

IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH : KOLKATA

[Before Hon’ble Sri Aby T.Varkey, JM & Dr.A.L.Saini, AM]

I.T.A No. 422/Kol/2014

Assessment Year : 2006-07

D.C.I.T. Circle-1,
Kolkata

-vs.-

M/s. Hooghly Mills Projects .Ltd.
Kolkata

[PAN : AAACH 7668 G]

(Appellant)

(Respondent)

For the Appellant : Shri Rajat Kumar Kureel, JCIT, Sr.DR
For the Respondent : Shri S.Jhajharia, AR

Date of Hearing : 04.01.2017.

Date of Pronouncement : 06.01.2017.

ORDER

Per Aby T.Varkey, JM

This is an appeal preferred by the Revenue against the order of CIT(A)-Central-I, Kolkata dated 18.12.2013 for A.Y 2006-07.

2. At the outset itself the Id. Counsel for the assessee pointed out that the impugned order which is being challenged emanates from the order of the AO giving effect to the order of CIT-I, Kolkata passed u/s 263 of the Act dated 08.03.2011. The Id. Counsel submitted that the order of CIT –I, Kolkata passed u/s 263 of the Act vide order dated 08.03.2011 was successfully challenged by the assessee before the Tribunal which was pleased to cancel the 263 Revisional order of CIT on 26.10.2016 vide ITA No.549/Kol/2011 for the instant A.Y.2006-07 which is before us. Therefore according to the Id. Counsel the order of the AO which culminated in the impugned order dated 18.12.2013 is *non-est* in the eyes of law. Therefore the revenue’s appeal is infructuous. The Id. DR admitted the fact that the order impugned emanates from the CIT order passed u/s 263 dated 08.03.2011 which has already been cancelled by the Tribunal vide order dated 26.10.2016.

3. We have heard both the parties and perused the records. We find that the impugned order passed by the Id. CIT(A) stems from the assessment order passed by the AO which in turn was passed after the CIT 's revision order u/s 263 of the Act passed on 08.03.2011. Thereafter the order of the CIT has been cancelled by the Tribunal vide order dated 26.10.2016. Therefore order passed by the AO after the revision order u/s 263 passed by CIT is *non-est* in the eyes of law and therefore the impugned order of the CIT (A) which stems from the order of AO which is *non-est* in the eyes of law is null. Therefore the appeal of the revenue becomes infructuous and so is dismissed.

4. In the result the appeal of the revenue is dismissed.

Order pronounced in the Court on 06. 01.2017.

Sd/-
[Dr.A.L.Saini]
Accountant Member

Sd/-
[Aby T.Varkey]
Judicial Member

Dated : 06.01.2017.
[RG PS]

Copy of the order forwarded to:

1. M/s. Hooghly Mills Projects Ltd., 10, Clive Row, Kolkata-700001.
2. D.C.I.T., Circle-1, Kolkata.
3. CIT(A)-Central-I, Kolkata. 4. CIT-Central-I, Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

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By Order

Asstt.Registrar, ITAT, Kolkata Benches

