

**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 No. 1230/H/2016 Assessment Year: 2009-10		
Shiri Infrastructure & Projects, Ananthapur. PAN - ABJFS 7458 N (Appellant)	Vs.	Asst. Commissioner of Income-tax, Circle - 1, Anantapur (Respondent)
Assessee by:		Shri M. Chandramouleswara Rao
Revenue by:		Shri Sunil Kumar Pandey
Date of hearing:		21/04/2021
Date of pronouncement:		26/04/2021

ORDER

PER BENCH:

This appeal filed by the assessee for AY 2009-10 is directed against CIT(A), Kurnool's order dated 20/06/2016 involving proceedings u/s 154 of the Income Tax Act, 1961 ; in short "the Act".

2. At the outset, Ld. AR submitted before us that the assessee desires to avail 'Vivad Se Viswas' scheme. He further submitted that the assessee could not file Form No.1 & 2 due to paucity of time, however he assured the Bench that the Form No.1&2 shall be filed shortly.

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heard both the parties, through video conference, we are inclined to treat the instant appeal of the assessee as withdrawn relying on the decision of the Hon'ble High Court of Madras in the case of DCIT vs. M/s. Keyaram Hotels P. Ltd in T.C.A. No. 694 of 2019, dated 13/10/2020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

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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 26th April, 2021.

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

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

Hyderabad, Dated: 26th April, 2021.

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copy to :

<i>1</i>	<i>Sri H. Nadeep Ahmed, Managing Partner of M/s Shiri Infrastructure & Projects, Flat No. 603, Shiri Park View Apartment, Opp. to Park, Ram Nagar, Anantpur (AP)</i>
<i>2</i>	<i>ACIT, Circle - 1, Anantapur</i>
<i>3</i>	<i>CIT(A), Kurnool</i>
<i>4</i>	<i>Pr. CIT, Kurnool</i>
<i>5</i>	<i>ITAT, DR, Hyderabad</i>
<i>6</i>	<i>Guard File.</i>