

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष
Before Shri Duvvuru RL Reddy, Judicial Member &
Shri S. Jayaraman, Accountant Member

आयकर अपील सं./I.T.A. No. 2811/Chny/2018
निर्धारण वर्ष/Assessment Year: 1994-95

The Deputy Commissioner of
Income Tax, Central Circle 2(2),
46, Nungambakkam High Road,
Chennai 34.

Smt. N. Sasikala,
Vs. 36, Poes Garden,
Chennai 600 086.
[PAN: AMNPS6598J]

(अपीलार्थी /Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri A. Sundararajan, Addl. CIT
प्रत्यर्थी की ओर से/Respondent by : Shri T. Vasudevan, Advocate
सुनवाई की तारीख/ Date of hearing : 11.03.2020
घोषणा की तारीख /Date of Pronouncement : 06.05.2020

आदेश /O R D E R

PER DUVVURU RL REDDY, JUDICIAL MEMBER:

This appeal filed by the Revenue is directed against the order of the Id. Commissioner of Income Tax (Appeals)-18, Chennai dated 29.06.2018 relevant to the assessment year 1994-95. The only effective ground in this appeal raised by the Revenue is that the Id. CIT(A) has erred in deleting all the additions made in the assessment order passed under section 143(3) r.w.s. 263 of the Income Tax Act, 1961 ["Act" in short].

2. The Id. Counsel for the assessee has submitted that the assessee has filed her return of income for the assessment year 1994-95 admitting an

income of ₹.24,06,902/- after issuance of a notice under section 142(1) of the Act by the Assessing Officer. The assessment was completed under section 144 of the Act on 27.03.1997, which was set aside by the Id. CIT(A) vide his order dated 26.03.1998. Accordingly, the reassessment was completed under section 144 of the Act on 20.03.2000 determining the total income at ₹.28,86,030/-, which was challenged before the Id. CIT(A) by the assessee. It was further submission that by invoking the provisions of section 263 of the Act, vide order dated 14.03.2002, the Id. CIT set aside the reassessment order and directed the Assessing Officer to redo the assessment after making investigation/enquiries, etc. It was a submission that against the revision order under section 263 of the Act, the Assessing Officer completed the assessment under section 143(3) r.w.s. 263 of the Act by determining the total taxable income of the assessee at ₹.1,34,33,485/- vide order dated 20.03.2003. It was a submission that against the order under section 263 of the Act, the assessee preferred an appeal before the Tribunal and vide order dated 28.10.2007 in I.T.A. No. 677/Mds/2002, the Tribunal quashed the order passed under section 263 of the Act. It was further submission that against the order passed under section 143(3) r.w.s. 263 of the Act dated 20.03.2003, the assessee preferred an appeal before the Id. CIT(A) and vide order dated 29.06.2018, the Id. CIT(A) allowed the appeal of the assessee on the ground that since the Tribunal has quashed the revision order passed under section 263 of the Act, the impugned

assessment order under section 143(3) r.w.s. 263 of the Act is consequential to the revision order and thus, no legs to stand and becomes infructuous.

3. Aggrieved, the Revenue is in appeal before the Tribunal. By referring to the grounds of appeal, the Id. DR has submitted that the decision of the Tribunal against the revision order under section 263 of the Act has been challenged before the Hon'ble High Court and pleaded for reversing the order of the Id. CIT(A).

4. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below including the order passed by the Tribunal against order under section 263 of the Act. In this case, against the assessment order under section 143(3) r.w.s. 263 of the Act, the assessee preferred an appeal before the Id. CIT(A). Since vide order dated 18.10.2007 in I.T.A. No. 677/Mds/2007 the Tribunal has quashed the revision order itself, the Id. CIT(A) was of the view that the impugned assessment which was consequential to the revision order, has no legs to stand and becomes infructuous, thereby allowed the appeal of the assessee.

4.1 By following the decision of the Tribunal in quashing the order passed under section 263 of the Act, the Id. CIT(A) has rightly held that the impugned assessment order, which is consequential to the revision order,

has no legs to stand and thereby the assessment order passed under section 143(3) r.w.s. 263 of the Act becomes infructuous. The Id. DR could not controvert the order passed by the Tribunal against the revision order under section 263 of the Act by filing higher Court decision having modified or reversed. Just because the Department preferred an appeal before the Hon'ble High Court, we are unable to take a different view in the absence of any relevant judgement. In view of the above, the contention of the Revenue is devoid of merits and thus, the ground raised by the Revenue stands dismissed.

5. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on the 06th May, 2020 at Chennai.

Sd/-
(S. JAYARAMAN)
ACCOUNTANT MEMBER

Sd/-
(DUVVURU RL REDDY)
JUDICIAL MEMBER

Chennai, Dated, the 06.05.2020

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. विभागीय प्रतिनिधि/DR & 6. गार्ड फाईल/GF.