

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "E": NEW DELHI**

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER
AND
SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No. 2053/DEL/2021
[Assessment Year: 2014-15]**

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| ACIT, Central Circle-(1), Faridabad. | <u>Vs</u> | M/s Micro Management Ltd., 1/2873, Ram Nagar Extn. Shahdara, Loni Road, Delhi. PAN: AABCM8245K |
| APPELLANT | | RESPONDENT |
| Assessee represented by | None | |
| Department represented by | Shri Jeetender Chand, Sr. DR | |
| Date of hearing | 18.10.2022 | |
| Date of pronouncement | 18.10.2022 | |

ORDER

PER KUL BHARAT, JM:

This appeal, by the Revenue, is directed against the order of the learned Commissioner of Income-tax (Appeals)-3, Gurgaon, dated 29.10.2021, pertaining to the assessment year 2014-15. The Revenue has raised following grounds of appeal:

- “1. Whether on the facts and in circumstances of the case, the CIT(A) was correct in holding that the assessment order passed by the AO in consequence to the directions given by the Pr. Commissioner of Income Tax, Guru gram has become infructuous, null and void ab-initio.
2. Whether on the facts and in circumstances of the case, the CII (A) ought to have decide the additions made by the AO in the assessment order, on merits.
3. Whether on the facts & in the circumstances of the case, the order of the

CIT(A) may be set aside .

4. The appellant craves to add, amend, alter or modify any ground of appeal at the time of hearing.”

2. No one attended on behalf of the assessee at the hearing. The Revenue had sought adjournment on the ground of filing of paper-book. However, this request was rejected and the appeal was taken up for hearing in the absence of the assessee.

3. The learned DR fairly conceded that the present appeal has been filed by the Revenuer in respect of the assessment order passed u/s 143(3) read with Section 263 of the Income-tax Act, 1961 (in short “the Act”). The assessment order dated 11.12.2018 was passed in pursuance to the order of the learned Principal Commissioner of Income-tax, Central, Gurgaon, order dated 26.03.2018 whereby the original order passed u/s 143(3) of the Act was set aside to the file of the AO to amend the assessment order dated 20.06.2016. The order of the Id. Pr. CIT was challenged before the Tribunal by the assessee and the tribunal had set aside the order dated 26.03.2018. We find the learned CIT(Appeals) allowed the appeal of the assessee by observing as under:

“4. In this case assessment u/s 143(3) r .w.s. 263 of the Act was completed by the AO on 11.12.2018. The case was initially assessed u/s 143(3) of the Act vide order dated 20.06.2016. Subsequently, the said order was set aside by the Pr. Commissioner of Income Tax, Gurugram u/s 263 of the Act dated 26.03.2018. The present order u/s 143 (3) dated 11.12.2018 has been passed by the AO in compliance with the directions of the Pr. Commissioner of Income Tax, Gurugram u/s 263 of the Act. The appellant vide its submission dated 09.03.2020 has stated that Hon'ble ITAT vide order dated 20.12.2018 has held that Pr. Commissioner of Income Tax was not justified in setting aside the matter u/s 263 of the Act and has allowed the appeal of the appellant against the order u/s 263 of the Act passed by the Pr. Commissioner of Income Tax. In the circumstances, it was stated by the

appellant that the assessment order passed by the AO u/s 143 (3) r.w.s. 263 dated 11.12.2018 has become in-fructuous, null and void ab-initio.

From the record it is noted that the Hon'ble ITAT vide order dated 20.12.2018 (ITA No.4304/Del/2018] has held that the Pr. Commissioner of Income Tax was not justified in setting aside the matter u/s 263 of the Act and allowed the appeal filed by the appellant against the order of the Pr. Commissioner of Income Tax, Gurugram u/s 263 of the Act.

In the circumstances the assessment order passed by the AO for AY 2014-15 dated 20.12.2018 in consequence to the directions given by the Pr. Commissioner of Income Tax, Gurugram has become infructuous, null and void ab-initio. Once the assessment order has become void ab-initio, there remains no merit in various additions made by the AO in the said order. Accordingly, the order passed by the AO u/s 143(3) r.w.s. 263 dated 11.12.2018 is hereby declared as void initio.”

4. Since the order of the Id. Pr.CIT has been set aside by the Tribunal, therefore, any order passed in pursuance to that order would also become without being supported by authority of law. Therefore, we do not see any reason to interfere in the finding of the Id. CIT(Appeals) and the same is hereby affirmed. Grounds raised by the Revenue are rejected.

5. The appeal of the Revenue is dismissed.

Order pronounced in open court during the course of hearing on 18.10.2022.

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI