

IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH KOLKATA

आयकर अपीलीय अधीकरण, न्यायपीठ - “C” कोलकाता,

**BEFORE SHRI SONJOY SARMA, JUDICIAL MEMBER
AND SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.2052/Kol/2019
Assessment Year: 2015-16**

M/s. Krishaa Somani Minor Beneficiary Trust (PAN: AACTK0849D) 143/1/1, Cotton Street, Burrabazar, Kolkata-700007.	Vs.	Income Tax Officer, Ward- 35(3), Kolkata.
(Appellant)		(Respondent)

Present for:

Appellant by : Shri Rakesh Jain, AR
Respondent by : Smt. Ranu Biswas, Addl. CIT, DR

Date of Hearing : 27.09.2022

Date of Pronouncement : 27.09.2022

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal by the assessee is directed against the order of Ld. CIT(A)-10, Kolkata vide Appeal No.988/CIT(A)-10/W-35(3)/2015-2016/2017-18/Kol dated 30.07.2019 for A.Y. 2015-16 arising out of order passed u/s. 143(3) of the Income-tax Act, 1961 (hereinafter referred to as ‘the Act’) by ITO, Ward-35(3), Kolkata dated 26.12.2017.

2. Shri Rakesh Jain, AR appeared on behalf of the assessee. Smt. Ranu Biswas appeared on behalf of the revenue.

3. At the time of hearing, Ld. Counsel for the assessee submitted that the assessee preferred an appeal before the Hon'ble Income Tax Appellate Tribunal, Kolkata by filing Form no. 36 on 03.09.2019 against the order passed under section 250 of the Income Tax Act, 1961 by the Ld. Commissioner of Income Tax (Appeals) - 10, Kolkata on 30 .07.2019 (date of service of order: 08.08.2019) confirming the assessment order passed under section 143(3) of the Income Tax Act, 1961 by the Ld.

Income Tax Officer, Ward - 35(3), Kolkata dated 26.12.2017 for the assessment year 2015-16.

3.1. It was submitted by the Ld. counsel that the disputed demand of the assessee for assessment year 2015-16 raised by the ld. Assessing officer in his order under section 143(3) of the Act was further enhanced by passing order under section 154 of the Act dated 12.11.2018. Subsequently, a separate appeal was also filed appeal before the Hon'ble Income Tax Appellate Tribunal, Kolkata on 03.09.2019 against the order of Ld. Commissioner of Income Tax (Appeals) - 10, Kolkata passed under section 250 of the Act confirming the assessment order passed under section 154 of the Income Tax Act, 1961 by the Ld. Income Tax Office, Ward - 35(3), Kolkata dated 12.11.2018.

3.2. In the meantime, the assessee had preferred to settle the matter under the Vivad se Vishwas Scheme, 2020 and filed its Form 1 and 2 on 24.11.2020. Form 1 and 2 filed by the assessee under the Vivad se Vishwas Scheme, 2020 is available at page no. 11 to 22 of the paper book.

3.3. By following question no. 25 of the instructions issued by the Board in its Circular no. 9/2020 dated 22.04.2020, the assessee paid the disputed tax portion of the demand as enhanced by order under section 154 of the Income Tax Act, 1961 dated 12.11.2018 and paid the challan on 24.02.2021 after receiving form 3 under the Vivad se Vishwas Scheme, 2020 on 21.12.2020. Copy of form 3 is available at pages 22 and 23 of the paper book.

3.4. In the meantime, the assessee had filed its petition for withdrawal of appeal on 11.01.2021 before the Hon'ble Income Tax Appellate Tribunal, Kolkata for both the appeals. Subsequently, form 4 was filed on 26.02.2021 along with the tax paid challan. The assessee also

received form 5 on 16.03.2021 issued by the Ld. Principal Commissioner of Income Tax - 5, Kolkata. Copies of form 4 and 5 are available at pages 24 and 25 of the paper book.

3.5. Subsequently, an order was passed by the Hon'ble Income Tax Appellate Tribunal, Kolkata on 15.01.2021 against ITA no. 2053/Kol/2019 as a result of the petition for withdrawal of appeal filed on 11.01.2021. Therefore, when the disputed tax under section 143(3) as enhanced by the order under section 154 has been paid by the assessee, both the appeals have been settled under the Vivad se Vishwas Scheme, 2020 and the Hon'ble Income Tax Appellate Tribunal, Kolkata has passed its order reflecting the withdrawal of appeal filed against the order under section 154, therefore, the appeal filed against the order under section 143(3) [i.e. ITA no. 2052/Kol/2019] deemed to have been withdrawn .

4. In the light of the aforesaid discussion, we treat this submission of the assessee informing the Tribunal the fact that assessee is opting for the said scheme, therefore, we allow the assessee to withdraw the impugned appeal.

5. In the result, the appeal of the assessee is dismissed as withdrawn.

Order is pronounced in the open court at the time of hearing

Sd/-
(SONJOY SARMA)
JUDICIAL MEMBER

Sd/-
(GIRISH AGRAWAL)
ACCOUNTANT MEMBER

Dated: 27.09.2022

JD, Sr. P.S.

Copy to:

1. The Appellant:
 2. The Respondent:.
 3. The CIT(A)-10, Kolkata.
 4. The CIT , Kolkata.
 5. The DR, ITAT, Kolkata Bench, Kolkata
- //True Copy//

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata