

IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT
(Conducted Through Virtual Court)

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

**ITA Nos. 158 & 159/Rjt/2019
Assessment Year: 2015-16**

M/s. Lexus Granito (India) Limited, 8A N H, Lakhdirpur Road, Morbi, Gujarat PAN No: AACCV7197E (Appellant)	Vs	The DCIT, Morbi Circle, Morbi (Respondent)
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Assessee Represented: None
Revenue Represented: Shri B.D. Gupta, Sr. D.R.

Date of hearing : 26-06-2023
Date of pronouncement : 28-06-2023

आदेश/ORDER

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

These two appeals are filed by the Assessee as against the penalties levied u/s. 271AA and 271BA of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') by the Deputy Commissioner of Income Tax, Morbi Circle, Morbi vide orders dated 14-06-2019 relating to the Assessment Year (A.Y) 2015-16.

2. It is noticed at the outset that the appeals filed by the Assessee are against the orders passed by the A.O. namely the DCIT which does not lie before the Tribunal, but whereas appeals ought to have been filed before Commissioner of Income Tax (Appeals), therefore the present appeals are not maintainable.

3. The Ld. Sr. DR Shri B. D. Gupta brought to our notice that the assessee filed appeals also before Ld. CIT(A) against the two penalty orders made u/s. 271AA and 271BA and the same were disposed of by National Faceless Appeal Centre (NFAC) vide orders dated 25-06-2021 and 23-06-2021 respectively, allowing withdrawal of the appeals under Vivad Se Vishwas Scheme. Still there is dispute that assessee opted VSVS for the penalty of Rs. 1 lakh levied u/s. 271BA of the Act only and not against the penalty levied u/s. 271AA of the Act. Therefore Ld. NFAC ought not to have dismissed both the appeals filed by the assessee on the ground that the same are covered under VSVS.

4. Further the Ld. D.R. placed before us copy of Form No. 3 filed by the assessee under the Vivad Se Vishwas Scheme, wherein the assessee has quoted the pendency of appeal before the ITAT namely ITA Nos. 158 & 159/Rjt/2019. It is seen from Form No. 5 of VSVS issued by PCIT, Rajkot-1 that assessee paid a sum of Rs. 25,000/- towards full and final settlement of tax arrears.

5. Without going into the other disputes raised by the Revenue, prima facie the above appeals are not maintainable before this Tribunal, therefore the same are dismissed in limine. It is

appropriate for the Revenue to take action against any discrepancy in VSVS claimed by the assessee in accordance with law.

6. In the result, the appeals filed by the above Assessee are dismissed as not maintainable

Order pronounced in the open court on 28-06-2023

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER True Copy
Ahmedabad : Dated 28/06/2023

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,
राजकोट