

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ 'SMC' अहमदाबाद ।

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, AHMEDABAD**

(Through Virtual Court)

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
& SHRI MAHAVIR PRASAD, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 1861/Ahd/2018

(निर्धारण वर्ष / Assessment Year : 2012-13)

Smt. Madhu Rakesh Mardia Mehta Lodha & Co. Chartered Accountants, 105, Sakar-I, Near Gandhigram Railway Station, Off Ashram Road, Ahmedabad - 380009	बनाम/ Vs.	The Income Tax Officer Ward 5(2)(1), Narayan Chambers, Ashram Road, Ahmedabad - 380009
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : ADKPM6877E		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	Shri P. D. Shah, A.R.
प्रत्यर्थी की ओर से / Respondent by :	Shri Vidhyut Trivedi, Sr. D.R.

सुनवाई की तारीख / Date of Hearing	01/09/2020
घोषणा की तारीख /Date of Pronouncement	02/09/2020

आदेश/ORDER

PER PRADIP KUMAR KEDIA - AM:

The captioned appeal has been filed at the instance of the Assessee against the order of the Commissioner of Income Tax (Appeals)-5, Ahmedabad ('CIT(A)' in short), dated 08.06.2018

arising in the assessment order dated 22.11.2017 passed by the Assessing Officer (AO) under s. 143(3) r.w.s. 263 of the Income Tax Act, 1961 (the Act) concerning AY 2012-13.

2. The substantive ground of appeal raised by assessee reads as under:

“1. That the learned CIT(A) has erred in laws and facts by confirming disallowance of Rs.1,23,750/- while computing capital gains and therefore the ld.AO should be directed to allow the said expenses while computing the total income.”

3. When the matter was called for hearing, the learned AR for the assessee pointed out that the impugned appeal arises from the assessment order passed by the AO under s.143(3) of the Act in terms of revisional order passed by the Pr.CIT under s.263 of the Act. It was next submitted that the revisional order which is the basis for the assessment has been set aside and quashed by the Tribunal in ITA No. 1029/Ahd/2017 order dated 17.07.2019. It was consequently submitted that as the very basis for the framing of the assessment order appealed against does not survive owing to the order of the Tribunal. The entire proceedings from the department have thus become a nullity. It was thus urged that the assessment order and the CIT(A)'s order in question are requires to be quashed.

4. The learned DR relied upon the case records.

5. In the light of the submissions made on behalf of the assessee as per para no.3, no elaboration is required. The assessment order arising out of the revisions order under s.263 of

the Act thus stands quashed having regard to the revisional order itself having been quashed.

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

This Order pronounced on 02/09/2020

Sd/-
(MAHAVIR PRASAD)
JUDICIAL MEMBER
Ahmedabad: Dated 02/09/2020

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

True Copy

S. K. SINHA

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, अहमदाबाद ।