Commissioner of Income Tax v. Rajinder Kumar Gandhi

ITA 23/2005

ITA 23/2005 | 2007-04-18

Prior scrutiny approval did not bar revision; fresh assessment quashed

80IB | 143(3) | 263

High Court of Himachal Pradesh | Shimla | Deepak Gupta | Surinder Singh

Assessment years: 2001-02

01 FACTS OF THE CASE

For AY 2001-02, the proprietor reported a loss of Rs.43,220 in a jerican unit and profit of Rs.14,89,675 in a water-tank unit claiming section 80 IB relief. After scrutiny acceptance, the Commissioner invoked section 263 on suspected shifting of profits and expenses. The Tribunal cancelled revision principally because the Commissioner had approved scrutiny on similar grounds.

Source: PDF pp.1–3

02 DISCUSSION BY THE HON'BLE COURT

Following T.N. Civil Supplies Corporation,(2003)9 SCC 235, the Court held that earlier scrutiny approval did not bar revision. It left the disputed erroneous-and-prejudicial conditions for the Tribunal to decide. Separately, it condemned a fresh assessment made despite notice that the Tribunal had set aside revision; the officer should have verified the appellate order instead of proceeding.

Source: PDF pp.4–6

03 JUDICIAL DECISION

Revenue's appeal was partly allowed: the Tribunal's order was set aside and the assessee's appeal remanded for consideration of all rival contentions on merits. The fresh assessment identified in the operative passage as 31 March 2005 was quashed as illegal and non-existent in law.

Source: PDF pp.5–6

04 OUTCOME / IN WHOSE FAVOUR

Mixed result: Revenue obtained reconsideration of revision, while the assessee obtained quashing of the intervening assessment. No final profit-shifting or deduction finding was made. The source contains inconsistent narrative dates; the note follows the operative 31 March 2005 assessment date and flags the discrepancy.

Source: PDF pp.4–6

05 EXPERT COMMENTS

Prior approval is not a substitute for the section263 conditions — The Court removed the Tribunal's categorical bar based on prior scrutiny approval. It expressly declined to decide whether the assessment was erroneous and prejudicial because the Tribunal had not addressed that question on merits. Thus the decision preserves the enquiry into those requirements; it does not validate every revision of a scrutinised return.

Suspicion of inter-unit allocation remained contested — Different profit rates, deduction percentages and alleged shifting prompted revision, while the assessee relied on competition and separate records. Those rival factual explanations were sent back for adjudication. Reporting an established diversion of expenses or denying section 80 IB relief outright would turn the Commissioner's allegations into a High Court finding.

Compliance with appellate orders was independently enforced — The officer's lack-of-official-intimation explanation did not justify proceeding after the appellate result was brought to notice. The Court required verification or a certified copy and also criticised the Commissioner's failure to inform the officer. Quashing that assessment is a separate operative direction and must be retained alongside Revenue's remand success.

Source: Editorial analysis; source references in the structured comments

SOURCE & VERIFICATION

Himachal Pradesh High Court judgment; verified source copy

Complete source PDF reviewed: 7 physical pages.

All 7 original pages read and visually inspected; source hash verified. AI-assisted substantive correction.

Open cited source rendition

Source bytes and identity checked; see panel-specific references and disclosed source anomalies.

STATUTORY SCOPE

Sections and disposition are recorded only to the extent stated in this source order.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment not independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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