

## Revisional order upheld since AO failed to verify correctness of books of account

**Summary – The High Court of Punjab & Haryana in a recent case of Venus Woollen Mills, Ludhiana., (the Assessee) held that revisional order was to be upheld since AO failed to verify correctness of books of account**

### Facts

- The assessee was engaged in the business of manufacturing/trading of yarn and fiber waste. A survey under section 133A was conducted at the business premises of the assessee and during the survey, a sum of Rs. 2.15 crores was surrendered as an additional income. The assessee filed its return declaring an income of Rs. 1.35 crores.
- The assessment was completed under section 143(3) by the Assessing Officer by making an addition of Rs. 15,752 under section 40(a)(ia).
- Subsequently, the Commissioner passed under section 263 holding that the order of the Assessing Officer was erroneous insofar as it was prejudicial to the interests of the revenue since the Assessing Officer had failed to make proper verification and the Commissioner passed revisional order enhancing the income of the assessee by Rs. 1.83 crores.
- The Tribunal, however, set aside the revisional order passed by the Commissioner.
- On revenue's appeal:

### Held

- A bare perusal of section 263 makes it clear that before the Commissioner passes any order, an opportunity of hearing is required to be provided to the assessee and thereafter, *prima facie* finding recorded that the order made by the Assessing Officer is erroneous insofar as it is prejudicial to the interests of the revenue. Power under section 263 can be exercised in relation to a proceeding in which the Assessing Officer has passed an erroneous order prejudicial to the interests of the revenue. The law envisages fulfilment of following conditions for assumption of jurisdiction under section 263,—
  - (a) such order should be erroneous ;
  - (b) and it should be prejudicial to the interests of the revenue.
- Thus two circumstances must exist to enable the Commissioner to exercise power of revision under section 263, *viz.*, (a) the order is erroneous; (b) by virtue of the order being erroneous, prejudice has been caused to the interests of the revenue. Wherever one of them is absent assumption of revisional jurisdiction under section 263 would not be proper.

- A perusal of the assessment order does not show that the Assessing Officer applied its mind to the correctness of the books of account produced before her. The Assessing Officer was required to have carefully dealt with the case especially where the assessee had surrendered Rs. 2,15, 00,000 during survey under section 133A. It is clear that the assessee has attempted to off set the surrender made by him by claiming loss figure in the business otherwise the taxable income could not have been Rs. 1,35,52,050 against a surrender of Rs. 2,15,00,000 made by it.
- In such circumstances, it cannot be concluded that the assessment order passed under section 143(3) was not erroneous and prejudicial to the interests of the revenue. Accordingly, it is held that the Tribunal erred in setting aside order passed by Commissioner under section 263.
- Accordingly, the appeal is allowed and the order passed by the Tribunal is set aside.