

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B': NEW DELHI**

**BEFORE SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
AND
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER**

**I.T.A. No. 5444/Del/2017
Assessment Year: 2007-08**

**Income-tax Officer,
Ward 7(2), New Delhi.**

(Appellant)

**vs. DKG Finance & Chitfund Pvt. Ltd.,
Susheel Jain, Office No. 152,
Cycle Mkt., Phase-I, Jhandewalan Extn.
New Delhi.
PAN: AAACD 4245P
(Respondent)**

**Assessee by: Ms. Nidhi Srivastava, CIT/DR
Department by: Sh. Himanshu Aggarwal, CA**

**Date of Hearing: 21.01.2020
Date of Pronouncement: 11.02.2020**

ORDER

PER K. NARASIMHA CHARY, JM

Challenging the order dated 13/06/2017 in appeal No. 230/16-17 passed by the learned Commissioner of Income Tax (Appeals)-3 Delhi ("the Ld. CIT(A)"), for the assessment year 2007-08, in the case of M/s. DKG Finance and Chit Fund Pvt. Ltd. ("the assessee"), Revenue preferred this appeal.

2. Brief facts of the case are that the assessee filed the return of income on 17/10/2007 declaring a loss of Rs. 3,154/-. It was processed under section 143(1) of the Income Tax Act, 1961 (for short "the Act"). Subsequently the case was reopened on specific observations of the Ld. CIT(A)-XIII, New Delhi in the case of Sh. Deen Dyal Goel for the assessment year 2007-08 and the

assessment under section 147 of the Act was completed on 31/1/2014 at an assessed loss of Rs. 3,154/-. Thereafter, the Ld. PCIT-3, New Delhi vide order dated 23/3/2016 passed under section 263 of the Act set aside the assessment order passed under section 147 of the Act on the ground that the Assessing Officer failed to carry out any enquiry before making assessment. Pursuant to such order passed under section 263 of the Act, learned Assessing Officer issued notice under section 143(2) of the Act and concluded the assessment by order dated 30/12/2016 by making certain additions and determined the income of the assessee at 4,47,16,846/-.

3. Aggrieved by such an order passed under section 143(3)/147 of the Act in compliance with the order passed under section 263 of the Act, assessee preferred appeal before the Ld. CIT(A). Ld. CIT(A), by way of impugned order, observed that the Tribunal vide order dated 13/2/2017 in ITA Nos. 2455 and 2456/Del/2016 for assessment years 2007-08 and 2008-09 quashed the order passed by the Ld. PCIT under section 263 of the Act and therefore, the order framed for assessment year 2007-08 on 30/12/2016 under section 143(3)/147 of the Act read with section 263 of the Act is void-ab-initio and on that ground annulled the same.

4. A copy of the order dated 13/2/2017 in ITA Nos. 2455 and 2456/Del/2016 for assessment year 2007-08 and 2008-09 is produced before us and it establishes that the Tribunal held that the order under section 263 of the Act is not sustainable and quashed the same. It is not the case of the Revenue that such an order of the Tribunal is in anyway disturbed as of now. In this set of circumstances, on the face of the findings of the Tribunal quashing the order passed under section 263 of the Act, the very basis for the impugned assessment under section 143(3)/147 of the Act read with section

263 of the Act stands removed and, therefore, there is neither illegality nor irregularity in the findings of the Ld. CIT(A). We accordingly do not find any merits in this appeal.

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

Order pronounced in the Open Court on 11th February, 2020.

**Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

**Sd/-
(K.NARASIMHA CHARY)
JUDICIAL MEMBER**

Dated: 11/02/2020.

*aks/-