

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।  
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

BEFORE SHRI R.S.SYAL, VP AND  
SHRI PARTHA SARATHI CHAUDHURY, JM

आयकर अपील सं. / ITA No.768/PUN/2019

निर्धारण वर्ष / Assessment Year : 2014-15

M/s. Storewell Construction & Engineers,  
Saklecha Nagar, Bhokardan Road,  
Jalna-431 203.  
PAN: AAKFS9061M

.....अपीलार्थी / Appellant

**बनाम / V/s.**

The Pr. Commissioner of Income Tax-2,  
Aurangabad.

.....प्रत्यर्थी / Respondent

Assessee by : Shri Girish Ladda

Revenue by : Shri S.B Prasad

सुनवाई की तारीख / Date of Hearing : 03.12.2019

घोषणा की तारीख / Date of Pronouncement : 05.12.2019

**आदेश / ORDER**

**PER PARTHA SARATHI CHAUDHURY, JM :**

This appeal preferred by the assessee emanates from the order of the Ld. Pr. Commissioner of Income Tax-1, Aurangabad dated 22.03.2019 passed u/s.263 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for the assessment year 2014-15 as per the grounds of appeal on record.

2. The crux of the grievance of the assessee in this appeal is the assumption of revisionary jurisdiction by the Ld. Pr. Commissioner of Income Tax u/s.263 of the Act.

3. At the very outset, the Ld. AR invited our attention to the assessment order at Para 2 wherein, it specifically states that the case was selected for limited scrutiny under CASS. The issues for which the limited scrutiny was done are for two reasons:

- i) Higher turnover reported in Service Tax Return compared to ITR;
- ii) Mismatch in amount paid to related persons u/s.40A(2)(b) reported in Audit Report and ITR.

The Ld. AR demonstrated that in the assessment order itself on those two issues the limited scrutiny of the assessee was done and the Assessing Officer dealt with these two issues and have accepted the income filed by the assessee. As per Para 3 of the assessment order, it clearly states *“After verification of information as available on the records, information filed during the course of assessment proceedings and after verification of books of accounts, the income filed by the assessee is hereby accepted.”*

4. The Ld. Pr. Commissioner of Income Tax on the other hand invoked the revisionary jurisdiction u/s.263 of the Act to look into the other issues relating to the assessee which were not within the purview of the limited scrutiny. The CBDT Circular vide its letter F-No.225/26/2006-ITA-II (Pt.), 8<sup>th</sup> September, 2010 has described the procedure for handling limited scrutiny cases wherein the Assessing Officer shall remain confined only to the specific reasons/issues for which case has been picked up for scrutiny. In this case, the Assessing Officer has already verified those issues for which limited

scrutiny was conducted. The Ld. Pr. Commissioner of Income Tax wants the Assessing officer to look into various other issues of the assessee which were not covered within the purview of the limited scrutiny. This is not permitted within the framework of the Income Tax Act.

5. That further on perusal of the CBDT Circular and the facts of the case, it is clear that the order of the Assessing Officer is neither erroneous nor prejudicial to the interest of the Revenue. The Hon'ble Supreme Court of India in the case of **Malabar Industrial Co. Ltd., (2000) 243 ITR 83(SC)** has specifically held that "*in order to assume the revisionary jurisdiction u/s.263, the order of the Assessing Officer must be erroneous so far as it is prejudicial to the interest of the Revenue.*"

In the facts of the present case, these criteria are not met so far as the assessment order is concerned and therefore, we quash the order passed by the Ld. Pr. Commissioner of Income Tax u/s.263 of the Act. We order accordingly.

6. In the result, **appeal of the assessee is allowed.**

Order pronounced on 05<sup>th</sup> day of December, 2019.

Sd/-  
**R.S.SYAL**  
**VICE PRESIDENT**

Sd/-  
**PARTHA SARATHI CHAUDHURY**  
**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 05<sup>th</sup> December, 2019.  
SB

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-1, Aurangabad.
4. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, "ए" बेंच,  
पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

// True Copy //

आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.

		Date	
1	Draft dictated on	03.12.2019	Sr.PS/PS
2	Draft placed before author	03.12.2019	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		