

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A" NEW DELHI

BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER

आ.अ.सं./I.T.A No.900/Del/2020

निर्धारणवर्ष/Assessment Year: 2011-12

Ajay Enterprises Pvt. Ltd., 8 th Floor, Eros Corporate Tower, Nehru Place, New Delhi. PAN No. AAACA1967D	बनाम Vs.	ACIT Circle 73(1) New Delhi.
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

&

आ.अ.सं./I.T.A Nos.1560 & 1561/Del/2020

निर्धारणवर्ष/Assessment Years: 2008-09 & 2009-10

DCIT Central Circle 01, Room No. 334, E-2, ARA Centre, Jhandewalan Extension, New Delhi.	बनाम Vs.	Ajay Enterprises Pvt. Ltd., 8 th Floor, Eros Corporate Tower, Nehru Place, New Delhi. PAN No. AAACA1967D
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

निर्धारितकीओरसे /Assessee by	Shri R.K. Kapoor, CA
राजस्वकीओरसे /Revenue by	Shri Kanv Bali, Sr. DR

सुनवाईकीतारीख/ Date of hearing:	14.07.2022
उद्घोषणाकीतारीख/Pronouncement on	08.8.2022

आदेश /O R D E R

PER C.N. PRASAD, J.M.

These three appeals are filed by the Assessee and Revenue against different orders of the Ld. Commissioner of Income Tax (Appeals) for the assessment years 2011-12, 2008-09 & 2009-10.

2. Appeal in ITA No. 900/Del/2020 filed by the assessee for the AY 2011-12 and the Ld. Counsel for the assessee submits that assessee wish to withdraw its appeal and, therefore, the assessee may be permitted to withdraw its appeal. The Ld. Counsel for the assessee made an endorsement to that effect in Form 36.

3. Ld. DR has no serious objection in assessee withdrawing its appeal.

4. Considering the submissions of both the parties the assessee is permitted to withdraw its appeal. Accordingly, the appeal of the assessee is dismissed as withdrawn.

5. Coming to appeals of the Revenue for the assessment years 2008-09 & 2009-10 the Ld. Counsel for the assessee submits that these appeals arise out of the assessment orders passed by the Assessing Officer giving effect to the order of the Tribunal. The Ld. Counsel for the assessee submits that even though the appeals for the assessment years 2008-09 & 2009-10 were still pending before the Tribunal the AO acted upon the order of the Tribunal mistakenly uploaded in the web site of ITAT. The Ld. Counsel submits that the siad order of ITAT which was mistakenly uploaded in the web site of ITAT even though it was not pronounced by the Members by putting their signatures the Assessing Officer treated this order as final order passed by the Tribunal and initiated consequential assessment proceedings based on this order and completed the assessments. The Ld. Counsel for the assessee submits that assessee

preferred appeals before the Ld. CIT(A) and explained before the Ld. CIT(A) that the unsigned order mistakenly uploaded in the web site of ITAT is not the final order as the Tribunal was hearing the appeals on various dates subsequently. Taking cognizance of this fact the Ld. CIT(A) deleted the additions/disallowances made by the AO while completing the consequential assessments based on the unsigned order of the Tribunal which was mistakenly uploaded in the web site. The Ld. Counsel submits that the Ld. CIT(A) has rightly deleted the additions/disallowances.

6. The ld. DR could not controvert any of the submissions made by the Ld. Counsel for the assessee.

7. We have heard the rival submissions, perused the orders of the authorities below and the final order of the Tribunal in ITA No. 1348 and 1349/Del/2013 and ITA No. 899/Del/2013 for the assessment years 2008-09 & 2009-10 passed on 30.07.2021. We observe from the assessment orders of the Assessing Officer that consequential assessments giving effect to the order of the Tribunal which was mistakenly uploaded were completed by the Assessing Officer on 02.12.2019. The assessee went in appeal before the Ld. CIT(A) contending that the order of the Tribunal which was acted upon by the Assessing Officer was not the final order and, therefore, the additions cannot be sustained. The assessee submitted before the Ld. CIT(A) that the proceedings before the Tribunal

were going on as the Tribunal was hearing the appeals and no final order was passed by the Tribunal. The evidences were produced before the Ld. CIT(A) regarding the continuation of proceedings before the Tribunal for the assessment years 2008-09 & 2009-10. The Ld. CIT(A) deleted the additions based on the submissions of the assessee and also taking the fact on record that the proceedings are still pending before the Tribunal for the assessment years 2008-09 & 2009-10. We are of the view that since AO acted upon the unsigned order of the Tribunal which was mistakenly uploaded in the web site of ITAT the Ld. CIT(A) has rightly deleted the addition/disallowance made in the giving effect orders passed by the Assessing Officer.

7.1 We further observe that since the Tribunal had passed final order on 30.07.2021 in ITA Nos. 899/Del/2013, 1348 & 1349/Del/2013 for the assessment years 2008-09 & 2009-10 much later to completion of consequential assessments, the entire proceedings initiated and completed by the AO on 02.12.2019 u/s 143(3) on the basis of the Tribunal order mistakenly uploaded in the ITAT web site without the signature of the Members are infructuous. Therefore, since all further proceedings which had taken place based on the order of the Tribunal which was mistakenly uploaded in the web site become infructuous the present appeals filed by the Revenue also become infructuous. In the circumstances, we dismiss the appeals of the Revenue as infructuous.

8. In the result, the appeal of the assessee is dismissed as withdrawn and appeals of the Revenue are dismissed as infructuous.

Order pronounced in the open court on 08/08/2022

**Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER**

**Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER**

Dated: 08/08/2022

**Kavita Arora, Sr. P.S.*

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT (DR)/Guard file of ITAT.

By order

Assistant Registrar, ITAT: Delhi Benches-Delhi