

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ, 'B', अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
" B " BENCH, AHMEDABAD

BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER
AND
SHRI MAKARAND V. MAHADEOKAR, ACCOUNTANT MEMBER

ITA No.369/Ahd/2023
Assessment Year : 2018-19

Inductotherm (India) Pvt.Ltd. SM-6, Road No.11, Sanand II Industrial Estate, Bol Village, Sanand, Ahmedabad - 382 170 (Gujarat) PAN: AAACI 3672 B	Vs	The Principal Commissioner of Income Tax-1, Ahmedabad
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		Shri Mehul K. Patel, Advocate
Revenue by :		Shri Sudhendu Das, CIT-DR

सुनवाई की तारीख/Date of Hearing : 22/04/2024
घोषणा की तारीख /Date of Pronouncement: 21/05/2024

आदेश/ORDER

PER MAKARAND V. MAHADEOKAR, ACCOUNTANT MEMBER:

The present appeal has been filed by the assessee against order passed by the Ld. Pr.CIT, Ahmedabad-1, [hereinafter referred to as "Ld. PCIT"] dated 30/03/2023 in exercise of his revisionary jurisdiction under Section 263 of the Income-Tax Act, 1961 [hereinafter referred to as "the Act" for short], challenging the initiation of proceedings under Section 263 of the Act for the Assessment Year (AY) 2018-19.

2. The assessee has challenged order raising the following grounds before us:

1. That on facts, and in law, the Learned PCIT has grievously erred in exercising jurisdiction u/s 263 of the Act.
2. That the learned PCIT has grievously erred in law, and on facts, in holding that the AO has not properly examined the issue of deduction of claim of excess provision of

Rs.6,74,57,430/- of CSR expenses, and in observing that the said claim ought to have been disallowed.

3. *The appellant craves leave to add, alter, amend any ground of appeal.*

Facts of the case:

3. The assessee is engaged in the business of manufacturing Induction Equipment. The assessee filed its return of income for AY 2018-19 on 28.11.2018 declaring total income of Rs.1,00,21,30,580/-. The case was selected for complete scrutiny and the assessment order u/s 143(3) read with sections 143(3A) & 143(3B) of the Act, 1961 was passed accepting returned income.

3.1. While invoking the provisions of section 263 of the Act, the Ld. PCIT concluded that the excess provisions of CSR (Corporate Social Responsibility) expenses of earlier years has not been credited to P & L account of the assessee for AY 2018-19, however, the assessee wrongly claimed deduction of Rs.6,74,57,430/- for the same.

3.2. Ld. PCIT accordingly issued show-cause notice to the assessee, and after considering the submissions filed by the assessee, in this regard, passed the order u/s. 263 of the Act.

3.3. While passing the order u/s.263 of the Act, the Ld. PCIT noted that if the assessee has to claim the deduction for excess provisions of CSR expenses of earlier years, he should have first written back the excess provisions of CSR expenses of earlier years to the P & L account and not in the balance-sheet. Thus, the amount of Rs.6,74,57,430/- deducted from the income resulted in underassessment.

3.4. He also recorded in his order that the Assessing Officer during the course of assessment proceedings has simply accepted the submissions made by the assessee and has not verified or enquired about the above facts.

3.5. He further recorded that the Assessing Officer, while completing the assessment has not properly seen and examined the above issue and, therefore, the order passed by the Assessing Officer is erroneous and prejudicial to the interests of the revenue.

3.6. Aggrieved by the aforementioned order of Ld. PCIT, the assessee has filed this appeal before us.

Ground No.1

4. Arguing that the Ld. PCIT has grievously erred in exercising jurisdiction u/s.263 of the Act, the Counsel for the assessee put forward before us the facts that during the course of assessment proceedings, the assessee has submitted all the necessary information as asked by the Assessing Officer vide replies dated 02-07-2020 and 02-01.2021. The Counsel for the assessee also explained that the assessee provided all the details relating to the reversal of excess provision of CSR expenses along with its accounting treatment and deduction in the return of income. The Assessing Officer having satisfied with the above reply and passed the assessment order without making any additions. Therefore, the invocation of revisionary proceedings is bad in law.

The Ld. DR, on the other hand, relied on the order of Ld.PCIT.

5. We have heard both the parties. We have gone through the order u/s.263 of the Act of the Ld. PCIT and the order u/s. 143(3) read with sections 143(3A) and 143(3B) of the Act of the Assessing Officer. The order

of Assessing Officer is very brief and does not have any discussion on the matter specifically relating to reversal of excess provision of CSR expenses of Rs.6,74,57,430/-. We have also gone through the submissions made by the assessee before the Ld. PCIT.

5.1. In the letter of reply to Ld. PCIT, the assessee has submitted that –

“In Note No. 27 (other income), this write back does not appear but considered in matter of reconciliation between GAPP hitherto transformed to Ind AS mandated w.e.f. 1-4-2017 under Companies Act and credited to revenue (in Equity account of F.Y. 2014-15 to F.Y. 2016-17) during the previous year. (Para 14(b) of the letter, Page 11 of paper book).”

5.2. In the same letter of reply, the assessee has mentioned that the Assessing Officer had enquired in great details and replied with by way of written submission and in **personal hearing** (whereas the assessment was completed by National e-assessment Centre, Delhi).

The assessee has submitted that the following amounts has been written back to revenue as per Ind AS:

Details of CSR provision / expenses charged to P&L Statement / account of earlier years and not claimed in Income tax u/s 37(1) as under:	
Particulars	Amount (Rs. in lacs)
CSR provision / expenses for:	
A.Y. 2015-16	(i) 255.36
A.Y. 2016-17	(ii) 248.93
A.Y. 2017-18	(iii) 222.36
A.Y. 2018-19	(iv) 3.00
Total CSR provision / expenses (not claimed in Income tax) i.e. (i)+(ii)+(iii)+(iv) = (v)	729.65
Less: CSR expenses earlier charged to CSR provision (not claimed in Income tax) now adjusted in A.Y.2018-19 books	(vi) 73.03
Excess CSR provision write back in accordance with Ind AS overriding provision w.e.f. and during A.Y. 2018-19 i.e. (v) – (vi) = (vii)	[A] 656.63
Add: Contingency expenses (due to accounting error) debited to CSR provision for A.Y. 2017-18 (but added back in Income tax)	(viii) 17.95
Total Write back to revenue as per Ind AS	Rs. 674.57 lacs

5.3 It is apparent that the submission made by the assessee both to AO and Ld. PCIT was not very clear and details of amount of reversal of CSR provision was not reflected directly in the profit and loss account for the year under consideration. However, it is observed that there is an adjustment of prior period expenses in the statement showing reconciliation of equity from previous GAAP to Ind AS. It appears that this adjustment in the balance sheet and not in profit and loss account which needs further verification.

5.4. Here, we consider clause (a) of Explanation-2 which provides that an order shall be deemed to be erroneous if, in the opinion of the Pr.CIT/CIT "the order is passed without making inquiries or verification which should have been made". This explanation seems to provide very wide power to PCIT/CIT to deem an order as erroneous if, **in his opinion** "the order is passed without making inquiries or verification which should have been made". In the present case, it can be *prima-facie* concluded that the Ld. PCIT has sufficient grounds to form an opinion that the order is passed by Assessing Officer without making inquiries or verification which should have been made". Considering the facts and circumstances of the case, the quantum of the issue involved and in the interest of justice, we are of the opinion that the Ld. PCIT has assumed the jurisdiction u/s.263 properly. Hence, this ground is dismissed.

Ground No. 2

6. In this ground, the assessee has said that the Ld. PCIT has erred in law and in facts in observing that the said claim ought to have been disallowed.

7. Having gone through the order of the Ld. PCIT, we are of the opinion that the Ld. PCIT while invoking the provisions of Section 263 of the Act has not disallowed the claim. The Ld. PCIT has set aside the assessment order passed by the Assessing Officer and directed him to pass a fresh assessment order to the extent of the issue as discussed in the order, after allowing adequate opportunity of being heard to the assessee. In view of the above, we have no hesitation in upholding the order of the Ld. PCIT. Accordingly, considering this fact and without going into the merits, this ground is dismissed.

8. In the result, the appeal of the assessee is dismissed.

Order pronounced in the Open Court on 21st May, 2024 at Ahmedabad.

Sd/-

Sd/-

(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

(MAKARAND V.MAHADEOKAR)
ACCOUNTANT MEMBER

Ahmedabad, Dated 21/05/2024

टी. सी. नायर, व. नि. स. / T.C. NAIR, Sr. PS/bt

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned Pr.CIT-1, Ahmedabad
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, अधिकरण अपीलीय आयकर , राजकोट/DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad