

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

**BEFORE HON'BLE SHRI SANDEEP GOSAIN, JM &  
HON'BLE SHRI G. MANJUNATHA, AM**

**आयकरअपीलसं./ I.T.A. No.1085/Mum/2018  
(निर्धारणवर्ष / Assessment Year: 2011-12)**

**In the matter of;**

DCIT Cir 3(2)(1) R. No. 608, 6 <sup>th</sup> floor, Aayakar Bhavan, M.K. Road, Mumbai-400 020.	<b>बनाम/ Vs.</b>	Maharashtra Airport Development Co. Ltd, 12 <sup>th</sup> floor, World Trade Centre, Tower No.1, Cuffe Parde, Mumbai-400 005
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. AADCM9623M		

**आयकरअपीलसं./ I.T.A. No.1067/Mum/2018  
(निर्धारणवर्ष / Assessment Year: 2011-12)**

Maharashtra Airport Development Co. Ltd., 12 <sup>th</sup> floor, World Trade Centre, Tower No.1, Cuffe Parde, Mumbai-400 005	<b>बनाम/ Vs.</b>	ACIT Cir 3(2)(1) R. No. 608, 6 <sup>th</sup> floor, Aayakar Bhavan, M.K. Road, Mumbai-400 020.
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. AADCM9623M		

अपीलार्थीकीओरसे/ <b>Appellant by</b>	:	Sh. M. Daya Sagar, DR
प्रत्यर्थीकीओरसे/ <b>Respondent by</b>	:	Sh. Sumit Lalchandani, AR

सुनवाईकीतारीख/ <b>Date of Hearing</b>	:	01/05/2019
घोषणाकीतारीख / <b>Date of Pronouncement</b>	:	21.05.2019

आदेश / ORDER

**Per Shri Sandeep Gosain, Judicial Member:**

The present two appeals filed by the revenue and assessee are against the order of Commissioner of Income Tax (Appeals)-8, Mumbai dated 26.12.17 for AY 2011-12 respectively.

2. Since the issues involved in these two appeals are common, therefore, they have been clubbed, heard together and a consolidated order is being passed for the sake of convenience and brevity.

**ITA No. 1067/Mum/2018 (AY 2011-12)**

3. First of all we take up assessee's appeal in ITA No. 1067/Mum/2018 for assessment year 2011-12 as lead case.

4. At the very outset, Ld. AR placed on record the copy of the order of Coordinate Bench of ITAT in ITA no. 3741/Mum/16 for AY 2011-12, wherein Hon'ble ITAT had already set aside the order passed by Ld. CIT u/s 263 of the Act vide order dated 18.07.18 and submitted that order u/s 263 was passed by CIT and

consequently order passed by AO u/s 143(3) of the Act were passed passed by AO automatically stands quashed.

5. On the other hand, Ld. DR relied upon the orders passed by the revenue authorities.

6. We have heard the counsels for both the parties at length and also on perusal of the documents as well as the orders passed by lower authorities, we find that Coordinate Bench of ITAT in ITA no. 3741/Mum/16 for AY 2011-12 had already set aside the order passed by Ld. CIT u/s 263 of the Act vide order dated 18.07.18, therefore the order u/s 263 of the Act passed by CIT and consequently order passed by AO u/s 143(3) of the Act automatically stands quashed.

7. Consequently, the appeal filed by the assessee stands **allowed.**

**I.T.A. No. 1085/Mum/2018 (AY 2011-12)**

8. Now we take up revenue's appeal in I.T.A. No.1085/Mum/2018. Since we have decided the appeal filed

by the assessee in ITA No. 1067/Mum/2018 for AY 2011-12 on merits. Therefore, following our own decision in ITA No. 1067/Mum/18, we apply the same findings in the present appeal in order to maintain judicial consistency which is applicable mutatis mutandis.

9. In the net result, the appeal filed by the assessee stands **allowed** and appeal filed by the revenue stands **dismissed** with no order as to cost.

*Order pronounced in the open court on 21<sup>st</sup> May 2019.*

*Sd/-*

(G. Manjunatha)

*Sd/-*

(Sandeep Gosain)

लेखासदस्य / Accountant Member न्यायिकसदस्य / Judicial Member

मुंबई Mumbai; दिनांक Dated : 21.05.2019

*Sr.PS. Dhananjay*

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT,  
Mumbai
6. गार्डफाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायकपंजीकार**

(Dy./Asstt.Registrar)

**आयकरअपीलीयअधिकरण, मुंबई/ ITAT, Mumbai**