

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F': NEW DELHI**

**BEFORE,
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No.4782/Del/2019
(ASSESSMENT YEAR 2014-15)**

Vessel Warehousing Private Limited 106, Durga Chambers 1335 D.B. Gupta Road Karol Bagh New Delhi-110 005 PAN-AADCV 9171D (Appellant)	Vs.	Principal Commissioner of Income Tax New Delhi (Respondent)
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Appellant by	Ms. Nupur Gupta, CA
Respondent by	Mr. T. Kipgen, Commissioner of Income Tax, Departmental Representative ("CIT-DR", for short)

ORDER

PER ANADEE NATH MISSHRA, AM:

(A) This appeal by Assessee is filed against the order of Learned Principal Commissioner of Income Tax, New Delhi ["Ld. PCIT", for short], dated 31/03/2019 for Assessment Year 2014-15. Grounds taken in this appeal are as under:

“1. That the notice issued under section 263 of the Income Tax Act, 1961 (“the Act”) and the order passed by the Ld. PCIT under section 263 the Act is illegal, bad in law and without jurisdiction.

2. On the facts and in the circumstances of the case and in law, the order passed by the Ld. PCIT is bad in law as the Appellant was not provided with sufficient and reasonable opportunity of being heard from invoking extraordinary jurisdiction and principles of natural justice have not been followed and passing the order under section 263 of the Act in haste as the proceedings were getting time barred under section 263(2) of the Act.

3. That having regard to the facts and circumstances of the case and in law, the Ld. PCIT has erred in law and on facts in assuming jurisdiction in passing the order under section 263 of the Act, more so when the assessment order passed by the Learned Assessing Officer (“Ld. AO”) under section 143(3) the Act is neither erroneous nor prejudicial to the interest of Revenue.

4. That having regard to the facts and circumstances of the case and in law, the Ld. PCIT has erred in law and on the facts in setting aside the assessment order passed under section 143(3) of the Act by the Ld. AO on the ground that the Appellant has furnished inaccurate particulars of its income.

5. That having regard to the facts and circumstances of the case and in law, the Ld. PCIT has erred in setting aside the assessment order passed under section 143(3) of the Act by the Ld. AO on the ground that the Ld. AO passed the order without making proper inquiries.

6. That having regard to the facts and circumstances of the case and in law, the Ld. PCIT has erred in holding that the Appellant has not disclosed the material facts before the Ld. AO with regard to disclosure of income under proper head.

7. That the Ld. PCIT has failed to consider that the assessment as framed by the Ld. AO was after due application of mind and after considering the detailed replies on various dates as filed before him during the course of assessment proceedings.

8. That the Ld. PCIT has wrongly and illegally held that the order passed by the Ld. AO is erroneous and prejudicial to the interest of Revenue when no independent inquiry has been made by the Ld. PCIT and hence the notice issued under section 263 and the order passed under section 263 of the Act is illegal and bad in law.

9. That the Ld. PCIT has failed to appreciate that assuming jurisdiction under section 263 of the Act on debatable issues is illegal and bad in law.

10. *That on the facts and in the circumstances of the case and in law, the order passed by the Ld. PCIT cancelling the assessment order is bad in law as under section 263 of the Act, the Ld. PCIT has to come to conclusion and himself decide that the order is erroneous and the Ld. PCIT cannot set aside and remand back the matter to the assessing officer for fresh consideration.*

11. *That without prejudice, the Ld. PCIT has exceeded her jurisdiction in setting aside the assessment order and directing the Ld. AO to make de novo assessment when the order passed is limited to one issue only. Hence the order passed under section 263 of the Act is illegal and bad in law.*

The grounds stated hereinabove are independent and without prejudice to one another.

The Appellant craves leave to add, alter, amend, replace, modify and/ or withdraw any of the grounds of appeal hereinabove at the time of or before the hearing of the appeal and to submit any papers, documents or statements so as to enable Your Honours to dispose-off this appeal according to law.”

(B) Vide letter dated 21/03/2023, it was intimated that the assessee opted for Vivad se Vishwas Scheme, 2020 (“VSVS”, for short) and that the Designated Authority had already issued Form-3 under VSVS. A copy of Form-3 issued by the Designated Authority was also enclosed with the aforesaid letter; and the assessee sought for withdrawal of appeal. The learned Sr. DR for Revenue submitted before us, at the time of hearing, that the appeal has become infructuous in view of the assessee opting for VSVS; and that the appeal may be dismissed as withdrawn. After due consideration and

in view of the foregoing, we are of the opinion that this appeal has become infructuous on account of aforesaid VSVS, and that this appeal may be treated as withdrawn on account of the aforesaid VSVS. Accordingly, this appeal having become infructuous, is treated as withdrawn and is hereby dismissed.

(B.1) Before we part, we hereby clarify, by way of abundant caution, that if for some reason the disputes under this appeal before us are not settled under the aforesaid VSVS, then the assessee will be at liberty to approach ITAT for restoration of this appeal in accordance with law.

(C) In the result, this appeal of the assessee is dismissed.

This order was already pronounced on 22/03/23 in Open Court, in the presence of representatives of both sides, after conclusion of the hearing. Now this order in writing is signed today on 22/03/23.

Sd/- (CHALLA NAGENDRA PRASAD) (ANADEE NATH MISSHRA) JUDICIAL MEMBER	Sd/- ACCOUNTANT MEMBER
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Dated: 22/03/2023

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW, DELHI