

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G" NEW DELHI**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SHRI N.K. CHOUDHRY, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No.47 & 48/Del/2022

(निर्धारण वर्ष / Assessment Year : 2008-09 & 2010-11)

DCIT Central Circle -8, New Delhi	बनाम/ Vs.	M/s. Shahi Exports Pvt. Ltd. F-88, Phase-1, Okhla Industrial Area, Delhi
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AAJCS1175L		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	Sh. Pradeep Gautam, Sr. DR.
प्रत्यर्थी की ओर से / Respondent by :	Sh. Deepak Malik, Advocate I

सुनवाई की तारीख / Date of Hearing	12.09.2022
घोषणा की तारीख /Date of Pronouncement	12.09.2022

आदेश/ORDER

PER PRADIP KUMAR KEDIA, AM:

Both the captioned appeals have been filed at the instance of the assessee against the order of the Commissioner of Income Tax Appeals-24, New Delhi dated 19.08.2021 arising from respective

assessment orders passed under section 143(3) r.w.s. 263 of the Act concerning AY 2008-09 and 2010-11.

2. As per the grounds of appeals, the revenue have challenged the action of the CIT(A) arising from the assessment order passed u/s. 143 (3) r.w.s 263 of the Act in relation to A.Y. 2008-09 and 2010-11.

3. When the matter was called for hearing, it was pointed out on behalf of the assessee that the coordinate Bench of Tribunal in ITA No.2170/Del/2017 (A.Y.2008-09) and ITA No.2217/Del/2017 (A.Y.2010-11) combined order dated 24.03.2021 has quashed the revisional order passed under section 263 of the Act and consequently the basis for passing the assessment order in terms of direction given by the PCIT under section 263 of the Act also gets automatically *non-est*. It was thus submitted that the whole proceedings arising from in pursuance of section 263 order ceases to exist in the light of the order of the coordinate Bench in revisional proceedings carried out under section 263 of the Act.

4. The facts being undisputed, we are inclined to agree with the submissions made on behalf of the assessee in the revenue appeal. The revenue has not controverted these basic facts. The basis for assessment under section 143(3) in pursuance of revisional order is rendered *non-est* owing to the order of co-ordinate Bench where revisional order passed, in itself has been declared bad in law. The impugned assessment orders passed under section 143 (3) r.w.s. 263

for both the assessment years thus ceases to exist and the additions/
disallowances made in such orders is thus a nullify in the eyes of law.

5. This being so, both the appeals of the revenue are dismissed as
infructuous.

This Order was pronounced in the open court on 12/09/2022

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

Dated: /09/2022

Neha, Sr. Private Secretary

Copy forwarded to:

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

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR ITAT
NEW DELHI