

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

**BEFORE JUSTICE (RETD.) SHRI C.V. BHADANG, PRESIDENT
AND
SHRI B.R. BASKARAN, ACCOUNTANT MEMBER**

ITA No. 2255/Mum/2024
Assessment Year 2013-14

Asst. Commissioner of Income Tax-23(1), 5 th Floor, Piramal Chamber, Lalbaugh, Parel, Mumbai.	vs.	Anshul Tulsi Bhimjyani. 301, A-Wing, Fortune 2000, BKC, Mumbai PAN : AABPB4739L
(Appellant)		(Respondent)

For Assessee :	Ms. Payal Dedhia, CA
For Revenue :	Shri Manoj Kumar Sinha, Sr. DR

Date of Hearing :	22-08-2024
Date of Pronouncement :	27-08-2024

ORDER

PER B.R. BASKARAN, A.M :

The Revenue has filed this appeal challenging the order passed by the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi and it relates to the Assessment Year (AY.) 2013-14.

2. The present appeal arises from the assessment order passed by the AO u/s.143(3) r.w.s. 263 of the Income Tax Act, 1961 ('the Act'). It was submitted that the Ld.CIT(A) has allowed the appeal of the assessee filed against the impugned assessment order on the reasoning that the

revision order passed by the Ld.PCIT u/s. 263 of the Act has since been quashed by the Tribunal, vide its order dt. 31-12-2018 passed in ITA No.3373/Mum/2018. Aggrieved by the order so passed by the Ld.CIT(A), the Revenue has filed this appeal.

3. The Ld.DR submitted that the order passed by the Tribunal quashing the revision order passed by the Ld.PCIT u/s. 263 of the Act has since been challenged by the Revenue by filing appeal before the Hon'ble Bombay High Court. Accordingly, he prayed that the present appeal filed by the Revenue may be kept in abeyance, till the disposal of above said by Hon'ble Bombay High Court.

4. The Ld.AR, on the contrary, submitted that the impugned assessment order will not have any independent leg to stand on its own after the quashing of revision order by the Tribunal.

5. We heard the parties and perused the record. It is an admitted fact that the present appeal filed by the Revenue arises out of the assessment order passed by the AO u/s. 143(3) of the Act in order to give effect to the revision order passed by the Ld.PCIT u/s. 263 of the Act. It is noticed that the above said revision order has since been quashed by the Tribunal as per its order referred supra. Consequently, the above said revision order does not survive in the eyes of law as of now. Since the impugned assessment order has been passed to give effect to the above said revision order, the same will also fall down.

6. Accordingly, we are of the view that the Ld.CIT(A) was justified in law in allowing the appeal of the assessee.

7. However, since the Revenue has challenged the order passed by the Tribunal quashing the revision order before the Hon'ble Bombay High Court, we give liberty to the Revenue to move appropriate

application for revival of this appeal, in case the appeal filed by the Revenue is decided in its favour.

8. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 27th August, 2024

Sd/-
(JUSTICE (RETD.) C.V. BHADANG)
PRESIDENT

Sd/-
(B.R. BASKARAN)
ACCOUNTANT MEMBER

Mumbai,

Date : 27-08-2024

TNMM

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, "A" Bench, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar
I.T.A.T, Mumbai