

**IN THE INCOME TAX APPELLATE TRIBUNAL, JODHPUR BENCH, JODHPUR
(VIRTUAL COURT AT CHANDIGARH)**

BEFORE: SHRI. N.K.SAINI, VP & SHRI R.L. NEGI, JM

ITA No. 407/JODH/2018
Assessment Year : 2010-11

Smt. Depika Jain, Preksha Vihar, Near Vijay Cinema, Hanumangarh Town.	बनाम	The ACIT, Central Circle, Bikaner.
स्थायी लेखा सं./PAN NO. AFOPJ9710M		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Jinendra Kochar, CA
राजस्व की ओर से/ Revenue by : Miss. Kajal Singh, JCIT-DR

सुनवाई की तारीख/Date of Hearing : 27/04/2021
उद्घोषणा की तारीख/Date of Pronouncement : 27/04/2021

आदेश/Order

PER BENCH:

This is an appeal filed by the Assessee against the order of the Ld. CIT(A)-IV, Jaipur dt. 02/05/2018.

2. The Registry has pointed out that the appeal is barred by limitation by 01 day.
3. The Assessee moved an application for condonation of delay stating therein as under:

"Please find enclosed herewith the following documents with the request to remove the defects:

- 1) Grounds of appeal before CIT(A) as reflected in Form 35.
- 2) Certified copy of original order of CIT(A)
- 3) Form NO. 35

Please do the needful and fix the hearing as early as possible. The reason for delay in submitting the documents was due to robbery incidents with me resulting eye injury. Please condone the delay."

4. During the course of hearing the Ld. Counsel for the Assessee reiterated the contents of the aforesaid application and stated that the delay in filing the appeal

was beyond the control of the assessee and there was no malafide intention, therefore, the delay in filing the appeal may be condoned.

5. In his rival submissions the Ld. DR although opposed the condonation of delay but could not controvert the aforesaid contention of the Ld. Counsel for the Assessee.

6. After considering the submissions of both the parties and the material available on the record, it appears that the delay in filing the appeal was beyond the control of the assessee and there was no malafide intention, and moreover the assessee wants to avail the immunity scheme i.e.; Vivad se Vishwas, therefore the delay is condoned and appeal is admitted.

7. The Assessee has furnished an application for withdrawal of this appeal stating therein as under:

"Humbly submitted that the appellant hereby and not to pursue the matter in the aforesaid appeal vide acknowledgement No. 407/Jodh/2018 on receipt of Form No. 3. Certificate issued under The Direct Tax Vivad Se Vishwas Act. 2020 and the same may please be placed on record and oblige.

Yours faithfully

Sd/-

(Deepika Jain)

Appellant

(P.K. Kochar)

Chartered Accountant"

8. During the course of hearing the Ld. Counsel for the Assessee submitted that since the assessee has availed the immunity scheme i.e. Vivad Se Vishwas and the Income Tax Department has since issued Form 3 bearing Certificate No. 881754070241220, in response to the application filed by the assessee, under section 5(1) of the Direct Tax Vivad se Vishwas Act, 2020, therefore the appeal of the assessee may be allowed to be withdrawn.

9. The Ld. DR did not object if appeal of the assessee is dismissed as withdrawn.

10. In view of the above the appeal of the assessee is dismissed as withdrawn.
11. In the result, appeal of the assessee is dismissed.

(Order pronounced in the open Court on 27/04/2021)

Sd/-
(R.L. NEGI)
JUDICIAL MEMBER

Sd/-
(N.K. SAINI)
VICE PRESIDENT

Dated : 27/04/2021

***Ranjan**

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

1. The Appellant
2. The Respondent
3. CIT
4. The CIT(A)
5. DR, ITAT, JODHPUR
6. Guard File