

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT
AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.527/PUN/2019
निर्धारण वर्ष / Assessment Year : 2011-12

Deputy Commissioner of Income Tax,
Circle – 1, Nashik

.....अपीलार्थी / Appellant

बनाम / V/s.

Venugopal Bhaskaran,
Mechmet Engineering,
F-18, MIDC, Satpur,
Nashik – 422007

PAN : ADHPB0631L

.....प्रत्यर्थी / Respondent

Assessee by : Shri Pramod Shingte
Revenue by : Shri Rajesh Gawli

सुनवाई की तारीख / Date of Hearing : 10-05-2022
घोषणा की तारीख / Date of Pronouncement : 23-05-2022

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the Revenue against the order dated 10-01-2019 passed by the Commissioner of Income Tax (Appeals)-1, Nashik ['CIT(A)'] for assessment year 2011-12.

2. At the outset we note that this is an appeal by the Revenue against the order of CIT(A) in deleting the additions made by the AO in consequent to the directions u/s. 263 of the Act.

3. Originally, the AO determined the income of the assessee at Rs.5,12,32,057/- inter alia making two additions to an extent of Rs.23,238/- and Rs.1,39,562/- as against the returned income of Rs.5,10,69,257/-. The Pr. CIT exercising his jurisdiction u/s. 263 of the Act held the order of AO passed u/s. 143(3) of the Act is erroneous and prejudicial to the interest of revenue by its order dated 29-03-2016. In pursuance of the same, the AO made addition to an extent of Rs.38,59,825/- and determined the total income of the assessee at Rs.5,50,71,882/-. As matter stood thus, the ITAT quashed the order of CIT passed u/s. 263 of the Act. The ld. DR, Shri Rajesh Gawli submits that the appellant-revenue filed an appeal before the Hon'ble High Court of Bombay against the order of ITAT and prayed to keep this appeal in abeyance till date the disposal of the same by the Hon'be High Court. The ld. AR, Shri Pramod Shingte submits that when the ITAT quashed the order passed u/s. 263 of the Act and the consequential order therein should be treated as non-existent and this appeal should be dismissed as infructuous. The ld. DR prayed that atleast liberty may be given to the Revenue to restore this appeal in case Revenue's succeeds before the Hon'ble High Court of Bombay. Therefore, considering the facts and circumstances of the case and in the interest of justice, we treat this appeal as infructuous but, however, liberty granted to the appellant-revenue to make an application in case of favourable orders from the Hon'ble Jurisdictional High Court. Thus, the ground raised by the Revenue becomes infructuous.

4. In the result, the appeal of Revenue is dismissed.

Order pronounced in the open court on 23rd May, 2022.

Sd/-
(R.S. Syal)
VICE PRESIDENT

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 23rd May, 2022.
रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-1, Nashik
4. The Pr. CIT-1, Nashik
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune