

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

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

**ITA No. 680/DEL/2023
Assessment Year: 2015-16**

Shri Raman Mittal, C/o Sahni Bansal & Associates, 113/10, 1 st Floor, Navyug Market, Ghaziabad-201001 PAN- AFIPM7725D	<u>Vs</u>	ACIT, Circle-5(3)(1), Ghaziabad.
APPELLANT		RESPONDENT
Assessee represented by	Sh. Somil Agarwal, Adv.	
Department represented by	Sh. Vivek Vardhan, Sr. DR	
Date of hearing	31.07.2023	
Date of pronouncement	02.08.2023	

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 18.01.2023, pertaining to the assessment year 2015-16. The assessee has raised following grounds of appeal:

“1. That having regard to the facts and circumstances of the case. Ld. CIT(A) has erred in law and on facts in dismissing the appeal of the assessee by wrongly holding that the appellant had opted for Vivad Se Vishwas Scheme, 2020 in the present appeal and without appreciating the

facts and circumstances of the case and without observing the principles of natural justice whereas VSVS was not filed for this appeal.

2. *That in any case and in any view of the matter, action of Ld. CIT(A) in dismissing the appeal of the assessee by wrongly holding that the appellant had opted for Vivad Se Vishwas Scheme, 2020 in the present appeal, is bad in law and against the facts and circumstances of the case.*

3. *That having regard to the facts and circumstances of the case, Ld. CIT(A) ought to have quashed the reassessment order passed by Ld. AO on the ground that statutory and mandatory conditions of section 147 to 151 were not complied with.*

4. *That having regard to the facts and circumstances of the case, Ld. CIT(A) ought to have deleted the following addition made by Ld. AO.*

- Rs.50,00,000/- by treating it as alleged unexplained money u/s 69A.

- Rs.87,00,691/- on account of alleged capital gain.

5. *That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.”*

2. At the outset learned counsel for the assessee submitted that the learned CIT(Appeals) dismissed the appeal under wrong impression as if the assessee had opted to avail the benefit of Vivad Se Viswas Scheme, 2020 and Form no. 5 has already been issued by the designated authority. He submitted that the assessee had opted Vivad Se Viswas Scheme, 2020 in respect of the case where order was passed u/s 143(3) of the Income-tax Act, 1961 (the “Act”). However, no request was made in respect of reopening of the assessment u/s 147 of the Act. Therefore, he submitted that impugned order may be set aside and the grounds may be

restored to the file of the learned CIT(Appeals) with direction to decide the appeal on merits.

3. Learned DR opposed the submissions made on behalf of the assessee.
4. We have heard rival submissions. Considering the submissions of the learned counsel for the assessee that the impugned order was passed under a wrong impression of having opted for Vivad Se Viswas Scheme, 2020, we hereby set aside the impugned order of the learned CIT(Appeals) and restore the issue to the file of the learned CIT(Appeals) to decide it afresh after affording reasonable opportunity of being heard to the assessee. Grounds are allowed for statistical purposes.
5. Appeal of the assessee is allowed for statistical purposes.

Order pronounced in open court on 2nd August, 2023.

Sd/-
(DR. B.R.R. KUMAR)
ACCOUNTANT MEMBER

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI

