

**IN THE INCOME TAX APPELLATE TRIBUNAL
CIRCUIT BENCH, VARANASI
BEFORE SHRI.VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER**

**ITA No.31/VNS/2019
Assessment Years: 2013-14**

M/s Niharika Automobiles, Kalichabad, Muradganj, Jaunpur, U.P. PAN- AAIFN3081E	v.	Income Tax Officer-2, Jaunpur
(Appellant)		(Respondent)

Appellant by:	None
Respondent by:	Sh. A.K. Singh, Sr. DR
Date of hearing:	25.08.2022
Date of pronouncement:	25.08.2022

ORDER

PER VIJAY PAL RAO, J.M.

This appeal by the assessee is directed against the order dated 10.10.2018 of CIT(A) for the assessment year 2013-14.

2. Earlier this appeal was dismissed for non prosecution by this Tribunal, vide order dated 7.6.2019. Thereafter, the assessee filed a Misc. Application No. 08/VNS/2019 for recalling of the earlier order. Even after filing the misc. application, nobody appeared to pursue the Misc. Application. However, the Tribunal, vide order dated 27.5.2022 recalled the earlier order dated 7.6.2019 and restored the appeal of the assessee to its original number and stage. Thereafter, repeated notices were issued to the assessee but none has appeared on behalf of the assessee despite the best efforts to serve the assessee and the notices issued through RPAD and email.

3. At the outset, it is noted that the assessee has already opted for Vivad Se Vishwas Scheme, 2020 to settle the outstanding tax disputes. The designated

authority has already issued Form No. 3 dated 9.2.2021 showing a refund of Rs. 5,10,758/-. Accordingly, the Bench proposes to hear and dispose of this appeal *ex parte*.

4. The learned AR has not objected to the fact that the assessee has already opted for Vivad Se Vishwas Scheme, 2020 and no outstanding tax dues are pending but there is a refund of Rs. 5,10,758/- as shown in Form No. 3 issued by the designated authority. Thus, when the assessee has opted for Vivad Se Vishwas Scheme, 2020 to settle the outstanding tax dispute and the designated authority already issued Form No. 3 dated 9th February, 2021 showing the refundable amount of Rs. 5,10,758/- therefore, in the facts and circumstances of the case, the present appeal of the assessee is dismissed being withdrawn. It is clarified that in case the dispute is not finally settled or the Form No. 5 is not issued by the designated authority in full and final settlement, then the assessee as well as Assessing Officer is at liberty to get this appeal revived.

5. In the result, the appeal of the assessee is dismissed as withdrawn as the assessee has opted for Vivad Se Vishwas Scheme, 2020 to settle the outstanding tax dispute and nothing is outstanding against the assessee.

Order pronounced in the open Court after conclusion of hearing on 25.08.2022 at Varanasi, U.P.

Sd/-
[RAMIT KOCHAR]
ACCOUNTANT MEMBER
DATED: 25/08/2022
Varanasi
Sh

Sd/-
[VIJAY PAL RAO]
JUDICIAL MEMBER

Copy forwarded to:

1. Appellant- M/s Niharika Automobiles
2. Respondent-ITO-2, Jaunpur
3. CIT(A)
4. CIT
5. DR

By order
Sr. P.S.