

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI B BENCH, MUMBAI**

**[Coram: Pramod Kumar (Vice President),
and Aby T Varkey (Judicial Member)]**

ITA No.: 1047/Mum/2022
Assessment year: 2013-14

Hinduja Global Solutions Limited **Appellant**
*Hinduja House, 171, Dr. Annie Besant Road,
Worli, Mumbai 400 018 [PAN: AAAC1763A]*

Vs.

Commissioner of Income Tax (Appeal)
NFAC, Delhi **Respondent**

Appearances by:

None for the appellant

Dr. Mahesh Akhade for the respondent

Date of concluding the hearing : 30/06/2022
Date of pronouncing the order : 30/06/2022

O R D E R

Per Pramod Kumar VP

1. This is an appeal filed by the assessee and is directed against the order dated 14.03.2022 in the matter of rectification on mistake u/s. 154 of the Income Tax Act 1961, for the assessment year 2013-14.

2. Grievances raised by the assessee are as follows:-

On the facts and circumstances of the case and in law, the Hon'ble Commissioner of Income-Tax (Appeal) erred in dismissing the appeal filed by the Appellant against the rectification order under section 154 of the IT Act by stating that the Appellant has applied for Vivad Se Vishwas Scheme ('VSVS') - 2020 and that the Appellant has been issued granted Form 5 VSVS-2020 and hence the appeal has become in fructuous.

The Appellant states that the Hon'ble CIT(A) erred in not considering the fact that the Appellant had applied for VSVS - 2020 in respect of assessment order passed under section 143(3) of the Act and not in respect of the appeal against rectification order under section 154 of the Act.

The Appellant prays that the Hon'ble Commissioner of Income-Tax (Appeal) be directed to restore the appeal filed against rectification order under section 154 of the IT Act and grant the Appellant

2. *Without prejudice to the above, on the facts and circumstances of the case and in law, the learned AO erred in not granting foreign tax credit ('FTC') of Rs. 1,66,89,930 under section 90 of the Act by restricting FTC to Rs.4,84,29,482 as against Rs. 6,51,19,412 claimed by the Appellant in its Return of Income.*

The Appellant prays that Hon'ble Commissioner of Income-Tax (Appeal) be directed be directed to grant the balance foreign tax credit of Rs.1,66,89,930 u/s 90 of the Act.

3. *Without prejudice to the above, on the facts and circumstances of the case and in law, the order passed by the learned AO u/s 154 of the Act is invalid and bad in law*

4. *The Appellant craves leave to add, alter, amend and / or withdraw all or any of the Grounds of Appeal herein and to submit such statements, documents and papers as may be considered necessary either*

3. Having perused the material on record, and having heard the learned Departmental Representative, we find that though the assessee has settled the dispute with regard to assessment year u/s. 143(3) of the Act for the assessment year 2013-14, under the Vivad Se Vishwas Scheme, the plea of the assessee is that so far as the dispute u/s. 154 of the Act is concerned it is not covered by the said settlement. However the learned CIT(A) has proceeded to dispose of the matter as not pressed on the ground that this issue is also settled under the Vivad Se Vishwas Scheme. In our considered view the learned CIT(A) ought to have dealt with this plea of the assessee by way of speaking order and then, if required, ought to have adjudicated on the grievance on merits as well. Accordingly, we deem it fit and proper to remit the matter to the file of the learned CIT(A) for fresh adjudication in the light of our observations.

4. In the result the appeal is allowed for statistical purposes in the terms indicated above.
Pronounced in the open court today on the 30th day of June, 2022.

Sd/-

Aby T Varkey
(Judicial Member)

Sd/-

Pramod Kumar
(Vice President)

Mumbai, dated the 30th day of June, 2022

Copies to: (1) *The appellant* (2) *The respondent*
(3) *CIT* (4) *CIT(A)*
(5) *DR* (6) *Guard File*

By order

*Assistant Registrar/ Sr PS
Income Tax Appellate Tribunal
Mumbai benches, Mumbai*