

आयकर अपीलीय अधिकरण
दिल्ली पीठ "बी", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री एस रिफौर रहमान, लेखाकार सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER

आअसं.1715/दिल्ली/2024 (नि.व. 2019-20)
ITA No.1715/DEL/2024 (A.Y.2019-20)

Defsys Solutions P. Ltd.,
C/o Flat No.1, 1st Floor, 1,
Dakshineshwar Building 10, Hailey Road,
New Delhi

PAN: AACCD-5328-D

..... अपीलार्थी/Appellant

बनाम Vs.

Principal Commissioner of Income Tax,
(Central) Jhandewalan Extension
New Delhi 110055

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Ajay Wadhwa, and
Ms. Ragini Handa, Advocates
प्रतिवादीद्वारा/ Respondent by : Shri Surender Pal, CIT-DR
सुनवाई की तिथि/ Date of hearing : 19/11/2024
घोषणा की तिथि/ Date of pronouncement: : 19/11/2024

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Principal Commissioner of Income Tax (Central), Delhi-2 (hereinafter referred to as 'the PCIT') dated 28.02.2024, for assessment year 2019-20, passed u/s. 263 of the Income Tax Act, 1961(hereinafter referred to as 'the Act').

2. Shri Ajay Wadhwa, appearing on behalf of the assessee submitted at the outset that assessment order against which the PCIT has invoked revisionary powers has been held to be non est by the Tribunal vide order dated 28.03.2024 in appeal by the assessee in ITA No. 758/Del/2023. Once the assessment order is held to be non est, the subsequent proceedings arising therefrom are vitiated.

3. We have heard the submissions made by Id. Counsel for the assessee and have perused the order of Coordinate Bench in ITA No. 758/Del/2023 for AY 2019-20 (supra).

4. The assessee in instant appeal has assailed the order of PCIT dated 28.02.2024 passed u/s. 263 of the Act. The PCIT has exercised revisional powers in respect of Final Assessment Order passed u/s. 153A r.w.s 144C(13) of the Act dated 20.01.2023 for AY 2019-20 in the case of assessee. We find the same very assessment order was subject matter of appeal before the Tribunal in appeal by the assessee in ITA No. 758/Del/2023 (supra). The assessee had challenged validity of the assessment order by raising following ground:-

“1. That on the facts and circumstances of the case and in law, the order passed by the Ld. Assessing Officer (hereinafter referred to as "Ld. AO") under section 153A r.w.s 144C (13) of the Income Tax Act 1961 ("the Act") dated 20.01.2023 is bad in law and on facts, void ab initio as the same has been passed in violation of section 144C of the Act.”

5. The Tribunal after considering facts of the case, relevant provisions of the Act and various case laws, concluded as under:-

“34. Considering the facts of the case in totality, in the light of the decisions discussed hereinabove, we have no hesitation to hold that the proceedings

culminated on 31.03.2022 when the demand notice was issued and served upon the assessee along with penalty notice u/s 274 of the Act and, therefore, all the subsequent proceedings and orders become non est."

6. Once the assessment order has been held to be non est, the substratum for exercising revisionary jurisdiction is eroded, hence, the revision proceedings u/s. 263 of the Act against the said order would not survive. Thus, appeal of the assessee assailing proceedings u/s. 263 of the Act becomes infructuous.

7. In the result, appeal of the assessee is dismissed as having become infructuous.

Order pronounced in the open court on Tuesday the 19th day of November, 2024.

Sd/-

(S RIFAUR RAHMAN)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली/Delhi, दिनांक/Dated 19/11/2024

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

NV/-

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar) ITAT, DELHI