

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "A": HYDERABAD
(THROUGH VIRTUAL CONFERENCE)**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
and
LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA Nos. 1936, 1937 & 1760/H/2017 Assessment Years: 2009-10, 2010-11 & 2011-12		
M/s Deccan Strips and Tubes Pvt. Ltd., Hyderabad. PAN - AADCD 2560L (Appellant)	Vs.	Dy. Commissioner of Income-tax, Circle - 17(1), Hyderabad. (Respondent)
Assessee by:		Shri Phanindra Susarla
Revenue by:		Shri Sunil Kumar Pandey
Date of hearing:		26/03/2021
Date of pronouncement:		05/04/2021

ORDER

PER BENCH:

These appeals filed by the assessee for AYs 2009-10 to 2011-12 are directed against CIT(A) - 5, Hyderabad's separate orders, all dated 31/07/2017 involving proceedings u/s 143(3) rws 147 of the Income Tax Act, 1961 ; in short "the Act".

2. We notice at the outset that assessee's instant appeals suffer from 23 days delay in filing the appeals in ITA nos. 1936 & 1937/Hyd/2017 and 8 days delay in filing appeal in ITA no. 1760/Hyd/2017 respectively. To this effect, the assessee filed condonation petitions along with affidavits affirming, inter-alia, therein that at the relevant point of time its counsel who was looking after income-tax matter was ill which caused the impugned delay in filing of the instant appeals. Case law Collector Land Acquisition vs Mst. Katiji & Ors, 1987 AIR 1353 (SC) and University of Delhi Vs. Union of India, Civil Appeal No. 9488 & 9489/2019 dated 17 December, 2019, hold that such a delay; supported by cogent reasons, deserves to be condoned so as to make way for the cause of substantial justice. We accordingly hold that assessee's impugned delay in filing the appeals is neither intentional nor deliberate but due to the circumstances beyond its control. The same stands condoned. Cases are now taken up for adjudication on merits.

3. At the outset, the ld. counsel for the assessee submitted that that the assessee has opted to avail the benefit under the 'Direct Tax Vivad Se Viswas Scheme-2020' in prescribed Form No.1 & 2 and received Form(s)-3 in tune thereto for AY 2009-10 and awaiting to receive Form(s) 3 for AYs 2010-11 and 2011-12, and therefore, requested the Bench to permit to withdraw these appeals of the assessee.

3. Having regard to the facts and circumstances of the case, we are inclined to dismiss the appeals of the assessee as withdrawn since the assessee has preferred to avail the Vivad-se-Vishwas Scheme by filing Form No.1 & 2 and received Form(s)-3 for AY 2009-10 and awaiting to receive Form No. 3 for AYs 2010-11 and 2011-12, with a rider that it shall be very much open for the assessee to file for revival of these cases, if the settlement benefit under the scheme is denied to it for technical reasons.

4. In the result, assessee's appeals are dismissed in above terms.

Pronounced in the open court on 5th April, 2021.

Sd/-
(S. S. GODARA)
JUDICIAL MEMBER

Sd/-
(L.P. SAHU)
ACCOUNTANT MEMBER

Hyderabad, Dated: 5th April, 2021.

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copy to :

1	<i>M/s Deccan Strips and Tubes Pvt. Ltd., C/o S/Shri K. Vasantkumar, AV Raghuram, P. Vinod & M. Neelima Devi, Advocates, 610 Babukhan Estate, Basheerbagh, Hyderabad – 500 001.</i>
2	<i>DCIT, Circle – 17(1), 9th Floor, Signature Towers, Opp. Botanical Garden, Kondapur, Hyderabad - 84</i>
3	<i>CIT(A) – 5, Hyderabad</i>
4	<i>Pr. CIT - 5, Hyderabad.</i>
5	<i>ITAT, DR, Hyderabad</i>
6	<i>Guard File.</i>