

THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES "A": DELHI

BEFORE SMT. DIVA SINGH, JUDICIAL MEMBER  
AND  
SHRI O.P. KANT, ACCOUNTANT MEMBER

ITA.No.5281/Del./2016  
Assessment Year 2012-13

ITO Ward 4(2), Room No. 380, C.R. Bldg., New Delhi.	vs.	Balaji Finstock Pvt. Ltd. 769/777, D.B. Gupta Road, Karol Bagh, New Delhi. PAN No. AAACB5607K
(Appellant)		(Respondent)

For Revenue :	Shri Virendra Singh, Sr. DR
For Assessee :	None

Date of Hearing :	15.09.2021
Date of Pronouncement :	<b>16.09.2021</b>

**Hearing conducted via Webex**

**ORDER**

**PER DIVA SINGH, J.M.**

The present appeal has been filed by the Revenue wherein the correctness of the order dated 22.06.2016 passed by the Ld. CIT(Appeals)-2, New Delhi pertaining to 2012-13 assessment year is assailed.

2. None appeared on behalf of assessee at the time of virtual hearing. The assessee has filed an application dated 08.09.2021,

before the Registry which has been placed before us. The assessee prays for a withdrawal of the appeal filed by the Revenue stating as under:

*“Respected Sir,*

*This is with reference to your notice dated 06.08.2021 fixing the date of hearing on 15.09.2021 of the above referred appeal which is filed by the ITO, Ward 4(2), New Delhi against the order of CIT(A)-II, Delhi for AY 2012-13 who allowed the appeal of the assessee Company filed against the order of Ld. AO passed u/s 143(3) of the I.T. Act, 1961.*

*In this appeal filed by the Income Tax Department, the appellant Company opted to settle the dispute for the assessment under consideration under the Vivad Se Vishwas Scheme, 2020. As per the Section 4(2) of the Direct Tax Vivad Se Vishwas Act 2020, upon filing the declaration, any appeal pending before the Income Tax Appellate Tribunal or Commissioner (Appeals), in respect of the disputed income or disputed interest or disputed penalty or disputed fee and tax arrears shall be deemed to have been withdrawn from the date on which certificate under sub-section (1) of section 5 is issued by the designated authority. The declaration filed by the assessee Company for above referred appeal has been accepted by the Department by issuing certificate under sub-section (1) of section 5 in Form No. 3, the copy of which is enclosed herewith for your kind purpose.*

*It is, therefore, prayed that the above referred appeal be treated as withdrawn and pass the necessary order accordingly.*

*Thanking you,*

*Yours faithfully,*

**For Balaji Finstock Pvt. Ltd.**

**Sd/-**

**(Surendra Kumar Singh)**

**Director**

**Appellant**

*Dated: 08/09/2021”*

3. Learned Senior DR considering the same had no objection to the withdrawal of the appeal.

4. Considering the submissions in the light of the facts on record the appeal of the Revenue is dismissed as withdrawn.

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

6. In view of the above, we accept the request of the assessee for dismissal of the Revenue's appeal.

7. In the result, the appeal of the Revenue is dismissed having become infructuous.

Order pronounced in the open Court on 16<sup>th</sup> September, 2021

Sd/-  
(O.P. KANT)  
ACCOUNTANT MEMBER  
Delhi.  
\*Kavita Arora, SPS

Sd/-  
(DIVA SINGH)  
JUDICIAL MEMBER

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.