

आयकर अपीलीय अधिकरण, कोलकाता पीठ "बी", कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH: KOLKATA
डॉ मनीष बोरड, लेखा सटस्य एवं श्री संजय शर्मा, न्यायिक सदस्य के समक्ष
[Before Dr. Manish Borad, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 509/Kol/2024
Assessment Year: 2012-13

DCIT, Circle-4(1), Kolkata	Vs.	M/s Titagarh Industries Ltd. (PAN: AACCB 7323 G)
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	02.09.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	06.09.2024
For the Appellant/ निर्धारिती की ओर से	Shri Sujay Sen, A.R
For the Respondent/ राजस्व की ओर से	Shri A. Kundu, CITDR

ORDER / आदेश

Per Manish Borad, AM:

This appeal at the instance of revenue is directed against the order of Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi (hereinafter referred to as Ld. CIT(A)] dated 04.01.2023 which is arising out of order u/s 143(3) r.w.s 263 of the Act dated 31.10.2017 for AY 2012-13.

2. The revenue has raised following grounds of appeal:

i) The delay of two hundred fourteen (214) days in filing 2nd appeal before the Hon'ble ITAT due to malfunctioning of copying machine and non-availability of assessment record. For that reason, a delay of two hundred fourteen (214) days in filing appeal against the order of the Ld. CIT(A) is occurred which may kindly be condoned.

ii) That on the facts and circumstances of the case, the Ld. CIT(A) has erred in deleting the addition of Rs. 27,41,15,579/- made by the AO on account of Short term capital gain.

iii) That the Revenue shall crave to add or alter any other ground on or before the date of hearing.

3. At the outset, the Ld. Counsel for the assessee submitted that the additions were made by the AO in the assessment framed u/s 143(3) of the Act in consequence to the direction given by the Ld. PCIT u/s 263 of the Act vide order dated 14.03.2017. However, the said order u/s 263 of the Act has been quashed by this Tribunal in ITA No 1052/Kol/2017 dated 04.07.2018 and following the decision of Hon'ble Tribunal, Ld. CIT(A) has rightly deleted the additions made in assessment order u/s 143(3) r.w.s 263 of the Act dated 31.10.2017.

4. On the other hand, the Ld. D.R was fair enough in accepting the fact that the Ld. CIT(A) has rightly deleted the impugned addition by applying the decision of Hon'ble Tribunal quashing the revisionary proceedings u/s 263 of the Act

5. We have heard rival contentions and perused the material on record. The present appeal of the revenue deserves to be dismissed because the Ld. CIT(A) has rightly deleted the addition made by the AO in the assessment proceedings carried out on and the directions of Ld. PCIT in the order u/s 263 dated 14.03.2017. We find that the assessment proceedings in question were carried out pursuant to the direction given by Ld. PCIT u/s 263 of the Act and the Ld. AO acted accordingly framing the assessment u/s 143(3) of the Act making certain additions in the hands of the assessee vide order

dated 31.10.2017. However, after the assessee having filed appeal to Ld. CIT(A) against the additions made by the AO and during the pendency of appeal before the First appellate authority, the assessee has simultaneously also challenged the revisionary order u/s 263 of the Act dated 14.03.2017. Finally on 4.07.2018 the assessee succeeded in ITA No. 1052/Kol/2017 wherein this tribunal quashed the revisionary order framed u/s 263 of the Act dated 14.03.2017. Since the revisionary proceedings have itself been quashed the proceeding carried thereafter in direction thereto suo-moto become infructuous and deserves to be quashed. The Ld. CIT(A) thus rightly taking cognizance of the order of this Tribunal dated 4.7.2018 referred (*supra*) has deleted the impugned addition. We therefore fail to find any infirmity in the findings of the Ld. CIT(A) and thus the grounds of appeal raised by the revenue are dismissed.

6. In the result, the appeal of the revenue is dismissed.

Order is pronounced in the open court on 6th September, 2024

Sd/-

Sd/-

(Sonjoy Sarma /संजय शर्मा)

(Manish Borad/मनीष बोरड)

Judicial Member/न्यायिक सदस्य

Accountant Member/लेखा सदस्य

Dated: 6th September, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- DCIT, Circle-4(1), Kolkata
2. Respondent – M/s Titagarh Industries Ltd., 756, Anandpur Road, E. M. Bypass, Kolkata-700107.
3. Ld. CIT(A)- NFAC, Delhi
4. Ld. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata