

**आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ “बी.”, चण्डीगढ़**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH**  
**BENCH ‘B’ CHANDIGARH**

**BEFORE: SMT. DIVA SINGH, JUDICIAL MEMBER &**  
**SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER**

**आयकर अपील सं./ ITA No. 339 & 340/CHD/2021**  
Assessment Year : 2013-14 & 2014-15

M/s Megri Soft Limited, SCO 80, Sector 47D, Chandigarh.	बनाम VS	The ACIT Circle 4(1), Chandigarh.
स्थायी लेखा सं./PAN /TAN No: AABCC2466Q		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Parikshit Aggarwal, CA  
राजस्व की ओर से/ Revenue by : Dr. Ranjeet Kaur, Sr.DR  
तारीख/Date of Hearing : 06.01.2022  
उद्घोषणा की तारीख/Date of Pronouncement : 18.01.2022

**VIRTUAL HEARING**

**आदेश/ORDER**

**PER DIVA SINGH**

In both the appeals, the assessee assails the correctness of the separate orders dated 25.09.2021 & 10.09.2021 respectively passed u/s 250 of the Income Tax Act, 1961 by the CIT(A) (NFAC i.e. National Faceless Appeal Centre) Delhi pertaining to 2013-14 & 2014-15 assessment year.

2. It was the common stand of the parties before the Bench that the arguments advanced in ITA 339/CHD/2021 are more or less identical to the facts and submissions in ITA 340/CHD/2021.

3. Accordingly, the grounds raised in ITA 339/CHD/2021 are being reproduced hereunder for completeness :

1. *That on the facts, circumstances and legal position of the case, the Worthy CIT(A), NPAC in Appeal No. CIT(A)/Chandigarh-2/ 10054/2016-17 has erred in passing the order in contravention of the provisions of S. 250(6) of the Income Tax Act, 1961.*
2. *That on law, facts and circumstances of the case, the Worthy CIT(A) has erred in dismissing the quantum appeal as withdrawn by appellant by stating that the appellant opted for the Vivad as Vishwas Scheme, 2020 (VsV) in respect of the above appeal even when the appellant had only opted for a penalty appeal under VsV for this year.*
3. *That on law, facts and circumstances of the case, the Worthy CIT(A) has erred in upholding the action of the Ld. AO, by passing the impugned order under s. 144 r.w.s 143(3) of the Income tax Act, 1961 without following the proper procedure for making the assessment under section 144 i.e. best judgment assessment, despite the fact that the appellant has been visiting the office of Ld. AO regularly. Even the notices were not served, as per the procedures provided under the Income Tax Act 1961, to the appellant and therefore the said order deserves to be quashed.*
4. *That on law, facts and circumstances of the case, the Worthy CIT(A) has erred in confirming the action of the Ld. AO by rejecting/disallowing the claim of deduction under section 80IC of the Income Tax Act 1961, of Rs. 1,84,23,406/ from the Baddi (H.P) unit and making an addition thereof in the income of the appellant, in an arbitrary manner, only on presumptions and on the basis of wrong and erroneous data/figures/ information.*
5. *That on law, facts and circumstances of the case, the Worthy CIT(A) has erred in confirming the action of the Ld. AO by making addition to the income for the AY 2013-14, on the basis of inspection conducted in AY 2016-17 and taking wrong and vindictive assumptions regarding the activity of Baddi unit and thereby the assessment framed by using this information deserves to be quashed.*
6. *That on law, facts and circumstances of the case, the Worthy CIT(A) has erred in confirming the action of the Ld. AO by making addition to the income on the basis of a non-related, non-reliable information of third parties, collected by Ld. AO and even without, confronting the same to appellant, thus denying the right to rebuttal and violating the principles of natural justice and thereby the assessment framed by using this information, deserves to be quashed.*
7. *That the appellant craves leave for any addition, deletion or amendment in the grounds of appeal on or before the disposal of the same.*

4. The ld. AR inviting attention to the above grounds raised, specifically ground No. 2 submitted that in the facts of the

present case, the assessee had approached the Revenue to settle under the Vivad Se Vishwas Scheme the quantum appeals in both the years and the penalty imposed u/s 271(1)(b). The issue was settled under the Scheme in both the penalty appeals. The assessee informed the CIT(A) of this fact seeking withdrawal of penalty appeals in the circumstances. However, the CIT(A) acting on the application of the assessee and misreading it considered the quantum appeal as withdrawn and passed the order. The penalty appeal which had been settled in the 'Vivad Se Vishwas' to be treated as withdrawn was held to be pending incorrectly in 2013-14 assessment year. The only distinction in the two years is that in 2014-15 assessment year, both the quantum and the penalty appeals were treated as withdrawn having been settled under 'Vivad Se Vishwas' Scheme. However, qua the two appeals listed today, the common fact remains that in 2013-14 and 2014-15 assessment years, the quantum appeals were never settled in Vivad Se Vishwas Scheme and hence have been incorrectly treated as withdrawn.

5. The ld. AR carried us through the respective pages in the Paper Book on record.

6. Referring to the record in the background of these facts, it was submitted that in 2013-14 assessment year, the penalty appeal which has been settled in Vivad as Vishwas Scheme is instead erroneously shown to be pending and the quantum appeal which is pending is held to be withdrawn. In the circumstances, it was his limited prayer that the issues pending in the quantum proceedings in 2013-14 and 2014-15 assessment years in regard to which the present appeals have been filed may be set aside back to the file of the CIT(A) so that a decision on merits after hearing the assessee is taken. Paper Book pages 1, 12, 13, 16 and Form No. 35 filed before the CIT(A) were specifically highlighted which were copy of Form No. 5 uploaded by the Pr. CIT, copy of withdrawal of penalty appeal filed by the assessee and copy of Form No. 35 (Pages 16-18) filed before the CIT(A).

7. The ld. Sr.DR considering the record did not dispute the factual position, however, did not oppose the request for a remand.

8. We have heard the rival submissions and perused the material available on record. In the light of the facts as borne out from record which we have seen, we deem it appropriate to set aside the impugned orders and set aside the issues back to

the file of the CIT(A) with a direction to pass the orders denovo in accordance with law considering the correct facts and after hearing the assessee. Said order was pronounced in the presence of parties via Webex.

9. In the result, the appeals of the assessee are allowed for statistical purposes.

Order pronounced on 18<sup>th</sup> January,2022.

**Sd/-**  
**(VIKRAM SINGH YADAV)**  
**लेखा सदस्य/ Accountant Member**

**Sd/-**  
**(DIVA SINGH)**  
**न्यायिक सदस्य/ Judicial Member**

“Poonam”

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,  
सहायक पंजीकार/ Assistant  
Registrar