

**IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'B', KOLKATA  
[BEFORE SHRI P.M. JAGTAP, HON'BLE VICE-PRESIDENT (KZ) &  
SHRI A.T. VARKEY, HON'BLE JUDICIAL MEMBER]**

**[THROUGH VIRTUAL COURT]**

**ITA No. 371/Kol/2020  
Assessment Year: 2015-16**

*M/s. Tanuj Properties Pvt. Ltd.....Appellant  
(successor to M/s. Keshri Towers Pvt. Ltd.)  
238A, A.J.C. Bose Road,  
Unit No. 6A, 6<sup>th</sup> Floor,  
Kolkata - 700 020.  
[PAN : AACCT 4910 B]*

*Vs*

*P.C.I.T - 2 Kolkata.....Respondent  
Kolkata.*

**Appearances by:**

*Smt. Akkal Dudhwewala, AR appearing on behalf of the Assessee  
Shri Imokaba Jamir, CIT appearing on behalf of the Revenue*

Date of concluding the hearing : November 05, 20220

Date of pronouncing the order : December 16,2020

**ORDER**

**PER P.M. JAGTAP, VICE-PRESIDENT (KZ)**

This appeal filed by the assessee is directed against the order of Ld. PCIT – 2, Kolkata dated 11.05.2020 passed u/s 263 of the Income Tax Act, 1961 for A.Y. 2015-16.

2. The relevant facts of the case giving rise to this appeal are that the erstwhile company namely M/s. Keshri Towers Pvt. Ltd. filed its return of income for the year under consideration on 17.09.2015 declaring a total income of Rs. 6,280/-. In the assessment completed u/s 143(3) vide an order dated 28.07.2017, the total income of the said company was determined by the AO at Rs. 40,002/- after making an addition of Rs. 33,722/- on account of disallowance u/s 14A of the

Act. On the basis of proposal received from the concerned AO, the said assessment made u/s 143(3) was held to be erroneous as well as prejudicial to the interest of the revenue by the Ld. PCIT and a notice was issued by him on 12.03.2020 initiating the proceedings u/s 263 of the Act. In pursuance of the said notice, an order u/s 263 was passed by the Ld. PCIT u/s 263 of the Act on 20.03.2020 setting aside the order dated 28.07.2017 passed by the AO u/s 143(3) with the direction to him to make the assessment de novo after considering the issues pointed out in the order passed u/s 263. Aggrieved by the order of the Ld. PCIT, the assessee has preferred this appeal before the Tribunal.

3. We have heard the arguments of the sides and also perused the relevant material available on record. In ground no. 1, the assessee has challenged the validity of the impugned order passed by the Ld. PCIT u/s 263 on the ground that the same having been passed in the name of M/s. Keshri Towers Pvt. Ltd., a non-existent entity which had already merged / amalgamated with M/s. Tanuj Properties Pvt. Ltd. is bad in law. In support of this preliminary issue raised in this appeal of the assessee, the learned counsel for the assessee has invited our attention to the copy of letter dated 2<sup>nd</sup> January, 2020 placed at page no. 4 of the Paper Book to point out that M/s. Keshri Towers Pvt. Ltd. was merged / amalgamated with M/s. Tanuj Properties Pvt. Ltd. as per the order of Hon'ble National Company Law Tribunal Kolkata Bench dated 16.10.2019 with effect from 01.04.2018 and intimation of the same was duly given to the concerned Assessing Officer by the said letter dated 02.01.2020. He has submitted that the Ld. PCIT however still issued the notice u/s 263 on 12.03.2020 in the name of

M/s. Keshri Towers Pvt. Ltd. and also passed the order u/s 263 on 11.05.2020 in the name of the said company which was not in existent having already merged / amalgamated into M/s. Tanuj Properties Pvt. Ltd. Relying inter alia on the decision of Hon'ble Calcutta High Court in the case of CIT vs M/s. Aarcee Holdings Pvt. Ltd. dated 10.09.2014, he contended that the revision proceedings initiated by the Ld. PCIT u/s 263 were void ab initio and the order passed by him u/s 263 is liable to be quashed being invalid. The ld. DR has not raised any contention to counter or dispute this position.

4. In the case of M/s. Aarcee Holdings Pvt. Ltd. (supra), a show cause notice was issued to 23.12.2010 initiating revision proceedings u/s 263 of the Act in the name of M/s. Aarcee Holdings Pvt. Ltd. which was not in existent having already amalgamated with another company namely Padmavati Properties & Trust Ltd. vide the order of the Hon'ble Calcutta High Court dated 17.04.2008 w.e.f. 01.04.2007. The revision proceedings u/s 263 thus were initiated in the name of non-existent entity and the same as well as the revision order passed u/s 263 in pursuance thereof was held to be invalid by the Tribunal by relying inter alia on the decision of Hon'ble Delhi High Court in the case of M/s. Spice Infotainment 247 CTR 500 (Del) as well as the decision of Hon'ble Calcutta High Court in the case of I.K. Agencies Pvt. Ltd. vs CIT (2012) 347 ITR 664 (Cal) and the decision of the Tribunal was upheld by the Hon'ble Calcutta High Court dismissing the appeal of the revenue. In our opinion, the decision of Calcutta High Court in the case of M/s. Aarcee Holdings Pvt. Ltd. (supra) is squarely applicable to the facts of the present case and respectfully following the same, we cancel the impugned order passed by the Ld.

PCIT u/s 263 in the name of M/s. Keshri Towers Pvt. Ltd., a non-existent entity which stood already merged / amalgamated with M/s. Tanuj Properties Pvt. Ltd. by holding the same to be invalid.

**5. In the result, the appeal of the assessee is allowed.**

Order Pronounced in the Open Court on 16<sup>th</sup> December, 2020.

Sd/-  
(A.T. VARKEY)  
JUDICIAL MEMBER

Sd/-  
(P.M. JAGTAP)  
VICE-PRESIDENT

**Dated: 16/12/2020**  
Biswajit, Sr. PS

Copy of order forwarded to:

1. M/s. Tanuj Properties Pvt. Ltd. (successor to M/s. Keshri Towers Pvt. Ltd.), 238A, A.J.C. Bose Road, Unit No. 6A, 6<sup>th</sup> Floor, Kolkata – 700 020.
2. PCIT – 2, Kolkata.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Assistant Registrar  
ITAT, Kolkata