

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "A", MUMBAI

**BEFORE SHRIPRASHANT MAHARISHI, ACCOUNTANT MEMBER AND
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER**

I.T.A No.4681/Mum/2023 - A.Y. 2016-17
I.T.A No.4792/Mum/2023 - A.Y. 2013-14
I.T.A No.4794/Mum/2023 - A.Y. 2014-15

Applied Tek and Management Consultancy Pvt Ltd, 401E, Remi Biz Court, Veera Desai Road, Andheri (West), Mumbai-400 053 PAN : AAGCS9857C	vs	Deputy Commissioner of Income-tax, Circle-1(1)(1), Mumbai Aayakar Bhavan, M.K. Road, Mumbai
APPELLANT		RESPONDENT

Assessee by : Shri Deepak Tralshawala
Respondent by : Shri Manoj Kumar Sinha (Sr. DR)

Date of hearing : 14/08/2024
Date of pronouncement : 21/08/2024

ORDER

PER BENCH:

The bunch of appeals of the assessee were filed against the orders of the Learned National Faceless Appeal Centre, Delhi [for brevity, 'Ld.CIT(A)'] passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act'), for Assessment Years 2013-14, 2014-15 & 2016-17 & date of orders 27.10.2023 for all orders. The impugned orders were emanated from the order of the National Faceless

Assessment Centre, Delhi passed on dated 29/03/2022 under section 147 read with section 144B of the Act.

2. We heard the rival parties. During the hearing, the Ld.AR placed the additional ground and informed that all the orders are liable to be quashed considering the order of the Hon'ble **Jurisdictional High Court** in the case of **Emcure Pharmaceuticals Ltd vs ACIT, Central Circle 2(1), Pune &Ors W.P. No.5923 of 2022, date of order 05th May, 2022**. The Ld.AR further submitted that all three cases are reopened under section 147 of the Act by issuance of notice U/s 148 of the Act. All the cases were subject matter of litigation before the Hon'ble **Supreme Court** in **Civil Appeal No.3005 of 2022, UOI vs Ashish Agarwal, [2022] 138 taxmann.com 64 (SC)**. As per the Hon'ble Apex Court, vide order dated **04/05/2022** held that all such notices are to be treated as notices under section 148A(d) and all the notices issued after 01-04-2021 are to be according to the Finance Act, 2021. Further, in the writ petition No.6293 of 2022 in case of Emcure Pharmaceuticals Ltd vs ACIT, the Hon'ble Bombay High Court, referring to the judgement of the Apex Court in case of UOI vs Ashish Agarwal held that *"Wherever, the assessment order has been assed those assessment orders will stand quashed and set aside. So, also the consequential orders / notices."*

3. The notice under section 148 was issued on 31/03/2021 and the assessment order was passed on 29/03/2022. In this respect, the Bench has asked for clarification from the department. The Id.DR has filed the submission ofld. DCIT 1(1)(1), Mumbai bearing No.DCIT/1(1)(1)/ITAT/Applied Tek/2024-25 dated 25/07/2024. The findings of the Ld.DCIT is reproduced as below: -

"4. Considering the above judgment, the previous notice u/s. 148 dated 31/03/2021 and assessment orders dated 29.03.2022 passed in the case of the assessee for AY 2013-14, 2014-15 & 2016-17 had been quashed. Subsequently, a new proceeding u/s. 147 of the Act as per amended provision of section 147/148 according to the Finance Act, 2021 was initiated for AY 2016-17. A notice u/s. 148(b) dated 24.05.2022 was served upon the assessee and order u/s. 148A(d) of the I.T. Act dated 30.07.2022 was passed. The case was found to be fit for reopening of assessment and notice u/s. 148 of the I.T. Act dated 30.07.2022 was issued to the assessee. Copy of the order u/s. 148A(d) & notice u/s. 148 is attached herewith for reference. In this regard, it is further submitted that in view of the CBDT Instruction No.01/2022 dated 11.05.2022, the proceedings u/s. 147/148 of the Act were not initiated for the AY 2013-14 & 2014-15 as the amount of escapement involved for both the years was below Rs. 50 Lakhs. The FAO has completed the scrutiny assessment u/s. 147 r.w.s 144B which was reopened vide notice u/s. 148 of the Act dated 30.07.2022 for A.Y 2016-17 vide order dated 29.05.2023 (Copy enclosed)

5. The assessee company has filed the present appeals before Hon'ble ITAT against the order of Ld.CIT(A) for AY 2013-14, 2014-15 & 2016-17 dismissing the appeal of assessee and confirming the addition made in the assessment orders passed u/s. 147 r.w.s. 144B of the Act dated 29.03.2022. However, the assessment orders dated 29.03.2022 for AY" 2013-14, 2014-15 & 2016-17 have been already quashed in view of the judgment of Bombay High Court in the case of Emcure Pharmaceutical Limited Vs. ACIT. Moreover, no fresh proceeding was initiated for AY 2013- 14 & 2014-15. Further, fresh assessment order has also been passed for AY 2016-17 as per subsequent proceeding u/s. 147/148 of the I.T. Act. In view of the above discussion, the appeal filed by the assessee company against the assessment orders dated 29.03.2022 becomes infructuous."

4. The Ld.DR respectfully accepted the judicial findings and agreed to quash the orders passed by the Ld.AO on dated 29/03/2022.
5. Considering the above submission, the order passed for A.Y. 2013-14 and 2014-15 stands quashed and the order passed for A.Y. 2016-17 becomes redundant.
6. In the result, the **ITA Nos.4792, 4794 & 4681/Mum/2023** are allowed.

Order pronounced in the open court on 21st day of August, 2024.

Sd/-

(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 21/08/2024
Pavanan

sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
5. गार्डफाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar), **ITAT, Mumbai**