

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.598/Viz/2019
(निर्धारण वर्ष/Assessment Year:2011-12)**

Dy.Commissioner of Income Tax
Circle-3(1)
Visakhapatnam

Vs. M/s Raghavendra Constructions
D.No.10-183, Visalakshinagar
Visakhapatnam
[PAN : AAEFR6254P]

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

**CO No.155/Viz/2019
(Arising out of I.T.A.No.598/Viz/2019)
(निर्धारण वर्ष/Assessment Year:2011-12)**

M/s Raghavendra Constructions
D.No.10-183, Visalakshinagar
Visakhapatnam
[PAN : AAEFR6254P]

Vs. Dy.Commissioner of Income Tax
Circle-3(1)
Visakhapatnam

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

राजस्व की ओर से / Revenue by
निर्धारिती की ओर से / Assessee by

: Smt.Suman Malik, DR
: Shri C.Subrahmanyam, AR

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 :

This appeal is filed by the revenue against the order of the
Commissioner of Income Tax (Appeals) [CIT(A)]-1, Visakhapatnam in ITA

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No.0212/2015-16/CIT(A)-1,VSP dated 25.07.2019 for the Assessment Year (A.Y.) 2011-12 and the cross objections are filed by the assessee.

2. When this appeal is taken up for hearing, the Ld.AR has filed a letter stating that the assessee preferred an application u/sec. 4(2) of Vivad Se Vishwas Act, 2020 and the Principal Commissioner of Income Tax-1, Visakhapatnam was pleased to issue a Certificate in Form No.3 on 17.02.2021. Form No.3 is a certificate under sub-section (1) of section 5 of the Direct Tax Vivad Se Vishwas Act, 2020, which is being issued by the Principal Commissioner of Income Tax determining the total tax payable by the assessee in response to the application made by the assessee. Thus, the tax dispute stands settled unless the certificate is withdrawn or cancelled by the Department. Therefore, once the Form No.3 is issued by the Pr. Commissioner, the appeal shall be deemed to have been withdrawn from the date on which Form No.3 is filed. The Ld.DR did not object for dismissal of appeal, however, submitted that appeal may be recalled in case the certificate issued by the Pr. Commissioner is withdrawn at a future date due to any unforeseen contingencies.

3. We have heard both the parties and gone through the Form No.3 and also the petition filed by the assessee praying for dismissal of the

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departmental appeal as the issue is settled 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, since, the Pr.CIT had issued Form No.3 determining the total tax liability as per sub section (1) of section 5 of Vivad se Vishwas Act towards full and final settlement of the tax dues. Since, the dispute is settled under the Vivad se Vishwas Scheme and accepted by the Pr.CIT, the appeal filed by the department becomes infructuous, hence the same is dismissed. However, it is open to the department to file an appropriate application before the Tribunal in case the certificate issued by the Pr. Commissioner is withdrawn at a future date due to non payment of taxes as specified in Form No.3 or any unforeseen contingencies. Accordingly, the appeal filed by the department is dismissed as infructuous.

4. Since the appeal of the revenue is dismissed, cross objections filed by the assessee becomes infructuous and hence, dismissed.

5. In the result, appeal of the revenue as well as the cross objections filed by the assessee are dismissed.

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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.सुन्दरसिंह)
(D.S.SUNDER SINGH)

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

1. राजस्व/The Revenue – Dy.Commissioner of Income Tax, Circle-3(1), Visakhapatnam
2. निर्धारिती/ The Assessee– M/s Raghavendra Constructions, D.No.10-183, Visalakshinagar, Visakhapatnam
3. The Pr.Commissioner of Income Tax-1, Visakhapatnam
4. The Commissioner of Income Tax (Appeals)-1, Visakhapatnam
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/DR, ITAT, Visakhapatnam
- 6.गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

// True Copy //

Sr. Private Secretary
ITAT, Visakhapatnam