

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

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
SHRI KUL BHARAT, JUDICIAL MEMBER**

ITA No. 2217/DEL/2019 [A.Y 2007-08]
ITA No. 2218/DEL/2019 [A.Y 2007-08]

M/s HLS Asia Ltd
109, Aurobindo Place Market
Hauz Khas, New Delhi

Vs.

The D.C.I.T
Circle -12(1)
New Delhi

PAN: AAACH 0627 H

(Applicant)

(Respondent)

Assessee By : Shri Gaurav Goel, CA.

Department By : Shri K.M. Mahesh, CIT- DR

Date of Hearing : 23.11.2022

Date of Pronouncement : 23.11.2022

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-

The above captioned two separate appeals by the assessee are preferred against two separate orders of the ld. CIT(A) -22, New Delhi dated 26.12.2018 pertaining to A.Y. 2007-08.

2. ITA No. 2217/DEL/2019 relates to the additions made by the Assessing Officer and confirmed by the ld. CIT(A) and ITA No. 2218/DEL/2019 relates to the penalty levied u/s 271(1)(c) of the Income-tax Act, 1961 [hereinafter referred to as 'The Act'].

3. At the very outset, the ld. counsel for the assessee drew our attention to the decision of this Tribunal in ITA No. 4144/DEL/2014 for Assessment Year 2007-08 by which this Tribunal has set aside the order of the PCIT framed u/s 263 of the Act which is the basis of the impugned assessment order under appeal framed u/s 143(3) r.w.s 263 of the Act.

4. We have carefully perused the order of this Tribunal in ITA No. 4144/DEL/2014. We find force in the contention of the ld. counsel for the assessee. This Tribunal, in the said order, has held that “the orders passed by the ld. CIT u/s 263 of the Act are not sustainable in the eyes of law. Hence ordered to be quashed”.

5. Since the foundation has been removed, the assessment order dated 30.11.2012 framed u/s 143(3) r.w.s 263 of the Act becomes non-est and, therefore, all the subsequent orders also become non-est.

6. In the result, the appeals of the assessee in ITA Nos. 2217/DEL/2019 and 2218/DEL/2019 are allowed.

The order is pronounced in the open court on 23.11.2022.

Sd/-

Sd/-

[KUL BHARAT]
JUDICIAL MEMBER

[N.K. BILLAIYA]
ACCOUNTANT MEMBER

Dated: 23rd November, 2022.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
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	
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The date on which the file goes to the Assistant Registrar for signature on the order	
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