

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।
Before Shri V. Durga Rao, Judicial Member &
Shri Manoj Kumar Aggarwal, Accountant Member

आयकर अपील सं./I.T.A. No.727/Chny/2023
निर्धारण वर्ष/Assessment Year: 2018-19

M/s. Epimoney Private Limited,
No. 119, 2nd Floor, Greenways Towers,
St. Mary's Road, Abhiramapuram,
Chennai 600 018.

Vs. The Income Tax Officer/ACIT,
Corporate Ward 3(3),
Chennai.

[PAN:AAACU1013A]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri R. Vijayaraghavan, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri V. Nandakumar, CIT
सुनवाई की तारीख/ Date of hearing : 07.11.2023
घोषणा की तारीख /Date of Pronouncement : 10.11.2023

आदेश / O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Principal Commissioner of Income Tax-Chennai 3, Chennai, dated 30.03.2023 relevant to the assessment year 2018-19 passed under section 263 of the Income Tax Act, 1961 ["Act" in short].

2. The appeal filed by the assessee is delayed by 11 days in filing the appeal, for which, the assessee has filed petition in the form of an affidavit for condonation of the delay, to which; the Id. DR has not raised

any serious objection. Consequently, since the assessee was prevented by sufficient cause, the delay in filing of the appeal stands condoned and the appeal is admitted for adjudication.

3. Brief facts of the case are that the assessee had filed its return of income for the assessment year 2018-19 on 29.09.2018 claiming a total loss of ₹.3,58,59,222/-. The assessment under section 143(3) r.w.s. 143(3A) & 143(3B) of the Act was completed on 03.02.2021 accepting the loss claimed by the assessee.

4. Subsequently, by observing that the Assessing Officer has not examined the return of income filed by the assessee, the Id. PCIT issued show-cause notice under section 263 of the Act dated 10.03.2023 for the following reason:

“On perusal of the ITR, it is noticed that you have debited an amount of ₹.54,46,185/- in the profit and loss account towards other provisions. However, the same is not in an allowable expenditure being contingent liability. Hence, the same has to be disallowed and added back to the total income, which will result in reduction of loss claimed by you for the A.Y. 2018-19.”

For the above reasons, the Id. PCIT has called for explanation from the assessee and accordingly, the assessee filed its detailed written submissions dated 27.03.2023. By considering the reply of the assessee, the Id. PCIT passed order under section 263 of the Act dated 30.03.2023

holding that the order passed by the Assessing Officer was erroneous and prejudicial to the interest of Revenue and set aside the same with a direction to the Assessing Officer that (i) the amount of ₹.43,10,484/- relating to provision on non-performing assets shall be disallowed, (ii) shall verify whether the amount of ₹.11,35,701/- have been disallowed under section 43A & 43B of the Act as claimed by the assessee and if not, the same shall be allowed. In case of disallowance, if any, as per the direction at (ii) above, the Assessing Officer shall do the same after giving reasonable opportunity to the assessee.

5. On being aggrieved, the assessee carried the matter in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that the show cause notice dated 10.03.2023, wherein, the Id. PCIT has noted that the assessment order dated 11.02.2021 for AY 2018-19 was erroneous and prejudicial to the interest of Revenue is not correct and the Id. PCIT, without considering the assessment order passed under section 143(3) r.w.s. 143(3A) & 143(3B) of the Act dated 03.02.2021, passed the revision order under section 263 of the Act is not correct. By referring to the reply dated 24.03.2023 to the show-cause notice, the Id. Counsel has specifically brought to the notice of the Id. PCIT the apparent mistake in the notice issued under section 263 of the Act and the Id. PCIT has not

responded in his revision order. He further pointed out that the return filed by assessee was selected for "Limited Scrutiny" under E-assessment Scheme, 2019 to verify the issues of (i) unsecured loans and (ii) share capital/other capital through notice under section 143(2) of the Act as per paper book page 1. By referring to paper book pages 6 to 8, the Id. Counsel has submitted that various details were asked by issuing notices under section 143(2) & section 142(1) of the Act in respect of scrutiny of unsecured loans and share capital/other capital and vide paper book page 9 to 13, the assessee has furnished all the details as per paper book page 9 to 13. After considering the details filed by the assessee, the Assessing Officer has completed the assessment under section 143(3) r.w.s. 143(3A) & 143(3B) of the Act dated 03.02.2021 and thus, the Id. Counsel has submitted that the order passed by the Assessing Officer is neither erroneous nor prejudicial to the interest of Revenue.

6. On the other hand, the Id. DR strongly supported the order passed by the Id. PCIT.

7. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. The return of income filed by the assessee was selected for "Limited Scrutiny" to examine unsecured loans and share capital/other capital. The Assessing

Officer issued notice under section 143(2) of the Act dated 28.09.2019 as per paper book page 6. Other relevant details were also called for vide notice under section 142(1) of the Act dated 23.10.2020 with questionnaire as per paper book page 7 & 8 and the assessee has furnished all details before the Assessing Officer as per paper book page 9 to 11. Accordingly, after examining the details, the Assessing Officer has completed the assessment under section 143(3) r.w.s. 143(3A) & 143(3B) of the Act dated 03.02.2021.

8. However, the Id. PCIT was of the opinion that the assessment order passed after limited scrutiny for which the return selected was erroneous and prejudicial to the interest of Revenue. The issues which are not arising out "Limited Scrutiny" and subsequently came to the notice of the Id. PCIT are relating to provision on non-performing asset to be disallowed under section 43A & 43B of the Act. We also notice that the assessment order passed by the Assessing Officer was under section 143(3) r.w.s. 143(3A) & 143(3B) of the Act dated 03.02.2021 and not under section 147 r.w.s. 144 of the Act dated 11.02.2021 as mentioned by the Id. PCIT in the notice under section 263 of the Act.

9. Admittedly, the case of the assessee was selected for "Limited Scrutiny". After issuing various notices under section 143(2) as well as

142(1) of the Act calling for various details and after examining all the details furnished by the assessee, the Assessing Officer passed the assessment order. Therefore, when the Assessing Officer has to do under "Limited Scrutiny" in accordance with law, he has already carried out and discharged his dues and completed the assessment. Therefore, the assessment order passed by the Assessing Officer under section 143(3) of the Act dated 03.02.2021 cannot be held as erroneous and prejudicial to the interest of the Revenue. In so far as the issue identified by the Id. PCIT is not subject matter of assessment under "Limited Scrutiny" and therefore, when the Assessing Officer cannot go beyond the scope of limited scrutiny, the Id. PCIT cannot be held that the assessment order passed by the Assessing Officer is erroneous and prejudicial to the interest of the Revenue. Therefore, the revision order passed by the Id. PCIT is not in accordance with law and the same is quashed.

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

Order pronounced on 10th November, 2023 at Chennai.

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 10.11.2023

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, 4. विभागीय प्रतिनिधि/DR & 5. गार्ड फाईल/GF.