

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES "C" : DELHI  
BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER  
AND  
SHRI B.R.R. KUMAR, ACCOUNTANT MEMBER  
ITA.No.4187/Del./2017  
Assessment Year 2010-2011

The ACIT (E), Circle-1(1), E-2 Block, Pratyaksh Kar Bhawan, Dr. Shyama Prasad Mukherjee Civic Centre, New Delhi-002.	vs.	India Habitat Centre, Lodhi Road, New Delhi – 110 003. PAN AAATO0499M
(Appellant)		(Respondent)

For Revenue :	Ms. Sunita Singh, CIT-DR
For Assessee :	Shri M.P. Rasotgi, Advocate

Date of Hearing :	18.01.2021
Date of Pronouncement :	01.02.2021

**ORDER**

**PER BHAVNESH SAINI, J.M.**

This appeal by Revenue has been directed against the Order of the Ld. CIT(A)-40, Delhi, Dated 20.04.2017, for the A.Y. 2010-2011.

2. We have heard the Learned Representatives of both the parties through video conferencing and perused the material on record.

3. In this case assessee filed return of income at NIL income claiming exemption under section 11 of the I.T. Act, 1961. The A.O, however, discussing in detail the activities of the assessee, rejected the claim of assessee for exemption under section 11 of the I.T. Act, 1961. The A.O. further held that its income other than interest income amounting to Rs.75,73,939/- covered under principle of mutuality and treated it as non-taxable. Thus, assessment in this case was completed under section 143(3) of the I.T. Act, 1961 on 07.03.2013. The Ld. CIT(E) proceeded under section 263 of the I.T. Act and set aside the assessment order and directed the A.O. for passing the Order afresh. The A.O. in pursuance to the directions of the Ld. CIT(E), passed the assessment order under section 143(3)/263 of the I.T. Act, 1961, Dated 30.03.2015 determining the net taxable income at Rs.3,14,39,000/-.

4. The assessee contended before the Ld. CIT(A) that assessee preferred an appeal before ITAT against the Order passed under section 263 of the I.T. Act and ITAT in ITA.No.2390/Del./2015 vide Order Dated 18.05.2016 setting aside the Order under section 263 of the I.T. Act and allowed the appeal of assessee. The Order of the Tribunal is reproduced in the appellate order. It was explained that Revenue filed Departmental Appeal before Hon'ble Delhi High Court which is dismissed vide Order Dated 06.02.2017 in ITA.No.26/2017. The Ld. CIT(A), therefore, noted that since the Order under section 263 on the basis of which the impugned assessment order under section 143(3)/263 was passed has been cancelled by the Tribunal and Departmental Appeal have been dismissed by the Hon'ble Delhi High Court, therefore, the impugned order is liable to be cancelled and appeal of the Assessee has to be allowed.

5. After considering the rival submissions, we are of the view that no interference is called for in the matter since the impugned order have been passed pursuant to the Order under section 263 of the I.T. Act, 1961, which have

been set aside by the ITAT and Departmental Appeal have been dismissed by the Hon'ble High Court, therefore, nothing survive in favour of the Revenue to file the present appeal. The Departmental appeal stands dismissed.

6. In the result, appeal of the Department dismissed.

Order pronounced in the open Court.

Sd/-  
(B.R.R. KUMAR)  
ACCOUNTANT MEMBER

Sd/-  
(BHAVNESH SAINI)  
JUDICIAL MEMBER

Delhi, Dated 01<sup>st</sup> February, 2021

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'C' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches :  
Delhi.