

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI 'C' BENCH, MUMBAI.

Before Shri B.R. Baskaran (AM) & Shri Rahul Chaudhary (JM)

I.T.A. No. 2849/Mum/2022 (A.Y. 2014-15)

Ideal Curse Private Limited A 223 to 229, Virwani Industrial Estate, Western Express Highway Goregaon East, Mumbai 400 063. PAN : AAACI1933M (Appellant)	Vs.	National Faceless Appeal Centre, Delhi/ Assessing Officer Room No. 642, Aayakar Bhavan, 6 th Floor M.K. Road Mumbai-400 020. (Respondent)
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Assessee by	Shri P.P. Bhandari
Department by	Smt. Shreekala Pardesi
Date of Hearing	10.01.2023
Date of Pronouncement	10.01.2023

O R D E R

Per B.R.Baskaran (AM) :-

The assessee has filed this appeal challenging the order dated 15.9.2022 passed by the learned CIT(A), National Faceless Appeal Centre, Delhi and it relates to A.Y. 2014-15.

2. Learned counsel appearing for the assessee submitted that the present assessment relates to the assessment order passed under section 143(3) read with section 147 of the I.T. Act. The assessee had availed Direct tax Vivad se Vishwas Scheme against the addition made in the original assessment order passed under section 143(3) of the Act. The assessee has not filed any Vivad se Vishwas application against the addition made in the assessment order under section 143(3) read with section 147 of the Act. However, the learned CIT(A) dismissed the appeal of the assessee filed against the assessment order passed u/s 143(3) r.w.s 147 on the misconception that the assessee has availed Vivad se Vishwas Scheme. Accordingly, the Learned AR

submitted that the learned CIT(A), in effect, did not adjudicate any of the grounds of appeal urged by the assessee before him. The Learned AR further submitted that the assessee has raised a legal ground challenging the validity of the reopening of the assessment and accordingly prayed that the said legal ground may kindly be disposed of by the Tribunal.

3. The Learned DR, on the contrary, submitted that all the issues are required to be restored to the file of the learned CIT(A), since the first appellate authority has not adjudicated them on merits, since he was under misconception that the assessee has availed VSVS scheme.

4. Having heard the rival submissions, we are of the view that all the issues urged in this appeal are required to be restored to the file of the learned CIT(A) since he has not adjudicated them on merits under misconception that the assessee has availed VSVS scheme on these additions, which is contrary to the fact available on record. Accordingly, we set aside the order passed by the learned CIT(A) and restore all the issues to his file for adjudicating them on merits. Needless to mention that the assessee should be afforded adequate opportunity of being heard.

5. In the result, appeal filed by the assessee is treated as allowed for statistical purposes.

Pronounced in the open court on 10.1.2023.

Sd/-
(RAHUL CHAUDHARY)
Judicial Member

Sd/-
(B.R. BASAKARAN)
Accountant Member

Mumbai; Dated : 10/01/2023

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)

4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

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BY ORDER,

(Assistant Registrar)
ITAT, Mumbai