

IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, MUMBAI

SHRI B.R. BASKARAN, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER

ITA No. 1451/MUM/2022
(Assessment Year: 2009-10)

Dy. Commissioner of Income Tax,
Circle 8(2)(1), Mumbai,
Room No. 624, 6th Floor,
Aayakar Bhawan, M. K. Road,
Mumbai - 400020

..... Appellant

M/s Piramal Glass Ltd.
(earlier known as 'Gujarat Glass Pvt.
Ltd.), Piramal Towers,
Ganpatrao Kadam Marg,
Lower Parel, Mumbai - 400018
[PAN: AABCG0093R]

Vs

..... Respondent

Appearances

For the Appellant/Assessee : Shri Ronak Doshi
For the Respondent/Department : Shri Ganesh Bare

Date of conclusion of hearing : 01.09.2022
Date of pronouncement of order : 01.09.2022

ORDER

Per Rahul Chaudhary, Judicial Member:

1. By way of the present appeal the Revenue has challenged the order, dated 15.12.2021, passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, [hereinafter referred to as 'the CIT(A)'] for the Assessment Year 2009-10, whereby the Ld. CIT(A) had allowed the appeal filed by the Assessee against the Assessment Order, dated 31.12.2016 passed under section 143(3) read with Section 263

of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').

2. The brief facts of the case are that for the Assessment Year 2009-10 the assessment under Section 143(3) read with Section 144C(13) of the Act was framed on the Assessee vide assessment order, dated 28.05.2013. Vide order dated 23.03.2016, the Principal Commissioner of Income Tax- 7, Mumbai [hereinafter referred to as 'the PCIT'] set aside the aforesaid assessment order in exercise of power under Section 263 of the Act.
3. Thereafter, vide assessment order dated 31.12.2016 assessment was framed on the Assessee under Section 143(3) read with Section 263 of the Act. Being aggrieved, the Assessee preferred appeal before CIT(A). During the pendency of the appeal before CIT(A), the Tribunal vide order, dated 14.12.2018 passed in ITA No. 3194/Mum/2016 set aside the order passed by PCIT under Section 263 of the Act. Therefore, the CIT(A) allowed the appeal of the Assessee holding that since the Tribunal has set aside the order passed under Section 263 of the Act, the assessment framed vide order, dated 31.12.2016, under Section 143(3) read with Section 263 of the Act becomes null and void.
4. Being aggrieved, the Revenue is now in appeal before us since the Revenue has not accepted the decision of the Tribunal passed in ITA No. 3194/Mum/2016 and is in appeal against the said order before the Hon'ble High Court.

5. We are of the view that there is no infirmity in the order passed by the CIT(A). Since the order, dated 23.03.2016, passed under Section 263 of the Act has been set aside, the consequent assessment framed under Section 143(3) read with Section 263 of the Act does not survive. Accordingly, the appeal of the Revenue is dismissed.

Order pronounced on 01.09.2022.

Sd/-
(B.R. Baskaran)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 01.09.2022
Alindra, PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार //(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai