

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI S.R.RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.610/Chny/2024
निर्धारण वर्ष/Assessment Year: 2013-14

The ITO, NCW-6(1), Chennai.	v.	Tarun Kundanmal HUF, 44/39, E.K.Agraharam Street, Park Town, Chennai-600 003. [PAN: AACTH 1849 Q]
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
Department by	:	Shri R. Vikneswaran, JCIT
Assessee by	:	Shri Abhishek Murali, CA
सुनवाईकीतारीख/Date of Hearing	:	06.06.2024
घोषणाकीतारीख /Date of Pronouncement	:	25.06.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the Revenue against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter in short "the Ld.CIT(A)"), Delhi, dated 31.01.2024 for the Assessment Year (hereinafter in short "AY") 2013-14.

2. The main grievance of the Revenue is against action of the Ld.CIT(A) allowing the appeal of the assessee against the Assessment Order dated 29.03.2022 which was giving effect to the order of the PCIT u/s.263 of the Income Tax Act, 1961 (hereinafter in short "the Act") dated 25.03.2021 by taking note that this Tribunal by order dated



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15.06.2022 in the assessee's own case (in ITA No.308/Chny/2021 for AY 2013-14), was pleased to allow the appeal of the assessee against the revision/section 263 order passed by the Ld.PCIT dated 25.03.2021. According to the Ld.DR, the Ld.CIT(A) erred in allowing the appeal of the assessee merely because, the Tribunal has allowed the appeal of the assessee challenging the Ld.PCIT order u/s.263 of the Act. According to the Ld.DR, the Revenue has already challenged the action of the Tribunal (setting-aside the Ld.PCIT order) before the Hon'ble High Court and awaiting the outcome of the same. Therefore, the Ld.CIT(A) ought not to have allowed the appeal of the assessee.

3. Per contra, the Ld.AR supported the action of the Ld.CIT(A) and does not want us to interfere with the action of the Ld.CIT(A)

4. We have heard both the parties and perused the material available on record. We note that in this case, the assessee (HUF) had filed its return of income on 17.07.2023 for AY 2013-14 admitting income of Rs.2,08,220/- and the same was processed u/s.143(1) of the Act. Subsequently, the assessment was re-opened u/s.147 of the Act and the re-opening of assessment was completed by accepting the return of income by order dated 30.05.2018. Thereafter, the Ld.PCIT exercised his revisional jurisdiction u/s.263 of the Act dated 25.03.2021 by setting aside the Assessment Order and restored the issue of Long Term Capital



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Gain of shares of M/s.Twenty First Century (India) Ltd., back to the file of the AO for passing fresh order. Aggrieved by the action of Ld PCIT, the assessee preferred an appeal against the order passed by the PCIT u/s.263 of the Act on 25.03.2021, and the Tribunal was pleased to allow the appeal of the assessee on 15.06.2022. Meanwhile, the AO gave effect to the order of the Ld.PCIT dated 25.03.2021 by passing order on 29.03.2022 which was held by the Ld.CIT(A) as null in the eyes of law, which impugned action, we confirm. For that we rely on the legal maxim "*sublato Fundmento Credit opus*" meaning in case a foundation is removed, the super-structure falls. In Badarinath v. Tamil Nadu AIR 2000 SC 3243, the Hon'ble Supreme Court held that once the basis of proceedings is gone, all consequential orders & acts would fall on the ground automatically which is applicable to judicial and quasi judicial proceedings. Therefore, it is held that the order of AO passed u/s.147/263 of the Act dated 29.03.2022 is null/non-est in the eyes of law.

5. In the result, appeal filed by the Revenue is dismissed.

Order pronounced on the 25th day of June, 2024, in Chennai.

Sd/-
(एस. आर. रघुनाथा)
(S.R.RAGHUNATHA)
लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)
न्यायिक सदस्य/**JUDICIAL MEMBER**



ITA No.610/Chny/2024 (AY 2013-14)
Tarun Kundanmal HUF

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चेन्नई/Chennai,
दिनांक/Dated: 25th June, 2024.

TLN, Sr.PS

आदेश की प्रतिलिपि अग्रेषित /Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF