

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "A" : HYDERABAD
(THROUGH VIDEO CONFERENCE)**

**BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No.	A.Y.	Appellant	Respondent
557/Hyd/2018	2012-13	M/s.Sanctuary Television Pvt. Limited, Hyderabad [PAN: AANCS3528D]	DCIT, Circle-3(1), Hyderabad
1429/Hyd/2019			ACIT, Circle-14(1), Hyderabad

For Assessee : Shri P.Murali Mohana Rao, AR

For Revenue : Shri Balakrishna, CIT-DR
Shri Sunku Srinivas, Sr.DR

Date of Hearing : 06-09-2021

Date of Pronouncement : 08-10-2021

ORDER

PER S.S.GODARA, J.M. :

These assessee's appeals for AY.2012-13 arise against the Pr.CIT-3 & CIT(A)-6, Hyderabad's order(s) dated 18-11-2016 & 13-03-2019 in appeal Nos.10 / Pr.CIT-3 / 263 / 16-17 & 10098 / 2017-18 / A3 / CIT(A)-6, involving proceedings u/s.143(3) (in former appeal) and u/s.143(3) r.w.s.263 (in latter appeal) of the Income Tax Act, 1961 [in short, 'the Act']; respectively.

Heard both the parties. Case files perused.

2. It transpires at the outset that this assessee's instant appeal suffers from 85 days delay stated to be attributable to

the reason(s) beyond its control as per condonation petition/affidavit. No rebuttal has come from the departmental side. The impugned delay is condoned therefore.

3. We advert to the assessee's former appeal ITA No.557/Hyd/2018 challenging correctness of the PCIT's action assuming Section 263 revision jurisdiction thereby terming the corresponding regular assessment dt.16-03-2015 as an erroneous and prejudicial one to the interest of the Revenue. There is no dispute that the CIT's detailed discussion holds in Section 263 order in paras 7 to 11 *inter alia* hold that the assessee had derived interest income of Rs.44,84,828/- on the fixed deposits made with the Karur Vysya Bank, Hyderabad followed by its claim of administrative expenditure, financial costs and depreciation etc. to the tune of Rs.1,87,311/-, Rs.2,853/- and Rs.44,46,552/-; respectively totalling to Rs.46,36,716/-. The PCIT holds that the said three heads of expenses are in the nature of pre-operative expenditure which could not be set-off against the assessee's foregoing interest income. And that the Assessing Officer's action allowing the assessee's claim in a very casual and mechanical manner deserves to be revised for want of proper enquiry rendering the impugned assessment as both erroneous as well as prejudicial to interest of the Revenue.

4. We have given our thoughtful consideration to rival pleadings and find no reason to sustain the impugned revision action. This is for the reason that the assessee's administrative expenses are in the nature of compulsorily office expenditure which have been held eligible for intra-head set-off against

income from other sources than u/s.57(iii) by the Assessing Officer. The factual position is hardly different *qua* its latter two heads of financial costs; including that directly paid to the bank of Rs.2,8,53/- (supra) pertains to the very account only as well as the fact that the impugned depreciation/amortization has been a continuing relief granted very well from the preceding assessment years, whose facts and figures are nowhere in dispute.

Coupled with this, the assessee has also filed on record the necessary correspondence/show cause notice issued by the Assessing Officer in Section 143(2) & 142(1) notices dt.13-05-2014 and 24-02-2015 followed by its detailed reply on 02-12-2015. We therefore hold that the PCIT has erred in law and on facts in assuming Section 263 revision jurisdiction. We quote hon'ble apex court's landmark decision in *Malabar Industrial Co. Vs. CIT [243 ITR 83] (SC)* wherein it was held that *an assessment has to be both erroneous as well as causing prejudice to the interest of the Revenue; simultaneously, before it is sought to be subjected to exercise of revision jurisdiction u/s.263 of the Act.* Their lordships further make it clear that it is not each and every assessment which attracts Section 263 revision but only wherein the Assessing Officer has not taken one of the two possible views; as the case may be. We draw strong support therefrom and reverse the learned PCIT's action exercising Section 263 revision jurisdiction. The impugned Section 143(3) regular assessment dt.16-03-2015 stands revived as the necessary corollary therefore.

The assessee's instant Section 263 appeal ITA No.557/Hyd/2018 is accepted.

5. Same order to follow in assessee's consequential latter appeal ITA No.1429/Hyd/2019 as the impugned assessment framed in furtherance to the PCIT's foregoing Section 263 revision directions has no legs to stand.

No other ground has been pressed before us.

6. These assessee's two appeals are allowed in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 8th October, 2021

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Hyderabad,
Dated: 08-10-2021

TNMM

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Copy to :

1.M/s.Sanctuary Television Pvt. Limited, C/o. P.Murali & Co., Chartered Accountants, 6-3-655/2/3, 1stFloor, Somajiguda, Hyderabad.

2.The DCIT, Circle-3(1), Hyderabad.

3.The ACIT, Circle-14(1), Hyderabad.

4.The CIT(Appeals)-6, Hyderabad.

5.The Pr.CIT-3, Hyderabad.

6.The Pr.CIT-6, Hyderabad.

7.D.R. ITAT, Hyderabad.

8.Guard File.