

**IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, AHMEDABAD**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

I.T.A. No. 812/Ahd/2024
(Assessment Year: 2015-16)

Kolet Resort Club Pvt. Ltd., C/o. P. Murali & Co., Chartered Accountants, 6-3-655/2/3, Somajiguda, Telangana-500082 PAN : AAACK 8607 J	Vs.	Income Tax Officer, Ward 2(1)(1), Ahmedabad
(Appellant)	..	(Respondent)
Appellant by :	Shri P. Murali Mohana Rao, AR	
Respondent by:	Shri V. Nandakumar, CIT-DR	
Date of Hearing	19.11.2024	
Date of Pronouncement	22.11.2024	

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT :

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi (hereinafter referred to as "CIT(A)" for short), dated 06.03.2024 passed under Section 250 of the Income-tax Act, 1961 [hereinafter referred to as "the Act" for short], for Assessment Year (AY) 2015-16.

2. The Assessee has taken following grounds of appeal:-

"1. On the facts and in the circumstances of the case the order passed by the CIT(A) is erroneous both on facts and in law to the extent the order is prejudicial to the interest of the appellant.

2. The Ld. CIT(A) erred in dismissing the appeal.

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3. The Ld. CIT(A) ought to have appreciated that the assessment order passed u/s 144 r.w.s 263 of the Act dated 30-03-2022 as well as the revision order passed u/s 263 of the Act dated 08.03.2021 is invalid ab initio.

4. The Ld. CIT (A) ought to have appreciated that the revision order passed by the PCIT, Ahmedabad-1 dated 08-03-2021 itself is invalid ab initio.

5. The Ld. CIT(A) ought to have appreciated that the revision order passed by the PCIT Ahmedabad-1 dated 08-03-2021 is barred by limitation as per the provisions of sub section (2) of section 263 of the I.T Act, 1961 since the original order u/s 143(3) of the Act has been passed on 27-12-2017.

6. The Ld. CIT(A) erred in appreciating that the order passed u/s 144 r.w.s 263 of the Act dated 30-03-2022 has no legs to stand.

7. The Ld.CIT(A) grossly erred in not adjudicating ground nos.6, 6.1 and 6.2 taken before him.

8. The Ld.CIT(A) ought to have annulled the order passed u/s 144 r.w.s. 263 of the Act dated 30-03-2022.

9. The Ld.CIT(A) erred in confirming the addition made of Rs.19,75,39,092/- u/s 56(2)(viib) of the Act.

10. The Ld. CIT (A) ought to have appreciated that the assessee company has issued shares at face value of Rs. 10/- per share and not at any premium rate and that therefore the provisions of section 56(2)(viib) of the Act are not attracted.

11. The Ld. CIT(A) ought to have appreciated that shares were not issued by the appellant at premium but issued only at face value of Rs. 10/- during the year under consideration, and that the question of applicability of provisions u/s 56(2)(viib) of the Act and rule 11UA does not arise.

12. The Ld. CIT(A) ought to have appreciated that the provisions of Section 56(2)(viib) of the Act are inapplicable for transactions between a holding company and its subsidiary company.

13. The appellant may add or alter or amend or modify or substitute or delete and/or rescind all or any of the grounds of appeal at any time before or at the time of hearing of the appeal. General ground Appellant.”

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3. At the outset itself, both the parties fairly submitted that the order passed by the Id. PCIT u/s 263 stands quashed by the Tribunal vide order dated 01.10.2024. Since the 263 order itself has been quashed, the consequent proceedings are invalid. Thus, the impugned order passed by the Id. CIT(A) is hereby annulled.

4. In the result, the appeal of the Assessee is allowed for statistical purposes.

The order is pronounced in the open Court on 22.11.2024

Sd/-

Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

(DR. B.R.R. KUMAR)
VICE-PRESIDENT

Ahmedabad; Dated 22/11/2024

btk

आदेश की प्रतिलिपि □ ग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

True Copy

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad