

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

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

ITA No. 881/H/2018 Assessment Year: 2010-11		
Srinivasa Finance Corporation, Ongole.  PAN - AAHFS 9940 E  (Appellant)	Vs.	Income-tax Officer, Ward - 3, Ongole.    (Respondent)
Assessee by:		None
Revenue by:		Shri Rohit Mujumdar
Date of hearing:		08/04/2021
Date of pronouncement:		21/04/2021

**ORDER**

**PER BENCH:**

This appeal filed by the assessee for AY 2010-11 is directed against CIT(A) - 1 Guntur's order dated 08/01/2018 involving proceedings u/s 143(3) rws 263 of the Income Tax Act, 1961 ; in short "the Act".

2. We notice at the outset that assessee's instant appeal suffers from 02 days delay in filing and to this effect, the assessee filed petition for condonation stating therein that the assessee wrongly filed the appeal before the ITAT,

Visakhapatnam under wrong impression of the jurisdiction and later on the ITAT, Visakhapatnam verified the jurisdiction and transferred the file to ITAT, Hyderabad, which caused the impugned delay in filing of the instant appeal. 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 of 2 days is neither intentional nor deliberate but due to the circumstances beyond its control. The same stands condoned. Case is now taken up for adjudication on merits.

3. None appeared on behalf of the assessee at the time of hearing. However, on perusal of record, we find that the assessee filed a letter dated 23/02/2021 stating therein that the assessee desires to avail 'Vivad Se Viswas' scheme and filed form No. 1 before the department on 22/01/2021 and expecting form No. 3 from CIT.

3. The Ld. DR submitted that if the assessee desires to avail the Vivad se Vishwas scheme, 2020 the Revenue has no objection.

4. Having heard both the parties, through video conference, we are inclined to treat the instant appeal of the assessee as withdrawn relying on the decision of the Hon'ble High Court of Madras in the case of DCIT vs. M/s. Keyaram Hotels P. Ltd in T.C.A. No. 694 of 2019, dated 13/10/2020 wherein it was held as under:-

*"3. The Learned Counsel for the respondent / assessee, on instructions, submitted that the respondent / assessee intends to avail the benefit of Vivad se Vishwas scheme (VVS Scheme for brevity) and in this regard, the assessee is taking steps to file the application / declaration in form No.1.*

*.....*

*.....*

*.....*

*7. As observed, the assessee is given liberty to restore this appeal in the event the ultimate decision to be taken on the declaration to be filed by the assessee under Section 4 of the said Act is not in favour of the assessee. If such a prayer is made, the Registry shall entertain the prayer without insisting upon any application to be filed for condonation of delay in restoration of the appeal and on such request made by the assessee by filing a Miscellaneous Petition for Restoration, the Registry shall place such petition before the Division Bench for orders.*

*8. In the light of the above, we direct the respondent / assessee to file Form No.1 on or before 09/11/2020 and the competent authority <http://www.judis.nic.in5/6 T.C.A.No.694> of 2019."*

Accordingly, we hereby dismiss the instant appeal of the assessee as withdrawn. However, we also make it clear that, if the assessee's case is not accepted in the Vivad-se-Vishwas Scheme by the Revenue for whatsoever may be reason on a

subsequent date, then the assessee shall be at liberty to file Miscellaneous Petition before the Tribunal within the time limit prescribed under the Act to reinstate his appeal. It is ordered accordingly.

5. In the result, assessee's appeal is dismissed in above terms.

Pronounced in the open court on 21<sup>st</sup> April, 2021.

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

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

Hyderabad, Dated: 21<sup>st</sup> April, 2021.

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*copy to :*

1	<i>M/s Srinivasa Finance Corporation, C/o I.K. Gupta &amp; company, D.No. 37-1-171, 4thj Floor, Gupthas Grant, Kurnool Road, Ongole - 523 002.</i>
2	<i>ITO, Ward - 3, Ongole.</i>
3	<i>CIT(A) - 1, Guntur</i>
4	<i>Pr. CIT, Guntur</i>
5	<i>ITAT, DR, Hyderabad</i>
6	<i>Guard File.</i>