

आयकर अपीलीय अधिकरण “ए” न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, CHENNAI

मजनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं
मजनीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON’BLE SHRI MANU KUMAR GIRI, JM

आयकर अपील सं. ITA No.1406/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2017-18)

M/s. Rajkumar Impex Private Limited 250, JJ Road, Alwarpet, Chennai-600 018.	बनम / Vs.	ITO Corporate Ward-5(3) Chennai.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. AAACR-3577-J		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Shri Shrenik Chordia (CA) -Ld. AR
प्रत्यर्थीकीओरसे/Respondent by	:	Shri Nilay Baran Som (CIT) - Ld. Sr. DR

सुनवाईकीतारीख/Date of Hearing	:	29-04-2024
घोषणाकीतारीख /Date of Pronouncement	:	02-05-2024

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2017-18 arises out of an order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 30-10-2023 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 144 r.w.s 263 r.w.s 144B of the Act on 28-03-2023. The sole grievance of the assessee is that the appeal has been dismissed whereas it should have been allowed.

2. Upon perusal of impugned order, it could be seen that the assessee challenged aforesaid order of Ld. AO before Ld. CIT(A). The Ld. CIT(A), in para-3, noted that the assessee challenged revisional jurisdiction u/s 263 before Tribunal which was allowed vide order dated 16.06.2023. Therefore, the consequential assessment order becomes null and void. Considering the same, Ld. CIT(A) held as under: -

4. In view of the above, the appellant is allowed to withdraw its appeal as the assessment order against which the appellant filed appeal has become null and void. The appeal is, thus dismissed.
5. In the result, the appeal is treated as dismissed for statistical purposes.

It is quite clear that Ld. CIT(A) has gone wrong in dismissing the appeal of the assessee. If the appeal is allowed to be withdrawn and as such dismissed, the assessment order would become live and operational. Therefore, we modify the impugned order. Accordingly, it is held that the assessee's appeal before Ld. CIT(A) is to be treated as allowed on legal grounds.

3. The appeal stand allowed.

Order pronounced on 2nd May, 2024

Sd/-
(MANU KUMAR GIRI)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखक सदस्य / ACCOUNTANT MEMBER

चेन्नई Chennai; दिनांक Dated : 02-05-2024
DS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF