

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.7501/M/2019
Assessment Year: 2014-15**

Shri Gopal Bhagwandas Ahuja, 121, Soona Villa, Pery Cross Road, Bandra (West), Mumbai – 400 050 PAN: AABPA5620P	Vs.	DCIT CC-6(2), 19 th Floor, Air India Building, Nariman Point, Mumbai- 400 021
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Tanzil R. Padvekar

Revenue by : Dr. Kishor Dhule, CIT D.R.

Date of Hearing : 16 . 04. 2024

Date of Pronouncement : 30 . 04 .2024

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the assessee against the order dated 26.09.2019, impugned herein, passed by the Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 143(3) r.w.s. 153C of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2014-15.

2. In the instant case, the assessee had declared his total income at Rs.47,45,580/- by filing its original return of income on 27.09.2013. Subsequently, the case of the assessee was selected for scrutiny and assessment under section 143(3) of

the Act was completed on 13.12.2016, whereby the total income of the assessee was determined at Rs.4,75,12,580/-.

3. Later on a search and seizure operation under section 132(1) of the Act was conducted on M/s. Ahuja Group on 25.06.2015 and on the basis of which the notice under section 153C of the Act was issued by Assessing Officer (AO) after recording satisfaction in the case of M/s. Ahuja Properties and Realtors Pvt. Ltd. on 22.09.2017 as well as in the case of the assessee. In response to the notice under section 153C of the Act, the assessee filed its return of income on 07.11.2017 whereby the assessee declared total income at Rs.47,45,581/-. Thereafter, the statutory notices were issued and the AO, vide order dated 29.12.2017, ultimately assessed the total income of the assessee at Rs.4,75,12,580/-, which was originally assessed as per order dated 13.12.2016 passed under section 143(3) of the Act.

4. The assessee, being aggrieved, challenged the assessment order dated 29.12.2017 before the Ld. Commissioner who vide impugned order dismissed the appeal of the assessee mainly on the ground that in this case the AO has not made any additions and therefore the assessee should not have any grievance with this order. The AO had adopted the figure of assessed income at Rs.4,75,12,560/- which was the assessed income as per the original assessment order. The action of the AO is perfectly legal and valid and cannot be questioned.

5. The assessee, being aggrieved, preferred the instant appeal. We observe that in this case the AO vide order dated 29.12.2017, has accepted the declared income and assessed the same income as assessed vide original assessment order dated 13.12.2016 and therefore we asked the Assessee : what grievance he has? The assessee submitted that in pursuance to subsequent assessment order dated 29.12.2017 the Revenue Department has raised the fresh demand including the interest and other consequential effects started from 29.12.2017, whereas the income was assessed by the AO vide original Assessment order dated 13.12.2016 under section 143(3) of the Act and proceedings in consequence to the said order have already been completed.

6. We have given thoughtful considerations to the peculiar facts and circumstances of the case. As there is no difference between the income assessed by the original order referred to above passed under section 143(3) of the Act as well as subsequent assessment order dated 29.12.2017 passed under section 153C read with section 143(3) of the Act and therefore we are also in agreement with the contention raised by the Ld. A.R. that taxing the same income twice in regular assessment and under section 143(3) read with section 153C of the Act amounts to double taxation, hence there is no need to give effect to the subsequent order dated 29.12.2017 which even otherwise directly or indirectly do not have any consequential effects. Consequently, we direct the AO not to act on the basis of fresh assessment order dated 29.12.2017 passed under section 153C read with section 143(3) of the Act.

7. In the result, the appeal filed by the assessee stands allowed in the aforesaid terms.

Order pronounced in the open court on 30.04.2024.

Sd/-

**(RATNESH NANDAN SAHAY)
ACCOUNTANT MEMBER**

Sd/-

**(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

Mumbai, Dated: 30.04.2024.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.