

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

**BEFORE SHRI B. R. BASKARAN, ACCOUNTANT MEMBER  
AND  
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No.2311/Bang/2019
Assessment Year: 2009-10

Sri Ramachandra Prakash No.21, Abbaiah Naidu Studio Road Chikkalasandra, Uttarahalli Bangalore-560 061  <b>PAN NO : ADWPP6424C</b>	<b>Vs.</b>	ITO Ward-10(2) {Currently assessed with ITO Ward-3(2)(4)} Bangalore
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Shri S. Ramsubramanian, A.R.
<b>Respondent by</b>	:	Shri Priyadarshi Mishra, D.R.

<b>Date of Hearing</b>	:	12.01.2021
<b>Date of Pronouncement</b>	:	12.01.2021

**O R D E R**

**PER B.R. BASKARAN, ACCOUNTANT MEMBER:**

The assessee has filed this appeal challenging the order dated 13-01-2017 passed by Ld CIT(A)-3, Bengaluru and it relates to the assessment year 2009-10.

2. The appeal is barred by limitation by 967 days. The assessee has furnished a petition praying the bench to condone the delay in filing this appeal. It is stated in the petition that the assessee had taken loans from Corporation bank, but could not repay it due to business losses. Hence the business premise was taken possession by the bank on 30-01-2017 and the it was handed over to the

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assessee only on 16.01.2019. It is stated that the notices and order of Ld CIT(A) were served on the above said address and hence the assessee was not aware of them. Hence the Ld CIT(A) has also passed ex-parte order. After managing the bank problem, the assessee has consulted the present CA and filed the present appeal resulting in delay of 967 days. Accordingly, it was stated that there was reasonable cause for filing the appeal belatedly and accordingly it is prayed that the delay be condoned and the appeal be admitted.

3. We heard Ld D.R on this preliminary issue and perused the petition filed by the assessee. Having regard to the submissions made by the assessee in his petition, we are of the view that there was reasonable cause in filing the present appeal belatedly before the Tribunal. Accordingly, we condone the delay and admit the appeal for hearing.

4. The Ld A.R of the assessee submitted that the assessee has opted to settle the dispute in this appeal under Direct Taxes Vivad Se Vishwas Act, 2020. It is stated that the assessee has filed Form 1 & 2 and is awaiting Form no.3. Accordingly, the Ld A.R has stated the Tribunal may pass suitable order.

5. The Ld D.R, however, submitted that the assessee has to withdraw the pending appeal 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. Accordingly he submitted that the appeal of the assessee may be dismissed as withdrawn, as the assessee, in any way, is required to withdraw these appeals.

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6. The Ld A.R, in the rejoinder, submitted that in case the appeal is dismissed, the assessee should be given liberty to seek recall of the order, if something goes wrong.

7. We heard the parties and perused the record. The submissions made by parties are considered. Since the assessee has filed application under Direct Tax Vivad Se Vishwas Act, 2020 for settling the issues for the year under consideration, the appellant would be moving application for withdrawing this appeal filed before the Tribunal in due course. Accordingly, we are of the view that no purpose will be served in keeping this appeal pending. Accordingly we dismiss the appeal of the assessee as withdrawn. However, the assessee is given liberty to move appropriate application seeking recall of the present order in accordance with the law, if the assessee intends to do so.

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

Order pronounced in the open court on 12<sup>th</sup> Jan, 2021

**Sd/-**  
**(Beena Pillai)**  
**Judicial Member**

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

Bangalore,  
Dated 12<sup>th</sup> Jan, 2021.  
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.**