

THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "SMC" : DELHI
BEFORE SMT. DIVA SINGH, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER
ITA.No.480/Del./2020
Assessment Year 2009-10

Arawali Finlease Pvt. Ltd., C/o Vijay Garg, 444, Deepali, Pitam Pura, Delhi. PAN No. AADCA5345E	vs.	ITO Ward 3(2) New Delhi.
(Appellant)		(Respondent)

For Assessee :	Shri Tarun Kumar, CA
For Revenue :	Shri R.K. Gupta, Sr. DR

Date of Hearing :	07.09.2021
Date of Pronouncement :	08.09.2021

Hearing conducted via Webex

ORDER

PER DIVA SINGH, J.M.

The present appeal has been filed by the assessee challenging the order dated 22.03.2019 of Pr.CIT, New Delhi u/s 263 of the Income Tax Act, 1961 pertaining to 2009-10 assessment year on the following grounds:

1. *"On the facts and circumstances of the case, the Assessing Authority has erred in reopening of the case again u/s 147 of the Act, on the matters already considered, discussed during the course of proceeding of case u/s 148 of the Income Tax Act and therefore, the order passed by the Assessing Officer*

on the basis of directions of Pr. CIT u/s 263 of the Act, is bad in law and facts of the case and deserves to be quashed.

- 2. That the Assessing Officer has grossly erred in making an addition of Rs. 18,36,000/- to the already declared accepted Income, as the amount received was against Sale of Shares and has already been discussed and explained in the original assessment. The addition made deserves to be deleted.*
- 3. That on the facts and in the circumstances of the case, the setting aside of the original order passed u/s 147/143(3) of the Act, by the Pr. CIT, on the basis of change in Personal opinion is bad in law and facts of the case and the order passed by the Assessing Authority on the basis of directions of Pr. CIT u/s 263 of the Act, deserves to be quashed.*
- 4. That on the facts and circumstances of the case, the Assessing Authority has erred in law and facts of the case in initiation of reassessment proceeding u/s 147/148 of the Income Tax Act, 1961, without having cogent and definite material on record for the alleged accommodation entries and also without making any enquiry about the information/report received from Investigation wing regarding escapement of Income.*
- 5. That on the facts and circumstances of the case, the AO has not giving enough time to the Company to file their reply not giving time to the Companies to file their reply in response to notice u/s 133(6) of the Income Tax Act, 1961 and, therefore, Principle of Natural Justice has not been followed.*
- 6. The order passed is against the law and facts of the case and prayed the order be set aside.*
- 7. Assessee craves leave to add, alter and amend any of the time of hearing or before that.”*

2. At the time of hearing, Ld. AR relying upon the application dated 31st August, 2021 sent by e-mail to the Registry submitted that the assessee wishes to withdrawal the appeal filed. Copy of Form No. 3 it was submitted has been issued by Pr. CIT-10, accepting the assessee's declaration under the Vivad se Vishwas Scheme, 2020. Copy of the challan payment also filed was relied upon for the prayer. Ld. Sr. DR Shri R.K. Gupta considering the material available on record submitted that the appeal may be treated as withdrawn.

3. We have heard the parties and perused the material available on record. Considering the submissions in the light of the facts on record the appeal of the assessee, we direct may be treated as withdrawn. Accordingly, the appeal is dismissed as withdrawn.

4. However, before parting by way of abundant caution, we deem it appropriate to observe that in case it is found by the assessee that the dispute under the appeal is not fully settled under the Vivad se Vishwas Scheme then the assessee will be at liberty to approach the ITAT with a prayer for restoration of this appeal in accordance with law.

5. In the result, the appeal is dismissed as withdrawn.

Order pronounced in the open Court.

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER
Delhi.

Sd/-
(DIVA SINGH)
JUDICIAL MEMBER

Dated 08/09/2021
*Kavita Arora, SPS

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'SMC-2' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar, ITAT Delhi Benches :
Delhi.