

**IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH: KOLKATA**  
[Before Shri J. Sudhakar Reddy, AM & Shri A.T. Varkey, JM]

**I.T.A. No. 1197/Kol/2017**  
**Assessment Year: 2009-10**

Assistant Commissioner of Income-tax, Circle- 4(1), Kolkata.	Vs.	M/s. Goodricke Group Ltd. (PAN: AABCG 1614 Q)
Appellant		Respondent

Date of Hearing	10.12.2018
Date of Pronouncement	28.12.2018
For the Appellant	Shri P.K. Srihari, CIT, DR
For the Respondent	Shri Tanmoy Dutta, Advocate

**ORDER**

**Per Shri A.T.Varkey, JM**

The appeal filed by the revenue is against the order of Ld. CIT(A)- 17, Kolkata dated 07.02.2017 for AY 2009-10.

2. The revenue has raised the following grounds of appeal:

*“1. Whether on the facts and circumstances of the case, the Ld. CIT(A) has erred in allowing the appeal of the assessee while relying the order of the ITAT, Kolkata ‘A’ Bench without considering the fact that the Department has already filed appeal u/s 260A before Hon’ble Kolkata High Court.*

*2. That the appellant craves for leave to add, delete, amend or modify any ground before or at the time of appellate proceedings.”*

3. From a bare perusal of the ground of appeal, we note that the only grievance of the revenue is against the action of the Ld. CIT(A) in allowing the appeal of the assessee by relying the order of this Tribunal [“A” Bench order] when the Department has filed an appeal u/s 260A against the order of the Tribunal before the Hon’ble Calcutta High Court.

4. First al all, we note that ground raised by the Revenue is per-se an invalid ground. Secondly, we note that original assessment in the case of the assessee was made by the AO u/s 143(3) of the Act vide order dated 26.12.2011 which was in turn set aside by the order of the Pr. CIT, Kolkata vide order dated 20.03.2014 u/s 263 of the Act. The said order of the Pr. CIT (20.03.2014) was set aside by the Tribunal vide order dated 20.03.2014. Meanwhile AO without knowing that the Tribunal had cancelled the order of the Pr. CIT u/s 263, had given effect to the order on 19.12.2014 passed by the Pr. CIT u/s 263 of the Act, which in turn was challenged by the assessee before the Ld. CIT(A) who, after taking note of the Tribunal's order quashing the Pr. CIT's order dated 20.03.2014 was pleased to set aside the AO's order giving effect to Pr. CIT's order u/s 263 of the Act. In the light of the aforesaid circumstances we confirm the impugned order of Ld. CIT(A) because after the cancellation of Pr. CIT's order u/s 263 of the Act, in the eyes of law the Pr. CIT's order is 'null' in the eyes of law and consequently the order of AO giving effect to Pr. CIT's 263 order is non-est in the eyes of law. Further we are told that the Hon'ble Calcutta High Court was pleased to dismiss the appeal preferred against the Tribunal's action of cancelling of the Pr. CIT's order u/s 263 vide order dated 04.05.2018. Therefore we confirm the action of the Ld. CIT(A) and dismiss the appeal of the Revenue.

5. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 28th December, 2018

Sd/-  
(J. Sudhakar Reddy)  
Accountant Member

Sd/-  
(Aby. T. Varkey)  
Judicial Member

Dated : 28<sup>th</sup> December, 2018

Biswajit, Sr. P.S.

Copy of the order forwarded to:

1. Appellant – ACIT, Circle-4(1), P-7, Chowringhee Square, 8<sup>th</sup> Floor, Kolkata – 700 069.
2. Respondent – M/s. Goodricke Group Ltd., Camelia House, 14, Gurusaday Road, Kolkata – 700 019.
3. The CIT(A) Kolkata.
4. CIT Kolkata.
5. DR, ITAT, Kolkata.

/True Copy,

By order,

Assistant Registrar/H.O.O.  
ITAT, Kolkata