

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH : E : NEW DELHI  
(Through Virtual Court Hearing)

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER  
AND  
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER

ITA No.3617/Del/2017  
Assessment Year: 2009-10

Mahesh Mehta,  
2042, Katra Tobacco,  
Khari Baoli,  
Delhi.

Vs ACIT,  
Central Circle-13,  
New Delhi.

PAN: AGBPM7320C

(Appellant)

(Respondent)

Assessee by : Shri Suresh K. Gupta, CA  
Revenue by : Ms Parimita Biswas, Sr. DR

Date of Hearing : 30.07.2020

Date of Pronouncement : 10.08.2020

ORDER

PER R.K. PANDA, AM:

This appeal filed by the assessee is directed against the order dated 31<sup>st</sup> March, 2017 of the CIT(A)-28, New Delhi relating to assessment year 2009-10.

2. Although a number of grounds have been raised by the assessee, these all relate to the addition made by the AO of Rs.2 crores u/s 69 of the Act in the order passed u/s 263/143(3) of the Act.

3. The ld. counsel for the assessee, at the outset, submitted that the AO passed the order u/s 263/143(3) of the Act on 31<sup>st</sup> March, 2015 determining the total income of the assessee at Rs.6,28,15,410/- wherein he made addition of Rs.2 crore u/s 69 of the Act which the ld. CIT(A) has sustained. He submitted that against the order of the PCIT passed u/s 263 of the Act, the assessee preferred appeal before the Tribunal and the Tribunal, vide ITA No.2804/Del/2014, order dated 12<sup>th</sup> March, 2020, had quashed the section 263 proceedings and upheld the original assessment order passed u/s 153A/143(3) of the Act. He submitted that since the section 263 order passed by the PCIT has been quashed, the subsequent proceedings by the AO become infructuous and, therefore, the order passed by the AO and the CIT(A) have to be quashed.

4. The ld. DR, on the other hand, fairly conceded that the order passed by the PCIT u/s 263 has been quashed by the Tribunal.

5. We find, the Tribunal, vide ITA No.2804/Del/2014, order dated 12<sup>th</sup> March, 2020, copy of which is placed in the paper book, has quashed the section 263 proceedings initiated by the PCIT. Since the section 263 proceedings have been quashed and no longer exists, therefore, the consequent passing of assessment order u/s 263 becomes invalid and without jurisdiction and void ab initio and, therefore, the addition made by the AO in the proceedings u/s 263/143(3) which have been upheld by the CIT(A) become infructuous and is quashed. The grounds raised by the assessee are, therefore, allowed.

6. In the result, the appeal filed by the assessee is allowed.

The decision was pronounced in the open court on 10.08.2020.

Sd/-

(SUDHANSHU SRIVASTAVA)  
JUDICIAL MEMBER

Sd/-

(R.K. PANDA)  
ACCOUNTANT MEMBER

Dated: 10<sup>th</sup> August, 2020

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Copy forwarded to

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi