2025 LiveLaw (SC) 435

IN THE SUPREME COURT OF INDIA
SANJIV KHANNA CJI., SANJAY KUMAR; J., K.V. VISWANATHAN; J.
SPECIAL LEAVE PETITION (CIVIL) Diary No. 13205/2025
PR. COMMISSIONER OF INCOME TAX-1, CHANDIGARH *versus* **M/S. V-CON INTEGRATED SOLUTIONS PVT. LTD.**

Income Tax Act, 1961; Section 263 - Power of Commissioner to revise assessment - Distinction between failure to investigate and wrong decision by Assessing Officer - Where Assessing Officer conducts investigation but makes no addition, it implies acceptance of assessee's plea - Commissioner can revise under Section 263 by deciding on merits and making additions, not by remanding for lack of investigation - Remand justified only if superficial or random investigation established with recorded error and prejudice to Revenue - High Court and Tribunal orders upheld - Special Leave Petition dismissed.

[Arising out of impugned final judgment and order dated 12-09-2024 in ITA No. 88/2024 passed by the High Court of Punjab & Haryana at Chandigarh]

For Petitioner(s): Mr. S Dwarakanath, A.S.G., Mr. Rupesh Kumar, Sr. Adv., Mr. Raj Bahadur Yadav, AOR, Mr. Anmol Chandan, Adv., Mr. Kartikeya Asthana, Adv., Mr. Rajeev Kumar Ranjan, Adv.

O R D E R

Delay condoned.

In our opinion, the order passed by the High Court, which upheld the decision of the Tribunal, is correct on facts and in law. This case does not involve a failure by the assessing officer to conduct an investigation. Instead, according to the Revenue, it is a case where the assessing officer having made inquiries erred by not making additions.

The assessee does not have control over the pen of the Assessing Officer. Once the Assessing Officer carries out the investigation but does not make any addition, it can be taken that he accepts the plea and stand of the assessee.

In such cases, it would be wrong to say that the Revenue is remediless. The power under Section 263 of the Income Tax Act, 1961, can be exercised by the Commissioner of Income Tax, but by going into the merits and making an addition, and not by way of a remand, recording that there was failure to investigate. There is a distinction between the failure or absence of investigation and a wrong decision/conclusion. A wrong decision/conclusion can be corrected by the Commissioner of Income Tax with a decision on merits and by making an addition or disallowance.

There may be cases where the Assessing Officer undertakes a superficial and random investigation that may justify a remit, *albeit* the Commissioner of Income Tax must record the abject failure and lapse on the part of the Assessing Officer to establish both the error and the prejudice caused to the Revenue.

Recording the aforesaid, the special leave petition is dismissed.

Pending application(s), if any, shall stand disposed of.