

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री विजय पाल राव, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष  
BEFORE: SHRI VIJAY PAL RAO, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 91/JP/2018  
निर्धारण वर्ष/Assessment Year :1998-99

M/s Badri Prasad Ram Gopal Dall Mill 18, Clock Tower, Alwar	बनाम Vs.	ITO, Ward-2(2), Alwar
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAEFB3625L		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से/ Assessee by : None  
राजस्व की ओर से/ Revenue by : Ms. Chanchal Meena (Add.CIT)

सुनवाई की तारीख/ Date of Hearing : 31/08/2020  
उदघोषणा की तारीख/Date of Pronouncement: 03/09/2020

आदेश / ORDER

PER: VIKRAM SINGH YADAV, A.M.

This is an appeal filed by the assessee against the order of Id. CIT(A)-22, Alwar dated 29.11.2017 for Assessment Year 1998-99 confirming the levy of penalty u/s 271(1)(c) of the Act.

2. The hearing of the matter was scheduled for today through video conferencing in view of the ongoing Covid-19 pandemic situation prevailing in the country. None has appeared on behalf of the assessee. However, an adjournment application was received by the Registry through email where the A/R of the assessee has sought adjournment in the matter stating that the assessee is contemplating to opt for Vivad Se Vishwas Scheme.

3. The Id. DR drawn our reference to the order of Id. CIT(A) and submitted that on as many as four occasions, the assessee was provided reasonable opportunity by the Id. CIT(A) but the assessee has not even bothered to either respond or attend to the appellate proceedings. It was further submitted that there is nothing on record which shows that the assessee has moved an application seeking settlement of impugned dispute under the VSVS Scheme. It was accordingly submitted that more than adequate opportunity has been provided by the Id. CIT(A) and the matter has accordingly been decided by the Id CIT(A) and the same should therefore be confirmed.

4. We have heard the Id DR and perused the material available on record. We find that the matter has been listed for hearing on couple of occasions by the Id CIT(A) and has been adjourned from time to time. We believe that the assessee cannot sit back and relax merely by filing its appeal and needs to be vigilant and responsive to attend to the notices issued by the appellate authorities and non-attending to the proceedings and not responding to the notices cannot be encouraged as the same burdened and clogs the judicial system. At the same time, we find that there is no finding recorded by the Id CIT(A) and the matter has been decided by the Id CIT(A) summarily without deciding on merits. Given that the assessee through its authorized representative has stated that it is contemplating filing an application under VIVAD SE VISHWAS SCHEME in the near future and thus intend to end this litigation though nothing has been brought on record to this effect, we find that no useful purpose would be served in granting further adjournment in the matter. At the same time, given that the matter has not been decided on merits, we deem it appropriate to remand the matter to the file of the Id CIT(A) to provide one more opportunity to the assessee, should the assessee wishes to avail of the same. This will not prejudice the right of the assessee

in availing of the aforesaid settlement scheme. Where the assessee so decides to opt for the scheme and has taken necessary steps as so specified therein, he can bring the same to the notice of the Id CIT(A) who shall then decide and take appropriate action as per law.

5. With the aforesaid directions, the matter is set-aside to the file of the Id CIT(A) who shall decide the same afresh after providing reasonable opportunity to the assessee.

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

Order pronounced in the open Court on 03/09/2020.

Sd/-  
(विजय पाल राव)  
(Vijay Pal Rao)  
न्यायिक सदस्य / Judicial Member

Sd/-  
(विक्रम सिंह यादव)  
(Vikram Singh Yadav)  
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 03/09/2020

\*Ganesh Kr.

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- M/s Badri Prasad Ram Gopal Dall Mill, Alwar
2. प्रत्यर्थी / The Respondent- ITO, Ward-2(2), Alwar
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File {ITA No. 91/JP/2018}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar