

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'C' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं

श्री ए. मोहन अलंकामणी, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND  
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.838/Chny/2018

निर्धारण वर्ष / Assessment Year : 2007-08

The Deputy Commissioner of  
Income Tax,  
Corporate Circle – 3(2),  
Chennai - 600 034.

M/s VSL India Pvt. Ltd.,  
602-B, 6<sup>th</sup> floor, Campus 4B,  
v. RMZ Millennia Park, No.143,  
MGR Road, Kandanchavady,  
Perungudi, Chennai - 600 096.

(अपीलार्थी/Appellant)

PAN : AAACV 9694 E

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri R. Clement Ramesh Kumar,  
Addl.CIT

प्रत्यर्थी की ओर से/Respondent by : None

सुनवाई की तारीख/Date of Hearing : 14.08.2018

घोषणा की तारीख/Date of Pronouncement : 12.09.2018

### **आदेश /O R D E R**

**PER N.R.S. GANESAN, JUDICIAL MEMBER:**

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) -11, Chennai, dated 20.12.2017 and pertains to assessment year 2007-08.

2. No one appeared for the assessee when the appeal was taken up for hearing. The notice sent by the Registry by RPAD was returned by the postal authorities with an endorsement "left". Therefore, we heard Ld. Departmental Representative and proceeded to dispose the appeal on merit.

3. Shri R. Clement Ramesh Kumar, the Ld. D.R. submitted that consequent to the revisional order passed by the Commissioner under Section 263 of the Income-tax Act, 1961 (in short 'the Act'), the Assessing Officer passed the assessment order on 31.12.2012. According to the Ld. D.R., the assessee challenged the revisional order passed by the Commissioner under Section 263 of the Act before this Tribunal. This Tribunal set aside the order of the Commissioner. According to the Ld. D.R., further appeal was filed by the Revenue before the High Court and the same is pending for disposal. Since the appeal is pending before the High Court, according to the Ld. D.R., the CIT(Appeals) is not justified in allowing the appeal of the assessee.

4. We heard the Ld. D.R. and perused the relevant material available on record. It is an admitted fact that the Assessing Officer passed the impugned order consequent to the direction of the

Commissioner under Section 263 of the Act. The order passed by the Commissioner under Section 263 of the Act was set aside by this Tribunal and as on today, it is not in existence. Therefore, the consequential order passed by the Assessing Officer cannot stand independently. Mere pending of appeal before the High Court against the order of this Tribunal setting aside the order of Commissioner under Section 263 of the Act cannot be a reason to allow the appeal of the Revenue. Therefore, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

5. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the court on 12<sup>th</sup> September, 2018 at Chennai.

sd/-  
(ए. मोहन अलंकामणी)  
(A. Mohan Alankamony)  
लेखा सदस्य/Accountant Member

sd/-  
(एन.आर.एस. गणेशन)  
(N.R.S. Ganesan)  
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,  
दिनांक/Dated, the 12<sup>th</sup> September, 2018.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-11, Chennai
4. Principal CIT, Chennai- 3, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.