

**IN THE INCOME TAX APPELLATE TRIBUNAL  
CIRCUIT BENCH, VARANASI**

**BEFORE SHRI.VIJAY PAL RAO, JUDICIAL MEMBER  
AND SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER**

ITA No. 71/Vns/2019

Assessment Year:2009-10

Ramesh Kumar Chaudhary HUF, D-66, Chandrika Nagar Colony, Sigra, Varanasi-221010	v.	The Pr. CIT, AayakarBhawan, M.A. Road, Varanasi, U.P.
PAN:AAHCR 2880P		
(Appellant)		(Respondent)

Appellant by:	Sri Ashish Jindal, CA
Respondent by:	ShriSunil Bajpai, CIT-DR
Date of hearing:	21.04.2022
Date of pronouncement:	21.04.2022

**ORDER**

**PER SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER:**

This appeal, filed by assessee, being ITA No.71/Vns/2019, arising out of revisionary order dated 26.2.2019 passed by learned Pr. Commissioner of Income Tax, Varanasi (hereinafter called "the PCIT"), for assessment year 2009-10. We have heard both the parties in Open Court through physical hearing mode.

2. At the outset, ld. Counsel for the assessee, Shri Ashish Jindal, CA made statement before the Bench that this is an appeal arising out of revisionary order dated 26.02.2019 passed by ld. PCIT, Varanasi u/s. 263 of the Income-tax Act, 1961. It was stated by ld. Counsel for the assessee before the Bench that the AO passed consequential assessment order u/s. 143(3) r.w.s. 263 of the 1961 Act, in pursuance of direction issued by ld. PCIT, vide revisionary order dated 26.02.2019 u/s. 263 of the Act. It was stated by ld. Counsel for the assessee Mr. Ashish Jindal, CA before the Bench that the assessee has availed VSVS to settle the dispute with the Department against aforesaid consequential assessment order passed by the AO in pursuance to revisionary order passed by ld. Pr. CIT

u/s 263 of the 1961 Act, and now even Form-5 vide Acknowledge No.756607301291021 dated 29.10.2021 has been issued by Competent Authority . The Ld. Counsel for the assessee namely Mr. Ashish Jindal, CA has also produced before the Bench Form-5 along with covering letter (placed on record in file), which are reproduced hereunder:

**V.K. JINDAL & CO.**  
**CHARTERED ACCOUNTANTS**

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Kaliya Nagar, Rathyatra Crossing  
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April 21, 2022.

To,  
Income Tax Appellate Tribunal,  
Circuit Bench,  
Varanasi.

Hon'ble Sir,

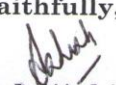
Re: **Ramesh Kumar Chaudhary HUF vs. PCIT, Varanasi**  
AY 2009-10  
Ref: Appeal No. ITA 71/VNS/2019  
Sub: **Request for Withdrawal of Appeal**

Most respectfully, I beg to submit as under:-

1. The present appeal had been filed by the assessee against the order u/s 263 passed by the Pr. CIT, setting aside the original assessment order of AO for fresh assessment.
2. As per the direction by Pr. CIT, the Ld. AO completed the assessment making additions to the total income of the assessee. The assessee filed appeal against the said order before the first appellate authority, i.e CIT (A).
3. In the meantime, the Government of India launched the scheme of Vivad se Vishwas to reduce the burden of pending litigations before the judiciary.
4. Assessee, being eligible for the same, opted for the above scheme to avoid undue litigation. The application of the assessee under VSV Act has been accepted and Form 5 has been issued by the Pr. CIT, which is enclosed herewith.
5. Since, the quantum appeal has been withdrawn by the assessee, therefore, there remains no reason for pursuing the present appeal against the order u/s 263.
6. Hence, your honour is very kindly requested to allow the assessee to withdraw the appeal under consideration. For this act of kindness, the undersigned will be highly obliged.

Thanking you, in advance.

