

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "A" DELHI**

**BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER  
&  
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A No.948/DEL/2022  
Assessment Year 2017-18

Anuj Bansal, Prop. M/s. MAA & Sons, c/o Kapil Goel, Adv. F-26/124, Sector-7, Rohini, Delhi.	v.	Pr. Commissioner of Income Tax, Central-2, New Delhi.
TAN/PAN: AGLPB0846N		
(Appellant)		(Respondent)

Appellant by:	Shri Kapil Goel, Adv. Shri Sandeep Goel, Adv.		
Respondent by:	Shri P. Praveen Sidharth, CIT-DR		
Date of hearing:	17	01	2023
Date of pronouncement:	17	01	2023

**ORDER**

**PER PRADIP KUMAR KEDIA, A.M.:**

The captioned appeal has been filed by the assessee against the revisional order of the Principal Commissioner of Income Tax, Central-2, New Delhi (Pr.CIT) dated 31.03.2022 passed under Section 143(3) r.w. Section 153A of the Act concerning Assessment Year 2017-18.

2. When the matter was called for hearing, the Id. counsel for the assessee submitted that the present appeal is directed against the revisional order passed by Pr.CIT seeking to revise the assessment order dated 31.12.2019 passed under Section 153 r.w. Section 143(3) of the Act concerning Assessment Year

2017-18. The ld. counsel next submitted that the impugned assessment order sought to be revised by the Pr.CIT has been quashed by the ITAT in ITA No.1016/Del/2021 order dated 29.04.2022. It was thus contended that the assessment order has ceased to exist by virtue of ITAT order and consequently the revisional power under Section 263 cannot subsist anymore. The ld. counsel thus submitted that the revisional order passed under Section 263 arising from a *nonest* assessment order also requires to be quashed.

3. The ld. DR for the Revenue, on the other hand, submitted that;

(i) the order of the ITAT quashing the assessment order has been passed on 29.04.2022, i.e., subsequent to 263 order dated 31.12.2019 at which point of time the assessment order was in force and therefore, the exercise of power under Section 263 cannot be impugned on the grounds of subsequent order of the Tribunal

(ii) the Department has preferred appeal before the Hon'ble High Court against the quashing of the assessment order and therefore, the powers conferred under Section 263 cannot be taken away in such a situation.

4. We have carefully considered the rival submissions. It is an admitted position that the assessment order which has been revised in exercise of powers conferred under Section 263 of the Act by the Pr.CIT has lost the force of law and does not survive in the light of the appellate order of the Tribunal in ITA no.1016/Del/2021 order dated 29.04.2022. This being the

position, the 263 proceedings on a *nonest* assessment order thus has to be regarded as invalid proceedings. The revisional order passed is bad in law and requires to be quashed. However, in a situation where the Superior Authority / Court revives the assessment order on any ground, the revisional authority shall be at liberty to exercise powers conferred under Section 263 in accordance with law. With these remarks, the proceedings under Section 263 and consequential revisional order in question stand quashed.

5. In the result, the appeal of the assessee is allowed.

**Order pronounced in the open Court on 17/01/2023.**

Sd/-  
**[CHANDRA MOHAN GARG]**  
**JUDICIAL MEMBER**

DATED: /01/2023

*Prabhat*

Sd/-  
**[PRADIP KUMAR KEDIA]**  
**ACCOUNTANT MEMBER**