

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'G' : NEW DELHI)**

**SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
and
SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER**

**ITA No.974/Del./2015
(ASSESSMENT YEAR : 2007-08)**

ITO, Ward 22 (1),
New Delhi.

vs.

M/s. S.K.G. Estate Pvt. Ltd.,
AP-87, Shalimar Bagh,
Delhi – 110 088.

(PAN : AAJCS4173Q)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Gautam Jain, Advocate
REVENUE BY : Shri Abhishek Kumar, Sr. DR

Date of Hearing : 08.12.2022
Date of Order : 05.01.2023

ORDER

PER SHAMIM YAHYA, ACCOUNTANT MEMBER :

This appeal by the Revenue is directed against the order of the Id.

CIT (Appeals)-8, Delhi dated 18.12.2014 for the AY 2007-08.

2. The grounds of appeal taken by the Revenue read as under :-

“1. On the facts and circumstances of the case, the Ld. Commissioner of Income Tax (Appeals) erred in law and on facts in cancelling the order passed u/s 147 read with section 143 (3) of I.T. Act 1961 made by the AO on protective basis.

2. As the substantive assessment is yet to be made in the A.Y. 2008-09 to keep the protective assessment made in A.Y. 2007-08 alive till the assessment of A.Y. 2008-09 does not reach finality at the assessment as well as appellate stage, the appeal is being filed.”

3. At the outset in this case, ld. DR submitted that Revenue seeks to withdraw this appeal. In this regard, he submitted letter from DCIT, Central Circle, Karnal addressed to the Departmental Representative as under:-

“The Sr. Departmental Representative,
G Bench, ITAT
New Delhi.

Sir,

Subject.: Departmental appeal in the case of M/s SKG Estate Pvt. Ltd., AP-87, Shalimar Bagh, Delhi -110088, for A.Y. 2007-08, ITA No. 974/DeI/2015, PAN- AAJCS4173Q. -Req.

Kindly refer to the subject cited above.

2. In this connection, it is submitted that an addition of Rs.2,11,46,527/- was made in the income of the assessee for A.Y. 2007-08. Aggrieved with the order for A.Y. 2007-08, the assessee went in appeal and the La. CIT(A), Delhi vide his order dated 18.12.2014 deleted the addition for A.Y. 2007-08 and directed to consider the addition for A. Y. 2008-09 as actual agreement was completed on 24.01.2008. Against the order of Ld. CIT(A), the department filed second appeal before Hon'ble ITAT on 17.2.2015 on following grounds:

"1. The ld. CIT (A) has erred in law and on facts in cancelling the order passed u/s 147 r..w.s 143(3) of Income-tax Act 1961 made by the AO on protective basis.

2. As the substantive assessment is yet to be made in A.Y. 2008-09., to keep the protective assessment made in A. Y. 2007-08 alive till the assessment of A. Y. 2008-09 does not reach finality at the assessment as well as appellate stage, the appeal is being filed.”

3. It may kindly be appreciated that when Grounds of Appeal for A.Y. 2007-08 were drafted and filed before Hon'ble ITAT the assessment proceedings for A.Y. 2008-09 were still pending. Therefore, there was technical infirmity in grounds of appeal of AY 2007-08 vis a vis assessment order of AY 2008-09. Further, due to search operation conducted at the premises of the assessee on 05.02.2014, proceedings for A.Y. 2008-09 were abated and were completed in Central Circle, Karnal

u/s 143(3) r.w.s 153A(1)(b) of the Act on 30.03.2016 by making a protective addition of Rs.2,11,46,527/- in A.Y. 2008-09.

4. Thereafter, The Ld. CIT(A)-3, Gurgaon vide his order in appeal No. 753/CIT(A)- 3/GGN/2016-17 dated 29.06.2022 has partly allowed the appeal of the assessee in AY 2008-09 dismissing the other grounds and allowing the ground of addition of Rs. 2,11,46,524/-.

5. Now, the Pro CIT- Central, Gurugram vide his office letter No. 2542-43 dated 29.08.2022(copy of the letter enclosed) has approved "not to file" further appeal in the case of the assessee for A.Y. 2008-0~. As the issue in A.Y. 2007-08 and A.Y. 2008-09 is same, therefore the appeal filed by the department before the Hon'ble ITAT for A.Y. 2007-08 in the case of the assessee becomes infructuous/ineffective.

Submitted for your kind consideration

Yours faithfully,
Sd/-
(Ambika Agrawal)
Deputy Commissioner of Income Tax
Central Circle, Kamal."

4. Since the ld. DR for the Revenue seeks to withdraw the appeal, we permit the withdrawal of this appeal.
5. In the result, this appeal by the Revenue is dismissed as withdrawn.

Order pronounced in the open court on this 5th day of January, 2023.

Sd/-
(CHANDRA MOHAN GARG)
JUDICIAL MEMBER

sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Dated the 5th day of January, 2023
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Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-8, Delhi.
- 5.CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI.