

**THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'C', NEW DELHI**

**Before Sh. Saktijit Dey, Judicial Member**

**Dr. B. R. R. Kumar, Accountant Member**

**ITA No. 245/Del/2023 : Asstt. Year : 2017-18**

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| Inter Globe Air Transport,<br>3 <sup>rd</sup> Floor, Dr. Gopal Das Bhawan,<br>24, Barakhamba Road,<br>New Delhi-110001 | Vs | ACIT,<br>Circle-10(1),<br>New Delhi-110002 |
| (APPELLANT)  |    | (RESPONDENT)                               |
| <b>PAN No. AACCI1684F</b>  |    |  |

**Assessee by : Ms. Somya Jain, AR**

**Revenue by : Sh. R. S. Yadav, Sr. DR**

**Date of Hearing: 03.03.2023**

**Date of Pronouncement: 23.05.2023**

**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by the assessee against the order of National Faceless Appeal Centre (NFAC), Delhi dated 13.12.2022.

2. The present application is being filed for early fixation of the aforesaid appeal dismissed in limine, without adjudication on merit, by the CIT(A) on the erroneous factual premise that the issues raised therein have been settled in VsV Act.

**Background:**

3. The applicant is operating as a general sales agent of international and domestic passengers and cargo operations.

For the year under consideration, the applicant filed its revised return of income on 04.02.2019 declaring income of Rs.25,81,38,450/-. The return filed by the applicant was processed under section 143(1) of the Income Tax Act, 1961 ('the Act') vide intimation dated 15.09.2019 wherein adjustment of Rs.2,36,62,424/- were made.

4. Subsequently, the scrutiny assessment in the case of the applicant for the captioned year was completed vide order dated 29.12.2019 issued under section 143(3) of the Act ('original assessment order') after making various additions/disallowances. Pertinently, in the original assessment order, the adjustments made in the intimation issued under section 143(1) of the Act were not imputed.

5. Aggrieved by the additions/ disallowances made in the original assessment order, the applicant filed an appeal before the Commissioner of Income Tax (Appeals) vide e-filing acknowledgement number 291673121150120.

6. In the interregnum, while the said appeal was pending before the Id. CIT(A), the CBDT introduced the Direct Tax Vivad se Vishwas Act, 2020 ('VsV Act') providing taxpayer's with a one-time chance of settlement of their pending litigation. Accordingly, the applicant settled the appeal filed before the Id. CIT(A), against the additions/ disallowances made in the original assessment order, under the VsV Act. The final settlement certificate in Form 5 was issued by PCIT-4 on 20.02.2021 bearing Acknowledgement Number 269112200200221 (copy of Form 5 enclosed).

7. Subsequently, after settlement of the appeal against the original assessment order under VsV Act, the Assessing Officer passed the rectification order dated 12.10.2021 under section 154 r.w.s. 143(3), wherein the Assessing Officer made adjustments to the extent of Rs.56,92,941/- made in the intimation issued under section 143(1) of the Act to the income assessed in the original assessment order.

8. Aggrieved by the adjustments confirmed by the Assessing Officer in the rectification order dated 12.10.2021, the applicant filed an appeal before the CIT(A) on 29.11.2022.

9. Thereafter, the applicant received the impugned order dated 13.12.2022, passed by the Id. CIT(A), NFAC, dismissing the appeal filed by the applicant against the rectification order as having been settled under the VsV Act vide Form 5 dated 20.02.2021.

10. The aforesaid action of the Id. CIT(A) in dismissing the appeal filed against the rectification order as settled in VsV Act is erroneous inasmuch as the rectification order has, though erroneously, been passed by the assessing officer after settlement of the appeal against the 143(3) order under VsV Act. In other words, the Id. CIT(A) erred in not appreciating that the appeal against the original assessment order passed under section 143(3) of the Act was the one which was settled under the said Act and not the appeal against the rectification order dated 12.10.2021.

11. The assessment has been completed on 29.12.2019. The rectification has been carried out on 12.10.2021. The order of

the appeal against the rectification has been received by the assessee on 13.12.2022. Since, the appeal before, the Id. CIT(A) pertains to the order passed by the AO u/s 154, the matter is remanded to the file of the Id. CIT(A) for adjudication on the validity and issues raised in the order passed u/s 154 as the Id. CIT(A) erroneously considered the same as a part of the issues settled in VsV scheme.

12. In the result, the appeal of the assessee is allowed.  
Order Pronounced in the Open Court on 23/05/2023.

Sd/-

**(Saktijit Dey)**  
**Judicial Member**

**Dated: 23/05/2023**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

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

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**ASSISTANT REGISTRAR**