

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM BENCH, VISAKHAPATNAM
(through web-based video conferencing platform)**

**श्री एन के चौधरी, न्यायिक सदस्य एवं श्री डि.एस. सुन्दर सिंह, लेखा सदस्य के समक्ष
BEFORE SHRI N.K.CHOUDHRY, HON'BLE JUDICIAL MEMBER &
SHRI D.S. SUNDER SINGH, HON'BLE ACCOUNTANT MEMBER**

**आयकर अपील सं./I.T.A.No.555/Viz/2019
(निर्धारण वर्ष/Assessment Year:2009-10)**

Kallam Ayyapa Reddy
D.No.12-14-121/3
8th Lane, Syamala Nagar
Guntur
[PAN : AGVPK2961K]

Vs. Income Tax Officer
Ward-1(1)
Guntur

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से / Respondent by

: Shri G.V.N.Hari, AR
: Shri D.K.Sonowal, CIT, DR

सुनवाई की तारीख / Date of Hearing

: 18.03.2021

घोषणा की तारीख/Date of Pronouncement

: 18.03.2021

आदेश /ORDER

Per D.S.Sunder Singh, Accountant Member :

The appeal is filed against the order of the Principal Commissioner of Income Tax (Pr.CIT), Guntur dated 21.09.2016 passed u/s 263 of the Income Tax Act, 1961 (in short 'Act') for the Assessment Year (A.Y.) 2009-10.

2. When this appeal is taken up for hearing, the Ld.AR submitted that subsequent to passing the order u/s 263, the Assessing Officer (AO) passed consequential order u/s 143(3) r.w.s. 263 of the Act giving effect to the said order u/s 263. The assessee preferred to settle the dispute under Vivad Se Vishwas Act, 2020 and the Ld.Pr.CIT, Vijayawada was pleased to issue the Certificate in Form No.3 on 02.02.2021 for pending tax dispute in respect of consequential order passed u/s 143(3) r.w.s. 263 of the Act. Form No.3 is a certificate issued under sub-section (1) of section 5 of the Direct Tax Vivad Se Vishwas Act, 2020, by the Pr.CIT, determining the total tax payable by the assessee in response to the application made by the assessee under the scheme. Therefore, submitted that, as the appeal against the consequential order is being settled under Vivad Se Vishwas Scheme, the assessee's appeal against the order u/s 263 of the Act becomes infructuous, hence, requested to allow the assessee to withdraw the appeal, subject to recalling the order in case the certificate issued by the Pr.CIT is withdrawn at a future date. Thus, on issue of the certificate in Form No.3, the tax dispute stands settled unless the certificate is withdrawn or cancelled by the Pr.CIT.
3. During the appeal hearing, the Ld.DR did not object for dismissal of appeal as withdrawn.

4. We have heard both the sides and gone through the Form No.3 and also the withdrawal petition filed by the assessee under Vivad se Vishwas Scheme. During the appeal hearing, the Ld.DR did not object for disposal of the appeal as requested by the assessee, hence, we dismiss the appeal as withdrawn. However, in case the certificate issued by the Pr.Commissioner is withdrawn or cancelled at a future date for any reason, it is open to the assessee to file an appropriate application before the Tribunal. In that event, the order passed by the Tribunal would be recalled in accordance with law.

5. In the result, assessee's appeal is dismissed as withdrawn.

Order pronounced in the open court on 18th March, 2021.

Sd/-

(एन के चौधरी)

(N.K.CHOUDHRY)

न्यायिक सदस्य / JUDICIAL MEMBER लेखा सदस्य /ACCOUNTANT MEMBER

Dated : 18.03.2021

L.Rama, SPS

Sd/-

(डि.एस.सुन्दर सिंह)

(D.S.SUNDER SINGH)

I.T.A. No.555/Viz/2019, A.Y.2009-10
Kallam Ayyapa Reddy, Guntur

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee– Kallam Ayyapa Reddy, D.No.12-14-121/3, 8th Lane, Syamala Nagar, Guntur
2. राजस्व/The Revenue – Income Tax Officer, Ward-1(1), Guntur
3. The Pr.Commissioner of Income Tax , Guntur
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/DR, ITAT, Visakhapatnam
- 5.गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

// True Copy //

Sr. Private Secretary
ITAT, Visakhapatnam