

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH (A), KOLKATA**
[Before Shri P.M. Jagtap, Vice President (KZ) & Shri S. S. Viswanethra Ravi, JM]

I.T.A. No. 549/Kol/2019
Assessment Year: 2012-13

TCG Urban Infrastructure Holdings Pvt. Ltd.,.....Appellant
Ground Floor, Building Beta,
Bengal Intelligent Park, Block EP & GP,
Salt Lake Electronics Complex, Sector V,
Salt Lake City, Kolkata – 700 091.
[PAN: AADCS 8821 M]

ACIT, Circle – 2(2) Kolkata.....Respondent
P-7, Chowringhee Square,
Kolkata – 700 069.

Appearances by:

Shri A.K. Tibrewal , FCA & Shri Saurabh Gupta, ACA appearing on behalf of the Assessee.

Shri Shankar Halder, Sr. DR, JCIT appearing on behalf of the Revenue.

Date of concluding the hearing : April 26, 2019

Date of pronouncing the order : May 01, 2019

ORDER

Per P.M. Jagtap, Vice President (KZ)

This appeal filed by the assessee is directed against the order of Ld. CIT(A) – 12, Kolkata dated 10.01.2019 whereby he dismissed the appeal of the assessee by treating the same as infructuous.

2. The assessee in the present case is a company which is engaged in the business of real estate, hiring of equipment, financing & consultancy. In the assessment originally completed u/s 143(3) vide an order dated 21.03.2015, the total income of the assessee was determined by the AO at Rs. 9,32,25,610/-. The said assessment was set aside by the concerned Ld. CIT vide an order dated 15.02.2017 passed u/s 263 with the direction to the AO to make the assessment afresh as per the direction given in the order u/s 263. In pursuant to the directions given by the Ld. CIT u/s 263, a fresh assessment was

made by the Assessing Officer u/s 143(3) read with section 263 vide an order dated 22.08.2017 determining the total income of the assessee at Rs. 13,60,66,841/-.

3. Against the order passed by the AO u/s 143(3) read with section 263, an appeal was filed by the assessee before the Ld. CIT(A). Meanwhile the appeal filed by the assessee against the order of the Ld. CIT dated 15.02.2017 passed u/s 263 came to be disposed of by the Tribunal vide its order dated 30.08.2017 passed in ITA No. 667/Kol/2017 whereby the order passed u/s 263 was quashed by the Tribunal. When this position was brought to the notice of the Ld. CIT(A) by the assessee, the Ld. CIT(A) treated the appeal filed by the assessee against the order passed by the AO u/s 143(3) read with section 263 as infructuous and dismissed the same. Aggrieved by the order of the Ld. CIT (A), the assessee has preferred this appeal before the Tribunal.

4. We have heard the arguments of both the sides and also perused the relevant material available on record. As rightly contended by the learned counsel for the assessee, as a result of quashing of the order of the Ld. CIT passed u/s 263 by the Tribunal, the consequential order passed by the AO u/s 143(3) read with section 263 has become non-est in the eyes of law and the Ld. CIT(A) ought to have cancelled the said assessment allowing the appeal of the assessee instead of dismissing the same. We accordingly modify the impugned order of the Ld. CIT(A) to this effect and cancel the

assessment made by the Assessing Officer u/s 143(3) read with section 263 of the Act vide an order dated 22.08.2017.

5. In the result, the appeal of the assessee is allowed.

Order Pronounced in the Open Court on 1st May, 2019.

Sd/-

(S. S. Viswanethra Ravi)
JUDICIAL MEMBER

Sd/-

(P.M. Jagtap)
VICE PRESIDENT

Dated: 01/05/2019

Biswajit, Sr. PS

Copy of order forwarded to:

1. TCG Urban Infrastructure Holdings Pvt. Ltd., Ground Floor, Building Beta, Bengal Intelligent Park, Block EP & GP, Salt Lake Electronics Complex, Sector-V, Salt Lake City, Kolkata – 700 091.
2. ACIT, Circle-2(2), P-7, Chowringhee Square, Kolkata – 700 069.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

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