

**IN THE INCOME TAX APPELLATE TRIBUNAL, JABALPUR BENCH,  
JABALPUR**  
(through Virtual Hearing)

BEFORE SH. SANJAY ARORA, HON'BLE ACCOUNTANT MEMBER  
& SH. MANOMOHAN DAS, HON'BLE JUDICIAL MEMBER

ITA No.238/JAB/2018  
Assessment Year: 2009-10

Bhaskar Bhattacharya (HUF), Satna [PAN:AAJHB 8431P]	vs.	Income Tax Officer, Ward - 2, Satna
(Appellant)		(Respondent)

Appellant by	Sh. Sapan Usrethe, Adv. & Ms. Apoorva Agrawal, FCA
Respondent by	Sh. S.K. Halder, Sr. DR
Date of hearing	16/02/2022
Date of pronouncement	16/02/2022

Per Bench

This is an Appeal by the Assessee agitating the part allowance of its' appeal contesting its' assessment under section 143(3) read with sec. 147 of the Income Tax Act, 1961 ('the Act') dated 22/12/2016 for assessment year (AY) 2009-10 by the first appellate authority vide his order dated 02/8/2018.

2. At the very outset, it was submitted by Sh. Usrethe, the ld. counsel for the assessee, that the assessee-appellant requests for a permission to withdraw the instant appeal on the ground that it has since opted for the settlement of its tax dispute/s under reference under the Vivad Se Vishwas Scheme, 2020 of the Government of India. Form 3 dated 10/03/2021, issued by the competent authority upon verifying the details, stands enclosed, indicating no tax as payable, and the assessee, on the contrary, being entitled to a refund of Rs. 4,08,925.

3. We have heard the parties before us. Though Form 5, which signifies the settlement of the tax dispute under the DTVSV Act is not on record, the same is stated by Sh. Usrethe to be only due to some technical glitches being faced in the Revenue's e-portal for the time being. In any case of the matter, it is clear that the assessee does not intend to prosecute its instant appeal, a statutory right granted under the Act, but to settle its' tax dispute/s following the alternate dispute resolution route, having completed all the processes in this regard. The said Act in fact itself provides for an automatic vacation of the relevant appeal, etc. on the tax dispute being settled thereunder. There was, accordingly, and only understandably so, no objection to the assessee's request by Sh. Halder, the Id. Sr. DR. We accordingly have no hesitation in permitting withdrawal of the instant application, which is rendered not maintainable before the Tribunal, even as liberty for moving it is hereby granted where for any reason the assessee's application under the DTVsV Act does not reach its logical end.

4. In the result, the captioned appeal is dismissed as not maintainable.

*Order pronounced in the Open Court on February 16, 2022*

Sd/-  
(Manomohan Das)  
Judicial Member

Sd/-  
(Sanjay Arora)  
Accountant Member

Dated: 16/02/2022

Copy of the Order forwarded to:

1. The Appellant: M/s. Bhaskar Bhattacharya (HUF), Ward No.5, Mukhtyarganj, Satna (M.P.)
2. The Respondent: Income Tax Officer, Ward 2, Satna (M.P)
3. The Principal CIT-2, Jabalpur
4. The CIT(Appeals)-1, Jabalpur
5. The Senior DR, ITAT, Jabalpur
6. Guard File

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