

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "FRIDAY", NEW DELHI
BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER

MA No.481/Del/2019
IN
(ITA No. 5797/Del/2018)
(ASSESSMENT YEAR : 2015-16)

AND

ITA No.5797/Del/2018
(ASSESSMENT YEAR : 2015-16)

Ayush Aggarwal, 184, 1 st floor, Katra Nawab, Delhi (PAN: ARIPA1855E) (APPELLANT)	vs. ITO, Ward 46(2), New Delhi (RESPONDENT)
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Assessee by : Sh. Tarun Kumar, Advocate

Revenue by : Sh. K.M. Mahesh, Sr. D.R.

ORDER

PER H.S. SIDHU, JM :

By way of this Misc. Application assessee seeks recall of the order of this Tribunal passed in I.T.A. No. 5797/Del/2018 (AY- 2015-16) vide Order dated 01.4.2019. The said appeal was dismissed for want of prosecution. Ld. Counsel of the assessee reiterated the contentions raised in the Misc. Application wherein it was stated that the assessee did not receive any notice of hearing for 27.3.2019 due to which the hearing remained unattended before the ITAT. In view of above, Assessee in his misc. application has requested that exparte order dated 1.4.2019 may pleased be recalled in the interest of justice. In order to support this contention, Assessee has filed his Affidavit. He also stated that

assessee has opted for Vivad Se Vishwas Scheme 2020 and has received Form No. 3 from the Department.

2. Ld. DR did not have any serious objection to the request of the Assessee's counsel.

3. I have heard both the parties and perused the records. In the facts and circumstances of the case and in the interest of justice, I am of the opinion that the assessee has sufficient reason for non-appearance and it is a fit case for recalling the order. Keeping in view of the aforesaid circumstances, I recall the aforesaid Tribunal's Order dated 1.04.2019 passed in I.T.A. No. 5797/Del/2018 (AY- 2015-16) and fix the I.T.A. No. 5797/Del/2018 (AY- 2015-16) for hearing for today i.e. 29.01.2021. In the result, the Misc. Application filed by the assessee stands allowed.

ITA NO. 5797/DEL/2018 (AY - 2015-16)

4. This appeal by the assessee for the assessment year 2015-16 is directed against the order of Ld. CIT(A)-16, New Delhi dated 01.04.2019.

5. The assessee's AR vide letter dated 18.01.2021 has requested for withdrawal of the appeal filed by the assessee and stated therein that he has opted to settle the dispute relating to the tax arrears for the assessment year under consideration under the Vivad Se Vishwas Scheme, 2020 and assessee has received the Form 3 from PCIT-10, New Delhi.

6. Learned Senior DR has no objection.

7. In view of the above, I accept the request of the assessee for withdrawal of the appeal. Hence, the appeal of the assessee is dismissed as withdrawn.

8. In the result, the Misc. Application filed by the assessee stands allowed in the aforesaid manner and the Appeal filed by the Assessee is dismissed as withdrawn.

Order pronounced in the Open Court in the presence of both the parties upon conclusion of virtual hearing on 29.01.2021.

**Sd/-
(H.S. SIDHU)
JUDICIAL MEMBER**

SRB

Date: 29.01.2021

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)
- 5.CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI.