

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'B BENCH, KOLKATA**
[Before Shri J. Sudhakar Reddy, Accountant Member and S.S. Godara, Judicial Member]

**I.T.A. No. 707/Kol/2019
Assessment Year: 2014-15**

Manju Osatwal.....Appellant
[PAN: AADPO 9713 B]

Vs.

Pr. CIT -10, Kolkata.....Respondent

Appearances by:

Sh. Akash Bansal, FCA, appeared on behalf of the Assessee.

Sh. Vijay Shankar, CIT, appeared on behalf of the Revenue.

Date of concluding the hearing : January 1st, 2020
Date of pronouncing the order : January 15th, 2020

ORDER

Per J. Sudhakar Reddy, AM :-

This is an appeal filed by the assessee directed against the order of the Pr. Commissioner of Income Tax-10, Kolkata dated 29.01.2019 u/s 263 of the Income Tax Act, 1961 ('the Act' for short) for AY 2014-15.

2. After hearing rival contentions we find that the assessee has already offered Long Term Capital Gain of ₹74,24,380/- to tax under Income Declaration Scheme ('IDS' for short), 2016 and paid taxes thereto. This fact was stated before the Id. Pr. CIT by the assessee. The Id. DR also acknowledges the same. The Pr. CIT proposes that the purchase price of 1,00,000/- is to be added and the commission payment to the tune of ₹3,76,219/- has to be brought to tax, in his order passed u/s 263 of the Act.

3. In our view, once the income offered and the IDS, 2016 is accepted by the Department, an order passed u/s 143(3) of the Act cannot be revised, as the items of addition in question directed by the Id. Pr. CIT was part of the IDS, 2016 application and not part of the order passed u/s 143(3) of the Act.

4. Even otherwise once a person has availed IDS, 2016 and paid taxes, in our view it is not correct for the Pr. CIT to revise the assessment order u/s 263 of the Act as this

would be against the spirit of the scheme. Thus we cancel the same and allow the appeal of the assessee.

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

Kolkata, the 15th January, 2020.

Sd/-
[S.S. Godara]
Judicial Member

Sd/-
[J. Sudhakar Reddy]
Accountant Member

Dated: 15.01.2020
Bidhan

Copy of the order forwarded to:

1. ***Manju Osatwal, Ground Floor, 34/1U, Ballygunge Circular Road, Kolkata-700 019.***
2. ***Pr. CIT -10, Kolkata.***
3. CIT(A)-
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata. (sent through e-mail)

True copy

By order

Assistant Registrar
ITAT, Kolkata Benches