



ITA No.7209/Mum/2017
Solarfield Energy Private Limited
(A.Y. 2013-14)

**आयकर अपीलीय अधिकरण “जी” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“G” BENCH, MUMBAI**

**माननीय श्री सी. एन. प्रसाद, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI C.N. PRASAD, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./ I.T.A. No.7209/Mum/2017
(निर्धारण वर्ष / Assessment Year: 2013-14)

Solarfield Energy Private Limited 21, 3 rd Floor, Sethi Mansion Kumtha Street, Ballard Estate Mumbai-400 038.	बनाम/ Vs.	Pr.CIT-City-2, Mumbai Aaykar Bhavan, M.K. Road Mumbai-400 020.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAOCS-4380-A		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Mr. Jehangir Mistri-Sr. Advocate & Mr. Niraj Sheth-Advocate
Revenue by	:	Chaudhary Arun Kumar Singh - Ld.DR

सुनवाई की तारीख/ Date of Hearing	:	22/08/2019
घोषणा की तारीख / Date of Pronouncement	:	14/10/2019

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

- By way of this appeal for Assessment Year [AY] 2013-14, the assessee challenges the correctness of invocation of revisional jurisdiction u/s 263 by Ld. Pr. Commissioner of Income Tax-2, Mumbai [Pr. CIT] vide order dated 30/10/2017.
- In the impugned order, vide para-9, the learned Pr. CIT has, *inter-alia*, directed Ld. AO to add a sum of Rs.14.86 Crores, being revenue



earned from sale of electricity during the period 01/04/2012 to 08/07/2012 to the total income of the assessee which was reduced by the assessee from capital work in progress. In the order, it was also observed that in AY 2012-13, similar income was not treated as capital receipts but assessed under the head *income from other sources*.

3. The Ld. Sr. Counsel advanced argument assailing the revisional jurisdiction by submitting that the issue was examined by Ld. AO during assessment proceedings and the claim was allowed with due application of mind. Our attention has been drawn to the fact that the stated issue, on merits, is squarely covered by recent decision of this Tribunal in assessee's own for AY 2012-13, ITA No. 5189-90/Mum/2016 order dated 16/07/2019 wherein Tribunal has held that income generated during trial run does not arise as the commercial operation of the assessee was not started during the period of trial. The copy of the order has been placed on record. The Ld. DR could not controvert the fact that issue on merits stood covered in assessee's favor. Upon perusal of record, it also transpires that consequential order passed by learned AO is already under appeal before learned first appellate authority.

4. Upon due consideration, it has been observed that one of the prime reasons to invoke jurisdiction u/s 263 by Ld. Pr.CIT for this year was the fact that revenue earned by assessee from sale of electricity was required to be assessed as *Income from other sources* as was done in AY 2012-13 and the facts were stated to be identical in the year under consideration. However, the Tribunal, vide order dated 16/07/2019, has adjudicated the issue on merits for AY 2012-13 which is evident from the copy of order as placed on record. Therefore, on the given set of facts,



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the bench formed an opinion that the issue of revisional jurisdiction u/s 263 would go back to learned Pr.CIT to reconsider the directions given in the impugned order in the light of subsequent decision rendered by the Tribunal, as cited above. We order so.

5. The appeal may be treated as allowed for statistical purposes.

Order pronounced in the open court on 14th October, 2019.

Sd/-

(C.N. Prasad)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 14/10/2019
Sr.PS, Jaisy Varghese

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/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.