

IN THE INCOME TAX APPELLATE TRIBUNAL “E” BENCH, MUMBAI

**BEFORE MS. KAVITHA RAJAGOPAL, JM AND
SHRI OMKARESHWAR CHIDARA, AM**

ITA No. 3672/Mum/2023
(Assessment Year: 2014-15)

DCIT-2(3)(1) 552, Aayakar Bhawan, M. K. Road, Churchgate, Mumbai-400 020	Vs.	Tata Sons Pvt. Ltd. Bombay House, 24 Homi Modi Street Fort, Mumbai- 400 001
PAN/GIR No. AA ACT 4060 A		
(Assessee)	:	(Respondent)
Assessee by	:	Shri Fenil Bhatt
Respondent by	:	Shri Biswanath Das
Date of Hearing	:	02.05.2024
Date of Pronouncement	:	26.07.2024

ORDER

Per Kavitha Rajagopal, J M:

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) (‘Id.CIT(A) for short), National Faceless Appeal Centre (‘NFAC’ for short) passed u/s.250 of the Income Tax Act, 1961 (‘the Act’), pertaining to the Assessment Year (‘A.Y.’ for short) 2014-15.

2. The Revenue has challenged the order of the Id. CIT(A) in allowing the appeal of the assessee, challenging the order u/s. 143(3) r.w.s. 263 of the Act on the ground that since the Tribunal had quashed the section 263 proceeding, the consequential order would not survive on its own.

3. The brief facts are that the assessee had filed its return of income dated 29.11.2014, declaring current year loss at Rs.49,10,05,231/- under the normal provisions

and the loss of Rs.32,12,03,297/- u/s.115JB of the Act. The assessee's case was selected for scrutiny and assessment order dated 16.02.2018 was passed u/s. 143(3) r.w.s. 144C(3) of the Act, determining the total income at Rs.759,51,13,110/- and book profits at Rs.1541,59,96,700/- u/s. 115JB of the Act, followed by a rectification order dated 22.03.2018, determining the total income under normal provisions at 759,54,41,174 and book profit at Rs.587,46,96,703/-. The ld. PCIT held the assessment order to be erroneous and prejudicial to the interest of the Revenue, vide order dated 28.12.2018 by invoking jurisdiction u/s. 263 of the Act. Subsequently, the ld. A.O. passed the assessment order dated 31.12.2019 u/s. 143(3) r.w.s. 263 of the Act, determining total income at Rs.740,97,15,760 and the book profit determined at Rs.587,46,96,703/- as per order dated 22.03.2018 which remains unchanged. The assessee simultaneously was in appeal before the Tribunal, challenging the order of the ld. PCIT passed u/s.263 of the Act and had also challenged the consequential assessment order before the first appellate authority. The co-ordinate bench vide order dated 20.04.2020 had quashed the order of the ld. PCIT passed u/s. 263 of the Act on the ground that the revisionary jurisdiction assumed by the ld. PCIT is held to be bad-in-law and without jurisdiction.

4. On the other hand, the ld. CIT(A) in the impugned order had allowed the appeal of the assessee, challenging the assessment order passed under section 143(3) r.w.s. 263 order on the ground that since section 263 order has been quashed by the Tribunal, the consequential assessment order will not survive.

5. The Revenue is in appeal before us, challenging the order of the ld. CIT(A) in allowing the appeal of the assessee.

6. We have heard the rival submissions and perused the materials available on record. The impugned order of the Id. CIT(A) is an order passed in consequence of the revision order passed by the Id. PCIT which has been set aside by the Tribunal. As the same has been quashed, the order u/s. 263 of the Act no longer exists and the Id. CIT(A) does not have any basis to decide the said appeal on the merits where the subject matter of the impugned appeal is held to be infructuous, null and void. The action of the Id. CIT(A) in allowing the appeal of the assessee on this ground does not warrant any interference as we do not find any infirmity in the order of the Id. CIT(A). We, therefore, dismiss the ground raised by the Revenue.

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

Order pronounced in the open court on 26.07.2024.

Sd/-

(Omkareshwar Chidara)
Accountant Member

Mumbai; Dated : 26.07.2024

Roshani, Sr. PS

Sd/-

(Kavitha Rajagopal)
Judicial Member

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT - concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai