

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A" : PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI GD PADMAHSHALI, ACCOUNTANT MEMBER

I.T.A.No.864/PUN/2023
Assessment Year 2014-2015

Shri Anil Rajaram Buchde, AP Marunji, S.No.32, Tal. Mulshi, Near Kirti Classique, Pune – 411 057. Maharashtra. PAN BHKPB4666F	vs.	The ACIT, Circle-2, Room No.106, 'B' Wing, 1 st Floor, PMT Commercial Complex, Shankarshet Road, Swargate, Pune. Maharashtra. 411037
(Appellant)		(Respondent)

For Assessee :	Shri Neelesh Khandelwal
For Revenue :	Shri Ramnath P Murkude

Date of Hearing :	25.08.2023
Date of Pronouncement :	29.08.2023

ORDER

PER SATBEER SINGH GODARA, J.M. :

This assessee's appeal for assessment year 2014-2015, arises against the CIT(A), Pune-11, Pune's Din and Order No. ITBA/APL/S/250/2023-24/1053353290(1), dated 31.05.2023, involving proceedings u/s.154 of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties. Case file perused.

2. The assessee pleads the following substantive grounds in the instant appeal :

1. *“On facts and circumstances prevailing in the case and as per provisions and scheme of the Act it be held that the Hon’ble Commissioner of Income- Tax (Appeals) erred in holding that the appeal filed by the Appellant against order u/s. 154 of the Act is redundant. The Appellant be granted just and proper relief in this respect. [Rs.81,58,270/-]*
2. *Without prejudice to Ground no. 1 and on facts and circumstances prevailing in the case and as per provisions and scheme of the Act it be held that the Hon’ble Commissioner of Income- Tax (Appeals) erred in confirming the decision of the Learned Assessing Officer in rejecting the rectification application filed by the Appellant. It be held that that the amount of Short Term Capital Gains offered to tax during the AY 2014-15 in its return of income deserves to be reduced by Rs.2,87,15,000/-. The Appellant be granted just and proper relief in this respect. [Rs.81,58,270/-].*
3. *The Appellant prays to be allowed to add, amend, modify, rectify, delete, raise any grounds of appeal at the time of hearing.”*

3. Suffice to say, it emerges during the course of hearing that the CIT(A)'s detailed discussion in question has rejected the assessee's lower appeal in sec.154 rectification proceedings as under :

“6. I have considered the facts of the case and the submissions made by the appellant. Briefly stated, the grievance of the appellant is that an amount of Rs.2,87,15,000/- has been inadvertently offered in the return of income filed for A.Y. 2014-15 and same is required to be reduced from the income assessed. In this connection, it is seen from the records available in this office that the appellant had filed an appeal before the CIT(A) against the assessment order dated 31/12/2016 passed u/s 143(3) of the Act for A.Y. 2014-15. During the pendency of appeal, the appellant preferred to file application under Vivad Se Vishwas Scheme, 2020 and the said application was approved by the competent authority. Form-3 under VSV Scheme, for A.Y. 2014-15 was issued on 28/12/2020 and Form-5 was issued on 26/10/2021 by acknowledging the due payment of tax amount specified in Form-3. In this manner, the assessment for A.Y. 2014-15 has attained finality at an income of Rs.4,81,12,170/-, which was assessed vide order u/s 143(3) of the Act dated 31/12/2016. The request of the appellant vide rectification application is, to reduce the said assessed income of Rs.4,81,12,170/-. Since the income assessed u/s 143(3) of the Act has attained finality under VSV Scheme, therefore, the present appeal u/s 154 of the Act has become redundant and

cannot be adjudicated upon by the undersigned. Accordingly, the present appeal of the appellant is DISMISSED being redundant.

7. *To conclude, the present appeal of the appellant for A.Y. 2014-15 is DISMISSED for statistical purposes.”*

4. Mr. Khandelwal vehemently submitted during the course of hearing that the CIT(A) has simply brushed aside the assessee's rectification pleadings thereby holding that he had already taken recourse to the settlement under the Direct Tax Vivad se Vishwas Scheme 2020 instead having adjudicated the corresponding issues on merits. He next submitted that the assessee's limited prayer at this stage seeks directions to the CIT(A) for appropriate adjudication of the matter u.sec.250(6) of the Act which has nowhere been done in the impugned former round.

5. Mr. Murkude could hardly dispute that the CIT(A)'s foregoing detailed discussion has nowhere established the clear cut nexus between the assessee's alleged settlement petition dealing with the very issue under the Direct Tax Vivad se Vishwas Scheme 2020 vis-à-vis relief claimed u/sec.154 rectification before us. We wish to clarify that the assessee's stand before us is that he had sought to rectify the relevant apparent mistakes in the computation which nowhere formed part of the settlement under Vivad se Vishwas Scheme 2020's

settlement. Faced with the situation and without going into the merits of the issue, we deem it appropriate to restore the assessee's instant appeal back to learned CIT(A) for his afresh appropriate adjudication as per law, preferably within three effective opportunities of hearing. Ordered accordingly.

6. This assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced in the open Court on 29.08.2023.

Sd/-
[GD PADMAHSHALI]
ACCOUNTANT MEMBER

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 29th August, 2023

VBP/-

Copy to

1.	The applicant
2.	The respondent
3.	The CIT(A), Pune-11, Pune.
4.	The Pr. CIT (Central), Pune.
5.	D.R. ITAT, Pune "A" Bench, Pune
6.	Guard File.

//By Order//

//True Copy //

Assistant Registrar, ITAT, Pune Benches,
Pune.

S.No.	Details	Date	
1	Draft dictated on	25.08.2023	Sr.PS
2	Draft placed before author	28.08.2023	Sr.PS
3	Draft proposed & placed before the Author	.08.2023	J.M.
4	Draft discussed/approved by Second Member	.08.2023	A.M.
5	Approved Draft comes to the Sr. PS/PS	.08.2023	Sr.PS
6	Kept for pronouncement on	.08.2023	Sr.PS
7	Date of uploading of Order	.08.2023	Sr.PS
8	File sent to Bench Clerk	.08.2023	Sr.PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R.		
11	Date of Dispatch of order		