

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCHES "D", MUMBAI**

**BEFORE SHRI RAJESH KUMAR (AM) AND SHRI RAM LAL NEGI (JM)**

**ITA No. 6867/MUM/2019  
Assessment Year: 2009-10**

M/s R S Mega Realtors Pvt. Ltd., B/3, Building No. 3, Sai Baba Enclave, Behind CITI CENTRE, Goregaon (West), Mumbai- 400062 PAN: AAECR2049B	<b>Vs.</b>	The PCIT-13, Mumbai
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by : Shri Bhupendra Shah (AR)  
Revenue by : Shri Manjunatha Swamy (DR)

Date of Hearing: 16/06/2020  
Date of Pronouncement: 18/06/2020

**ORDER**

**PER RAM LAL NEGI, JM**

This appeal has been filed by the assessee against the order dated 28.03.2019 passed by the Ld. Pr. Commissioner of Income Tax (for short 'the. Pr. CIT- 13, Mumbai, for the assessment year 2009-10, whereby the Ld. Pr. CIT has set aside one of the issues determined by the AO after exercising jurisdiction u/s 263 of the Income Tax Act, 1961 (for short the 'Act') and directed the AO to decide the same afresh in accordance with law after affording an opportunity of being heard to the assessee.

2. The assessee has challenged the impugned order the order on the following grounds:

1. *"In the facts of the case and in Law, the learned PCIT erred in invoking Section 263 to the case of the Appellant only by way of change of opinion, without pointing out any error in the*

order of the A.O. and also by disregarding detailed submissions made to him from time to time.

2. In the facts of the case and in Law, the Show Cause Notice & or order u/s 263 alleging errors and prejudice, itself is erroneous on many counts as follows
  - a. In the facts of the case and in law, the learned PCIT has erred in invoking the provision of sec. 263 merely because he wants to take a view different from the one taken by the Assessing Officer and thereby changing the opinion of the Assessing Officer by his opinion.
  - b. In the facts of the case and in law, the learned PCIT has erred in holding that Assessing Officer failed to verify the sources of share application money as well as creditworthiness of the creditors even though all the details were furnished to the Assessing Officer.
  - c. In the facts of the case and in Law, the learned PCIT has erred in disregarding the following facts:

Sr. No.	Date	Particulars
1.	31.10.2016	Assessment order passed u/s 143 (3) r.w.s. 147 accepting share capital and share premium
2.	13.11.2014	Assessment order passed u/s 143 (3) r.w.s. 147 accepting share capital and share premium.

[B] Relief Prayed:

The appellant therefore prays as follows,

1. To quash the order u/s 263 because PCIT had no jurisdiction.”

3. At the outset, the Ld. counsel for the assessee submitted that the assessee does not want to press the present appeal as the assessee is satisfied with the order giving effect passed by the AO. Hence, the assessee may be permitted to withdraw the same.

4. The Ld. Departmental Representative (DR) did not oppose the application filed by the assessee. Hence, we allow the application for withdrawal of the appeal and dismiss the present appeal as withdrawn.

In the result, appeal filed by the assessee for assessment year 2009-2010 is dismissed as withdrawn.

Order pronounced under Rule 34(4) of the Income Tax Appellate Tribunal Rules, 1963.

Sd/-  
(RAJESH KUMAR)  
ACCOUNTANT MEMBER

Sd/-  
(RAM LAL NEGI)  
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated: 18/06/2020

Alindra, PS

**आदेश प्रतिलिपि अग्रेषित/ Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त (अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई /  
DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai