

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI B BENCH, MUMBAI**

**[Coram: Pramod Kumar (Vice President),
and Aby T Varkey (Judicial Member)]**

ITA No.: 1039/Mum/2022
Assessment year: 2014-15

**Deputy Commissioner of Income Tax, CC-8(3)
Mumbai**

..... **Appellant**

Vs.

S.D Corporation Pvt Ltd.
*Admin Office S.P Centre, 41/44, Minoos Desai Marg,
Colaba, Mumbai 400005 [PAN: AADCS4496C]*

..... **Respondent**

Appearances by:

Dr. Mahesh Akhade for the appellant

None for the respondent

Date of concluding the hearing : 30/06/2022
Date of pronouncing the order : 30/06/2022

O R D E R

Per Pramod Kumar VP

1. This is an appeal filed by the Assessing Officer and is directed against the order dated 25.03.2022 passed by the learned CIT(A) in the matter of assessment u/s. 143(3) r.w.s. 263 of the Income Tax Act 1961, for the assessment year 2014-15.

2. Grievances raised by the Assessing Officer are as follows:-

1. *On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in holding the assessee's appeal infructuous which does not require adjudication and at the same time allowing appeal for statistical purposes.*

2. *On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in allowing the appeal statistical purposes without going into any merit & considering the fact that the revenue is in appeal before Hon'ble High Court vide ITA no. 3311/Mum/2018 Dt. 26.12.2018, against the Hon'ble ITAT order against order passed by the PCIT u/s. 263 of the Act.*

3. To adjudicate on this appeal it is sufficient to take note of the fact that the present appeal is in the matter of an assessment framed as result of revision proceedings but then the very order passed by the learned Commissioner, has been set aside by a co-ordinate bench of this Tribunal vide order dated 26.12.2018. Therefore, when the assessment order came up before the learned CIT(A) for adjudication for merits. Learned CIT(A) held that the appeal is infructuous inasmuch as the assessment order does not survive. The Assessing Officer is aggrieved and is in appeal before us.

4. Having heard the learned Departmental Representative and having perused the material on record, we find that undisputed position that the revision order dated 31.12.2018 as consequence of which impugned assessment was framed has been quashed by a co-ordinate bench order dated 26.12.2018. Accordingly, the very foundation of the impugned assessment does not hold good in law. The mere fact that the Tribunal's order, quashing the revision order, as an appeal before Hon'ble High Court, does not alter this position. In this view of the matter and bearing in mind entirety of the case the uphold order of the learned CIT(A) and decline to interfere in the matter.

5. In the result the appeal is dismissed. Pronounced in the open court today on the 30th day of June, 2022.

Sd/-

Aby T Varkey
(Judicial Member)

Sd/-

Pramod Kumar
(Vice President)

Mumbai, dated the 30th day of June, 2022

Copies to:

(1)	<i>The appellant</i>	(2)	<i>The respondent</i>
(3)	<i>CIT</i>	(4)	<i>CIT(A)</i>
(5)	<i>DR</i>	(6)	<i>Guard File</i>

By order

Assistant Registrar/ Sr PS
Income Tax Appellate Tribunal
Mumbai benches, Mumbai