

IN THE INCOME TAX APPELLATE TRIBUNAL  
CIRCUIT BENCH : VARANASI

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER  
AND  
SHRI AMIT SHUKLA, JUDICIAL MEMBER

ITA No.31/VNS/2022  
Assessment Year: 2016-17

Manoj Kumar,  
Mandi Ahmad Khan,  
Sadar, Jaunpur.  
Uttar Pradesh – 222 002.

Vs DCIT,  
Range-1,  
Varanasi.

PAN: ABBPK0014G

(Appellant)

(Respondent)

Assessee by	:	Shri S.K. Garg, Advocate & Shri Shubham Singh, CA
Revenue by	:	Shri Robin Chaudhary, CIT-DR
Date of Hearing	:	27.09.2023
Date of Pronouncement	:	29.09.2023

ORDER

PER B.R. BASKARAN, AM:

The assessee has filed this appeal challenging the order dated 20.06.2022 passed by Ld CIT(A), NFAC, Delhi, and it relates to the assessment year 2016-17.

2. At the outset, the ld. AR submitted that the assessee has filed two appeals before the ld.CIT(A), namely, the appeal against the assessment order passed u/s 143(3) of the Act and another appeal against the penalty levied u/s 271D of the Act. Subsequent to filing of these appeals, the assessee settled the dispute with regard to the penalty levied u/s 271D of the Act under *Vivad Se Vishwas Act, 2020*. However, while adjudicating the appeal filed by the assessee against the

assessment order passed u/s 143(3) of the Act, the Id.CIT(A) erroneously presumed that the assessee has settled the dispute under *Vivad Se Vishwas Act, 2020* and, accordingly, dismissed the appeal. He submitted that the assessee has not settled the dispute arising out of the assessment order and, hence, the Id.CIT(A) was not correct in passing the impugned order under wrong presumption. Accordingly, he prayed that all the issues contested in this appeal may be restored to the file of the Id.CIT(A) for adjudicating them on merits.

3. The Id. DR did not controvert the facts presented by the Id. AR. Accordingly, having regard to the submissions made by the Id. AR, we set aside the order passed by the Id.CIT(A) and restore all the issues to the file of the Id.CIT(A) for adjudicating them on merits, after providing adequate opportunity of being heard to the assessee.

4. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 29.09.2023.

Sd/-

(AMIT SHUKLA)  
JUDICIAL MEMBER

Sd/-

(B.R. BASKARAN)  
ACCOUNTANT MEMBER

Dated: 29<sup>th</sup> September, 2023

dk

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1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar