

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "B" : PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

ITA No.1210/PUN/2023
Assessment Year 2012-13

Mrs.Surekha Hanumantrao Pawar, Sr No.47, Sunita Nagar, Vadagaon Sheri, Pune-411014. PAN: ACMPP8531F	vs	The Dy. CIT, Circle-7, Room No.316, Aayakar Sadan, Bodhi Towers, Salisbury Park, Gultekadi, Pune – 411037. Maharashtra.
Appellant		Respondent

For Assessee :	Shri Chandrasekhar L.S. – AR
For Revenue :	Shri B.S.Rajpurohit - DR

Date of Hearing :	19.12.2023
Date of Pronouncement :	19.12.2023

ORDER

PER SATBEER SINGH GODARA, J.M. :

This assessee's appeal for assessment year 2012-2013, arises against the National Faceless Appeal Centre [in short [the "NFAC"] Delhi's Din and Order No. ITBA/NFAC/S/250/2023-24/1056323770(1), dated 20.09.2023, involving proceedings u/s.143(3) r.w.s 147 of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties. Case file perused at length.

2. We notice at the outset that with the able assistance coming from both the sides that the "NFAC" herein has not decided the assessee's lower appeal on merits as contemplated

under section 250(6) of the Act since it has proceeded to dismiss the same for statistical purpose as under:

“5. I have perused the order appealed against, grounds of appeal and submission of the appellant. I find that the option under VSV Scheme of the appellant has been accepted by the PCIT-4, Pune and Form No.3 was issued on 02/11/2020. I find that the appellant has paid the taxes as per Form No.3 and has uploaded the Form No.4, however due to some technical error and the errors on the part of the appellant the Form No.5 is not yet issued. However, considering the request made by the appellant, the appeal filed by the appellant is allowed to be withdrawn. Thus the appeal is dismissed for statistical purposes as withdrawn.

6. In the result, the appeal is treated as dismissed for statistical purpose as withdrawn.”

3. The Revenue at this stage vehemently reiterated the fact that the assessee's application seeking settlement under the "Direct Tax Vivad se Vishwas Scheme Act, 2020" is stated to be pending. That being the case, we are of the opinion that the learned "NFAC"s lower appellate discussion not adjudicating the assessee's first appellate preferred against the assessment order causes serious prejudice to her interest as she has been deprived of her twin remedies seeking adjudication as per the normal provisions of the act as well as the settlement benefit under the foregoing amnesty scheme.

4. We thus conclude in larger interest of justice that the "NFAC" takes up the assessee's lower appellate once again for its decision on merits as per law preferably within three effective opportunities of hearing subject to the final outcome

of her settlement petition under the ‘Direct Tax Vivad se Viswas Scheme’; as the case may be.

5. This assessee’s appeal is allowed for statistical purpose in above terms.

Order pronounced in the open Court on 19.12.2023.

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Pune, Dated 19th December, 2023

SGR/-

Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The NFAC, Delhi.
4. The CIT-2, Pune.
5. DR, ITAT, “B” Bench, Pune.
6. Guard File.

BY ORDER,

Senior Private Secretary
ITAT, Pune.