

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'E': NEW DELHI)
(THROUGH VIDEO CONFERENCING)**

**BEFORE SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No:- 1654/Del/2017
(Assessment Year: 2010-11)**

Shri Narendra Singh Tyagi, Ghaziabad.	Vs.	ITO, Ward 2(5), CGO Complex-I, Hapur Road, Ghaziabad.
APPELLANT		RESPONDENT
PAN No: AONPS6678H		

Assessee By : Shri Rakesh Sehgal, CA
Revenue By : Ms. Rakhi Vimal, Sr. DR

Per Anadee Nath Misshra, AM

(A) This appeal by Assessee is filed against the order of Learned Commissioner of Income Tax (Appeals) Ghaziabad, ["Ld. CIT(A)", for short], dated 06.12.2016 for Assessment Year 2010-11. Grounds taken in this appeal of Assessee are as under:

"1. Without disposing of the Ground of appeal of the appellant that

"Penalty imposed u/ 271(1)(c) is unlawful in the absence of specific charge on the appellant regarding.

(a) Concealment of particulars of income; or

(b) Having furnished inaccurate particulars of income

The confirmation of Penalty imposed u/s 271(1)(c) by the Commissioner of Income Tax (Appeals) is unlawful and therefore the penalty imposed is liable to be deleted in the absence of the specific charge on the appellant.

2. Without disposing of the Ground of the appellant that

"Penalty imposed u/s 271(1)(c) is unlawful in the absence of recording of satisfaction by the Assessing Officer as warranted u/s 271 that the appellant has concealed the particulars of income or furnished inaccurate particulars of his income"

the confirmation of Penalty imposed u/s 271(1)(c) by the Commissioner of Income Tax (Appeals) is unlawful and therefore the penalty imposed is liable to be deleted in the absence of recording of satisfaction of the assessing officer as warranted u/s 271.

3. Without disposing of the Ground of appeal of the appellant that

"Penalty imposed u/s 271(1)(c) is unlawful considering the reasonable cause of the appellant of not furnishing return of income with the view that the income is exempt u/s 54"

the confirmation of Penalty imposed u/s 271(1)(c) by the Commissioner of Income Tax (Appeals) is unlawful and therefore the penalty imposed is liable to be deleted considering the reasonable cause of the appellant and the provisions of Section 273B of the Income Tax Act, 1961."

(B) At the time of hearing, the learned Authorized Representative ("Ld. AR", for short) for the Assessee informed us that the assessee has opted to settle the aforementioned appeal under Vivad Se Vishwas Scheme, 2020 ("VSVS", for short) and that the assessee has already filed the relevant forms. He drew our attention to Email sent from assessee's side in Income Tax Appellate Tribunal ("ITAT", for short) giving intimation of the same. In view of this, the learned AR as well as the Learned Senior Departmental Representative ["Ld. Sr. DR, for short] submitted before us that this appeal may be treated as withdrawn and may be dismissed on account of the aforesaid VSVS. After due consideration, we are of the opinion that this appeal has become infructuous on account of aforesaid VSVS, and

this appeal may be treated as withdrawn on account of the aforesaid VSVS. Accordingly, this appeal having become infructuous, is treated as withdrawn and is hereby dismissed.

(B.1) Before we part, we hereby clarify, by way of abundant caution, that if for some reason the disputes under this appeal before us are not settled under the aforesaid VSVS, then the assessee will be at liberty to approach ITAT for restoration of this appeal, in accordance with law.

(C) In the result, this appeal is dismissed.

This order was already pronounced on 18th March, 2021 in Open Court, in the presence of representatives of both sides, after conclusion of the hearing. Now this order in writing is signed today on 23/03/2021 .

Sd/-
(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

Dated: 23/03/2021
(Pooja)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	