing the original order and not reopened assessment because the issue sought to “Business Associate Expenses” was part of original assessment and the assessment was reopened subsequently only for the purposes of making an addition with respect to ‘accommodation entry’. Now, the Ld. PCIT sought to revise this reopened assessment and this issue of “Business Associate Expenses” is not there in reopened assessment and in fact this issue was there in original assessment and the time period to revise that original assessment is already over. For this proposition, reliance is placed on Hon'ble Supreme Court and Hon'ble Jurisdictional High Court in the cases of Ld. CIT Vs. Alagenda Finance Ltd. 293 ITR 101 (SC) and CIT Vs. ICICI Bank 343 ITR 74 (Bom) respectively. In both these decisions, the Hon'ble Courts have held that the period of limitation for issuing order under section 263 of the Act is to be counted from the date of order of original assessment and not from the date of reassessment because the issue sought to be revised emanated from original assessment. In view of the same, the Revision

order passed by Ld. PCIT is barred by limitation and hence not valid. Even otherwise also, on merits, the issue was held in favour of appellant company in earlier years where it was held that “Business Associate Expenses” are genuine and to be allowed under section 37(1) of the Act vide the order of ITAT in ITA No. 3550/Mum/2016. In view of the same, it is held that the Revision Order passed Ld. PCIT is barred by limitation and held invalid.

6. The appeal of appellant is allowed.

Order pronounced in the open Court on 24/11/2025.

Sd/-
(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER

Sd/-
(OMKARESHWAR CHIDARA)
ACCOUNTANT MEMBER

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

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BY ORDER,
(Assistant Registrar)
ITAT, Mumbai