

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE

BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER AND
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

ITA Nos.328 to 330/PUN/2019

निर्धारण वर्ष / Assessment Years : 2009-10 to 2011-12

DCIT, Central Circle – 1, Nashik	Vs.	M/s. Vishwa Infraways Pvt. Ltd., A/2-3, Pramukh Vihar Naroli Road, Silvasa, Dadra & Nagar Haweli – 396230 PAN: AACCV7999Q
Appellant		Respondent

ITA No.557/PUN/2020

निर्धारण वर्ष / Assessment Year : 2009-10

M/s. Vishwa Infraways Pvt. Ltd., D-12, Pramukh Vihar, Phase-II Naroli Road, Silvasa, Dadra & Nagar Haweli – 396230 PAN: AACCV7999Q	Vs.	ACIT, Central Circle – 1, Nashik
Appellant		Respondent

Assessee by
Revenue by

Shri Pramod Shingte
Shri Rajarshi Dwivedy

Date of hearing

05-07-2022

Date of pronouncement

04-08-2022

आदेश / ORDER

PER S.S. GODARA, JM :

The instant batch of four cases pertains to the single assessee herein M/s. Vishwa Infraways Pvt. Ltd. The Revenue's three appeals ITA Nos.328 to 330/PUN/2019 for assessment years 2009-10 to 2011-12 arise against the CIT(A)-12, Pune's common order dated 24-12-2018 passed in case No.PN/CIT(A)-12/10158, 10154, 10153/2016-17 respectively, in proceedings under Section 143(3) r.w.s 153C r.w.s. 263 of the Income Tax Act, 1961, in short 'the Act'. The assessee's appeal ITA No.557/PUN/2020 for assessment year 2009-10 on the other hand is directed against the CIT(A)-12, Pune's order dated 19-08-2020 passed in case No.ITBA/APL/S/250/2020-21/1027751676(1) in proceedings under Section 143(3) of "the Act".

Heard both the parties. Case files perused.

2. We first of all come to Revenue's three appeals ITA Nos.328 to 330/PUN/2019. Suffice to say, the CIT(A) has quashed the impugned assessments herein; all dated 18.03.2016 for the sole reason that the same had been finalized in furtherance to the

CIT(Central), Nagpur's section 263 revision directions dated 27.03.2015; which in turn, stand reversed in assessee's as many appeals ITA Nos.596, 597 & 599/PUN/2015 filed before this Tribunal and decided on 28.11.2018. That being the case, we are of the view that the CIT(A) has rightly accepted the assessee's arguments as the impugned assessments have no legs to stand as of now.

Learned CIT-DR vehemently argued that the CIT(A) herein has erred in law and on facts in deciding the foregoing legal issue in assessee's favour and against the department. He sought to buttress the point that the Revenue's tax appeals preferred against the tribunal's in foregoing revision order(s) are pending before the hon'ble jurisdictional high court. He has further placed on record the corresponding filing details as well. All these Revenue's arguments fails to invoke our concurrence as the impugned assessments have no legs to stand as on date once the CIT's section 263 revision directions itself stand reversed. We, accordingly, reject the Revenue's instant three appeals ITA Nos.328 to 330/PUN/2019. Ordered accordingly.

3. We now advert to the assessee's appeal ITA No.557/PUN/2020 for assessment year 2009-10. Mr. Shingte vehemently argued that the CIT(A) has erred in law and on facts in not condoning the delay of 721 days in the lower appellant proceedings. He fails to dispute that the Assessing Officer's corresponding section 153C r.w.s. 143(3) assessment dated 28.03.2013 herein(s) had not made any addition and therefore, the assessee could hardly be held as an aggrieved party even on merits. We, therefore, reject the assessee's instant appeal ITA No.557/PUN/2020 as not maintainable. Rejected accordingly.

4. These Revenue's three appeals ITA No.328 to 330/PUN/2018 as well as assessee's appeal ITA No.557/PUN/2020 are dismissed in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the Open Court on 4th August, 2022.

Sd/-
(DIPAK P. RIPOTE)
ACCOUNTANT MEMBER
पुणे Pune; दिनांक Dated : 4th August, 2022
GCVSR

Sd/-
(S.S. GODARA)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-12, Pune
4. The Pr.CIT Central, Nagpur
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "B" /
DR 'B', ITAT, Pune
6. गार्ड फाईल / Guard file

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
 आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	05-07-2022	Sr.PS
2.	Draft placed before author	06-07-2022	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		