

INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "F": NEW DELHI  
BEFORE SHRI **T.S. KAPOOR, ACCOUNTANT MEMBER**  
AND  
SHRI **N. K. CHOUDHRY, JUDICIAL MEMBER**

ITA No. 813/Del/2017  
(Assessment Year: 2008-09)

Naresh Bajaj  
3509, 1st Floor,  
Nicholson Road, Mori  
Gate, Delhi-110006.  
PAN: AAEPB1224D  
**(Appellant)**

Vs. ACIT,  
Central Circle-34(1),  
New Delhi

**(Respondent)**

Assessee by:

Sh. Mukesh Agarwal, FCA

Revenue by :

Ms. Shweta Yadav Sr. DR

Date of hearing

22/03/2022

Date of pronouncement

22/03/2022

ORDER

PER N.K. CHOUDHRY, J. M.:

The assessee has preferred the instant appeal against the order dated 28.12.2018 impugned herein, passed by the Id. Commissioner of Income tax (Appeals)-12, New Delhi (in short "Ld. Commissioner") u/s 250 of the Income Tax Act, 1961 (in short "the Act").

2. The Ld. Counsel for the Assessee vide letter dated 22-03-2022 has preferred the instant application under consideration for withdrawal of the appeal.

3. Our attention was drawn to the correspondence of the assessee with the Registry and the Revenue Department in respect of request for withdrawal of the appeal by opting Vivid Se Viswas scheme, the Assessee referred its appeal as ITA No. 3554/Del/2019 and the Revenue Department allowed the application for Vivad Se Viswas Scheme and issued Form no. 5 by mentioning the same ITA no. i.e. 3554/Del/2019 whereas it is fact that the impugned order dated 28.12.2018 passed by the Id. Commissioner is the subject matter of ITA no. 3561/Del/2019 only and this factual position has not been denied by the learned DR as well.

On enquiry by us, it was stated by the Registry that initially appeal number allotted to the Assessee was ITA No. 3554/Del/2019, however lateron it was rectified and new ITA no. i.e. 3561/Del/2019 was allotted to the appeal of the Assessee. We have considered the factual aspect and find that ITA no. 3554/Del/201 was allotted inadvertently and therefore deem it appropriate to clarify that for all purposes, the appeal of the Assessee be treated as ITA No. 3561/Del/2019 instead of ITA no. 3554/Del/2019.

4. Coming to the application filed by the Assessee, during the course of hearing, it was submitted that since the Assessee has availed the immunity scheme i.e; Vivad Se Vishwas under The Direct Tax Vivad se Vishwas Act, 2020 and the Income Tax Department has issued Form No. 5 in response to the application filed by the Assessee under the scheme, therefore the appeal of the Assessee may be allowed to be dismissed as withdrawn with liberty to

seek recall of the order in case any unforeseen circumstances would arise in future.

5. The Ld. DR did not refute the factual position and prayer of the Assessee.

6. Having heard the parties and perused the application for withdrawal of the appeal and Form-5 issued by the Department, we are of the opinion that the appeal of Assessee is liable to be dismissed as withdrawn with liberty as prayed for in accordance of law, hence ordered accordingly.

7. In the result appeal filed by the assessee no. 3561/Del/2019 (earlier inadvertently numbered as 3554/Del/2019) stands dismissed.

Order pronounced in open Court on 22-03-2022

-Sd/-  
**(T.S. KAPOOR)**  
ACCOUNTANT MEMBER

-Sd/-  
**(N.K. CHOUDHRY)**  
JUDICIAL MEMBER

Dated: 22/03/2022

A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi