

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH. N.K. CHOUDHRY, JUDICIAL MEMBER**

ITA No.1245/Del/2019
Assessment Year: 2006-07

HLS Asia Ltd. 109, Aurobindo Place, Hauz Khas, New Delhi-110016 PAN No.AAACH0627H	Vs	DCIT Circle -12 (1) New Delhi
(APPELLAN		(RESPONDENT)

Appellant	Sh. Ankit Arora, CA
Respondent	Sh. Anuj Garg, Sr. DR

Date of hearing:	13/07/2022
Date of Pronouncement:	13/07/2022

ORDER

PER N.K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the CIT(A)-35, New Delhi dated 27.12.2018 pertaining to A.Y.2006-07

2. The sum and substance of the grievance of the assessee is that the CIT(A) erred in confirming the action of the AO who framed the assessment order dated 28.03.2013 u/s.143 (3) r.w.s.

263 of the Act assessing the income of the assessee at Rs.28,66,63,716/.

3. At the very outset the counsel for the assessee stated that the impugned assessment order has been framed pursuant to the order of the CIT-4, Delhi framed u/s. 263 of the Act. and that order of the CIT has been quashed by this Tribunal in ITA No.3708/Del/2012 order dated 24.02.2020.

4. The DR fairly conceded to this.

5. We have carefully perused the orders of the authorities below. We find force in the contention of the Counsel the impugned assessment order is dated 28.03.2013 which has been framed u/s. 143 (3) r.w.s. 263 of the Act.

6. We find that the order of the CIT framed u/s. 263 of the Act was challenged before this Tribunal in ITA No. 3708/Del/2012 and this Tribunal has quashed the said order of the CIT framed u/s. 263 of the Act. The relevant findings read as under :-

“60. Ld. DR for the Revenue supported the order passed by the Id. CIT on the only ground that the assessee is not engaged in the manufacture of any article or thing, but this issue is no longer res integra as assessee in its own case held to be engaged in manufacture or production of an article or thing. Moreover, since the Id. CIT only modified the assessment directing the AO to withdraw

the deduction for additional depreciation allowed u/s 32(l)(iia) but has not set aside the assessment to be framed afresh, Explanation 2 to section 263 of the Act relied upon by the Id. DR for the Revenue is not attracted. So, we are of the considered view that arguments addressed by the Id. DR and his reliance on umpteen number of judgments is not applicable to the facts and circumstances of the case. Consequently, impugned orders passed by the Id. CIT u/s 263 of the Act both dated 31.10.2011 for AYs 2006-07 & 2007-08 are not sustainable in the eyes of law, hence ordered to be quashed.”

7. Since the basis has been removed the super structure must fall. We direct the AO to delete the impugned addition. The appeal of the assessee is allowed.

8. Decision announced in the open court on 13.07.2022.

Sd/-
(N.K. CHOUDHRY)
JUDICIAL MEMBER

NEHA, Sr. Private Secretary

Date:-13.07.2022

Copy forwarded to:

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

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
 ITAT NEW DELHI

Date of dictation	13.07.2022
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for Pronouncement	
Date on which the fair order comes back to the Sr. PS/ PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	