

**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA "B" BENCH, KOLKATA**

*(Heard from Kolkata Benches through web-based video conferencing platform)*

**BEFORE SHRI RAJPAL YADAV, HON'BLE VICE PRESIDENT  
&  
SHRI RAJESH KUMAR, HON'BLE ACCOUNTANT MEMBER**

**I.T.A. No. 283/Kol/2020**

**Assessment Year: 2008-09**

<b>Income Tax Officer, Ward-5(4), Kolkata</b>	Vs	<b>M/s. Valley Towers Pvt. Ltd. 9/12, Lal Bazar Street Kolkata - 700001 [PAN: AACCV6646C]</b>
<b>अपीलार्थी/ (Appellant)</b>		<b>प्रत्यर्थी/ (Respondent)</b>

Assessee by :	Shri Ritesh Goel, Advocate
Revenue by :	Shri Amitava Bhattacharya, CIT, D/R

सुनवाई की तारीख/Date of Hearing : 22/09/2022  
घोषणा की तारीख/Date of Pronouncement : 23/09/2022

**आदेश/ORDER**

**PER SHRI RAJESH KUMAR, ACCOUNTANT MEMBER :**

The present appeal is directed at the instance of the revenue against orders of the Id. Commissioner of Income Tax (Appeals).

2. In this appeal, the assessee has filed an application pointing out that dispute with the revenue has been resolved under the Direct Tax Vivad Se Vishwas, Act, 2020 and, therefore, the appeal ought to have been withdrawn by the revenue. In support of its contention, the assessee has filed copy of Certificate in Form 5, exhibiting full and final settlement of tax arrear as contemplated u/s 5(2) read with section 6 of the Direct Tax Vivad Se Vishwas Act, 2020. The Id. D/R in the absence of complete details was not able to controvert.

3. On due consideration of the facts and circumstances, we are of the view that ideally the revenue should have filed application for withdrawal of its appeal if the assessee has resolved the dispute under the *Vivad Se Vishwas Scheme*. But the revenue failed to file such application. This appeal is pending unnecessarily. Therefore, taking cognizance of the facts brought to our notice by the assessee, we dismiss this appeal on the ground that the assessee has settled its dispute with the

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Department under the *Vivad Se Vishwas Scheme*. However, on re-verification, if it emerges out that the facts submitted by the assessee are not correct, then the revenue will be at liberty to apply for recall of this order but such application should be filed within the time period contemplated u/s 254(2) of the Act. In view of the above, this appeal is dismissed.

4. In the result, appeal of the revenue is dismissed.

Order pronounced in the Court on 23<sup>rd</sup> September, 2022 at Kolkata.

Sd/-  
(RAJPAL YADAV)  
VICE-PRESIDENT

Sd/-  
(RAJESH KUMAR)  
ACCOUNTANT MEMBER

Kolkata, Dated 23/09/2022  
*SC S.P.*

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि, रकयआ , Kolkata /DR,ITAT, Kolkata,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,  
TRUE COPY

Assistant Registrar  
आयकर अपीलीय अधिकरण  
ITAT, Kolkata