

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "H", MUMBAI**

Before S/Shri Amit Shukla, JM & AshwaniTaneja, AM

**ITA No.7418/Mum/2014
Assessment Year:2005-06**

Mr.Laxmikant Sharma Solicitor Bungalow Rani Sati Marg, Malad (E) Mumbai – 400 097 PAN ANRPS4379N (Appellant)	Vs.	ITO Ward 24(2) Mumbai (Respondent)
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Appellant By : Shri A K Sharma, AR
Respondent By :Shri M C Omi Nigshen

Date of Hearing :17.01.2017	Date of Pronouncement :17.01.2017
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ORDER

Per Amit Shukla, Judicial Member

The aforesaid appeal has been filed by the assessee against impugned order dated 13.10.2014, passed by Ld. CIT(Appeals)-34, Mumbai for the quantum of assessment passed u/s. 143(3) r.w.s. 263 of the I.,T.Act for A.Y. 2005-06.

2. Before us, the learned counsel submitted that the impugned proceedings is arising out of order u/s. 263 passed by learned CIT-24 in his revisionary jurisdiction. He pointed out that the order of the learned CIT was challenged before the Tribunal in ITA No. 5617/Mum/2011 wherein, the Tribunal vide order dated 18.11.2016

has quashed the order of the learned CIT and restored the assessment order allowing quantum of deduction u/s. 80IB.

3. Before us, the learned DR admitted that the impugned assessment proceedings are arising out of the order u/s. 263 and once such order has been passed then the impugned proceedings have become infructuous.

4. After considering the aforesaid facts and material on record, we find that the AO in his order passed u/s.143(3) r.w.s. 254 (in pursuance of ITAT's direction), had allowed the deduction u/s. 80IB. Thereafter, the learned CIT in his revisionary jurisdiction u/s 263 had cancelled the said assessment order and directed the AO to pass a fresh assessment. This order of the learned CIT now stands cancelled by the Tribunal and whence the order u/s. 263 itself has been quashed then as a consequence all such proceedings initiated in pursuance of such an order have been rendered infructuous. Accordingly, appeal of the assessee is treated as allowed and the impugned orders are set aside.

5. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on this 17th day of January 2017

Sd/-

(AshwaniTaneja)

ACCOUNTANT MEMBER

Sd/-

(Amit Shukla)

JUDICIAL MEMBER

Mumbai; Dated: 19th January, 2017.

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Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The CIT(A), Mumbai.
4. The CIT
5. DR, 'H' Bench, ITAT, Mumbai

BY ORDER,

//True Copy//

(AssistantRegistrar)

Income Tax Appellate Tribunal, Mumbai