

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "B" :: PUNE

BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.117/PUN/2022
निर्धारण वर्ष / Assessment Year : 2011-12

Kalpana Pravin Dengale, L/h. of Late Shri Pravin Vasantryao Dengale, 217, Nimgaon Korhale, Rahata, Amhednagar – 423109. PAN: APIPD 2385 Q	V s	The Income Tax Officer, Ward-1, Ahmednagar.
Appellant/ Assessee		Respondent / Revenue

आयकर अपील सं. / ITA No.118/PUN/2022
निर्धारण वर्ष / Assessment Year : 2011-12

Kalpana Pravin Dengale, L/h. of Late Shri Pravin Vasantryao Dengale, 217, Nimgaon Korhale, Rahata, Amhednagar – 423109. PAN: APIPD 2385 Q	V s	The Income Tax Officer, Ward-1, Ahmednagar.
Appellant/ Assessee		Respondent / Revenue

Assessee by	Shri Pramod Shingte – AR
Revenue by	Shri M.G.Jasnani – DR
Date of hearing	19/12/2022
Date of pronouncement	22/12/2022

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

These two appeals filed by the Assessee are directed against the separate orders of Id.Commissioner of Income Tax(Appeals)[NFAC], Delhi both dated 30.03.2021 emanating from order of Assessing officer dated 24.12.2018 & 17.06.2019 under

section 144 r.w.s 147 of the I.T.Act, 1961 for the A.Y.2011-12 & 271(1)(c). The Assessee in ITA No.117/PUN/2022 has raised the following grounds of appeal:

1. *On the basis of facts and in the circumstances of the case, the delay in filing of appeal may please be condoned.*
2. *On the basis of the facts, in the circumstances of the case and as per law, the Commissioner of Income Tax, (Appeals) - NFAC is not justified in dismissing the appeal filed by the appellant by treating the appeal as infructuous u/s 4(2) of the Direct Tax Vivad Se Vishwas Act, 2020 particularly when, the appellant has not filed any application under DTVSV Act, 2020 in respect of the present appeal and more particularly the appellant has filed the application under DTVSV Act in respect of appeal filed against penalty levied u/s.271(l)(b) filed with commissioner of Income Tax, (Appeals)-NFAC having Acknowledgement No.638604591180719.”*
2. The ld.Authorised Representative(ld.AR) of the assessee submitted that the ld.CIT(A) has dismissed the appeal of the assessee on the ground that assessee had opted for Direct Tax Vivad Se Vishwas Scheme 2020[VSVS – 2020]. However, the ld.CIT(A) has erred in stating that assessee has opted for VSVS-2020 as assessee has not opted for VSVS-2020.
3. The ld.AR filed a letter to that extent.
4. The ld.Departmental Representative(ld.DR) for the Revenue relied on the order of ld.CIT(A).

5. In this case, the Id.CIT(A) has dismissed the assessee's appeal stating that assessee has opted for VSVS-2020. But, today assessee filed written submission that he has not opted for VSVS-2020 for these particular years. Therefore, the case is set-aside to the Id.CIT(A) to decide the issue on merit after giving opportunity to the assessee. Accordingly, grounds of appeal raised by the assessee are allowed for statistical purpose.

6. In the result, appeal of the assessee is allowed for statistical purpose.

ITA No.118/PUN/2022:

7. Since the quantum appeal in issue of the Assessee has been decided in above paras i.e. para 5 & 6, therefore, this penalty appeal No.118/PUN/2022 is set-aside to the Id.CIT(A) to decide the issue on merit after giving opportunity to the assessee. Accordingly, grounds of appeal raised by the assessee are allowed for statistical purpose.

8. To sum up, both appeals of the assessee are allowed for statistical purpose.

Order pronounced in the open Court on 22nd December, 2022.

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 22nd December, 2022/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.