

IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH "B", HYDERABAD

BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER
AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

ITA No.727/Hyd/2019		
Assessment Year: 2012-13		
Dy. Commissioner of Income Tax, Circle-16(2), 2 nd Floor, 'B' Block, IT Towers, A.C. Guards, Masab Tank, Hyderabad.	Vs.	M/s. Pravardhan Seeds Private Limited, 8-2-277/45, Road No.3, UBI Colony, Banjara Hills, Hyderabad-500033. PAN: AAFCP 0118 A
(Appellant)		(Respondent)
Assessee by:	Sri V. Siva Kumar, AR	
Revenue by:	Sri Y.V.S.T. Sai, CIT-DR	
Date of hearing:	30/09/2019	
Date of pronouncement:	15/11/2019	

ORDER

PER A. MOHAN ALANKAMONY, AM.:

This appeal is filed by the Revenue against the order of the Ld. CIT(A)-4, Hyderabad in appeal No.4/10164/17-18/DCIT, Cir-16(2)/CIT(A)-4/Hyd/2018-19, dated 15/02/2019 passed U/s. 143(3) r.w.s 263 and U/s. 250(6) of the Act for the assessment year 2012-13.

2. The assessee has raised two grounds in its appeal however, the crux of the issue is that "*the Ld. CIT (A) has erred by allowing the appeal of the assessee by holding that the order of the Ld. AO U/s. 143(3) r.w.s*

263 of the Act does not survive as the Tribunal had quashed the order passed by the Ld. Pr. CIT U/s. 263 of the Act.”

3. At the outset, the Ld. AR submitted that the Ld. Pr. CIT on perusal of the Assessment Order in the case of the assessee for the AY 2012-13 had observed that an amount of Rs. 4,19,34,572/- has been erroneously allowed as agricultural income by the Ld. AO which is exempt from the Act U/s. 10(1) of the Act because the Ld. Pr. CIT was of the view that the assessee company had departed from the basic agricultural operations and had indulged in production of parent seeds. Therefore, the Ld. Pr. CIT set-aside the order of the Ld. AO and remitted the matter back to the file of the Ld. AO. Thereafter, the Ld. AO passed order U/s. 143(3) r.w.s 263 of the Act on 23/10/2017 by rejecting the entire income of Rs. 4,19,34,572/- as agricultural income. It was further submitted that on appeal, the Ld. CIT (A) set-aside the order of the Ld. AO passed U/s. 143(3) r.w.s 263 of the Act dated 23/10/2017 and restored the order of the Ld. AO dated 30/3/2015 because the Tribunal vide its order in ITA No. 667/Hyd/2017, dated 30/1/2019 had set-aside the order of the Ld. Pr. CIT passed U/s. 263 of the Act. It was therefore argued the appeal of the Revenue does not survive. The Ld. DR could not controvert to the submissions of the Ld. AR.

4. We have heard the rival submissions and carefully perused the materials on record, and we find merit in the submissions of the Ld. AR.

From the facts of the case, it is apparent that the Tribunal had quashed the order of the Pr. CIT passed U/s. 263 of the Act. Therefore, the order passed by the Ld. AO U/s. 143(3) r.w.s 263 of the Act does not survive. Accordingly, the Ld. CIT (A) had allowed the appeal of the assessee and restored the order of the ld. AO dated 30/3/2015. In this situation, we do not find any infirmity in the order passed by the Ld. CIT (A). Hence the appeal of the Revenue does not survive.

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

Pronounced in the open Court on 15th November, 2019.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 15th November, 2019

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Copy to:-

- 1) M/s. Pravardhan Seeds Private Limited, 8-2-277/45, Road No.3, UBI Colony, Banjara Hills, Hyderabad-500033.
- 2) Dy. Commissioner of Income Tax, Circle-16(2), 2nd Floor, 'B' Block, IT Towers, AC Guards, Masab Tank, Hyderabad.
- 3) The CIT(A)-4, Hyderabad
- 4) The Pr. CIT-4, Hyderabad
- 5) The DR, ITAT, Hyderabad
- 6) Guard File