

IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH, KOLKATA

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

I.T.A. No. 501/Kol/2022
Assessment Year : 2014-15

DCIT, CC-2(3), Kolkata	Vs.	Shri Manish Agarwal Fl-17, 14, Satyam Tower, 3, Alipore Road, Kolkata-700 027. PAN: ACVPA7357 F
Appellant		Respondent

I.T.A. No. 504/Kol/2022
Assessment Year : 2014-15

DCIT, CC-2(3), Kolkata	Vs.	Smt. Shalini Agarwal 3, Alipore Road, Kolkata-700 027. PAN: ALAPS8142E
Appellant		Respondent

I.T.A. No. 507/Kol/2022
Assessment Year : 2014-15

DCIT, CC-2(3), Kolkata	Vs.	Smt. Seema Agarwal 12, Sunny Park, Kolkata-700 019. PAN: ACDPA8842P
Appellant		Respondent

Date of Hearing	13.02.2023
Date of Pronouncement	16.02.2023
For the Assessee	Khushaboo Rai, ACA
For the Revenue	G. Hukugha Sema, CIT

ORDER

PER BENCH:

The above captioned appeals have been filed by the assessee challenging the separate orders of Id. CIT(A)-20, Kolkata all dated 18.02.2021 by which the

ld. CIT(A) allowed the appeals filed by the different assessee relating to A.Y. 2014-15. Since the facts and issues involved in these appeals are common except for date, figures and name of the assessee. Therefore, they have been clubbed together and taken up for disposal in a consolidated order for the sake of convenience. Therefore, we have first taken up the issues involved in ITA No. 501/Kol/2022.

2. At the outset, we find that there is a delay of 493 days in filing of captioned appeals by the revenue. We after perusing the petition for condonation are convinced that the revenue was prevented by sufficient cause from filing the appeals in time and hence delay is condoned and appeals are admitted.

3. First of all we would like to decide ITA No. 501/Kol/2022.

4. Brief facts of the case are that a search & seizure operation u/s 132(1) of the Act as well as survey operation u/s 133A of the Act was conducted on various premises of M/s. Rupa & Co. Ltd. on 07.11.2013. Subsequent to search, assessment order has been passed u/s 143(3) of the Act vide order dated 22.03.2016 by which ld. AO has accepted the return of income filed by the assessee. Consequent to that assessment order dated 22.03.2016 passed by the ld. AO u/s 143(3) of the Act, ld. PCIT has passed an order u/s 263 by which set aside the order passed /s 143(3) dated 22.03.2016 by the ld. AO and restore to the file of the AO to frame the fresh assessment order. Resultantly, the ld. AO has passed an assessment order vide order dated 26.11.2018 by making certain additions in the hands of assessee.

5. Dissatisfied with the above orders passed by the ld. AO, assessee preferred appeals before the ld. CIT(A), where the appeal of the assessee was allowed by the ld. CIT(A).

6. Aggrieved by the order of ld. CIT(A), revenue has preferred the instant appeal by raising various issues before this Tribunal.

7. At the time of hearing before us, ld. DR submitted that ld. CIT(A) erred in annulling the assessment order passed u/s 143(3) read with section 263 of the Act by relying on the Hon'ble Tribunal's decision. Further, the ld. AR supported the order of the ld. CIT(A) and further relied on the order of the Tribunal vide its order dated 28.02.2018 and consequent to that assessment order dated 26.11.2018 stand quashed. Therefore, the instant appeal of the revenue deserved to be quashed.

8. We have considered the rival submission and perused the facts on record. The sole crux of the disputed issue is that the revenue contesting against the order of ld. CIT(A) by which the ld. CIT(A) has annulled the assessment order passed u/s 143(3) read with section 263 of the Act based on the decision on assessee's own case in the same assessment year by which the Tribunal has treated the revisionary order passed u/s 263 of the Act as invalid. We also note that when the revisionary order u/s 263 of the Act was quashed being invalid and any subsequent proceedings would become infructuous. The ld. DR could not controvert the ld. CIT(A)'s findings with any new cogent material information but he simply relied on the AO's order. Accordingly, we do not find any infirmity in the order passed by the ld. CIT(A) which has relied on the Tribunal's decision and passed a reasoned order and we accordingly upheld the same and grounds taken by the revenue are dismissed.

9. Since we dismiss the appeal filed by the assessee challenging the impugned order passed by the ld. CIT(A) in ITA No. 501/Kol/2020 and reasons stated above, our decision shall, *mutatis mutandis*, apply to other appeals being ITA Nos. 504 & 507/Kol/2022 as well and consequently all other appeals of the revenue are also dismissed.

10. In the result, all the captioned appeals filed by the revenue are dismissed.

Order pronounced in the open court on 16.02.2023

Sd/-

(Rajesh Kumar)
Accountant Member

Sd/-

(Sonjoy Sarma)
Judicial Member

Dated: 16.02.2023

Biswajit, Sr. PS

Copy of the order forwarded to:

1. Appellant- DCIT, CC-2(3), Kolkata.
2. Respondent – (i) Shri Manish Agarwal (ii) Smt. Shalini Agarwal (iii) Smt. Seema Agarwal.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata