

**IN THE INCOME TAX APPELLATE TRIBUNAL, JABALPUR BENCH,
JABALPUR (SMC)**

(through Video Conferencing)

BEFORE SH. SANJAY ARORA, HON'BLE ACCOUNTANT MEMBER

ITA No.50/JAB/2017
Assessment Year: 2009-10

Arun Kumar Jain, Jabalpur (M.P.) [PAN: ACHPJ 1385J]	vs.	Income Tax Officer, Ward -2(1), Jabalpur
(Appellant)		(Respondent)

Appellant by	Sh. Abhijeet Shrivastava, Advocate
Respondent by	Smt. Swati Agarwal, Jt. CIT
Date of hearing	09/08/2021
Date of pronouncement	09/08/2021

ORDER

Per Sanjay Arora, AM

This is an Appeal by the Assessee directed against the Order by the Commissioner of Income Tax (Appeals)-1, Jabalpur ('CIT(A)' for short) dated 28/8/2017, dismissing the assessee's appeal contesting his assessment under section 143(3) of the Income Tax Act, 1961 ('the Act' hereinafter) for the Assessment Year (AY) 2009-10 vide Order dated 27/12/2011.

2. At the very outset, it was submitted by Sh. Shrivastava, the learned counsel for the assessee, that the assessee has opted for the Vivad Se Vishwas Scheme, 2019 ('VsVS') and, therefore, does not intend to prosecute his appeal before the Tribunal. The requisite certificate from the Department (i.e., Form 3), signifying the acceptance of the application thereunder upon its' vetting, as provided under the relevant Rules, has also been received, even as tax arrears admitted thereby

remain unpaid yet. The assessee's appeal, it was urged, could be under the circumstances either adjourned till the payment or treated as withdrawn reserving a liberty to move the Tribunal for restoration of the said appeal in case the application for settlement of the tax dispute under VsVS fails for any reason.

3. I have heard the parties, and perused the material on record. Form 3, issued by the Department in response to the assessee's application under VsVS, 2019, is on record, determining the amount payable at Rs. 1,66,760, to be paid by 30/9/2021. The Direct Tax Vivad Se Viswas Act, 2020 ('DTVsV Act') provides for an automatic withdrawal of the appeal inasmuch as the same is an alternate mechanism for the tax payers for the settlement of their tax disputes with the Revenue. So, however, as the process is as yet incomplete, the time for which stands extended up to 30/9/2021, the assessee is, as suggested, to, fairly, no objection by the Id. Sr. DR, allowed the liberty to move this Tribunal for restoring his appeal in case his said application fails for any reason.

4. The assessee's captioned appeal is, subject to the right of restitution aforesaid, allowed to be withdrawn. I decide accordingly.

5. In the result, the assessee's appeal is dismissed as not maintainable.

Order pronounced in the Open Court on August 09, 2021

Sd/-
(Sanjay Arora)
Accountant Member

Dated: 09/08/2021

Copy of the Order forwarded to:

1. The Appellant: Shri Arun Kumar Jain, C/o Pradeep Kumar Jain, 748, Gujarati Market, Opp. Vineet Talkies, Marhatal, Jabalpur
2. The Respondent: Income Tax Officer, Ward- 2(1), Jabalpur
3. The Pr. CIT-2, Jabalpur
4. The CIT(A)-1, Jabalpur
5. The Sr. DR, ITAT, Jabalpur
6. Guard File

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