

**आयकर अपीलिय अधिकरण, कोलकाता पीठ “बी”, कोलकाता**

**IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH: KOLKATA**

श्री राजेश कुमार, लेखा सदस्य एवं श्री संजय शर्मा न्यायिक सदस्य के समक्ष

[Before Shri Rajesh Kumar, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

**I.T.A. Nos. 72 & 73/Kol/2021**

**Assessment Years: 2013-14 & 2014-15**

ITO, Ward-4(1), Kolkata	Vs.	M/s The Oriental Mercantile Co. Ltd. (PAN: AAAC T 9623 P)
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

**C.O. Nos. 17 & 18/Kol/2022**

**(Arising out of I.T.A. Nos. 72 & 73/Kol/2021)**

**Assessment Years: 2013-14 & 2014-15**

M/s The Oriental Mercantile Co. Ltd. (PAN: AAAC T 9623 P)	Vs.	ITO, Ward-4(1), Kolkata
Cross-objector		Respondent

Date of Hearing / सुनवाई की तिथि	15.12.2022
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	21.12.2022
For the Appellant/ निर्धारिती की ओर से	Shri Arvind Agarwal, Advocate
For the Respondent/ राजस्व की ओर से	Shri Vijay Kumar, Addl. CIT

**ORDER / आदेश**

**Per Rajesh Kumar, AM:**

These are the appeals preferred by the revenue and the cross objection preferred by the assessee against the separate orders of the Ld. Commissioner of Income Tax (Appeals)-16, Kolkata (hereinafter referred to as the Ld. CIT(A)"] dated 16.07.2020 for the AYs2013-14 & 2014-15.

2. Though the Registry has pointed out that the appeal is time barred, however, in view of the decision of the Hon'ble Supreme Court in Miscellaneous Application No. 665 of 2021 in SMW(C ) No. 3 of 2020, the period of filing appeal during the COVID-19 pandemic is to be excluded for the purpose of counting the limitation period. In view of this, the appeal is treated as filed within the limitation period.

3. The revenue has challenged the order of Ld. CIT(A) on various grounds in both the years and assessee by way of cross-objection has prayed before the Tribunal that the tax effect involved in these appeals are below taxable limits in terms of CBDT Circular No. 17/2019 dated 08.08.2019 and therefore these appeals of the revenue may kindly be dismissed as low tax effect.

4. After hearing the rival contentions and perusing the material on record, we find in the assessment framed for AY 2013-14, an addition of Rs. 3,00,58,980/- has been made in respect of income from house property. The rental value as per assessee was shown at Rs. 15,00,000/-. The rental value as computed by the AO by applying rate @ Rs.125/- which comes to Rs. 25,06,875/- approximately. However by mistake the AO has calculated Rs. 3,00,82,500/- as rental value resulting into huge difference of Rs. 2,85,82,500/-between value as per AO and as per assessee. During the course of hearing, the assessee has brought to our notice that this is the factual mistake committed by the AO and even the Ld. CIT(A) recorded a finding of fact qua this factual mistake on page no. 4 in para 2 that even if calculation of value of market

value of rental @ Rs. 125/- as taken by the AO that even comes to Rs. 25,06,875/- and not the exorbitant figures of Rs. 3,0082,500/- as taken by the AO. But the revenue has filed appeal against this order on wrong appreciation of facts. Having appreciated these facts that AO has wrongly calculated the rental value of property, Ld. CIT(A) correctly appreciating the factual mistake by the AO has given a finding to this effect in the appellate order. We are fully convinced that there is a mistake of calculation in both the appeals while arriving at the rental value of the property 10C, Kasturba Gandhi Marg, New Delhi and accordingly we hereby dismiss both the appeals of the revenue for having low tax effect in terms of CBDT Circular No. 17/2019 dated 8.8.2019 as the addition amount is less than Rs. 50,00,000/- by allowing the cross objection filed by the assessee. We also note that similar mistake has crept in A.Y.2014-15 and the tax effect after rectifying the mistake in the calculation of rental value comes below the specified amount. Accordingly the cross objection for AY 2014-15 of the assessee is allowed.

5. In the result, both the appeals of the revenue are dismissed and the cross objections of the assessee are allowed.

Order is pronounced in the open court on 21<sup>st</sup> December, 2022

Sd/-  
(Sonjoy Sarma /संजय शर्मा)  
Judicial Member/न्यायिक सदस्य

Sd/-  
(Rajesh Kumar/राजेश कुमार)  
Accountant Member/लेखा सदस्य

Dated: 21<sup>st</sup> December, 2022

SB, Sr. PS

*I.T.A. Nos. 72 & 73/Kol/2021  
C.O. Nos. 17 & 18/Kol/2022  
Assessment Years: 2013-14 & 2014-15  
M/s The Oriental Mercantile Co. Ltd.*

Copy of the order forwarded to:

1. Appellant- ITO, Ward-4(1), Kolkata
2. Respondent – M/s The Oriental Mercantile Co. Ltd. , North Wing, 4<sup>th</sup> Floor, 7, Red Cross Place, Kolkata-700001.
3. Ld. CIT(A)-16, Kolkata (Sent through e-mail)
4. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata