

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI
'D' (FRIDAY) BENCH, NEW DELHI**

**BEFORE SHRI G.S. PANNU, PRESIDENT AND
SHRI AMIT SHUKLA, JUDICIAL MEMBER**

ITA No. 5594/DEL/2017
[Assessment Year : 2007-08]

VEDANTA LTD.
(SUCCESSOR TO CAIRN INDIA LTD.)
DLF ATRIA BUILDING,
JACARANDA MARG,
N-BLOCK, DLF CITY, PHASE-II,
GURGAON, HARYANA-122002
(PAN: AACCC8799D)

VS. DCIT, INTERNATIONAL
TAXATION, GURGAON,
HSIIDC BUILDING,
VINIJYA BIKUNJ,
NEAR SHANKER CHOWK
NH-8, UDYOG VIHAR-V,
GURGAON, HARYANA

[Appellant]

[Respondent]

Assessee by : Sh. Sachit Jolly, Adv. & Ms. Mahak
Sachdeva, Adv.

Revenue by : Smt. Anupma Anand, CIT(DR)

Date of hearing : 03.12.2021

Date of pronouncement : 03.12.2021

ORDER

PER G.S. PANNU, PRESIDENT :

This appeal filed by the Assessee is directed against the order dated 03.07.2017 passed by the Ld. CIT(A)-43, New Delhi relating to assessment year 2007-08.

2. At the time of hearing, Ld. Counsel for the assessee reiterated the contentions made by the assessee in its Application dated 19.11.2021 seeking withdrawal of captioned appeal. The relevant contents of the Assessee's Application dated 19.11.2021 seeking withdrawal of the appeal are reproduced as under:-

“The appeal originates out of Order dated 11.03.2015 passed by the Respondent under Section 201 read with Section 195 of the Income-tax Act, 1961 (the “Act”) for Financial Year (“FY”) 2006-07 vide which the Appellant has been held to be an assessee-in-default for failure to withhold tax under Section 195 of the Act on consideration paid/discharged to Cairn UK Holdings Ltd. (“CUHL” or “Seller”), for acquisition of shares held by CUHL in Cairn India Holding Ltd. (“CIHL”), a company incorporated under the laws of Jersey (Channel Islands), that has been rendered to be liable to be assessed as capital gains under section 9(1)(i) of the Act as it stood amended by the Finance Act, 2012, as amended vide the Taxation Laws (Amendment) Act, 2021, read with Rule 11UE and Rule 11UF of the Income Tax Rules, 1962 (“Rules”).

In this regard, it is most respectfully submitted that the newly inserted fourth, fifth and sixth provisos to Explanation 5 under section 9(1)(i) of the Act provide an opportunity to nullify tax liability incurred on an indirect transfer of underlying assets in India under the erstwhile section 9(1)(i) of the Act retrospectively amended vide the Finance Act, 2012, subject to fulfilment of certain conditions.

The aforesaid conditions are prescribed in the Explanation to the fifth and sixth provisos under Section 9(1)(i) of the Act, which include, inter-alia, the withdrawal of any appeals pending before any Income Tax Appellate Tribunal in India.

It is further submitted that the Appellant is in the process of settling all disputes related to tax liability on indirect transfer of assets and therefore have filed with the jurisdictional Principal Commissioner, the undertaking and declarations dated 09.11.2021 as prescribed under Form No.1 annexed to Rules 11UE and 11UF of the Rules on the condition that the retrospective amendments made to Section 9(1)(i) of the Act vide Finance Act, 2012 shall not apply to the Appellant. (Refer Annexure 1).

The jurisdictional Principal Commissioner has accepted this undertaking and accordingly issued a certificate dated 18.11.2021 as prescribed under Form No. 2 annexed to Rule 11UF(2)(a) of the Rules. (Refer Annexure 2.)

That in view of the above, the Petitioner seeks leave of this Hon'ble Tribunal to irrevocably withdraw the present appeal."

3. Learned CIT(DR) has no objection to the prayer of the Assessee, seeking withdrawal of appeal.

4. Considering the factual matrix, we accept the request of the assessee for withdrawal of the aforesaid appeal, in view of the Scheme prescribed under Rule 11UE and Rule 11UF of the Income Tax Rules, 1962.

5. In the result, the appeal of the assessee is dismissed as withdrawn. Order pronounced in the Open Court on 03.12.2021 in the presence of both the parties, at the conclusion of virtual hearing.

Sd/-

[AMIT SHUKLA]
JUDICIAL MEMBER

Sd/-

[G.S. PANNU]
PRESIDENT

Dt. 03.12.2021

SRB

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi