

**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. 1877/Hyd/2017 Assessment Year: 2012-13		
Camillo Joseph Lemos, Hyderabad.  PAN - ADUPL 0296 Q	Vs.	Income-tax Officer (International Taxation) - 1, Hyderabad.
(Appellant)	Vs.	(Respondent)
Assessee by: Shri AV Raghuram		
Revenue by: Shri Rohit Mujumdar		
Date of hearing: 23/08/2021		
Date of pronouncement: 25/08/2021		

**ORDER**

**PER BENCH:**

This appeal filed by the assessee for AY 2013-14 is directed against CIT(A) - 10, Hyderabad's, order dated 30/06/2017 involving proceedings u/s 143(3) of the Income Tax Act, 1961 ; in short "the Act".

2. We notice at the outset that assessee's instant appeal suffers from 19 days delay in filing. To this effect, the assessee filed an affidavit wherein it was affirmed that due

to communication gap between audit firm and him 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 19 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. At the outset, the ld. counsel for the assessee submitted 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 awaiting to receive Form(s)-3 in tune thereto, and therefore, requested the Bench to permit to withdraw this appeal of the assessee.

4. Having regard to the facts and circumstances of the case, we are inclined to dismiss the appeal of the assessee as withdrawn since the assessee has preferred to avail the Vivad-se-Vishwas Scheme by filing Form No.1 & 2 and awaiting to receive Form(s)-3 in tune thereto, with a rider that it shall be very much open for the assessee to file for

revival of this case, if the settlement benefit under the scheme is denied to hi for technical reasons.

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

Pronounced in the open court on 25<sup>th</sup> August, 2021.

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

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

Hyderabad, Dated: 25<sup>th</sup> August, 2021.

*kv*

*copy to :*

1	<i>Sri Camillo Joseph Lemos, C/o S/Shri AV Raghuram, P. Vinod &amp; M. Neelima Devi, Advocates, 610 Babukhan Estate, Basheerbagh, Hyderabad – 500 001.</i>
2	<i>ITO (International Taxation) - 1, Hyderabad.</i>
3	<i>CIT(A) - 10, Hyderabad.</i>
4	<i>Pr. CIT (IT &amp; TP), Hyderabad</i>
5	<i>ITAT, DR, Hyderabad</i>
6	<i>Guard File.</i>