

**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.1494&1496/Kol/2019  
Assessment Years: 2007-08 & 2009-10**

M/s. Oberoi Hotels Pvt. Ltd. (PAN: AAACO3408K) 4, Mangoe Lane, 6 <sup>th</sup> Floor, Kolkata-700001.	Vs.	DCIT, Circle-8(2), Kolkata.
<b>(Appellant)</b>		<b>(Respondent)</b>

**Present for:**

Appellant by : Shri Soohan Sen, AR  
Respondent by : Shri D. K. Sonawal, CIT

Date of Hearing : 29.09.2022  
Date of Pronouncement : 29.09.2022

**ORDER**

**PER Bench:**

Both these appeals by the assessee are directed against the separate orders of Ld. CIT(A)-23, Kolkata vide No.23/10384/2017-18 dated 05.04.2019 for A.Ys. 2007-08 and 2009-10 arising out of order passed u/s.254/251/143(3) of the Income-tax Act, 1961 (hereinafter referred to as ‘the Act’) by ACIT, circle-8(2), Kolkata dated 15.12.2016.

2. Shri Soohan Sen, AR appeared on behalf of the assessee. Shri D. K. Sonawal, CIT appeared on behalf of the revenue.

3. At the outset, Ld. Counsel for the assessee has applied for withdrawing the aforesaid two appeals. It was submitted by the Ld. Counsel that assessee had filed a declaration in Form 1 and 2 under the Vivad se Vishwas Scheme, 2020 (hereinafter referred to as the “Scheme”) for both the years. Form 3 was issued in relation to both the years. However, interest in relation to the disputed tax was not waived. After making representation before the departmental authorities

assessee was asked to file revised Form 1 and 2 and to determine the refund only to the extent of amount of interest u/s. 234B of the Act which was sought to be paid. Assessee filed a revised Form 1 and 2 on 23.02.2021 for both the years and revised Form 3 was issued on 27.04.2021 in which again the waiver of interest u/s. 234B of the Act was not given. However, subsequently, a rectification order u/s. 154/254/251/143(3) of the Act dated 27.06.2022 has been passed by the Ld. AO (DCIT, Circle-7(1), Kolkata) wherein the interest charged u/s. 234B has been waived as claimed by the assessee. Copy of the said orders for both the years is placed on record. In view of this rectification orders waiving the interest u/s. 234B of the Act, assessee has submitted the application for withdrawing the captioned pending appeals. Ld. Sr. DR had no objection on the submission made by the assessee. Considering the application made by the assessee, we dispose of both the appeals as dismissed as withdrawn by the assessee.

4. In the result, both the appeals of the assessee are dismissed as withdrawn.

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

Sd/-

**(SONJOY SARMA)**  
**JUDICIAL MEMBER**

Dated: 29.09.2022

JD, Sr. P.S.

Copy to:

1. The Appellant:
2. The Respondent:.
3. The CIT(A)-23, Kolkata.
4. The CIT , Kolkata.
5. The DR, ITAT, Kolkata Bench, Kolkata

//True Copy//

Sd/-

**(GIRISH AGRAWAL)**  
**ACCOUNTANT MEMBER**

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata

1. Date of dictation- 29/09/2022
2. Date on which the typed draft order is placed before the Dictating Member and Other member 29/09/2022
3. Date on which the approved order comes to the Sr. P.S./P.S. - /09/2022
4. Date on which the file goes to the Bench Clerk /09/2022
5. Date on which the file goes to the O.S. ....
6. Date of Dispatch of the Order.....