

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'FRIDAY', NEW DELHI
(Through Video Conferencing)**

**BEFORE SHRI O.P. KANT, ACCOUNTANT MEMBER
AND
SHRI KULDIP SINGH, JUDICIAL MEMBER**

M.A. No. 322/Del/2019
(Arising out of 1595/Del./2015)

And

ITA No.1595/Del./2015
Assessment Year: 2009-10

Shri Sunil Chand Aggarwal, KW-31, Kenwood Drive, Malibu Town, Sohna Road, Sector -47, Gurgaon	Vs.	ITO, Ward-1(1), Gurgaon
PAN :ADUPA7047C		
(Appellant)		(Respondent)

Appellant by	Ms. Tamanna, CA
Respondent by	Dr. Dheeraj Jain, Sr.DR

Date of hearing	11.12.2020
Date of pronouncement	16.12.2020

ORDER

PER O.P. KANT, AM:

M.A. No. 322/Del/2019

The Miscellaneous Application has been filed by the applicant for recalling of the order dated 08.10.2018, whereby the appeal was dismissed for non-prosecution.

2. Learned counsel for the applicant submitted that the notice dated 16th July, 2018 for appearance on 8th October, 2018 was duly received in time but due to some misunderstanding on behalf of Sh. Sunil Chand Agarwal, who was busy in marriage preparation of her daughter, which was scheduled for January, 2019, he could not communicate with his counsel. He further submitted that non-appearance of applicant's counsel in the present case is neither intentional nor *mala fide*. The applicant is very much interested in pursuing the appeal, therefore, the order dated 08.10.2018 may be recalled.

3. Learned DR has no objection on the request of learned counsel.

4. We have heard both the parties through Video-Conferencing and perused the relevant material on record. In our considered view, the applicant has explained reasonable and sufficient cause for recalling of the order dated 08.10.2018. Therefore, in the interest of justice, the order dated 08.10.2018 is hereby recalled. Accordingly, the Miscellaneous Application is allowed.

ITA No. 1595/Del./2015

5. Apropos the appeal, at the outset, learned counsel for the assessee has requested for withdrawal of the appeal filed by the assessee and stated that the assessee has opted to settle the dispute relating to tax arrears for assessment year under consideration under the 'Vivad Se Vishwas Scheme, 2020'.

6. Learned DR did not object to the same.

4. In view of above, we accept the request of the assessee for withdrawal of the appeal. However, if the dispute relating to tax

arrears is not ultimately resolved in terms of the 'Vivad Se Vishwas Scheme, 2020', the assessee shall be at liberty to approach the Tribunal for re-institution of the appeal and the Tribunal shall consider such application appropriately as per law.

5. In the result, the Miscellaneous Application is allowed and the appeal of the assessee is dismissed as withdrawn.

Order pronounced in the open court on 16th December, 2020.

Sd/-
(KULDIP SINGH)
JUDICIAL MEMBER

Sd/-
(O.P. KANT)
ACCOUNTANT MEMBER

Dated: 16th December, 2020.

RK/-(D.T.D.S.)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi