

**आयकर अपीलीय अधिकरण, कोलकाता पीठ "सी", कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH: KOLKATA**  
श्री राजेश कुमार, लेखा सटस्य एवं श्री प्रदीप कुमार चौबे, न्यायिक सदस्य के समक्ष  
[Before Shri Rajesh Kumar, Accountant Member & Shri Pradip Kumar Choubey, Judicial Member]

**I.T.A. No. 1526/Kol/2024**  
**Assessment Year: 2012-13**

ITO, Kolkata	Vs.	Nitin Hire Purchase Pvt. Ltd.  (PAN: AABCN 8093 Q)
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	25.09.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	09.10.2024
For the Appellant/ निर्धारिती की ओर से	Shri A. K. Tibrewal, FCA
For the Respondent/ राजस्व की ओर से	Smt. Monalisha Pal Mukherjee, JCIT

**ORDER / आदेश**

**Per Rajesh Kumar, AM:**

This is the appeal preferred by the revenue against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 02.04.2024 for the AY 2012-13.

2. At the outset, the Ld. Counsel for the assessee submitted that this is the revenue appeal but the revenue has not taken any legal issue challenging the appellate order of

Ld. CIT(A). The Ld. A.R further argued that the Ld. CIT(A) has decided the issue that the issue has been examined by the AO in the original assessment proceedings which culminated in passing of order u/s 143(3) dated 31.03.2014. The Ld. CIT(A) thereafter allowed the appeal of the assessee on legal issue by giving finding in para 5.2.8 that the reopening of assessment was merely a change of opinion and hence bad in law, thereby allowing the appeal of the assessee on the legal issue. The Ld. Counsel for the assessee submitted that the revenue has not challenged the order of Ld. CIT(A) on legal issue and therefore the appeal filed by the revenue on merit become infructuous and may be dismissed.

3. The Ld. D.R relied on the order of authorities below.

4. After hearing the rival contentions and perusing the material on record, we find that the Ld. CIT(A) has allowed the appeal on legal issue of reopening of assessment by recording a finding that the issue has already been examined in the original assessment proceedings which culminated in passing the order u/s 143(3) of the Act dated 31.03.2014. Therefore the issue raised in the reassessment proceedings u/s 147 of the Act is on the basis of some material which is noting but a change of opinion which is bad in law. The finding of Ld. CIT(A) in the appellate order in para 5.2.8 is given as under:

*“5.2.8. In view of the above facts and circumstances, I am of the considered opinion that since there is no material alien to the record which the AO has referred to for issuing the impugned notice u/s 148 of the Act; the instant case doesn't fall in the category of oversight, inadvertence or a mistake committed by the AO; instead it becomes a change of opinion. Therefore, the reopening of the case of the appellant is change of opinion and hence, bad in law. Hence, Ground nos. 1 to 4 is allowed.”*

Considering the above facts and circumstances, we are inclined to dismiss the revenue's appeal.

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

Order is pronounced in the open court on 9<sup>th</sup> October, 2024

Sd/-

Sd/-

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)  
Judicial Member/न्यायिक सदस्य

(Rajesh Kumar/राजेश कुमार)  
Accountant Member/लेखा सदस्य

Dated: 9<sup>th</sup> October, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- ITO, Kolkata
2. Respondent – Nitin Hire Purchase Pvt. Ltd., Stephen House, 4, B.B.D Bag (E ),  
Room No. 77, 5<sup>th</sup> Floor, Kolkata-700001.
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