

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI 'E' BENCH, MUMBAI.

Before Shri B.R. Baskaran (AM) & Shri Rahul Chaudhary (JM)

I.T.A. No. 2479 to 2482/Mum/2023 (A.Y. 2013-14 to 2016-17)

Everest Food Products Pvt. Ltd. (formerly known as S. Narendrakumar and Co.) 5 th floor, Krushal Commercial Centre, G.M. Road, Amar Mahal, Chembur (West), Mumbai 400089. PAN : AAFCE8947A	Vs.	Commissioner of Income Tax-51, Mumbai.
(Appellant)		(Respondent)

Assessee by	Shri Paresh Shaparia
Department by	Shri P.D. Chogule
Date of Hearing	17.10.2023
Date of Pronouncement	17.10.2023

ORDER

Per B.R.Baskaran (AM) :-

All the four appeals filed by the assessee are directed against the orders passed by Ld CIT(A)-51, Mumbai and they relate to the assessment years 2013-14 to 2016-17. The assessee is aggrieved by the decision of Ld CIT(A) in dismissing the appeals on the reasoning that the assessee has opted to settle the disputes under Direct Tax Vivad Se Vishwas Act, 2020.

2. The Ld A.R submitted that the assessing officer has passed two assessment orders in respect of these years. He submitted that the first set of orders were passed u/s 143(3) of the Act, wherein the AO had made

certain additions. Subsequently, the revenue carried out search and seizure operations in the hands of the assessee u/s 132 of the Act on 26.11.2019. Consequent thereto the assessments of the years relating to AY 2014-15 to 2016-17 were completed u/s 143(3) r.w.s 153A of the Act. The assessment of the year relating to AY 2013-14 was completed u/s 143(3) r.w.s 147 of the Act.

3. The Ld A.R submitted that the assessee had settled the dispute relating to the additions made in the original assessment proceedings completed u/s 143(3) of the Act. The assessee has not opted for VSVS scheme for the additions made in the impugned assessments, which have been completed consequent to search operations. However, the Ld CIT(A) has erroneously presumed that the assessee has opted to settle the disputes relating to search assessments. Accordingly, he prayed that all the issues may be restored to the file of Ld CIT(A) for adjudicating them on merits.

4. The Ld D.R did not controvert the submissions made by Ld A.R.

5. Having regard to the submissions made by Ld A.R, we notice that the assessee has not opted to settle the disputes arising out of search assessments under VSVS scheme. Hence, the Ld CIT(A) has fell into error in presuming that the disputes arising out of search assessments have been settled under VSVS scheme. The Ld A.R has clarified that the assessee has opted to settle the disputes arising in the original assessment proceedings only under VSVS scheme. Hence, all the issues urged by the assessee in these appeals need to be adjudicated on merits, first by Ld CIT(A). Accordingly, we set aside the orders passed by Ld CIT(A) in all the years under consideration and restore all the issues to his file for adjudicating them on merits. After providing adequate opportunity of being heard to the assessee, the Ld CIT(A) may take appropriate decision in accordance with the law.

6. In the result, all the appeals of the assessee are treated as allowed for statistical purposes.

Pronounced in the open court on 17/10/2023.

Sd/-
(RAHUL CHAUDHARY)
Judicial Member

Sd/-
(B.R. BASKARAN)
Accountant Member

Mumbai; Dated : 17/10/2023

SSL

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(Judicial)
4. PCIT
5. DR, ITAT, Mumbai
6. Guard File.

BY ORDER,

//True Copy//

(Assistant Registrar)
ITAT, Mumbai