

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "B" BENCH

**Before: Shri Waseem Ahmed, Accountant Member
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No. 360/Ahd/2022
Assessment Year 2016-17**

M/s. Cera Sanitaryware Limited 2 nd Floor, Madhusudan House, Opp Navrangpura Tele Exchange, Navrangpura, Ahmedabad-380006 PAN No: AABCM9244N (Appellant)	Vs	The ACIT, Circle-1(1)(1), Ahmedabad (Respondent)
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**Appellant by : Shri A.C. Shah, A.R. &
Shri Bhadresh Gandhakwala, A.R.
Respondent by : Shri Rakesh Jha, Sr.D.R.**

Date of hearing : 15-12-2022
Date of pronouncement : 21-12-2022

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against the appellate order dated 12.08.2022 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "NFAC"), as against the reassessment order passed under section 147 r.w.s. 144 of the Income Tax Act, 1961 (hereinafter

referred to as 'the Act') relating to the Assessment Year (A.Y) 2016-17.

2. The sole grievance of the assessee is that the NFAC dismissed the assessee's appeal on the ground that the assessee availed Vivad Se Vishwash Scheme vide application dated 12.04.2021. The assessee further claimed that the Vivad Se Vishwash Scheme was opted as against the assessment order passed under section 143(3) dated 28.12.2018 and not against the reassessment order passed u/s. 147 r.w.s. 144 dated 23.03.2022. Thus the NFAC wrongly dismissed assessee's appeal and requested to restore the same to the NFAC for adjudication on merits by giving proper opportunity of hearing.

3. The Ld. D.R. appearing for the Revenue after going through Form No. 3 and Vivad Se Vishwash Scheme confirmed the demand is relating to the assessment order passed u/s. 143(3) of the Act and not relating to reassessment order passed on 23.03.2022. Therefore the appeal may be restored to the file of the NFAC for adjudication on merits.

4. We have given our thoughtful consideration and perused the materials available on record. On perusal of the VSVS application is dated 12.04.2021 and the reassessment order is dated 23.03.2022, which makes it very clear, the Vivad Se Vishwash Scheme cannot later to a date of a reassessment order. Therefore the present impugned order passed by NFAC dated 12.08.2022 is

hereby set aside with a direction to the Ld. CIT(A) to pass fresh appellate order by giving proper opportunity to the assessee and in accordance with law.

5. In the result, the appeal filed by the Assessee is hereby allowed.

Order pronounced in the open court on 21-12-2022

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER True Copy
Ahmedabad : Dated 21/12/2022

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद