

IN THE INCOME TAX APPELLATE TRIBUNAL
Mumbai "A" Bench, Mumbai.

Before Shri B.R. Baskaran (AM) & Shri Rahul Chaudhary (JM)

I.T.A. No. 1878/Mum/2023 (A.Y. 2017-18)
I.T.A. No. 1939/Mum/2023 (A.Y. 2014-15)

M/s. Atul Projects India Private Limited 5 th Floor, Trade Avenue Andheri East, Suren Road Chakala, Mumbai-400 093. PAN : AAGCA5921P (Appellant)	Vs.	DCIT-9(1)(2) Room No. 802 Pratishtha Bhavan Old CGO Annexe M.K. Road Mumbai-400 020. (Respondent)
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Assessee by	Ms. Ujjwala Chaturvedi
Department by	Shri Ajay Chandra
Date of Hearing	06.09.2023
Date of Pronouncement	06.09.2023

ORDER

Per Bench:-

Both the appeals filed by the assessee are directed against the orders passed by the learned CIT(A)-48, Mumbai and they relate to A.Y. 2014-15 & 2017-18.

2. Both the appeals arise out of the orders passed by the learned CIT(A) against the assessment orders passed under section 153C read with section 144 of the I.T. Act. The Assessing Officer initiated proceedings under section 153C of the Act consequent to search and seizure action taken under section 132 of the Act in the case of M/s. Hubtown Limited and others on 30.7.2019. It is pertinent to note that the Assessing Officer did not make any addition in the impugned assessment orders passed under section 153C of the Act for both the years under consideration, i.e. the Assessing Officer reiterated the

very same total income, that was determined by him in the assessment orders earlier passed under section 143(3) of the Act.

3. In the assessment order passed under section 143(3) of the Act in both the years under consideration, the Assessing Officer had made various additions. The assessee had filed appeals challenging those additions before the learned CIT(A) in both the years. The assessee also filed appeals before the learned CIT(A) against the impugned assessment orders passed under section 153C of the Act in both the years. All the four appeals were disposed of by Ld CIT(A) by the impugned common orders.

4. The learned CIT(A), while adjudicating the appeals filed against the assessment orders passed u/s 143(3) of the Act, adjudicated all the grounds urged on merits. Since no addition has been made in the impugned assessment order passed under section 153C of the Act, the learned CIT(A) dismissed the appeals filed for both the years under consideration as infructuous. Aggrieved by the orders so passed by the learned CIT(A) against the assessment orders passed u/s 153C of the Act, the assessee has filed these appeals before us.

5. We heard the parties and perused the record. The fact remains that the Assessing Officer did not make any addition in the impugned assessment orders passed under section 153C of the Act for both the years under consideration. In the absence of any addition, there should not be any grievance to the assessee. Since the AO had reiterated the total income determined earlier u/s 143(3) of the Act in both the years, if the said total income undergoes change on giving effect to the orders of appellate authorities, then the income reiterated in the assessment orders passed u/s 153C of the Act would also undergo consequent change. In that view of the matter, there should not be any grievance to the assessee against the

assessment orders passed u/s 153C of the Act in both the years. Accordingly, we are of the view that the learned CIT(A) was justified in dismissing both the appeals as infructuous.

6. The Learned AR submitted that the Assessing Officer has again raised tax demand in both these years. Though details of the demands so raised were not furnished before us, yet, under the scheme of the Act, the Assessing Officer can issue notice of demand only in respect of incremental liability, if any, raised in the reassessment proceedings, meaning thereby, the Assessing Officer is not entitled to raise the very same demand second time. Accordingly, we direct the Assessing Officer to reduce the demand, if any, raised for the second time. The assessee may take up this matter with the AO, who shall examine the same in accordance with the principles discussed above.

7. With these observations, we confirm the orders passed by the learned CIT(A) in both the years under consideration.

8. In the result, both the appeals of the assessee are treated as dismissed.

Order pronounced on 6.9.2023.

Sd/-
(Rahul Chaudhary)
Judicial Member

Sd/-
(B.R. Baskaran)
Accountant Member

Mumbai.; Dated: 06/09/2023

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai.

6. Guard File.

//True Copy//

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BY ORDER,

(Assistant Registrar)
ITAT, Mumbai