

<p>आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई। IN THE INCOME TAX APPELLATE TRIBUNAL 'A' BENCH: CHENNAI</p>		
<p>श्री वी. दुर्गा राव, माननीय न्यायिक सदस्य एवं श्री मंजूनाथा.जी, माननीय लेखा सदस्य के समक्ष BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER AND SHRI MANJUNATHA. G, HON'BLE ACCOUNTANT MEMBER</p>		
<p>आयकर अपील सं./ITA No.684/Chny/2023 निर्धारण वर्ष/Assessment Year: 2018-19</p>		
M/s.FCA Engineering – India Pvt. Ltd., 6 th Floor, Chennai One IT SEZ-Phase II, OPUS Block Pallavaram- Thoraipakkam 200 Feet Road, Thoraipakkam, Chennai-600 097. [PAN:AAGCA 6907 M]	v.	The PCIT-1, Chennai.
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri Ashik Shah, CA
प्रत्यर्थी की ओर से /Respondent by	:	Shri Nilay Baran Som, CIT
सुनवाईकीतारीख/Date of Hearing	:	30.01.2024
घोषणाकीतारीख /Date of Pronouncement	:	14.02.2024

आदेश / ORDER

PER MANJUNATHA.G, AM:

This appeal filed by the assessee is directed against the order of the Principal Commissioner of Income Tax, Chennai, dated 30.03.2023, and pertains to assessment year 2018-19.

:: 2 ::

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

i. Common Grounds

1.1. The Ld. Principal Commissioner of Income Tax - I, Chennai ('Ld. PCIT') erred in finalizing an order of revision under section 263 of the Income Tax Act 1961 ('the Act') which is in violation of principles of natural justice, the provisions of the Act, is devoid of merits, are contrary to facts on record and applicable law, has been completed without adequate inquiries and as such is liable to be quashed.

a. Grounds on validity of the revisionary order passed under section 263 of the Act

2.1. On the facts and in the circumstances of the case, the order passed by the Ld. PCIT is bad in law and liable to be quashed.

2.2. On the facts and circumstances of the case and in law, the Ld. PCIT erred in invoking the provisions under section 263 of the Act without appreciating the fact that the National e- Assessment Centre ('Ld. AO') had passed the assessment order after making proper enquiries and verification of records and therefore, the said order is neither erroneous nor prejudicial to the interest of the revenue.

2.3. On the facts and in the circumstances of the case and in law, the Ld. PCIT failed to understand that the powers of revision under section 263 of the Act cannot be exercised to substitute his view with that of the view taken by the Ld. AO based on detailed inquiry and verification.

2.4. On the facts and in the circumstances of the case and in law, the Ld. PCIT has erred in invoking the provisions of section 263 of the Act with a preconceived notion that the Ld. AO had not verified the transaction, without looking into all the records of the assessment proceedings wherein the Appellant has duly furnished the relevant documents/explanation with regard to the same issue when sought for by the Ld.AO.

2.5. On the facts and in the circumstances of the case and in law, the Ld. PCIT erred in not appreciating that merely because an issue was not elaborated in the assessment order, the same would not lead to a conclusion that the Ld. AO had not verified the same.

Without prejudice to the above grounds that the proceedings under section 263 of the Act cannot be invoked for the impugned AY, the Assessee wishes to submit the following grounds on merits of the case:

3. Eligibility for deduction of reversal of lease equalization charges

3.1 On the facts and circumstances of the case and in law, the Ld. PCIT failed to appreciate that the lease equalization reserve debited / credited in the books of accounts is in accordance with the accounting standards laid down by the Institute of Chartered Accountants of India ('ICAI').

3.2 On the facts and circumstances of the case and in law, the Ld. PCIT failed to appreciate the concept of lease equalization reserve wherein the said reserve being a notional item, needs to be disallowed in the year of creation and consequently should be reduced from the profits in the year of reversal.

3.3 On the facts and circumstances of the case and in law, the Ld. PCIT erred by not appreciating the fact that the Appellant had consistently disallowed the lease equalization reserve in the year of creation and consequently claiming a reduction from profits in the year of reversal.

:: 3 ::

3.4 On the facts and circumstances of the case and in law, the Ld. PCIT failed to appreciate that the Appellant has only claimed the actual rent paid in accordance with the provisions of the Act which is not disputed. In the income tax computation, the Appellant has consistently added back the creation of reserve / reduced the reversal of reserve which was created or reversed in books of accounts based on accounting standards.

The grounds of appeal raised by the Appellant herein are without prejudice to each other. The Appellant craves leave to add to and/or to alter, amend, rescind, modify the grounds herein above or produce further documents before or at the time of hearing of this Appeal.

3. The brief facts of the case are that the assessee is a company, engaged in the business of providing engineering design and support services to its group companies. The assessee filed its return of income for AY 2018-19 on 23.11.2018 declaring a total income of Rs.77,39,90,660/-. The case was selected for scrutiny to verify the claim of any other amount allowable as deduction under 'Schedule-BP' and the assessment has been completed u/s.143(3) of the Income Tax Act, 1961 (in short "the Act") on 26.03.2021 and accepted income declared by the assessee.

4. The case has been subsequently, taken up for revision proceedings and accordingly, show cause notice u/s. 263 of the Act, dated 13.03.2023 was issued and served on the assessee. In the said show cause notice, the PCIT observed that on perusal of the assessment record, it is noticed that the reversal of 'lease equalization charges' of Rs.45,81,966/- was claimed as deduction in the computation of income instead of crediting the reversal of provisions to P & L A/c. The 'lease equalization charges' created on account of principles provided in Accounting Standard-19 - accounting for lease. The same is not a real income/expenditure, but it is

:: 4 ::

a notional charge accounting in the books. However, the assessee has not added back 'lease equalization charges' although, in earlier assessment years, the same was debited to P & L A/c as is evident from the statement of computation of income. The AO has not examined the issue which rendered the assessment order passed by the AO is erroneous in so far as it is prejudicial to the interest of the Revenue. Therefore, called upon the assessee to explain 'as to why' the assessment order passed by the AO shall not be revised u/s.263 of the Act. In response to show cause notice, the assessee vide letter dated 16.03.2023 submitted that the assessee has created 'lease equalization charges' as per Accounting Standard-19 accounting for lease, issued by the Institute of Chartered Accountants of India in the books of accounts by considering rent and lease charges. But, 'lease equalization charges' debited into P & L A/c has been added back in the statement of total income for the respective assessment years while computing income from business. Similarly, when the 'lease equalization charge' has been reversed and credited to P & L A/c, the assessee has reduced from the income in the computation of total income. The AO has called for necessary details by way of notice u/s.143(2) & 143(1) of the Act, dated 22.12.2020 & 20.02.2021, for which, the assessee has explained details, method of accounting of 'lease equalization charges' and adjustment to total income in the statement of total income vide letter dated 25.02.2021. The AO after considering relevant submissions has rightly accepted the claim of

:: 5 ::

the assessee, and thus, assessment order passed by the AO cannot be held as erroneous in so far as it is prejudicial to the interest of the Revenue.

5. The PCIT after considering relevant submissions of the assessee and also taken note of various facts opined that the assessment order passed by the AO is erroneous in so far as it is prejudicial to the interest of the Revenue, because, the AO has not carried out required enquiries he ought to have been carried out in light of relevant provisions of the Act in respect of 'lease equalization charges' credited to P & L A/c and excluded from the statement of total income which rendered the assessment order passed by the AO to be erroneous in so far as it is prejudicial to the interest of the Revenue. Thus, rejected the arguments of the assessee and set aside the assessment order passed by the AO u/s.143(3) of the Act dated 26.03.2021 with a direction to the AO to examine the aspect as discussed supra and pass a fresh order. Aggrieved by the order of the Ld.PCIT, the assessee is in appeal before us.

6. The Ld.Counsel for the assessee Shri Ashik Shah, CA, submitted that the PCIT is erred in setting aside the assessment order passed by the AO by exercising his powers conferred u/s.263 of the Act, even though, the assessment order passed by the AO u/s.143(3) of the Act, dated 26.03.2021 is neither erroneous nor prejudicial to the interest of the

:: 6 ::

Revenue. The Ld.Counsel for the assessee further submitted that the case was selected for limited scrutiny to verify the claim of any other amount allowable as deduction under 'Schedule-BP' which contains debit of 'lease equalization charges' also. The AO vide notice u/s.142(1) dated 09.10.2020 and 20.02.2022 called for various details and in response, the assessee vide letter dated 22.12.2020 & 25.02.2021 explained the method of accounting and subsequent debit and credit in statement of total income. The Ld.Counsel for the assessee further submitted that the assessee has created 'lease equalization charges' in terms of Accounting Standard-19 – accounting for lease and debited to P & L A/c as and when the reserve is created. The amount debited to P & L A/c has been added to total income in the statement of total income. Similarly, the reversal of 'lease equalization charges' has been credited to P & L A/c, however, the same has been reduced from the total income, because, the debit has been already added back to total income. The AO after considering relevant facts has rightly accepted the claim of the assessee and thus, assessment order passed by the AO cannot be considered as erroneous in so far as it is prejudicial to the interest of the Revenue.

7. The Ld.CIT-DR, Shri Nilay Baran Som, supporting the order of the PCIT, submitted that the AO has not carried out required enquiries he ought to have been carried out in light of relevant provisions of the Act, which rendered the assessment order passed by the AO is erroneous in so

:: 7 ::

far as it is prejudicial to the interest of the Revenue. Therefore, the PCIT has rightly set aside the assessment order u/s.263 of the Act, and their orders should be upheld.

8. We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. The assessee has followed Accounting Standard-19 – accounting for lease issued by the Institute of Chartered Accountants of India in respect of rent and lease charges paid for the relevant assessment year and created a 'lease equalization reserve'. The assessee has debited 'lease equalization charges' to P & L A/c, but, added back to total income in the statement of total income for the relevant assessment years. Similarly, the assessee has reversed 'lease equalization charges' for the impugned assessment year and credited to P & L A/c. However, reduced from the total income in the statement of total income, because, debit to P & L A/c in the respective years has been added back to total income in the computation of income statement. To this extent, the method of accounting followed by the assessee for debiting and crediting 'lease equalization charges' and further adding to total income and reducing from the total income is in accordance with law. Therefore, in our considered view, the PCIT is completely erred in observing that 'lease equalization charges' created is a notional income/expenditure and crediting to P & L A/c should not have

:: 8 ::

been reduced from the total income, because debit to P & L A/c has not been added to statement of total income is incorrect and devoid of merits.

9. Further, the AO has verified the issue of 'lease equalization charges' and its treatment in the books of accounts and computation of income during the course of assessment proceedings, which is clearly evident from notices u/s.142(1) dated 09.12.2020 & 20.02.2012 issued by the AO, where specific question was asked in respect of accounting treatment of 'lease equalization charges' and subsequent treatment in computing the total income as per the provisions of the Income Tax Act, 1961. The assessee vide submission dated 22.12.2020 & 25.02.2021 explained the method of accounting of 'lease equalization charges' in the books of accounts and subsequent treatment while computing income from business and profession. The AO after considering relevant submissions has accepted the claim of the assessee. From the above, it is undoubtedly clear that the AO has carried out required enquiries he ought to have been carried out in light of relevant facts submitted by the assessee in respect of 'lease equalization charges'. Therefore, in our considered view, the PCIT is completely erred in coming to the conclusion that the assessment order passed by the AO is erroneous in so far as it is prejudicial to the interest of the Revenue.

10. In this view of the matter and considering the facts and circumstances of the case, we are of the considered view that the

:: 9 ::

assessment order passed by the AO is neither erroneous nor prejudicial to the interest of the Revenue as alleged by the PCIT in their order passed u/s.263 of the Act, and thus, we quash the order passed by the PCIT u/s.263 of the Act.

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

Order pronounced on the 14th day of February, 2024, in Chennai.

Sd/-
(वी. दुर्गा राव)

(V. DURGA RAO)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 14th February, 2024.

TLN

Sd/-

(मंजूनाथा. जी)

(MANJUNATHA.G)

लेखा सदस्य/**ACCOUNTANT MEMBER**

आदेशकीप्रतिलिपिअग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकरआयुक्त/CIT

4. विभागीयप्रतिनिधि/DR

5. गार्डफाईल/GF