

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "D", NEW DELHI**

**BEFORE SMT.DIVA SINGH, JUDICIAL MEMBER
AND
DR.B.R.R.KUMAR, ACCOUNTANT MEMBER**

**ITA No.1470/Del/2017
Assessment Year : 2010-11**

ACIT, Circle-30(1), Room No.1302, 13 th Floor, E-2 Block, SPM Civic Centre, J.L.Nehru Marg, New Delhi-110002.	Vs.	Krishak Bharati Cooperative Ltd., A-60, Kailash Colony, New Delhi-110048. PAN-AAAAK0203G.
(Appellant)		(Respondent)
Appellant by		Ms. Ashna Paul, CIT DR
Respondent by		Sh.K.V.S.R.Krishna, CA & Sh. Aman Goel, CA
Date of hearing		17.11.2020
Date of pronouncement		19.11.2020

ORDER

PER DIVA SINGH, J.M.

The present appeal has been filed by the Revenue wherein the correctness of the order dated 28.12.2016 of CIT(A)-10, New Delhi pertaining to Assessment Year 2010-11 on various grounds.

2. However, at the time of hearing, an adjournment application was moved on behalf of the CIT DR, Ms. Ashna Paul requesting for some time. Mr. K.V.S.R. Krishna, CA appearing on behalf of the assessee opposed the said request on the ground that the appeal is a covered appeal. It was his submission that CIT(A) has allowed the appeal of the assessee on the ground that the basis of the present order i.e. order u/s 263 of the Act

dated 02.11.2015 was quashed by the ITAT. The CIT(A) taking cognizance of this fact, allowed the appeal as the order u/s 143/263 dated 17.12.2015 itself had no legs to stand on. It was also his submission that the said order of the ITAT had also been upheld by the Hon'ble High Court. Copy of this order is available at pages 1 to 26 of the Paper Book. It was also his submission that the ITAT was seized of similar departmental appeal for 2011-12 Assessment Year and was pleased to dismiss the appeal vide its order dated 20.01.2020 in ITA No.1471/Del/2017. Copy available at pages 27 to 28 of the Paper Book. Accordingly, it was his submission that the matter is a covered issue in assessee's favour.

3. The Ld.CIT DR considering the submission and his record, agreed to withdraw the request for adjournment and considering the decisions stated that in the face of the decision of the Hon'ble High Court had nothing further to state.

4. We have heard the submissions of both the parties and perused the material available on record. In the light of the decision of the Hon'ble High Court (935 ITR 272) which has upheld the decision of the ITAT dated 09.03.2016 in ITA Nos. 6785 & 6786/Del/2015, cognizance of which has been taken by the CIT(A) in para 4.1.1 in his order, find no infirmity in the order passed by the CIT(A). The appeal of the Revenue is accordingly dismissed.

5. In the result, the appeal of the Revenue is dismissed. Said order was pronounced at the time of hearing itself.

Order pronounced in the open court on 19th day of November, 2020.

Sd/-

(DR.B.R.R.KUMAR)
ACCOUNTANT MEMBER

Dated: 19.11.2020
** Amit Kumar*/VK*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(DIVA SINGH)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI