



IN THE INCOME TAX APPELLATE TRIBUNAL "D", BENCH MUMBAI

BEFORE SHRI R.C.SHARMA, AM

&

SHRI SANDEEP GOSAIN, JM

ITA No.6412/Mum/2017
(Assessment Year :2003-04)
ITA No.6414/Mum/2017
(Assessment Year :2005-06)
ITA No.6415/Mum/2017
(Assessment Year :2006-07)
ITA No.6416/Mum/2017
(Assessment Year :2007-08)
ITA No.6417/Mum/2017
(Assessment Year :2008-09)

DCIT – Circle – 2 Kalyan 2 nd Floor, Mohan Plaza Khadakpada, Wayale Nagar, Kalyan (W) – 421 301	Vs.	M/s. Madhav Constructions Shop No.2/C/13 Room No.25 & 26, Netaji Chowk Ulhasnagar – 421 001
PAN/GIR No.		AAGFM6690L
Appellant)	..	Respondent)

Revenue by	Shri Chaitanya Anjaria
Assessee by	Shri S.M. Makhija & Ms. Lipsa A Chandrani
Date of Hearing	10/08/2018
Date of Pronouncement	31/08/2018

आदेश / ORDER

PER R.C. SHARMA (A.M):

These are the appeals filed by the Revenue against the order of CIT(A)-3, Thane dated 10/08/2017 for A.Y.200-04, 2005-06,

2006-07, 2007-08 & 2008-09 in the matter of order passed u/s. 143(3) and 143(3) r.w.s. 263 of the Income Tax Act, 1961.

2. We have heard the rival contentions and carefully gone through the orders of the authorities below. In these cases, the AO has passed order u/s 143(3) r.w.s. 254 of the Act on 28.02.2015 in view of the Hon'ble ITAT's directions order dated 13.03.2013 by allowing the deduction claimed u/s.80IB(10) of the Act. Thereafter, the Pr. CIT-3, Thane passed order u/s 263 of the Act stating that order passed by the AO is prejudicial to the interest of the Revenue in view of the provisions of section 80A(5) and assessment order was set aside to the file of the AO to pass a fresh assessment order.

3. In the meantime, the assessee filed an appeal before the ITAT against the order u/s. 263 passed by the Pr.CIT-3, Thane. Against this revision order u/s.263, the Hon'ble ITAT, vide order dated 07.07.2017 in ITA No.3271 to 3276/Mum/2017(Assessment years 2003-04 to 2008-09) has quashed the foundation of the impugned order passed u/s. 263 of the Act by the Pr.CIT-3, Thane. Therefore, the assessment order passed u/s.143(3) r.w.s. 263 dtd. 30.06.2017 by the AO has become infructuous.

4. The CIT(A) has also observed that the order passed by AO u/s.143(3) r.w.s. 263 has become infructuous in view of the decision of the Tribunal vide order dated 07/07/2017, wherein Tribunal have quashed

the order passed by CIT u/s.263. Accordingly, we do not find any reason to interfere in the order of CIT.

5. In the result, the appeals of revenue are dismissed.

Order pronounced in the open court on this 31/08/2018

**Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER**

**Sd/-
(R.C.SHARMA)
ACCOUNTANT MEMBER**

Mumbai; Dated 31/08/2018
Karuna Sr.PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

BY ORDER,

सत्यापित प्रति //True Copy//

(Asstt. Registrar)
ITAT, Mumbai