

आयकर अपीलीय अधिकरण, 'बी', न्यायपीठ, चेन्नई  
IN THE INCOME TAX APPELLATE TRIBUNAL, 'B' BENCH : CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मंजुनाथ. जी, लेखा सदस्य के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND  
SHRI MANJUNATHA.G, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.As.712 & 713/CHNYH/2023  
निर्धारण वर्ष /Assessment years :2016-2017 & 2017-2018.

M/s. TTK Healthcare Ltd,  
No.6, Cathedral Road,  
Gopalapuram,  
Chennai 600 086.

**Vs.** The Income Tax Officer,  
Corporate Ward 3(1)  
Chennai

**[PAN AABCT3312J]**  
**(अपीलार्थी/Appellant)**

**(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by : Shri. R. Vijayaraghavan, Adv  
प्रत्यर्थी की ओर से /Respondent by : Shri. D. Hema Bhupal, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing : 19.12.2023  
घोषणा की तारीख /Date of Pronouncement : 19.12.2023.

**आदेश / ORDER**

**PER MAHAVIR SINGH, VICE PRESIDENT:**

These appeals filed by the assessee are directed against two different orders of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in orders No.ITBA/NFAC/S/250/2023-24/1052440479(1) and No.ITBA/ NFAC/S/250/2023-24/1052439444 (1) of even date 28.04.2023. The assessments were framed by the DCIT, Corporate Circle 3(1),

Chennai for the assessment years 2016-2017 and 2017-18 u/s.143(3) and 143(3) r.w.s.154 of the Income Tax Act, 1961 (hereinafter 'the Act') respectively, vide orders dated 18.12.2019 and 27.02.2020 .

2. At the outset, Id. Counsel for the assessee Shri. R. Vijayaraghavan stated that in both the years, Id. CIT(A) has dismissed the appeals without going into the merits because the appeals filed by the assessee against the orders of standalone company M/s.TTK Healthcare Limited is pending for adjudication. Id. Counsel for the assessee took us to the decision of Id. CIT(A) in para 5.2 which reads as under:-

*"I find that the AO passed order u/s.154 rws 143(3) & 119 (2) (b) to give the effect to the CBDT order u/s.119(2)(b) granting the condonation of delay in filing the revised return by the amalgamated company. Therefore the AO while giving the effect to the to the CBDT order u/s 119(2)(b) computed the income taking into account all the orders passed in the case of amalgamated company and amalgamated companies. I find that in the amalgamated company (TTK Healthcare Ltd), assessment u/s 143(3) was passed 18/12/2019 determining total income at Rs.30,28,48,844/-. During the course of assessment proceedings, the additions were made on account of logo charges expenses, Depot service charges, Disallowance u/s 14A. The appellant has filed appeal against the above assessment order before CIT(A) on 17/01/2020 which is still pending. I find that the appellant expected relief against the said additions based on the decisions of Hon'ble ITAT and CIT(A) in appellant's own case in earlier years, while passing the order u/s 154 rws 143(3) & 119(2)(b) to give the effect to the CBDT order u/s 119(2)(b). However, while giving the effect to the order of CBDT u/s 119(2)(b), the AO is not empowered to grant relief u/s 154 in respect of additions made during the course of regular assessment proceedings which are pending before the CIT(A).*

*Thus I find that there is no mistake apparent from the records while passing the order u/s 154 rws 143(3) & 119(2)(b) to give the effect to the CBDT order u/s 119(2)(b). I find that the grounds of appeal raised by the appellant are not coming out of the order giving effect to the order of CBDT u/s 119(2)(b). Therefore the grounds of appeal raised by the appellant are dismissed”.*

Ld. Counsel for the assessee further stated that M/s.TTK Protective devices and M/s.Techno Services Ltd was amalgamated with the assessee company with effect from 01.04.2012. Hence, the assessee has to file a return including the income of the amalgamating company for the assessment year 2013-14 onwards. The appellant filed a return of income as a standalone company for the assessment year 2016-17 on 09.11.2016 and for assessment year 2017-18 on 31.10.2017. Based on the above return, assessments u/s. 143(3) were completed for two years on 18.12.2019 and 25.12.2019 respectively. Against these orders on standalone company, appeals have been filed before the CIT(A) on 13.01.2020 which is still pending before the CIT(A). With the approval of the CBDT the appellant had filed consolidated return of income for the assessment years 2016-17 and 2017-18 on 28.03.2019. The CIT(A) has dismissed the appeals on the ground that another appeal was pending before the CIT(A) for the same assessment years. To sort out the same the assessee has preferred a petition to the CIT(A) before whom the earlier appeals were pending to dispose it off as infructuous as the assessment orders are no longer

valid in view of the revised return after amalgamation. Further, Id. Counsel for the assessee also submitted events in chronology order.

		<i>Assessment year 2016-2017</i>	<i>Assessment year 2017-2018</i>
1	<i>Return filed on</i>	<i>9.11.2016</i>	<i>31.10.2017</i>
2	<i>Assessment order u/s.143(3)</i>	<i>18.12.2019</i>	<i>25.12.2019</i>
3	<i>Appeal before CIT(A)</i>	<i>17.1.2020</i>	<i>17.01.2020</i>
4	<i>M/s. TTK Techno shares amalgamated with Appellant w.e.f. 1.4.2012 by order of NCLT dated 15.12.2017</i>		
5	<i>CBDT permitted revised return to be filed vide order dt 18.3.2020</i>		
6	<i>Revised return filed on</i>	<i>28.3.2019</i>	<i>28.03.2019</i>
7	<i>Order u/s.143(3) on revised return Order received on</i>	<i>17.08.2020 09.09.2020</i>	<i>17.08.2020</i>
8	<i>Appeal before CIT(A)</i>	<i>05.10.2020</i>	<i>16.09.2020</i>
9	<i>CIT(A) order</i>	<i>28.04.2023</i>	<i>28.04.2023.</i>

**3.** From the above, Id. Counsel for the assessee stated that the Id. CIT(A) should not have disposed off these appeals and should have disposed earlier appeals pending for adjudication.

**4.** When this facts were confronted to Id. Departmental Representative, he could not controvert the above factual positions.

5. We have heard rival contentions and gone through the facts and circumstances of the case. From the above facts, we direct the Id. CIT(A) to dismiss the appeals filed earlier which are pending disposal and these two appeals are set aside to his file to adjudicate on merits. Hence the orders of the Id. CIT(A) are set aside and these two appeals are remitted back to his file for fresh adjudication of issues on merits raised before him.

6. In the result, the appeals of the assessee in ITA Nos.712 & 713/CHNY/2013 for assessment years 2016-2017 and 2017-2018 are allowed for statistical purpose.

Order pronounced in the open court at the time of hearing on 19<sup>th</sup> December, 2023, at Chennai.

POSd/-  
(मंजुनाथ. जी)  
**(MANJUNATHA.G)**  
लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-  
(महावीर सिंह )  
**(MAHAVIR SINGH)**  
उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai

दिनांक/Dated:19.12.2023.

**KV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/ DR
5. गार्ड फाईल/GF