

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "C", MUMBAI**

**BEFORE SHRI G.S. PANNU, PRESIDENT AND
SHRI ABY T. VARKEY, JUDICIAL MEMBER**

ITA NO. 703/MUM/2022

:

A.Y : 2006-07

Infrasoft Technologies Limited
Unit No. 86 & 87, 1st floor,
SDF III, SEEPZ SEZ, Andheri (E),
Mumbai 400 096.

Vs. Asstt. Commissioner of Income
Tax, Circle – 2(1)(1), Mumbai.
(Respondent)

PAN : AAACB2817R (Appellant)

Appellant by : Shri Vijay Mehta

Respondent by : Shri Mehul Jain

Date of Hearing : 17/06/2022

Date of Pronouncement : 17/06/2022

ORDER

PER ABY T. VARKEY, JM :

This appeal is preferred by the assessee against the order of Id. Commissioner of Income Tax (Appeals) (NFAC), Delhi (hereinafter referred to as "CIT(A)") dated 01.04.2022 for Assessment Year 2006-07.

2. Today, the matter was listed for early hearing. However, it was brought to our notice that the Id. CIT(A) has passed the impugned order on the erroneous assumption of fact that the assessee has availed the Vivad se Vishwas Scheme, 2020 (hereinafter referred to as "the Scheme"); and therefore, the Id. CIT(A) without going into the merits of the grounds of appeal

preferred by the assessee, has dismissed it. It was asserted that in view of the aforesaid, the matter would have to be set-aside back to the file of CIT(A). When the matter was put to the Id. Department Representative, he could not controvert the fact as pointed out by the learned representative for the assessee; and, he consented that the matter be set-aside to the file of the CIT(A) for consideration on merits.

3. We have heard both the parties and perused the record. We note that the Id. CIT(A) has dismissed the appeal preferred by the assessee on the wrong assumption of fact that the assessee has opted for the Scheme, whereas the assessee has not opted for the Scheme. In such a scenario, and in deference to the submission of both the sides, we set-aside the order of Id. CIT(A) and restore the appeal back to his file with a direction to decide the appeal *de novo* on merits in accordance with law.

4. In the result, appeal of the assessee is allowed for statistical purpose.

The above decision was pronounced in the presence of both the parties at the conclusion of the hearing today, i.e. 17.06.2022.

Sd/-
(G.S. PANNU)
PRESIDENT

Sd/-
(ABY T. VARKEY)
JUDICIAL MEMBER

Mumbai, Date : 17.06.2022

SSL

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT(A) concerned
- 4) The CIT concerned
- 5) The D.R, "C" Bench, Mumbai
- 6) Guard file

By Order

Asstt. Registrar/Sr. Private Secretary
I.T.A.T, Mumbai