



ITA No.3707/Mum/2019  
Shri Kishore Ajitshi Bhatia  
Assessment Year :2012-13

**आयकर अपीलीय अधिकरण “एच” न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“H” BENCH, MUMBAI**

**माननीय श्री महावीर सिंह, उपाध्यक्ष एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND**  
**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**  
**(Hearing through Video Conferencing Mode)**

आयकर अपील सं./ I.T.A. No.3707/Mum/2019  
(निर्धारण वर्ष / Assessment Year:2012-13)

<b>Income Tax Officer-16(2)-5</b> Room No.440, 4 <sup>th</sup> Floor Aaykar Bhavan, M.K. Road Mumbai-400 020.	<b>बनाम/</b> <b>Vs.</b>	<b>Shri Kishore Ajitshi Bhatia</b> 1072, 73A, A-Wing Clover Regency, Ramji Ashar Lane Ghatkopar (E), Mumbai-400 077.
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. <b>AABPB-8092-L</b>		
(□ पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Assessee by</b>	:	Shri Jash Kapasi-Ld.AR
<b>Revenue by</b>	:	Shri Sunil Umap -Ld.CIT-DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	06/10/2020
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	06/10/2020

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by revenue for Assessment Year [in short referred to as ‘AY’] 2012-13 contest the order of Ld. Commissioner of Income-Tax (Appeals)-5, Mumbai, [in short referred to as ‘CIT(A)’], *Appeal No. CIT(A)-5/ITO-16(2)(5)/IT-244/17-18* dated 08/03/2019 on following grounds of appeal: -



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1. On the facts and circumstances of the case and in Law, the Id. CIT(A) was justified in holding that once the order u/s. 263 of the Act is quashed, the order u/s. 143(3) r.w.s. 263 passed in pursuance of the same would not survive and needs to be treated as null and void without adjudicating the case on merits.
2. The appellant prays that the order of CIT(A) on the above ground be set aside and that of the Assessing Officer be restored.

The perusal of order under challenge would show that Ld. CIT(A) has held the order passed by Ld. AO on 11/12/2017 u/s 143(3) r.w.s. 263 of the Act as null and void in view of the fact that order u/s 263 do not survive.

2. It is admitted position before us that the assessee was subjected to revisional jurisdiction u/s 263 vide order dated 30/03/2017. Pursuant to the same, an assessment was framed u/s 143(3) r.w.s. 263 on 11/12/2017. The assessee while challenging the validity of revisional jurisdiction u/s 263 before this Tribunal, challenged the consequential assessment before Ld. CIT(A).

3. The assessee was successful in challenging the revisional jurisdiction u/s 263 before this Tribunal vide ITA No. 3879/Mum/2017 order dated 08/02/2019 wherein the coordinate bench, vide para 5.8 of the order, held that Ld.CIT erred in invoking revisional jurisdiction u/s 263 and therefore, quashed the order passed u/s 263.

4. Following the Tribunal order, Ld. CIT(A) held that consequential order passed u/s 143(3) r.w.s. 263 would be null and void. Aggrieved, the revenue is in further appeal before us.

5. Upon enumeration of factual matrix, it is quite evident that revisional jurisdiction u/s 263 has already been quashed by the Tribunal and therefore, the consequential order passed by Ld.AO would not



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survive. Nothing is on record to suggest that the aforesaid order of the Tribunal in quashing 263 order has ever been reversed or overruled by any higher authority. Therefore, on the given facts and circumstances, the impugned order would not require any interference on our part.

6. The appeal stands dismissed.

*Order pronounced on 06<sup>th</sup> October, 2020.*

*Sd/-*

**(Mahavir Singh)**

**उपाध्यक्ष / Vice President**

*Sd/-*

**(Manoj Kumar Aggarwal)**

**लेखा सदस्य / Accountant Member**

मुंबई Mumbai; दिनांक Dated : 06/10/2020

*Sr.PS, Jaisy Varghese*

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**