

IN THE INCOME TAX APPELLATE TRIBUNAL “F” BENCH, MUMBAI
BEFORE SHRI AMARJIT SINGH, JM AND SHRI MANOJ KUMAR
AGGARWAL, AM

आयकर अपील सं/ I.T.A. No.4186/Mum/2019
(निर्धारण वर्ष / Assessment Year: 2012-13)

UTV Software Communication Ltd. 1 st Floor, Building No. 14, Solitaire Corporate Park, Guru Hargovindji Marg, Chakala, Andheri (E), Mumbai-400093.	बनाम/ Vs.	ACIT 16(1) Room No. 439, 4 th Floor, Aaykar Bhawan, M. K. Marg, Mumbai-400020.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAACU4122G		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
Assessee by:	Shri Saurabh Rathi	
Revenue by:	Shri Gaurav Batham	

सुनवाई की तारीख / Date of Hearing: 16/12/2020
घोषणा की तारीख /Date of Pronouncement: 16/12/2020

आदेश / ORDER

PER AMARJIT SINGH, JM:

This is an appeal filed by the assessee against the order dated 12.04.2019 passed by the Commissioner of Income Tax (Appeals), 04 Mumbai [hereinafter referred to as the “CIT(A)”]. Relevant to the A.Y. 2012-13.

2. The assessee has raised the following grounds.:-

- “1. The AO erred in levying penalty at 100 on addition of Rs.7,29,420 due to estimation of income by grossing up of the difference in TDS not reconciled with AIR. The appellant had not claimed the TDS of Rs,72,942/- so grossed up by the AO.
2. The AO erred in levying penalty at 100 addition & the Honourable CIT(A) erred in confirming the penalty made on account of interest on income tax refund of Rs,77,28,984/- without appreciating that it was genuine



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error in the accounts which was rectified in subsequent year.

3. *The AO erred in levying penalty at 100% on disallowance of expenses on travelling, conveyance and accommodation of Rs,68,05,264 which were debited to the audited profit and loss account.*
4. *The AO erred in levying penalty at 100% on addition made in respect of Donations of Rs,51,00,000. The AO ought to have considered that it was an inadvertent mistake.*
5. *The AO erred in ignoring judicial precedents of the Honourable Supreme Court in similar cases.*
6. *The appellant craves leave to add, to alter, to amend or to delete any ground of appeal, at or prior to hearing of the appeal as may be required to enable the Hon'ble Appellate Authority to decide this appeal in accordance with law."*

3. When this appeal was called out for hearing, the Id. Counsel of the assessee submitted that he has filed the necessary declaration under Direct Tax Vivad se Vishwas Act, 2020 (Act 3 of 2020) and is awaiting for final resolution of the matter under the said scheme. He submitted that upon completion of the necessary formalities, he will withdraw the appeal. In response to the suggestion from the Bench, he fairly accepted that he has no objection to the appeal being dismissed as withdrawn as long as his right for revival of the appeal are protected, in the event of, for some unfortunate reason, the matter being not settled under the *Vivad se Vishwas scheme*.

4. The Ld. DR also did not object to disgrace so suggested.

5. In view of the above, we dismiss the appeal as withdrawn, subject to be rider that in the unlikely event of matter not being resolved under the *Vivad se Vishwas scheme*, the assessee shall have liberty to approach the Tribunal for restoration of his appeal.



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6. In the result, the appeal is dismissed as withdrawn – subject to the observation above.

Order pronounced in the open court on 16/12/2020

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य / ACCOUNTANT MEMBER
मुंबई Mumbai; दिनांक Dated : 16/12/2020
Vijay Pal Singh (Sr.PS)

Sd/-
(AMARJIT SINGH)
न्यायिक सदस्य/JUDICIAL MEMBER

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai