

Renu Agarwal vs. ITO (AY 2014-15)

**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW “SMC” BENCH, LUCKNOW
(Virtual Hearing)**

BEFORE SHRI SANJAY ARORA, ACCOUNTANT MEMBER

I.T.A. No. 694/LKW/2017
Assessment Year: 2014-15

Renu Agarwal, 35-B-3, Rampur Garden, Bareilly [PAN:AFXPA 3842C] (Appellant)	vs.	Income Tax Officer, Ward-2(3), Bareilly (Respondent)
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Appellant by	Written Submission
Respondent by	Shri Ajay Kumar, DR
Date of hearing	16/11/2021
Date of pronouncement	16/11/2021

ORDER

Per Sanjay Arora, AM:

This is an Appeal by the Assessee agitating the Order by the Commissioner of Income Tax (Appeals), Bareilly (‘CIT(A)’ for short) dated 17.8.2017, dismissing the assessee’s appeal contesting her assessment under section 143(3) of the Income Tax Act, 1961 (‘the Act’ hereinafter) for assessment year (AY) 2014-15 vide order dated 27.12.2016.

2. None appeared for and on behalf of the assessee-appellant when her appeal was called out for hearing. The assessee has, however, vide her application dated 09.10.2021, clarified that she does not intend to prosecute her instant appeal, and has opted for the settlement of her tax dispute with the Department under the Direct Tax Vivadse Vishwas Act, 2020, enclosing alongwith a certificate in Form-3 dated 10.12.2020 issued by the designated authority under the said Act *qua* the

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appeal under reference, requesting accordingly for a permission to withdraw her appeal.

3. It is apparent, therefore, that the assessee does not intend to prosecute her instant appeal before the Tribunal, having opted for the settlement of the said tax dispute under the DTVsV Act. Form 3 enclosed along with her withdrawal request reflects a sum refundable to the assessee. I, accordingly, have no hesitation in, acceding to the assessee's request, to which the ld. Sr. DR also did not fairly raise any objection, permit the withdrawal of her appeal under reference. So, however, inasmuch as the process of tax settlement, signified by the issue of Form-5, is, as it appears, yet to be concluded, it may be clarified that in case for any reason the dispute under reference is not settled under the said Act, the assessee shall be at liberty to get her appeal restored for a decision on merits by the Tribunal. The right of restitution is, in view of the incomplete status, i.e., apparently so, of the proceedings under the law providing for, at the option of the assessee, settlement of the tax dispute outside the regular channels, integral to this order inasmuch as no prejudice could be caused to either side by the action or non-action by this Tribunal. The assessee's appeal, therefore, subject to right for restitution, is dismissed as withdrawn/not maintainable. I decide accordingly.

4. In the result, the assessee's appeal is dismissed on the above terms.

Order pronounced in the open Court on November 16, 2021

Sd/-
(Sanjay Arora)
Accountant Member

Dated: 16/11/2021

Aks

Copy of the order forwarded to:

Copy of order forwarded to: (1) The appellant

(2) The respondent

(3) Commissioner

(4) CIT(A)

(5) Departmental Representative

(6) Guard File