

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

**BEFORE,  
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER  
AND  
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No.3860/Del/2019  
(ASSESSMENT YEAR 2008-09)**

Achiever Garments Pvt. Ltd. JMD Regent Plaza, Ground Floor, M.G. Road, Gurgaon, Haryana PAN- AAHCA0455B <b>(Appellant)</b>	Vs.	ITO, Ward-1(3), New Delhi  <b>(Respondent)</b>
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Appellant By	None
Respondent by	Shri Kanv Bali, Sr. DR

**ORDER**

**PER ANADEE NATH MISSHRA, AM:**

(A) This appeal by Assessee is filed against the order of Learned Commissioner of Income Tax (Appeals)-I, New Delhi [Ld. CIT(A)", for short], dated 29.03.2019 for Assessment Year 2008-09. Grounds taken in this appeal of Assessee are as under:

*"1. On the facts and in the circumstance of the case and in law action taken u/s 147/148 was illegal, bad in law and invalid in the absence of conditions necessary for taking such valid action.*

2. *On the facts and in the circumstance of the case and in law the assessment completed u/s 147/144 is also illegal, bad in law and invalid in the absence of valid service of notice u/s 148 prior to completion of assessment.*
3. *On the facts and in the circumstance of the case and in law the alleged service of notice u/s 148 by Affixture is no valid service since no efforts were undertaken by the AO to affect the service personally prior to embarking upon service by Affixture.*
4. *On the facts and in the circumstance of the case and in law and without prejudice to whatever has been stated above even the service by Affixture is not valid in the absence of conditions necessary for a valid service of Affixture.*
5. *On the facts and in the circumstance of the case and in law the CIT(A) was incorrect and unjustified in holding that service of notice u/s 148 was valid and therefore also incorrect in holding that the objections of the assessee in this regard are rejected.*
6. *On the facts and in the circumstance of the case and in law the CIT(A) was incorrect and unjustified in holding that the assessment u/s 144 has been rightly framed by the AO.*
7. *On the facts and in the circumstance of the case and in law the CIT(A) was incorrect and unjustified in holding that the action u/s. 147 taken by the AO was valid and legal.*
8. *On the facts and in the circumstance of the case and in law the CIT(A) was incorrect and unjustified in holding that addition made by the AO u/s 68 of Rs 93 lakh was rightly made by the AO and hence incorrect and unjustified in upholding this addition.*
9. *On the facts and in the circumstance of the case and in law the CIT(A) was incorrect and unjustified in upholding the addition of Rs 1,39,500/-.*
10. *On the facts and in the circumstance of the case and in law the CIT(A) was incorrect and unjustified in holding that provisions of section 68 were attracted in this case.*
11. *On the facts and in the circumstance of the case and in law the CIT(A) was incorrect and unjustified in dismissing the appeal of the assessee.*
12. *On the facts and in the circumstance of the case and in law the CIT(A) was incorrect and unjustified in passing the appeal order ignoring the submissions of the assessee filed during appeal proceedings vide letter dated 7/12/2018.*
13. *On the facts and in the circumstance of the case and in law the CIT(A) was incorrect and unjustified in upholding the service of notices allegedly made by way of Affixture as valid service.”*

(B) The assessee, vide letter dated 26.07.2021, submitted that the assessee has opted for Vivad se Vishwas Scheme, 2020 (“VSVS”, for short) and that the Designated Authority has already issued Form-5 under VSVS. A copy of Form-5 issued by the Designated Authority was also enclosed with the aforesaid letter; and the assessee applied for withdrawal of appeal. The ld. Senior Departmental Representative for Revenue submitted before us, at the time of hearing, that the appeal has become infructuous in view of the assessee opting for VSVS; and that the appeal may be dismissed as withdrawn. 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 VSVS, then the**

**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 4<sup>th</sup> July, 2022 in Open Court. Now this order in writing is signed today on 06.07.2022.

Sd/-

Sd/-

**(CHALLA NAGENDRA PRASAD)**  
**JUDICIAL MEMBER**

**(ANADEE NATH MISSHRA)**  
**ACCOUNTANT MEMBER**

Dated: 06.07.2022

*Prabhat*

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW, DELHI