

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E': NEW DELHI**

**BEFORE,
SHRI SAKTIJIT DEY, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No.141/Del/2020
(ASSESSMENT YEAR 2011-12)**

Ligare Aviation Limited 8/87, Mehram Nagar, New Delhi-110 010 PAN-AAACV 3934B (Appellant)		Addl. CIT Special Range-5 New Delhi (Respondent)
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Appellant by	Sh. Rajat Juneja and Ms. Akansha Arora, Authorized Representatives
Respondent by	Sh. Narpat Singh, Senior Departmental Representative

ORDER

PER ANADEE NATH MISSHRA, AM:

(A) This appeal by Assessee is filed against the order of Learned Commissioner of Income Tax (Appeals)-36, New Delhi [Ld. CIT(A)], for short], dated 11.11.2019 for Assessment Year 2011-12.

Grounds taken in this appeal of Assessee are as under:

“Based on the facts and the circumstances of the case, the appellant company respectfully craves to prefer an appeal before your lordships against the appellate order issued by the Commissioner of Income Tax (Appeals)-36, New Delhi (hereinafter referred to as the 'CIT - Appeals') under section 250 of the Income-tax Act, 1961 ('the Act') on the following grounds:

1. *The learned CIT - Appeals has erred both on facts and in law in not allowing the sufficient opportunity of being heard to the appellant company in this regard.*

That consequent to the above, the learned CIT - Appeals has further erred both on facts and in law, in not disposing the appeal on merits and thereby depriving of the justice to the appellant company.

2. *The learned CIT - Appeals has erred both on facts and in law, by upholding the action of the Assessing Officer and in not appreciating that the limitation of four years were applicable and not six years under the provisions of section 147 of the Act in the present set of facts, without observing that there was no failure on the part of the appellant company to disclose fully and truly all material facts necessary for the assessment.*

3. *The learned CIT - Appeals has erred both on facts and in law, by upholding the action of the Assessing Officer wherein the necessary condition in the copy of the reasons were not recorded in context of any failure on part of the taxpayer to disclose fully and truly all material facts necessary for the assessment, and thus the income escaping assessment so framed is liable to be quashed being invalid.*

4. *The learned CIT - Appeals has erred both on facts and in law, by upholding the action of the Assessing Officer and in wrongly issuing the notice under section 148 read with section 150(1) of the Act, despite the clear mention in the sanction/ approval letter (Item No. 10 of the said Form) obtained from the Principal Commissioner of Income-tax, that the provisions of section 150(1) of the Act are not applicable, and accordingly the said income escaping assessment proceedings so framed is liable to be quashed as lacking jurisdiction.*

5. *The learned CIT - Appeals has erred both on facts and in law, by upholding the action of the Assessing Officer and in wrongly making a disallowance of expenditure in context of premium on forward contracts amounting to Rs. 23,610,738 under the provisions of section 43A of the Act.*

6. *Without prejudice to the above grounds, the learned CIT - Appeals has erred both on facts and in law, by upholding the action of the Assessing Officer and in not adjusting the sums pertaining to the said disallowance against the current year business losses for the relevant assessment year, being 2011-12, in the computation sheet attached with the assessment order under section 147 of the Act.*

7. *The above grounds of appeal are without prejudice to each other and the appellant company craves to add, alter, amend or delete any of the grounds at any stage of the proceedings.”*

(B) In the course of appellate proceedings in Income Tax Appellate Tribunal (“ITAT”, for short) a letter was filed from the assessee’s side, informing that the matter under appeal is already

resolved under Direct Tax Vivad Se Vishwas Scheme of 2020. A copy of Form-5 issued by the Designated Authority under the aforesaid scheme was also filed. At the time of hearing before us, the Ld. Authorized Representative (“Ld. AR”, for short) for the assessee submitted that the appeal has become infructuous in view of the assessee opting for this scheme, and that the appeal may be dismissed as withdrawn. Learned Senior Departmental Representative was in agreement with this. After due consideration, and in view of the foregoing, we are of the opinion that this appeal has become infructuous on account of aforesaid VSVS, and that this appeal may be treated as withdrawn on account of the aforesaid VSVS. Accordingly, this appeal having become infructuous, is treated as withdrawn and is hereby dismissed.

(B.1) Before we part, we hereby clarify, by way of abundant caution, that if for some reason the disputes under this appeal before us are not settled under the aforesaid scheme, then Assessee will be at liberty to approach ITAT for restoration of this appeal in accordance with law.

(C) In the result, this appeal is dismissed.

This order was already pronounced orally on 21st June, 2022 in Open Court, in the presence of representatives of both sides, after conclusion of the hearing. Now this order in writing is signed today on 21.06.2022.

Sd/-

(SAKTIJIT DEY)
JUDICIAL MEMBER

Dated: 21.06.2022

Pk

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT NEW, DELHI