

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI

श्री महावीर सिंह, माननीय उपाध्यक्ष, एवं
श्री मंजूनाथा .जी, , माननीय लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND
SHRI MANJUNATHA.G, HON'BLE ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.424/Chny/2022
निर्धारण वर्ष /Assessment Year: 2017-18

M/s.Good Earth Fertilizers-
Co. P. Ltd.,
(Now known as Chemikas
Specialty LLP),
No.2, North Crescent Road,
T. Nagar, Chennai-600 017.

v. The Income Tax Officer,
Corporate Ward-2(2),
Chennai.

[PAN:AASFG 6012 G]
(अपीलार्थी /Appellant)

(प्रत्यर्थी /Respondent)

अपीलार्थी की ओर से/ Appellant by	:	Mr.S.Sridhar, Adv.
प्रत्यर्थी की ओर से /Respondent by	:	Mr.R.Mohan Reddy, CIT
सुनवाई की तारीख/Date of Hearing	:	11.01.2023
घोषणा की तारीख /Date of Pronouncement	:	24.02.2023

आदेश / ORDER

PER. MANJUNATHA.G, ACCOUNTANT MEMBER:

This appeal filed by the assessee is directed against the order of the Principal Commissioner of Income Tax, Chennai-1, passed u/s 263 of the Income Tax Act, 1961 dated 01.03.2022 and pertains to assessment year 2017-18.

2. The assessee has raised the following grounds of appeal:

1. The order of the Principal Commissioner of Income Tax, Chennai - 1, Chennai - 600034 dated 31.03.2022 for the above mentioned Assessment Year is contrary to law, facts, and in the circumstances of the case.

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2. The PCIT erred in assuming jurisdiction u/s 263 of the Act and consequently erred in passing the revision order on the non-existing/dead entity in setting aside the assessment order dated 10.12.2019 without assigning proper reasons and justification.

3. The PCIT failed to appreciate that the assumption of jurisdiction u/s 263 of the Act was wrong and not sustainable in law and ought to have appreciated that the twin conditions of error in the assessment order which caused prejudice to the interest of the Revenue were not satisfied concurrently, thereby vitiating the revision order under consideration.

4. The PCIT failed to appreciate that the presumption of lack of enquiry in contra distinction to inadequate enquiry was wholly unjustified and ought to have appreciated that the inadequate enquiry even if it is to be presumed on the facts of the case would not automatically attract section 263 of the Act, thereby vitiating the very assumption of such jurisdiction to set aside the assessment as per the findings in para 5.1 of the impugned order.

5. The PCIT failed to appreciate that the issues taken up as part of the revisional proceedings were already examined in the scrutiny assessment proceedings, thereby ousting the jurisdiction assumed u/s 263 of the Act and ought to have appreciated that the findings recorded in relation thereto should accordingly be reckoned as bad in law.

6. The PCIT failed to appreciate that the replies filed in the assessment as well as in the revisional proceedings even though noticed in the revision order, were completely overlooked and brushed aside and ought to have appreciated that the decision to set aside the assessment to revisit the said issue would be outside the scope of section 263 of the Act, thereby vitiating the impugned order completely.

7. The PCIT failed to appreciate that there was no proper opportunity given before passing the impugned order and any order passed in violation of the principles of natural justice is nullity in law.

8. The Appellant craves leave to file additional grounds/arguments at the time of hearing.

3. The brief facts of the case are that the assessee company is engaged in the business of manufacturing of chemical fertilizers, bio-fertilizers, petro chemicals, filed its return of income for the AY 2017-18 on 31.10.2017 admitting a loss of Rs.38,69,436/-. The case has been selected for limited scrutiny under CASS for examining expenses debited to P & L A/c for earning exempt income, and loans & advances, investments in shares in the balance sheet. The assessment has been completed u/s.143(3) of the Income Tax Act, 1961 on 10.12.2019 and accepted the returned loss.

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4. The case has been subsequently taken up for revision proceedings and show-cause notice u/s.263 of the Act, dated 28.02.2022 was issued and served on the assessee. In the said show cause notice, the PCIT has observed that under non-current investments, the assessee had invested 40,00,000 shares @ 48.41 per share which amounts to Rs.19,36,40,000/- whereas the figures in books is Rs.19,41,14,100/-. Thus, the investments are inflated by Rs.5 lakhs and this aspect was not verified by the AO. The PCIT further noted that a bill was discounted with Vriddhi Corporate Finance (in short "VCF") with a discounting charges of Rs.38,20,324/- which is in the nature of interest. The assessee company invested in shares of M/s.Archean Chemical Industries Pvt. Ltd. (in short "M/s.ACIPL") and advanced loans to M/s.ACIPL and M/s.Jakhau Salt Co. Pvt. Ltd. (in short "M/s.JSCPL"). The assessee company paid interest on the amounts due to VCF, but has not charged any interest on the amounts advanced to M/s.ACIPL and M/s.JSCPL. Thus, there is a failure to recognize interest income on the advances granted. The PCIT further noted that the claim of discounting charges in capital and may also attracts provisions of Sec.14A r.w.r.8D of Income Tax Rules, 1962. Further, the assessee company failed to charge interest on loan advances to related party and the AO has not verified whether interest is disallowed u/s.36(1)(iii) of the Act or not? The PCIT further noted that on perusal of reserves & surplus in the financial statement shows Rs.4,28,49,503/- was shown as capital asset and the details of the same are not available in the

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file. The AO has not verified this aspect during the course of assessment proceedings. Although, the case is selected for limited scrutiny to examine two issues, but as per the Board Instruction No.5/2016 dated 14.07.2016 procedures laid down to convert limited scrutiny into full scrutiny in case of Revenue potential cases with the approval of the PCIT. The AO in spite of available facts on the record did not send proposal to the PCIT for taking up the case for complete scrutiny. Therefore, he 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, called upon the assessee to explain 'as to why' the assessment order by the AO u/s.143(3) of the Act, dated 10.12.2019 shall not be revised u/s.263 of the Act.

5. In response, the assessee submitted that the assessment order passed by the AO is neither erroneous nor prejudicial to the interest of the Revenue, because, the case has been selected for limited scrutiny to verify expenses debited to P & L A/c for earning exempt income as per Schedule BP of ITR and loans & advances in the balance sheet. During the course of assessment proceedings, the AO had issued notice u/s.143(3) of the Act, on 11.08.2018 and 10.09.2018, for which, the assessee has filed detailed submissions and explained expenses debited into P & L A/c. The AO had also issued notice u/s.142(1) of the Act, on 01.08.2019. In response, the assessee had filed its submission on 19.08.2019 along with financial statement for the AY 2017-18, the

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statement of income memo and also explained various issues raised by the AO. The AO after considering relevant financial statements and also taken note of expenses debited into P & L A/c come to the conclusion that the claim of the assessee towards various expenses in the P & L A/c is correct. The AO had also called for various details in respect of loans & advances given to subsidiary companies in light of interest expenditure and after considering relevant facts came to the conclusion that there is no diversion of interest bearing funds for non-business purpose to subsidiary companies. Therefore, it cannot be said that the assessment order passed by the AO is erroneous in so far as it is prejudicial to the interest of the Revenue.

6. The PCIT after considering relevant submissions of the assessee and also taken note of various facts opined that 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 AO to re-examine the issue discussed in 263 order and pass a fresh order within the stipulated time after granting opportunity to the assessee of being heard. The relevant findings of the PCIT are as under:

4.4 As far as the nature of "bill discounting charges" is concerned the assessment record shows that the second submission of the assessee dated 09.12.2019 during the scrutiny assessment proceedings had given the following explanation of the bill discounting charges.

"Bill Discounting Charges: One of the objectives of company is as per clause 12 of MOA which is being reproduced below:

To receive money on deposit or loan and borrow or raise money in such a manner as the company shall think fit, and in particular, by the issuance of debentures or debenture stock (perpetual or otherwise) and to secure the payment of any money borrowed or raised or owing of the company or for the borrowing of any third

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parties, by mortgage, pledge, hypothecation, charge or lien upon all or any of the property, investments or assets of the company (present or future) including its uncalled capital without conducting any banking business as defined under the provisions of Banking Regulation Act, 1949.

Since the objective of the company is also investment activities therefore amount of bill discounting charges paid is as per objective of the company.

Therefore, we request you to not draw any adverse inference on the issue of discounting charges."

4.5 The Memorandum of Association of the company is also found on record. It contains five "main objects", all of which are related to The business of manufacture, production, trading, export etc. for chemical fertilizers, bio fertilizers, industrial chemicals, polymers, plastics etc - in short activities related directly to dealing in chemicals. The Memorandum of Association also contains 36 "incidental or ancillary objects" for the attainment of the main object. The cited object supra is at no. 12 out of the 36 in the list and is just a support function like training, advertising, research function which are amongst those included. This ancillary function does not give the assessee the character of an investment company where the primary objective would have been to earn from investments and hence, expenses such as bill discounting, interest etc. could be reasonably linked to the income generating activities. In the case of the assessee the so-called "business advance" have also been shown as non-current assets, meaning they are long term investments.

4.6 Bill discounting normally is a short term finance for traders where unpaid invoices due on a future date, are sold to financial institutions, mainly NBFCs, in lieu of a commission. The bank realizes the bill amount on the bill's due date directly from the debtor. It is a way of monetizing unpaid bills. The discount rate offered by the lenders depends on numerous factors including financial history, business stability, applicant's creditworthiness etc. In the assessee's case it has not commenced any business and, hence, the question of any of these factors, let alone invoices, was non-existent.

4.7 In view of the inconsistencies in the assessee's submission on this matter, the AR was required to explain the nature of bill discounting transaction with M/s.Vriddhi Corporate Finance where discounting charge of Rs.38,20,324/- was debited to the Profit & Loss account by the assessee. It was explained through note dated 30.03.2022 that the bill discounting is in the nature of a loan and "both serve almost the same purpose i.e. providing liquidity for business purposes". The AR explained that in case of bill discounting the discount is charged upfront at the point of disbursal of the loan itself while in case of unsecured loans the interest is charged from year to year and debited accordingly in the Profit & Loss account. The assessee had been asked to furnish the agreement or sanction letter in respect of this transaction with M/s.Vriddhi Corporate Finance which is its sister concern. It was also required to give details of the period of the bill discounting transaction and the rollovers, if any, related to it. These details were not furnished in the note submitted on 30.03.2022 by the assessee. The AR informed that these are not available, since the entities are sister concerns.

4.8 The Assessing Officer has not examined the fact that when the company is not carrying on any business operation where was the scope for bills (receivables) being in existence and for it to be discounted. Even if it is assumed that there has been same billing, and it was discounted, no verification has been done as to what was the basis for arriving at the discounting rate. The source for VCF, the sister concern, to mobilize funds, has also not been examined and no examination of the money trail attempted. The possibility of unaccounted money being routed through various front entities has not been probed and the transactions have been uncritically accepted as genuine. It may be mentioned that in bill discount the period may not be critical but risk matters and the discounting charges expected are to be based. Amongst sister concerns the risk would be expected to be lower, if not nil. This was to be compared with the market rate to conclude about the reasonability of the claim. This was not done.

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4.9. In spite of a specific query, the assessee has not responded to the issue of period for which the amount was borrowed by the assessee. The assessee's claim made in the submission reproduced supra that "Bill discounting charges is not in the nature of interest" is also not established since the very nature of bill discounting charge has itself not been established with any clarity. Nomenclatures do not determine the essence of an expenditure. The nature of the so-called "bill discounting" and its terms had not been examined by the AO. The documents and terms of the so-called business advances given to ACIPL and JSPL had also not been examined. The claim of business advantage sought to be gained also escaped scrutiny even though the fact that the assessee had not started any business activity related to manufacture / trading of chemicals in spite of having been incorporated in 2010 was on record. Having incurred a cost for accessing funds the assessee's action of advancing these funds cost free to its sister concern cannot be accepted and disallowance u/s.36(1)(iii) would appear to be invited. The AO has not examined this issue.

4.10 With regard to the issue of disallowance u/s.14A it was submitted that -

"we submit that the disallowance under the said Section is applicable only when an expenditure has been incurred to earn exempted income and not otherwise. As stated supra, the investment is made by us in ACIPL to establish business connections with the said company and thereby gain business advantage and, hence, the investment is not made for the purpose of earning exempted income. Therefore, the disallowance under section 14A cannot be made. Further, during the year under consideration, no exempted income was earned out of the said investments in ACIPL. It has become a settled law that the disallowance under section 14A cannot be made in the absence of the exempted income."

4.11 The assessee's submission has been made without submitting any documents establishing the nature and purpose of investment in ACIPL. The claim of establishing business connection was not made before the AO and has been made in the present proceedings without evidence. It merits critical scrutiny by the AO since it is part of the dimension of large investment for which the case was selected under CASS for scrutiny.

5. CONCLUSION:

5.1 In the light of the facts and details discussed supra, this is considered a fit case to invoke the provisions of Sec. 263 of the Act since the order u/s.143(3) dated 10.12.2019 is considered to have been passed without making the necessary enquiries and verifications and without appropriate correlation of facts and evidences on record. The said order is, therefore, considered erroneous in so far as it is prejudicial to the interest of the revenue within the meaning of Sec.263 of the IT. Act, 1961. Accordingly, the assessment order is hereby set aside u/s 263 of the IT. Act, with a direction to the Assessing Officer to examine the aspects, as discussed supra and pass a fresh order within the stipulated time, after granting opportunity to the assessee of being heard. The assessee can furnish documents which were not available at the time of assessment in the records of the Assessing Officer for fresh examination.

7. The Ld. Counsel for the assessee submitted that the PCIT assuming jurisdiction u/s.263 of the Act, was wrong and not sustainable in law. The Ld. Counsel for the assessee referring to Memorandum of Association of assessee company submitted that the assessee is an investment company which is involved in the business of providing investments to various group companies. The case of the assessee has been selected for limited

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scrutiny under CASS to verify two issues. The first and foremost issue for scrutiny assessment was expenses debited into P & L A/c and the second issue was loans & advances given to various companies. The AO had called for necessary details by way of notice u/s.142(1) of the Act, for which, the assessee has submitted its reply on 09.12.2019 and explained bill discounting charges debited into P & L A/c. The assessee had also filed various details about loans & advances given to various subsidiary companies and argued that no interest bearing funds have been diverted into non-business purpose. The AO after considering relevant facts has rightly concluded assessment without making any additions. Therefore, it cannot be said that the assessment order passed by the AO is erroneous in so far as it is prejudicial to the interest of the Revenue. In this regard, he relied upon the decision of ITAT Chennai Benches in the case of M/s.S.R.Trust in ITA No.213/Chny/2022 dated 04.11.2022.

8. The Ld.DR, on the other hand, submitted that although, the AO seems to have verified the issues, but not applied his mind to relevant facts In right perspective of law, even though, the assessee has paid interest on borrowed loans and has given various loans & advances to sister concern, but not charged any interest. The AO without appreciating the relevant facts simply concluded the assessment which rendered the assessment order passed by the AO is erroneous in so far as it is prejudicial to the interest of the Revenue. In this regard, he relied upon

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the decision of the Hon'ble Supreme Court in the case of Deniel Merchants (P) Ltd. reported in [2018] 95 taxmann.com 366 (SC).

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

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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

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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

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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

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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

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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 the result, appeal filed by the assessee is allowed.

Order pronounced on the 24th day of February, 2023, in Chennai.

Sd/-
(महावीरसिंह)
(MAHAVIR SINGH)
उपाध्यक्ष/VICE PRESIDENT

Sd/-
(मंजूनाथा .जी)
(MANJUNATHA.G)
लेखासदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,
दिनांक/Dated: 24th February, 2023.
TLN

आदेशकीप्रतिलिपिअग्रेषित/**Copy to:**

- | | |
|-----------------------------|------------------------|
| 1. अपीलार्थी/Appellant | 4. आयकरआयुक्त/CIT |
| 2. प्रत्यर्थी/Respondent | 5. विभागीयप्रतिनिधि/DR |
| 3. आयकरआयुक्त (अपील)/CIT(A) | 6. गार्डफाईल/GF |