



आयकरअपीलीय न्यायाधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

(Through Virtual Court at Raipur)

BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER
AND
SHRI JAMLAPPA D. BATTULL, ACCOUNTANT MEMBER

आयकरअपील सं. / ITA No. 274/RPR/2016
निर्धारण वर्ष / Assessment Year : 2008-2009

Kailash Chand Agrawal
Prop. Shree Balaji Road Carrier
T.P. Nagar, Korba – 495679 (C.G.)
PAN : ADNPA 6830 G

.....अपीलार्थी / Appellant

बनाम / V/s.

Dy Commissioner of Income Tax,
Korba - 495679 (C.G.)

.....प्रत्यर्थी / Respondent

Appearances

Assessee by : Shri G. S. Agrawal
Revenue by : Shri G.N Singh

सुनवाई की तारीख / Date of conclusive Hearing : 09/02/2022
घोषणा की तारीख / Date of Pronouncement : 09/02/2022

आदेश/ ORDER

PER JAMLAPPA D. BATTULL, AM;

Against the first appellate order of Commissioner of Income Tax - Appeals, Bilaspur [for short “CIT(A)”] passed u/s 250 vide order dt 07/03/2016 which emanated out of an order of rectification [for short “RO”] dt 06/08/2013 for AY 2008-2009 passed by the Assessing Officer [for short “AO”] u/s 154 of the



Income-tax Act, 1961 [for short “the Act”], the appellant assessee filed this appeal before Income Tax Appellate Tribunal [for short “the Tribunal”] u/s 253.

2. The solitary issue under present appeal is that, the appellant assessee challenges the direction of Ld. CIT(A) issued to Ld. AO for initiating remedial action u/s 147 of the Act.

3. Before advancing the matter on facts for adjudication, it is necessary to reproduce ground challenged by the appellant assessee as under;

“1. That under the facts and the law, the learned Commissioner of Income Tax (Appeals) erred in making direction to the Assessing Officer to take remedial action u/s 147 of the Income Tax Act by reopening the assessment in the proceedings before him for the year under consideration against the order u/s 154, which is not according to the law as the time limit expired and is without jurisdiction.”

4. In proceeding to adjudicate the dispute under appeal, it is important to lay the facts briefly as; the assessee is an individual and the proprietor of **Shree Balaji Carrier** who filed his return of income [for short “ITR/ROI”] for the AY 2008-2009 on 25/11/2010 with a returned income of ₹29,26,630/- and pursuant to the regular assessment u/s 143(3), the income of the assessee was assessed to tax at ₹31,28,730/-. The dispute was then carried under an appeal before Ld CIT(A), who granted a partial relief to the assessee on account of which the assessment was finally culminated at ₹30,48,730/-. Subsequent to aforesaid chronological events, the jurisdiction Ld. AO invoked the provisions of section 154 suo-moto and carried out the certain additions to the



previously concluded assessment by an additional disallowance of ₹18,01,466/- u/s 40(a)(ia) contending non-deduction of tax at source [for short “TDS”] from the payment of finance charges paid to certain non-banking financial corporation [for short “NBFC”]. The said addition u/s 40(a)(ia) which was carried out through the order of rectification passed u/s 154 was challenged by a subsequent appeal to the first appellate authority. In this instance Ld CIT(A) while adjudicating the matter in favour of appellant, passed a specific direction to the jurisdictional AO to initiate separate remedial proceedings u/s 147 of the Act, consequently the appellant is before the Tribunal against such directions of Ld CIT(A).

5. On first scheduled date of hearing, the counsel for the assessee referring to an application of withdrawal dt 04/02/2022 made to and received by this Tribunal, entreated for withdrawal of appeal without prosecuting the matter further for the reason as *“no action is taken by the Ld AO u/s 147 and now is also barred by limitation”*.
6. Ld departmental representative expressed no objection for the withdrawal of this appeal.
7. After hearing to the rival contention of both the parties; perused material placed on record and duly considered the facts of the case in the light of legal



ITA No. 274/RPR/2016
AY 2008-2009

position. In the light of written application from the assessee and no objection from the revenue, we allow the appeal for withdrawal.

8. Resultantly, the appeal of the appellant assessee is dismissed in above terms, with no order as to cost.

Order pronounced in the open court on this Wednesday 9th day of February, 2022.

Sd/-
RAVISH SOOD
JUDICIAL MEMBER

Sd/-
JAMLAPPA D. BATTULL
ACCOUNTANT MEMBER

रायपुर/ RAIPUR ; दिनांक / Dated : 9th February, 2022

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT (Appeals), Raipur (C.G)
4. The Pr. CIT, Raipur (C.G)
5. विभागीय प्रतिनिधि, आयकर अपीलीय न्यायाधिकरण, रायपुर बेंच, रायपुर / DR, ITAT, Raipur Bench, Raipur.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,
// True Copy // निजीसचिव / Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.



ITA No. 274/RPR/2016
AY 2008-2009

Sr	Event	Occurrence Date	Attributes
1	Draft dictated on	09/02/2022	Sr.PS/PS
2	Draft placed before author	09/02/2022	Sr.PS/PS
3	Draft proposed and placed before the second Member	09/02/2022	JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the Asstt Registrar		
11	Date of dispatch of order		