IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2025

CORAM :

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN

TCA No.492 of 2016

Pradeep Stainless Steel India P Ltd.,
C-3 Phase II, Main Road,
MEPZ, Tambaram,
Chennai-600 045.

Appellant

Vs

The Deputy Commissioner of Income Tax,
Company Circle-V(2),
Income Tax Department,
Chennai-600 034.

Respondent

Prayer: Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal "A" Bench, Chennai, dated 20.11.2015 in ITA No.1750/Mds/2013.

For Appellant: Mr.A.Sriraman

For Respondent: Mrs.V.Pushpa

JUDGMENT
(Delivered by the Hon'ble Chief Justice)

For the assessment year 2005-06, assessee, who is appellant herein, filed return of income on 5.10.2005 admitting a total income of Rs.44,982/- The assessment was completed under Section 143(3) of the Income-tax Act, 1961 [the Act] vide an order dated 26.12.2007. Subsequently, notice under Section 148 of the Act was issued and the assessment was subjected to re-assessment under Section 147 of the Act and re-assessment order under Section 143(3) read with Section 147 of the Act came to be passed on 30.08.2010 re-assessing assessee's income at Rs.2,01,58,510/-. Against the said order, an appeal was filed by assessee and the Commissioner of Income Tax (Appeals) [CIT(A)] allowed the appeal by an order dated 13.06.2013.

2. Aggrieved, revenue has preferred an appeal before the Income Tax

Appellate Tribunal [the ITAT], which, by an order dated 20.11.2015, confirmed the validity of the re-assessment order and remitted the matter back to the file of CIT(A). It is that order, which is challenged by assessee. On 01.07.2016, the following two substantial questions of law were framed while admitting the appeal:

> *"1. Whether the Appellate Tribunal is correct in law in sustaining the re-assessment framed for the Assessment Year 2005-06 u/s 143(3) r/w section 147 of the Act even after noticing the issue which formed the basis for assumption of jurisdiction for framing the said re-assessment was taken up for scruting and accepted in the original assessment framed on 26.12.2007 u/s.143(3) of the Act by the Respondent for the very same Assessment Year 2005-06?*
>
> *2. Whether the Appellate Tribunal is correct in law in sustaining the re-assessment framed even though there was no tangible materials for assuming such jurisdiction to frame the said re-assessment as well as the apparent change of opinion on his part in revisiting the concluded issue in the original assessment framed?"*

3. The ITAT has accepted the fact that before the original assessment order under Section 143(3) of the Act was passed on 26.12.2007, multiple questionnaires under Section 143(2) of the Act were issued and assessee provided all details. The ITAT, however, says that Assessing Officer did not ask details of share allotted to each partner of the erstwhile firm, after succession and, therefore, re-opening was justified. According to the ITAT, as no opinion was expressed in the original assessment order, it was not a

case of change of opinion.

4. The fact that questionnaires were issued is admitted. The fact that assessee replied to all the questions is also not disputed. What questionnaire is to be issued is totally in the control of Assessing Officer and assessee has no control over it.

5. As held in ***Aroni Commercials Ltd. v. Deputy Commissioner of Income-tax-2(1)***[1], the manner in which an assessment order is to be drafted is within the sole domain of Assessing Officer and it is not open to assessee to insist that Assessing Officer must raise all questions. We are of the view that once the question has been raised during the assessment proceedings and assessee has replied to it, it follows that Assessing Officer was satisfied that no other query is required to be raised.

6. In the circumstances, there was absolutely no need to refer the matter for fresh assessment. It is quite clear that re-opening of the assessment is merely on the basis of change of opinion of Assessing Officer

1 [2014] 44 taxmann.com 304 (Bombay)

from that held earlier during the course of assessment proceeding leading to the original assessment passed under Section 143(3) of the Act. This change of opinion does not constitute justification and/or reasons to believe that income chargeable to tax has escaped assessment. The questions of law framed are answered in favour of assessee.

Appeal is allowed. There shall be no order as to costs.

(K.R.SHRIRAM, CJ.) (SUNDER MOHAN, J.)
01.07.2025

Index : Yes/No
Neutral Citation : Yes/No
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To:

1. The Assistant Registrar
Income Tax Appellate Tribunal
"A" Bench, Chennai.

2. The Commissioner of Income Tax (Appeals)-V,
Chennai.

3. The Assistant Commissioner of Income Tax,
Company Circle V(2),
Chennai-34.

THE HON'BLE CHIEF JUSTICE
AND
SUNDER MOHAN,J.

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