

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH: BANGALORE**

**BEFORE SHRI GEORGE GEORGE K., JUDICIAL MEMBER
AND
SHRI B.R. BASKARAN, ACCOUNTANT MEMBER**

ITA No.81/Bang/2018
Assessment Year: 2010-11

Sri D. Sudhakar M/s. Seven Hills Distilleries Pvt. Ltd. Pavagada Road Challakere-577 522 Chitradurga Dist. PAN NO : AEOPS9859P	Vs.	The Jt. Commissioner of Income-Tax Davangere
APPELLANT		RESPONDENT

Appellant by	:	Shri Pranav Krishna, A.R.
Respondent by	:	Shri Sundar Rajan, D.R.

Date of Hearing	:	09.09.2020
Date of Pronouncement	:	10.09.2020

ORDER

PER B.R. BASKARAN. ACCOUNTANT MEMBER:

The assessee has filed this appeal challenging the order dated 01-09-2017 passed by Ld CIT(A), Davangere and it relates to the assessment year 2010-1. The assessee is aggrieved by the decision of Ld CIT(A) in confirming the penalty of Rs.1.20 crores levied by the AO u/s 271D of the Act.

2. The authorised representative of the assessee has moved a letter dated 07th day of September, 2020 seeking adjournment and it reads as under: -

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“I, V. Srinivasan, Advocate and Authorised representative of the above appellant begs to submit the following for the kind consideration and gracious favourable orders of the Hon’ble Bench as under:

- 1. That the above referred appeal is posted for hearing before the Hon’ble Bench on 9.9.2020.*
- 2. That the above appellant instructs me to submit that he has filed Form 1 and Form 2 under the Direct Tax Vivad Se Vishwas Act with respect to the above appeal and issue of Form 3 is awaited. Upon receipt of Form 3, the above appellant will be withdrawing the above appeal filed before the Hon’ble ITAT, Bangalore Bench, Bangalore to enable him to settle the appeal under the scheme.*
- 3. That under these circumstances, it is requested that the above cases may kindly be adjourned to any other date convenient to the Hon’ble Bench after the receipt of the certificate from the Department.*
- 4. That the inconvenience caused in this regard may kindly be excused.”*

The counsel appearing on behalf of the assessee has prayed for adjournment.

3. The Ld D.R, however, submitted that the assessee has to withdraw the pending appeals after filing Form VSV1 as per Vivad Se Vishwas Act, 2020. Thereafter, the assessee is required to furnish a copy of the same along with the proof of payment of tax as determined by the tax official to the department. He submitted that the Form no.3 shall be issued to the assessee in due course and accordingly he submitted that the appeal of the assessee may be dismissed as withdrawn, as the assessee, in any way, is required to withdraw the appeal.

4. The Ld A.R, in the rejoinder, submitted that the assessee should be given liberty to seek recall of the order, if the appeal is dismissed by the bench.

5. We heard the parties and perused the record. Since the assessee has already filed applications in Form 1 and Form 2 under Direct Tax Vivad Se Vishwas Act, 2020, the appellant would be moving application for withdrawing the present appeal filed before the Tribunal in due course. Since the assessee has already filed the necessary applications before the tax authorities under the above said Act, we are of the view that no purpose will be served in keeping these appeal pending. Accordingly we dismiss the appeal of the assessee as withdrawn.

6. The assessee has stated that he has not received Form no.3, in which the tax amount to be paid by the assessee shall be intimated by the department. Hence the assessee has sought adjournment till the time Form no.3 is received from the department, meaning thereby, the assessee wants to make sure that the tax liability mentioned by him in Form no.1 should get confirmed by the revenue. Under these set of facts, since we have dismissed the appeal, the assessee is given liberty to move appropriate application for recall of the present order in accordance with the law, if the assessee intends to do so.

7. In the result, the appeal of the assessee is dismissed as withdrawn.

Pronounced in the open Court on 10-09-2020

Sd/-
(George George K.)
Judicial Member

Sd/-
(B.R. Baskaran)
Accountant Member

Bangalore,
Dated 10th Sept, 2020.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore.