

आयकर अपीलीय अधिकरण
मुंबई पीठ " बी ", मुंबई
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री अमरजीत सिंह, लेखा सदस्य के समक्ष
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH " B", MUMBAI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER
आअसं.2246/मुं/2022 (नि.व .2009-10)
ITA NO. 2246/MUM/2022(A.Y. 2009-10)

Dy. Commissioner of Income Tax-3(4),
29th Floor, Centre-1, World Trade Centre,
Cuffe Parade, Mumbai – 400 005

..... अपीलार्थी /Appellant

बनाम Vs.

M/s. Nuclear Power Corporation of India Ltd.
16th Floor, Centre 1, World Trade Centre,
Mumbai- 400 005.

PAN: AAACN-3154-F

..... प्रतिवादी/Respondent

Assessee by : Shri Vallabh Gokhale
Revenue by : Dr. Mahesh Akhade

सुनवाई की तिथि/ Date of hearing : 01/11/2022

घोषणा की तिथि/ Date of pronouncement : 01/11/2022

आदेश/ ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi dated 07/07/2022 for the Assessment Year 2009-10.

2. Shri Vallabh Gokhale appearing on behalf of the assessee stated at the outset that this appeal by Revenue is against the order of CIT(A) arising out of assessment proceedings u/s. 143(3) r.w.s. 263 of the Income Tax Act, 1961 [in short 'the Act']. The order passed u/s 263 of the Act dated 26/03/2014 was assailed by the assessee before Tribunal in ITA No.3880/Mum/2014. The Tribunal vide order dated 11/01/2017 set aside the order of the Commissioner passed u/s 263 of the Act. Thereafter, the Revenue carried the issue in appeal before the Hon'ble Bombay High Court in Income Tax Appeal No.1356 of 2017. The same was dismissed by the Hon'ble High Court vide order dated 30/09/2021. In the meantime the Assessing Officer had given effect to the order of CIT passed u/s. 263 of the Act vide order dated 06/06/2014. Against the said assessment order, the assessee filed appeal before the CIT(A). The CIT(A) after taking cognizance of the order passed by Tribunal in ITA No.3880/Mum/2014(supra) and the order of Hon'ble High Court allowed appeal of the assessee. The Id. Authorized Representative for the assessee submits that in the above said facts, this appeal by the Revenue deserves to be dismissed.

3. Dr. Mahesh Akhade representing the Department fairly admitted the facts narrated by the Id. Authorized Representative for the assessee .

4. Both sides heard. It is an undisputed fact that the order by CIT dated 26/03/2014 passed u/s. 263 of the Act was reversed by the Tribunal in ITA No.3880/Mum/2014 (supra). Once the revision order passed u/s 263 of the Act has been set-aside, the subsequent proceedings arising there from would not survive. We find no infirmity in the impugned order, hence, the appeal of Revenue is dismissed sans merit.

5. In the result, appeal by the Revenue is dismissed.

Order pronounced in the open court on Tuesday the 1st day of November, 2022.

Sd/-

(AMARJIT SINGH)

लेखा सदस्य/ACCOUNTANT MEMBER

मुंबई/ Mumbai, दिनांक/Dated 01/11/2022

Vm, Sr. PS(O/S)

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/ The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
6. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)/
Sr.Private Secretary
ITAT, Mumbai