Yours Faithfully,

  
(V.K. Jindal/Ashish Jindal)

Counsel

PAN : AACHR2880P Acknowledgement Number: 756607301291021

FORM-5  
[ See rule 7 ]

ORDER FOR FULL AND FINAL SETTLEMENT OF TAX ARREAR UNDER SECTION 5 (2)  
READ WITH SECTION 6 OF THE DIRECT TAX VIVAD SE VISHWAS ACT, 2020 (3 of 2020)  
THE DIRECT TAX VIVAD SE VISHWAS RULES, 2020

Part A - General Information

Whereas RAMESH KUMAR CHAUDHARY having PAN /TAN AACHR2880P Aadhaar No. (hereinafter referred to as the declarant) had made a declaration under section 4 of the Act

And whereas the designated authority by Certificate No. 202443280120121 dated 12-Jan-2021 determined the amount of Rs. 1401829 payable by / refundable to the declarant in accordance with the provisions of the Act and granted a certificate setting forth therein the particulars of the tax arrear and the amount payable / refundable after such determination towards full and final settlement of tax arrear;

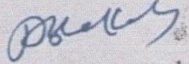
Now, therefore, in exercise of the powers conferred by sub-section (2) of section 5 read with section 6 of the Act, it is hereby certified that -

(a) a sum of Rs. 1401829 has been paid by the declarant towards full and final settlement of tax arrear determined in the order No 202443280120121 dated 12-Jan-2021 and

(b) the immunity is granted subject to the provisions contained in the Act, from instituting any proceeding for prosecution for any offence under the Income-tax Act or from the imposition of penalty under the said enactment[as per section 6 of the Act], in respect of the tax arrear as detailed in the table below

Sl No.	Assessment Year / Financial Year	Details of dispute settled (Appeal reference number)	Nature of tax arrear (disputed tax /disputed penalty / disputed interest /disputed fee)	Amount of tax arrear
1	2009-10	284821251311219	Disputed Tax	4968078

It is hereby clarified that making a declaration under this Act shall not amount to conceding the tax position and it shall not be lawful for the income-tax authority or the declarant being a party in appeal or writ petition or special leave petition to contend that the declarant or the income-tax authority, as the case may be, has acquiesced in the decision on the disputed issue by settling the dispute.

Signature: 

Place / IP Address : 10.176.24.195 Name of the Designated Authority : ABHA CHANDA

Date : 29-Oct-2021 Designation of Designated Authority : PR CIT

To

- (1) The declarant
- (2) Assessing Officer
- (3) Concerned Principal Commissioner of Income-Tax
- (4) Concerned Appellate Forum

3. Thus, Id. Counsel for the assessee, Shri Ashish Jindal, CA prayed before the Bench that this appeal which has arisen from the revisionary order passed by Id. Pr. CIT u/s 263 has become infructuous, in view of the aforesaid statements made before the Bench and documents filed before the Bench.

4. Ld. CIT-DR has no objection if the appeal of the assessee is dismissed as being withdrawn

5. After hearing both the parties and after considering the statements made by the Id. Counsel for the assessee, Shri Ashish Jindal, CA and written submissions filed (as detailed above) and department raising no objection to dismissal of this appeal, we dismiss this appeal as being withdrawn/infructuous. We order accordingly.

6. In the result, the appeal of the assessee in ITA No. 71/Vns/2019 for ay: 2009-10 is dismissed as withdrawn.

Order pronounced on 21.04.2022 at Varanasi, U.P.

Sd/-

[VIJAY PAL RAO]  
JUDICIAL MEMBER

DATED: 21/04/2022

Aks/-

Sd/-

[RAMIT KOCHAR]  
ACCOUNTANT MEMBER

Copy forwarded to:

1. Appellant – Ramesh Kumar Chaudhary HUF, D-66, Chandrika Nagar Colony, Sagra, Varanasi-221010
2. Pr. CIT, Varanasi
3. The CIT-DR, ITAT, Varanasi
4. The CIT, Varanasi

Sr. Private Secretary