

**IN THE INCOME TAX APPELLATE TRIBUNAL
“F” BENCH, MUMBAI**

**BEFORE MS PADMAVATHY S, AM, &
SHRI SANDEEP SINGH KARHAIL, JM**

**I.T.A. No.3720/Mum/2024
(Assessment Year: 2014-15)**

Asst. CIT, Circle-8(2)(1), Room No. 481, Aayakar Bhawan, K. K. Road, Mumbai-400020.	Vs.	Uday Achyuth Kamath, 602, Palms, L.J.G. Marg, Deonar-Farm Road, Deonar, Chembur, Mumbai-400088. PAN : ADYPK7374G
Appellant)	:	Respondent)

Revenue/ Appellant by : Shri Subodh Ratnaparkhi, AR

Respondent /Assessee by : Shri Surendra Meena, Sr. DR

Date of Hearing : 29.08.2024

Date of Pronouncement : 02.09.2024

ORDER

Per Padmavathy S, AM:

This appeal by the Revenue is against the order of Commissioner of Income Tax (Appeals) / National Faceless Appeal Centre (NFAC), Delhi [in short 'the CIT(A)'] dated 03.06.2024 for Assessment Year (AY) 2014-15. The Revenue raised the following grounds of appeals:

“Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred while passing order without appreciating that the decision of Hon'ble High Court WRIT PETITION (L) NOS.7513 of 2024 dated 06.03.2024 is not accepted by the department and an SLP is being contemplated against the said order in the Hon'ble Supreme Court”

2. The assessee is an individual and filed the return of income for AY 2014-15 on 26.09.2024 declaring a total income of Rs. 3,46,61,079/-. The Assessing Officer (AO) had reasons to believe escapement of income towards deemed dividend of Rs. 3,48,99,462/- as per the section 2(22)(e) of the Income Tax Act, 1961 (the Act). Accordingly, the AO issued notice under section 148 of the Act reopening the assessment. The assessee filed the return in response to the notice under section 148 of the Act. The AO completed the assessment under section 147 r.w.s. 144B by making addition towards deemed dividend of Rs. 3,48,99,462/-. The CIT(A) deleted the addition for the reason that the assessee has preferred writ before the Hon'ble Bombay High Court against the notice issued under section 148 of the Act and that the Hon'ble High Court quashed the notice stating that the said notice was barred by limitation. The Revenue is in appeal against the order of the CIT(A).

3. We heard the parties and perused the material on record. We notice that the assessee has filed writ petition with Hon'ble Bombay High Court challenging the reopening of assessment on the ground that the notice under section 148 of the Act was issued beyond the period of limitation as per section 149 of the Act and hence, the same is barred by limitation. The Hon'ble High Court while adjudicating the writ petition held that

*“1. Counsel for petitioners state that the issue in these petitions will be covered by the recent judgment of this Court in **Godrej Industries Ltd. V/s. The Assistant Commissioner of Income Tax, Circle-14(1)(2), Mumbai and Ors.***

2. Therefore, impugned orders passed under Section 148A(d) of the Income Tax Act, 1961 (the Act) and the notices issued under Section 148 of the Act in the respective petitions are hereby quashed and set aside. Consequential notices or orders, if any, also stand quashed and set aside.

3. Petitions disposed.

4. Since we have disposed these petitions only on the issue of limitation, petitioners may raise the other contentions raised in these petitions independently, if the need arise in other matters.”

4. Since the notice under which the reassessment proceeding was completed by the AO was quashed, the addition made during the reassessment proceedings does not survive. Therefore, we see no infirmity in the order of the CIT(A) deleting the addition after considering the decision of the Hon'ble Bombay High Court. Accordingly, the appeal of the Revenue has dismissed.

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

Order pronounced in the open court on 02 -09-2024.

Sd/-
(SANDEEP SINGH KARHAIL)
Judicial Member

**SK, Sr. PS*

Sd/-
(PADMAVATHY S)
Accountant Member

Copy of the Order forwarded to :

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

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai