IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

120

ITA-88-2024 (O&M)
Decided on : 12.09.2024

Pr. Commissioner of Income Tax-1, Chandigarh
. . . Appellant(s)

Versus

M/s V-Con integrated Solutions Pvt. Ltd.
. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Yogesh Putney, Sr. Standing Counsel and
Mr. Vaibhav Gupta, Standing Counsel
for the appellant(s).

****

SANJEEV PRAKASH SHARMA, J. (Oral)

1. Present appeal has been preferred against the order dated 27.02.2024, passed by the Income Tax Appellate Tribunal (for brevity, 'ITAT') passed in ITA No.232/CHD/2023, for the Assessment Year 2018-19.

2. Learned counsel for the appellant – revenue submits that the ITAT has examined the case afresh, whereas, such power is not available with ITAT. The Pr. Commissioner of Income Tax (PCIT) while exercising the power under Section 263 of the Income Tax Act, 1961 (in short, 'IT Act'), found certain aspects, which were not addressed by the Assessing Officer and has remanded the matter to the Assessing Officer, and the same was not required to be interfered with.

3. Learned counsel further submits that the Assessing Officer had passed the assessment order without conducting any inquiry.

4. We have considered the submissions and perused the orders passed by the ITAT.

5. We find that the ITAT has examined the entire record. The ITAT has noticed that the Assessing Officer had raised several queries and had also demanded documents, the details of which have been mentioned in the ITAT order, which is quoted as under:-

> *"12. So far as the issue relating to the issue of shares to the two companies namely M/s Takecare India Pvt. Ltd. And Videocon Realty infrastructure Ltd. Was concerned, the assessee explained that the AO had made adequate enquiries on this issue and various replies and details were furnished to the AO, considering which the AO has accepted the claim of the assessee. The ld. Counsel, in this respect has submitted that the AO had issued questionnaire dated 28.12.2020 wherein, the following details were asked for from the assessee, on this issue:*
>
> *a) Name and address of the shareholders.*
> *b) PAN of the shareholders.*
> *c) Face Value of each share.*
> *d) Number of shares allotted to each shareholder.*
> *e) Total value of the shares allotted to each shareholder.*
> *f) Payment received from each shareholder during the financial year.*
> *2) Provide documentary evidence to substantiate the identity and ITR of the shareholders to substantiate creditworthiness the shareholders as well as the proof of genuineness of transaction in respect of fresh credit of the share capital account.*
> *3) The valuation report with respect to the working of EPS.*
> *4) The comparison of the working of EPS with the immediately prior instance, wherein the shares were allotted.*
> *5) The year wise details of dividend declared during the year and three earlier years."*

6. Therefore, it is noted that the Assessing Officer had issued a questionnaire on 28.12.2020 and had also asked for documents, which were answered and furnished to the Assessing Officer by the assessee and the same were also informed to the PCIT, who ensued proceedings under Section 263 of the IT Act. However, PCIT have not pointed out any further enquires, which were required to be made by the Assessing Officer in this case, which have not been so made. The scope of Section 263 of the IT Act, is apparently to see whether the concerned Assessing Officer has failed to conduct a proper inquiry, and therefore, committed an error resulting in causing loss to the revenue. Simply by holding that the Assessing Officer was required to make more enquiries, would not be a valid ground for treating the order of the Assessing Officer, as erroneous and prejudicial to the interests of the revenue. The power under Section 263 of the Act cannot be invokved in such circumstances by the PCIT. The order, therefore, passed by the PCIT is not sustainable in the eyes of law and the same has been quashed by the ITAT, which does not warrant any interference by this Court in appeal.

7. In view thereof, we do not find any substantial question of law has arisen in this appeal for consideration, as the factual aspects have completely and thoroughly been examined by the ITAT.

Appeal stands dismissed accordingly.

All the pending applications stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

September 12, 2024
J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No