

| आयकर अपीलिय अधिकरण न्यायपीठ, मुंबई |
IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER
&
SHRI RAJ KUMAR CHAUHAN, HON'BLE JUDICIAL MEMBER

I.T.A. No. 2896/Mum/2024
Assessment Year: 2017-18

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| M/s. Piramal Enterprises Limited Piramal Ananta Agastya Corporate Park Kamani June., LBS Marg, Opp. Fire Brigade Kurla, S.O. Mumbai - 400070 [PAN: AAACN4538P] | Vs | Principal Commissioner of Income Tax, Mumbai -8 |
| अपीलार्थी/ (Appellant) | | प्रत्यर्थी/ (Respondent) |

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| Assessee by : | Shri Ronak Doshi a/w Priyank Gala, A/Rs |
| Revenue by : | Ms. Madhu Malati Ghosh, CIT, D/R |

सुनवाई की तारीख/Date of Hearing : 25/07/2024
घोषणा की तारीख /Date of Pronouncement: 25/07/2024

आदेश/ORDER

PER NARENDRA KUMAR BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the ld. PCIT, Mumbai-8, dt. 30/03/2024, pertaining to AY 2017-18.

2. The sum and substance of the grievance of the assessee is that ld. PCIT erred in assuming jurisdiction u/s 263 of the Act and further erred in setting aside the assessment order dt. 26/02/2022 holding that the same is erroneous and prejudicial to the interest of the revenue.

3. Representatives were heard at length. Case records carefully perused and the relevant documentary evidence duly considered in light of Rule 18(6) of the ITAT Rules.

4. The peculiar facts and circumstances of the case is that the assessment order dt. 26/02/2022 which is the subject matter for the assumption of jurisdiction u/s 263 of the Act has been annulled by this Tribunal in *ITA No. 727/Mum/2022, order dt. 28/12/2022*. Since the base has been removed, the superstructure must fall. The relevant findings of the Tribunal read as under:-

“7.2. In view of above directions of the Hon’ble Bombay High Court, it is amply clear that the draft assessment order has been held to be unsustainable and the Ld. DRP has also restrained form issuing any direction. In such circumstances, the Ld. Assessing Officer could not have proceeded in passing this final assessment order. Once the draft assessment order passed itself has been set aside, in absence of which final assessment order passed is also not sustainable in law. Accordingly, we quash this impugned order of Ld. Assessing Officer as void and invalid in law. The ground No. 1 of the appeal of the assessee is accordingly allowed.

7.3. Since, we have held the impugned assessment order as void we are not required to adjudicate upon other grounds of appeal as same are rendered only academic.”

5. Considering the peculiar facts and circumstances of the case as discussed hereinabove, we are of the considered view that the ld. PCIT cannot assume jurisdiction u/s 263 of the Act in respect of a *non-est* order. Accordingly, we set aside the order of the ld. PCIT and allow the appeal of the assessee.

6. In the result, appeal of the assessee is allowed.

Order pronounced in the Court on 25th July, 2024 at Mumbai.

Sd/-
(RAJ KUMAR CHAUHAN)
JUDICIAL MEMBER

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai, Dated 25/07/2024

SC S/P

3

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि ,आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Mumbai