

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G': NEW DELHI
(Through Video Conferencing)**

**BEFORE,
SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No.6140/Del/2018
(ASSESSMENT YEAR 2009-10)**

Seeco Enterprises Pvt. Ltd. C/o Kapil Goel Adv., F-26/124, Sector-7, Rohni, Delhi-110 085 PAN-AAKCS 3275J (Appellant)	Vs.	Income Tax Officer, Ward-23(1), New Delhi. (Respondent)
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Appellant By	None
Respondent by	Sh. Umesh Takyar, Sr. DR

ORDER

PER ANADEE NATH MISSHRA, AM:

(A) This appeal by Assessee is filed against the order of Learned Commissioner of Income Tax (Appeals)-30, New Delhi, [Ld. CIT(A)", for short], dated 13.07.2018 for Assessment Year 2009-10. Grounds taken in this appeal of Assessee are as under:

"1. That on the facts and in the circumstances of the case and in law, Id CIT-A erred in sustaining the order passed by Ld AO u/s 147/143(3) without appreciating that assumption of jurisdiction u/s 148 was by Ld AO was in violation of mandatory jurisdictional conditions stipulated under the Act;

1.1 That on the facts and in the circumstances of the case and in law, Id CIT-A erred in sustaining the order passed by Ld AO u/s 147/143(3) without appreciating that “rubber stamp” reasons in present case are based on borrowed satisfaction and are without independent application of mind;

1.2 That on the facts and in the circumstances of the case and in law, Id CIT-A erred in sustaining the order passed by Ld AO u/s 147/143(3) without appreciating that no back material was lawfully confronted to assessee thus invalidating entire reopening;

1.3 That on the facts and in the circumstances of the case and in law, Id CIT-A erred in sustaining the order passed by Ld AO u/s 147/143(3) without appreciating that Ld AO has exceeded his jurisdiction by incorporating the inadmissible documents in impugned order which have no evidentiary value u/s 292C of the Act;

1.4 That on the facts and in the circumstances of the case and in law, Id CIT-A erred in sustaining the order passed by Ld A O u/s 147/143(3) as none of the dsessee submission is appreciated while adjudicating the appeal;

2. That on the facts and in the circumstances of the case and in law, Id CIT-A erred in sustaining the order passed by Ld AO u/s 147/143(3) without appreciating that on basis of surfeit and inundated evidences on records burden u/s 68 lying on assessee has been fully discharged and met so addition made by Ld AO (Rs 50,00,000 & Rs 90,000) and confirmed by CIT-A in impugned order deserves to be deleted.

2.1 That on the facts and in the circumstances of the case and in law, Id CIT-A erred in sustaining the order passed by Ld AO u/s 147/143(3) without appreciating that there is no basis of any of the addition of Rs (Rs 50,00,000 & Rs 90,000)

2.2 That on the facts and in the circumstances of the case and in law, Id CIT-A erred in sustaining the order passed by Ld AO u/s 147/143(3) without appreciating that all the additions made are without bringing legally admissible document on records;

2.3 That on the facts and in the circumstances of the case and in law, Id CIT-A erred in sustaining the order passed by Ld AO u/s 147/143(3) without appreciating that no cross examination of Jain Brothers is offered and even no meaningful/valid and' objective enquiry u/s 133(6)/131 is made from share holder / its bank or income tax officer of share holder etc which is sufficient to delete the additions made;

2.4 That on the facts and in the circumstances of the case and in law, Id CIT-A erred in sustaining the order passed by Ld AO u/s 147/143(3) without appreciating that while making addition u/s 68 Ld AO has not issued required show cause notice nor Ld AO has considered detailed reply filed by the assessee;

2.5 That on the facts and in the circumstances of the case and in law, Id CIT-A erred in sustaining the order passed by Ld AO u/s 147/143(3) without appreciating that while making addition u/s 68 position of net worth of companies is suitably ignored;

2.6 That on the facts and in the circumstances of the case and in law, Id CIT-A erred in sustaining the order passed by Ld AO u/s 147/143(3) without appreciating that none of evidence filed by assessee is overruled in accordance with law;

3. That on the facts and in the circumstances of the case and in law, Id CIT-A erred in not restoring the returned income declared by assessee in its return of income.

4. That on the facts and in the circumstances of the case and in law, Id CIT-A erred in not deleting the addition made by Ld AO which was also unlawful and made in violation of principles of natural justice.

That the appellant craves leave to add add/alter any/all grounds of appeal before or at the time of hearing of the appeal.”

(B) At the time of hearing, no one was present on behalf of the assessee, but through a written communication dated 02.12.2021,

the Learned Authorized Representative (“Ld. AR”, for short) for the assessee informed us that the assessee has opted to settle the aforementioned appeal under Vivad se Vishwas ACT, 2020 (“VSVS”, for short) and that the Designated Authority has already issued Form-5 under VSVS forms. Copy of Form-5 issued by designated authority under VSVS was also enclosed with the aforesaid letter. Learned Senior Departmental Representative for revenue submitted before us that this appeal may be treated as withdrawn and may be dismissed on account of the aforesaid VSVS. After due consideration and in view of the foregoing, we are of the opinion that this appeal has become infructuous on account of aforesaid VSVS, and this appeal may be treated as withdrawn on account of the aforesaid VSVS. Accordingly, this appeal having become infructuous, is treated as withdrawn and is hereby dismissed.

(B.1) Before we part, we hereby clarify, by way of abundant caution, that if for some reason the disputes under this appeal before us are not settled under the aforesaid VSVS, then the assessee will be at liberty to approach ITAT for restoration of this appeal in accordance with law.

(C) In the result, this appeal is dismissed.

This order was already pronounced orally on 9th December, 2021 in Open Court, in the presence of learned Sr. Departmental Representative, after conclusion of the hearing. Now this order in writing is signed today on 10.12.2021.

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

Dated:10.12.2021

PK/Ps

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI