

**IN THE INCOME TAX APPELLATE TRIBUNAL
“RAIPUR” BENCH, RAIPUR**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
& SHRI N. K. CHOUDHRY, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 70/RPR/2020)
(निर्धारण वर्ष / Assessment Year : 2015-16)

Meena Choudhary Juna Bilaspur, Bilaspur, Chhattisgarh - 495001	बनाम/ Vs.	Pr. Commissioner of Income Tax Aayakar Bhawan, Mahima Complex, Vyapar Vihar, Bilaspur, Chhattisgarh - 495001
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAOPC1566F		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	Smt. Richa Khatri, C.A.
प्रत्यर्थी की ओर से/Respondent by :	Shri P. K. Mishra, CIT.DR

सुनवाई की तारीख / Date of Hearing	29/07/2021
घोषणा की तारीख/Date of Pronouncement	12/10/2021

आदेश/ORDER

PER PRADIP KUMAR KEDIA - AM:

The captioned appeal has been filed at the instance of the assessee against the order of the Principal Commissioner of Income Tax, Bilaspur (‘PCIT’ in short), dated 31.03.2020 passed under s.263 of the Income Tax Act, 1961 (the Act) whereby the assessment order passed by the Assessing Officer (AO) dated 21.04.2017 under s. 143(3) of the Act concerning AY 2015-16 was sought to be set aside for reframing assessment in terms of supervisory directions.

2. As per its grounds of appeal, the assessee has challenged the revisional action of the PCIT whereby the Assessing Officer (A.O.) was directed to pass the assessment order *de novo* after making enquiries on the points set out in the notice which has already examined and considered during the original assessment proceedings concerning A.Y. 2015-16. The assessee has challenged the assumption of jurisdiction by the PCIT under section 263 of the Act on the ground that the Assessment Order under revision is neither erroneous nor prejudicial to the interest of the Revenue.

3. Briefly stated, the assessee filed its return of income for A.Y. 2015-16 in question declaring total income at Rs.2,00,800/-. The return filed was subjected to limited scrutiny assessment by issue of notice under section 143(2) and 142(1) of the Act and the return filed by the assessee was assessed as such.

4. Thereafter, the PCIT in exercise of revisionary powers, issued show cause notice dated 26.02.2020 to show cause why the assessment so framed under section 143(3) should not be modified/set aside on the ground that such order is erroneous in so far as prejudicial to the interest of the Revenue.

5. As per the show cause notice, it was alleged that the AO has failed to examine the source of investment in property, examination of advances received, creditworthiness of other co-purchasers of the property, agricultural income declared, examination of capital gains etc.

6. Aggrieved by the revisional order passed by the PCIT, the assessee preferred appeal before the Tribunal to challenge the supervisory jurisdiction usurped by the PCIT under section 263 of the Act.

7. We have heard the rival submissions on the issue. On the broader reckoning, the contentions of the assessee are:

i) The case was selected for 'limited scrutiny' and therefore the scope of the assessment was confined to the points noted in the scrutiny notice issued under s.143(2) of the Act. As per the aforesaid notice dated 20.09.2016, the solitary issue identified for examination was on account of 'purchase of property'.

ii) Specific queries were raised in this regard by the AO in the course of the assessment. The submissions of the assessee to explain the source of purchase of property as presented before the AO is also placed at page nos. 32-33 of the paper book. The AO having been satisfied with the source of investment, after requisite enquiry, accepted the investment.

iii) On facts, the assessee jointly purchased the property alongwith four family members and the share of the assessee in the property was only 20% i.e. Rs.20,02,000/-. The source of purchase of property was explained to be existing cash in hand accumulated tide earlier financial year amounting to Rs.13.45 Lakhs as shown in the balance sheet; agricultural income Rs.2.03 Lakhs and advances received on sale of land Rs.5Lakhs for which copy of sale deed and agreement executed was also presented before the AO. Having regard to these facts, the AO acted reasonably and accepted the bonafides after proper application of mind. The PCIT has pointed out the lapses in the assessment disregarding the scope of limited scrutiny and has attempted to expand the scope of enquiry in s.263 proceedings. For instance, creditworthiness of co-purchasers, agricultural income, examination of capital gains etc. could not have been made in the limited scrutiny assessment, having regard to several CBDT instructions issued in this regard.

8. A reference was made to the decisions of the co-ordinate bench of Tribunal in *M/s. Su-Raj Diamond Dealers Pvt. Ltd. vs. PCIT ITA*

No. 3098/Mum/2019 order dated 27.11.2019; *Balvinder Kumar vs. PCIT (2021) 125 taxmann.com 83 (Delhi-Trib.) & Hill Queen Investment (P.) Ltd. vs. PCIT (2021) 127 taxmann.com 682 (Kolkata-Trib.)* and was submitted that the co-ordinate bench of Tribunal have uniformly held that where the scope of scrutiny is limited to the issues raised, the revisional authority is not entitled under s.263 of the Act to examine the issue not specified in the limited scrutiny assessment. It was also contended that where specific enquiry has been made, the PCIT cannot substitute his opinion on the source of investment towards purchase of property and his directions to include items not covered in limited scrutiny, are also without authority of law.

9. On appraisal of the evidences placed before us, we find that vide notice dated 20.09.2016 and 04.04.2017, specific queries were raised by the AO seeking details and source of investment in the property purchased during the year. In response, the assessee has filed replies dated 11.04.2017 explaining the relevant facts towards source of money utilized for purchase of her share in property amounting to Rs.20,02,000/-. The source of investment was corroborated by evidence. It is trite that the PCIT cannot pass revisional order to direct the AO to make some fuller and extended enquiry desired in the opinion of the revisional authority. In such a situation, where there appears to be inadequacy to the PCIT in the manner of enquiry, he himself should embark upon some enquiries to discover the possibility of error. A roving enquiry cannot be directed summarily. The action of the PCIT is unsustainable in law without objectively showing how the order of the AO is erroneous. The revisional direction, in the instant case, is thus unsustainable in law.

10. We also find merit in the plea of the assessee that having regard to CBDT instruction Nos. 7/2015, 20/2015 & 5/2016 and also CBDT letter dated 30.11.2017, the AO was not entitled to go beyond the reasons for selection of matter for limited scrutiny. As a corollary, it

is not open to the PCIT to pass revisionary order and remit the matter to the AO on other aspects by rendering assessment order as erroneous and prejudicial to the interest of the Revenue. This is the view consistently taken by the co-ordinate benches in several decisions, some of which are noted earlier. The action of the PCIT under s.263 of the Act thus cannot be approved on this parameter also.

11. In the result, appeal of the assessee is allowed.

Order pronounced on 12/10/2021 by placing the result on the Notice Board as per Rule 34(4) of the Income Tax (Appellate Tribunal) Rule, 1963.

Sd/-
(N. K. CHOUDHRY)
JUDICIAL MEMBER

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

True Copy

S. K. SINHA

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर /
DR, ITAT, RAIPUR
6. गार्ड फाइल / Guard file.

By order,

Sr. Private Secretary
ITAT, Raipur (on Tour)