

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "E" : DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER

ITA.No.5174/Del./2017
Assessment Year 2011-2012

The ACIT, Circle – 19 (1), Room No.199C, 1 st Floor, C.R. Building, I.P. Estate, New Delhi.	vs.	M/s. Oscar Investment Ltd., 54, Janpath, Connaught Place, New Delhi – 110 001. PAN AAACO1722C
(Appellant)		(Respondent)

For Revenue :	Ms. Parmita M. Biswas, CIT-DR
For Assessee :	Shri Tarandeep Singh, C.A.

Date of Hearing :	10.08.2020
Date of Pronouncement :	11.08.2020

ORDER

PER BHAVNESH SAINI, J.M.

This appeal by Revenue has been directed against the Order of the Ld. CIT(A)-7, New Delhi, Dated 31.05.2017, for the A.Y. 2011-2012, challenging the Order of Ld. CIT(A) in deleting the additional disallowance of Rs.1,99,50,112/- made by A.O. under section 14A read with Rule 8D of the I.T. Rules.

2. Briefly the facts of the case are that assessee filed return of income on 23.09.2011 declaring income of Rs.69 crores under normal provisions and Rs.68.42 crores under section 115JB of the I.T. Act, 1961. The original assessment was completed under section 143(3) on a total income of Rs.70.93 crores on 17.06.2013. The A.O. made addition of Rs.1.92 crore on account of administrative and other expenses in terms of Rule 8D (2)(iii) of the I.T. Act. The Ld. Pr. CIT considered it to be erroneous in so far as prejudicial to the interests of Revenue, initiated proceedings under section 263 of the I.T. Act, 1961. The Ld. Pr. CIT passed the Order under section 263 of the I.T. Act on 07.03.2016 and directed to re-compute the deduction under section 14A of the I.T. Act read with Rule 8D(2) of the I.T. Rules. The A.O. pursuant to the Order of the Ld. Pr. CIT under section 263 of the I.T. Act, passed the assessment order under section 143(3)/263 of the I.T. Act, 1961 dated 02.05.2016 making the above addition against the assessee. The Ld. CIT(A), however, deleted the addition.

3. We have heard the Learned Representatives of both the parties through video conferencing.

4. Learned Counsel for the Assessee at the outset submitted that the Order under section 263 of the I.T. Act Dated 07.03.2016 remained subject to appeal before ITAT B-Bench, Delhi in ITA.No.2823/Del./2016 and the same have been quashed by the Tribunal vide Order Dated 04.11.2019. Copy of the Order is placed on record. The Ld. D.R. did not dispute the same.

5. Considering the above facts, it is clear that the impugned assessment order was passed in pursuance to the Order passed by the Ld. Pr. CIT under section 263 of the I.T. Act whereby the impugned addition have been made. Since the Order under section 263 of the I.T. Act have been quashed, therefore, all resultant proceedings would not survive under the Law. The Departmental Appeals is thus left with academic discussion only and would not survive. In view of the above, we dismiss the Departmental Appeal.

6. In the result, appeal of the Department dismissed.

Order pronounced in the open Court.

Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Delhi, Dated 11th August, 2020

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'E' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi.