

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "G": DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND
SHRI L.P. SAHU, ACCOUNTANT MEMBER

ITA.No.5756/Del./2015
Assessment Year 2005-06

DCIT Circle 17(2), Room No. 308, C.R. Building, I.P. Estate, New Delhi.	vs.	National Textiles Corporation Ltd., 9 th Floor, Vandana Buldng., 11, Tolstoy Marg, New Delhi. AAACN1107A
(Appellant)		(Respondent)

For Revenue :	Shri Ved Prakash Mishra, Sr. DR
For Assessee :	Shri Ved Jain, CA

Date of Hearing :	17.10.2018
Date of Pronouncement :	24.10.2018

ORDER

PER SHRI BHAVNESH SAINI, J.M.

This appeal by Revenue has been directed against the order of Ld. CIT(A)-6, Delhi dated 28.07.2015 for AY 2005-06, challenging the order of Ld. CIT(A) in quashing the notice u/s 148 of the I.T. Act.

2. The facts of the case are that the AO passed the assessment order u/s 147/143(3) of the Act dated 14.03.2013 computing the total income of assessee at Rs. (-) 5,95,92,000/-. Thus, income is computed at loss of Rs. 5,95,92,000/-. The assessee preferred appeal before Ld. CIT(A) and according to the Department the Ld. CIT(A) decided the appeal of assessee, vide impugned order dated 28.07.2015.

3. Ld. Counsel for the assessee, at the outset, submitted that it is an improper and invalid appeal filed by the Revenue, therefore, liable to be dismissed summarily. He has pointed out that the assessment order dated 14.03.2013 in this case was challenged before Ld. CIT(A)-38, Delhi which was decided, vide order dated 05.04.2017, copy of the order is placed on record. He has submitted that in the impugned order the assessed income have been shown at Rs. (-) 45,81,79,372/-, therefore, it is a different order against which departmental appeal has been filed. Ld. DR, however, could not contribute anything on the issue.

4. We have considered the submissions of both the parties and find that departmental appeal is invalid and improperly filed and, as such, liable to be rejected. The AO passed the impugned assessment order dated 14.03.2013 computing the loss of Rs. 5,95,92,000/-. This order was challenged before Ld. CIT(A)-38 who had decided the appeal of assessee on 05.04.2017. Copy of this order of the CIT(A) is placed on record at page 10 of the PB. In this order ld. CIT(A) has specifically mentioned that this appeal is filed against the order of 147/143(3) dated 14.03.2013. Thus, the Revenue should have filed the present departmental appeal against the order of Ld. CIT(A) dated 05.04.2017. However, the present departmental appeal is filed on 15.10.2015 i.e. prior to passing of the correct order by the Ld. CIT(A) on 05.04.2017. There is a difference in the assessed income in the order of the Ld. CIT(A) dated 28.07.2015 in which assessed income is mentioned at Rs. (-) 45,81,79,372/-. Therefore, it appears that the impugned order against which present departmental appeal is filed may be the different appellate order but it would

not relate to the impugned assessment order dated 14.03.2013. We, therefore, hold that the departmental appeal filed in the instant appeal is improper and invalid. The same is accordingly rejected. However, Revenue is at liberty to prefer fresh appeal against the appropriate order of Ld. CIT(A), if so advised in accordance with law.

5. In the result, departmental appeal is rejected.

Order pronounced in the open Court.

Sd/-

(L.P. SAHU)
ACCOUNTANT MEMBER

Delhi,

Dated 24.10.2018

*Kavita Arora

Sd/-

(BHAVNESH SAINI)
JUDICIAL MEMBER

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'SMC' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches : Delhi.

Date of dictation	18.10.2018
Date on which the typed draft is placed before the dictating Member	22.10.2018
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	24.10.18
Date on which the fair order is placed before the Dictating Member for pronouncement	24.10.18
Date on which the fair order comes back to the Sr. PS/PS	24.10.18
Date on which the final order is uploaded on the website of ITAT	24.10.18
Date on which the file goes to the Bench Clerk	24.10.18
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	