

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "D", MUMBAI**

BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER

AND

SHRI SUNIL KUMAR SINGH, HON'BLE JUDICIAL MEMBER

ITA NO. 4155/MUM/2023 (A.Y: 2014-15)

Sir Ratan Tata Trust Bombay House, 24 Homi Mody Street, Fort Mumbai - 400001 PAN: AAATS1013P	v.	DCIT (Exemption)-2(1) MTNL Tele Building, Cumballa Hills Peddar Road, Mumbai - 400026
(Appellant)		(Respondent)

Assessee Represented by	:	Shri Sukhsagar Syal, Shri Atul T. Suraiya & Ms. Bhavika Jain
Department Represented by	:	Ms. Sanyogita Nagpal
Date of conclusion of Hearing	:	24.04.2024
Date of Pronouncement	:	24.04.2024

ORDER

PER NARENDRA KUMAR BILLAIYA (AM)

1. This appeal by the assessee is preferred against the order dated 29.09.2023 by National Faceless Appeal Centre, Delhi [hereinafter in short "Ld. CIT(A)"] pertaining to A.Y.2014-15.

2. The grievance of the assessee read as under: -

"1. On the facts and circumstances of the case and in law, the Ld CIT(A) erred in upholding the order u/s 143(3) r.w.s 263 of the Act even though the Hon'ble Income-tax Appellate Tribunal (ITAT) has quashed the order u/s 263 of the Act and the order u/s 143(3) rws 263 of the Act, being consequential thereto, is non est.

2. On the facts and circumstances of the case and in law, the Id. CIT(A) erred in holding that the order u/s 143(3) rws 263 of the Act is not barred by limitation u/s 153 of the Act merely on the presumption that the order must be passed on 31.12.2019 as the speed post date is 01.01.2020.

3. In holding so, the Id. CIT(A) erred in observing that the issue of limitation is not pressed by the Appellant even though the Appellant had raised a specific ground to that effect.

4. The impugned order u/s 250 of the Income-tax Act, 1961 (Act) has been passed in gross violation of principles of natural justice inasmuch as no opportunity of hearing was granted to the Appellant.

5. Without prejudice to the above, the Ld CIT(A) erred in upholding the order under section 143(3) rws 263 of the Act wherein the following had been held:

a) The dividend income of the Trust is chargeable to tax under the head "Income from other sources" and not exempt u/s 10(34) of the Act;

b) the Appellant was in violation of section 13(1)(c) of the Act;

c) the Appellant exercised control over Tata Sons Ltd.

d) that the entire income of the Appellant was disentitled to exemption u/s. 11 of the Act.

e) The Appellant is not entitled to claim benefits of section 11 of the Act for violation of section 13(1)(d) and 13(2)(h) of the Act relying on order u/s 250 of the Act for

AY 2014-15 disposing appeal challenging order u/s 250 of the Act. In doing so, the Ld CIT(A) erred in not providing any specific finding on issue of violation u/s 13(1)(c) of the Act and section 2(15) of the Act and bringing to tax entire income instead of just the prohibitive income which is otherwise not exempt.

6. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in not directing the AO to delete interest levied u/s 234B of the Act considering it to be general or consequential not requiring specific finding.

7. On the facts and circumstances of the case and in law, the Ld CIT(A) erred in not directing the AO to drop the penalty proceedings initiated u/s 271(1)(c) of the Act in absence Trust furnishing inaccurate particulars of income considering it to be consequential not requiring specific finding.

Each of the above ground are mutually exclusive, independent and without prejudice to each other.

The Appellant craves leave to add, alter, modify or amend any of the ground(s) / sub ground(s) of appeal."

3. At the very outset, the counsel for the assessee brought to the notice of the bench that the impugned assessment order is pursuant to the order of the Ld. Commissioner of Income Tax (Exemptions) [hereinafter in short "Ld. CIT(E)"] dated 30.03.2019 framed under section 263 of Income-tax Act, 1961 (in short "Act").

4. It is the say of the counsel that this Tribunal has quashed the order of the Ld. CIT(E), therefore, the assessment order pursuant to the order of the Ld. CIT(E) under section 263 of the Act becomes infructuous.

5. We have given a thoughtful consideration to the submissions of the counsel. The undisputed fact is that the impugned assessment order is pursuant to the order by the Ld. CIT(E) framed under section 263 of the Act. We find that the said order of the Ld. CIT(E) has been quashed by this Tribunal in ITA No. 3737/MUM/2019 vide order dated 28.12.2020. Since the foundation has been removed the superstructure must fall. The appeal is accordingly allowed.

6. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on 24th April, 2024.

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Mumbai / Dated 24.04.2024
Giridhar, Sr.PS

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mum