The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice Challa Kodanda Ram

ITTA No.692 of 2017

Date: 30.10.2017

Between:

The Pr. Commissioner of Income-Tax -4,
Hyderabad

... Appellant

and

M/s.Maheshwari Mega Ventures Ltd.,
Hyderabad

...Respondent

Counsel for the Appellant: **Mr.J.V.Prasad,**
Senior Standing Counsel for Income Tax Dept.,

The Court made the following:

Judgment: **(Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)**

Common Order, dated 05-07-2016, to the extent it pertains to ITA.No.1218/11/2013 on the file of the Income Tax Appellate Tribunal, Hyderabad Bench A, Hyderabad (for short 'the Tribunal'), is assailed by the appellant in this Appeal.

The brief facts are that the respondent- Company has sold a property situated at Yellareddyguda, Hyderabad, for a consideration of Rs.12.51 Crores. However, for the purpose of computation of stamp duty, the property was valued at Rs.14,15,00,000/-. The Assessment Officer had accepted the valuation of Rs.12.51 Crores. The Commissioner of Income Tax (Appeals) (for short 'the CIT(A)), by exercising his power under Section 263 of the Income Tax Act, 1961 (for short 'the Act'), revised the valuation to Rs.14,15,60,000/-. Feeling aggrieved by the said order, the appellant filed an appeal before the Tribunal. By its Order, dated 11-06-2014, the Tribunal has allowed the Appeal mainly on the ground that due to delay in registration of the sale deed document, the value of the property got increased and that the Assessing Officer, having taken the said factor into consideration, had rightly adopted the valuation of Rs.12.51 Crores. The Tribunal had also observed that the facts of the case do not warrant invocation of powers by the CIT(A) under Section 263 of the Act.

In order to exercise the powers under Section 263 of the Act, any of the following requirements needs to be satisfied:

> "(a) The order is passed without making inquiries or verification which should have been made;
> (b) The order is passed allowing any relief without inquiring into the claim;
> (c) The order has not been made in accordance with any order, direction or instruction issued by the Board under Section 119; or
> (d) The order has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court of Supreme Court in the case of the assessee or any other person."

A perusal of the order of the CIT(A) shows that he has not recorded a finding that the Assessment Officer has passed the assessment order without making enquiries or verification or any relief was allowed without enquiring into the claim as envisaged under Clauses (a) and (b) respectively, or that the same suffers from any deficiencies as prescribed under Clauses (c) or (d). All that the CIT(A) had observed was that though the copy of sale deed was filed, the Assessment Officer had not examined it carefully. In our opinion, this ground does not fall under Section 263 of the Act for *suo motu* exercise of power by the CIT(A) in order to interfere with the order of the Assessment Officer. On this short ground alone, the Appeal is liable to be dismissed and the same is, accordingly, dismissed.

(C.V.Nagarjuna Reddy, J)

(Challa Kodanda Ram, J)

Dt: 30th October, 2017
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