

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

**BEFORE,
SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**ITA No.2874/Del/2023
(ASSESSMENT YEAR 2013-14)**

**ITA No.2875/Del/2023
(ASSESSMENT YEAR 2014-15)**

**ITA No.2876/Del/2023
(ASSESSMENT YEAR 2015-16)**

Refop India Company Office No.6, 2 nd Floor Sector-B, Pocket No.7 Plot No.11, Vasant Kunj New Delhi-110 070 PAN : AAACR 3007K	Vs.	ACIT Circle-78(1) New Delhi
(Appellant)		(Respondent)

Assessee by	Sh. Shashwat Bajpai, Advocate & Sh. Mahir Khanna, Advocate
Department by	Sh. V.K. Dubey, Sr. DR

Date of Hearing	17/01/2024
Date of Pronouncement	19/01/2024

ORDER

PER YOGESH KUMAR U.S., JM:

There is a delay of 343 days in filing the captioned appeals. The assessee has filed applications for condonation of delay containing that the orders impugned have not been served to the

assessee to the registered address of the assessee and the assessee came to know about the passing of the impugned order only on 13/07/2023 when the assessee perused the income tax portal. Considering the application for condonation of delay filed by the assessee and for the reasons stated thereof, the delay in filing the present appeals are condoned.

2. In the above captioned appeals pertaining to Assessment Years 2013-14, 2014-15 and 2015-16 filed by the assessee challenging the order of the Ld. CIT(A) dated 06/09/2022 wherein the Ld. CIT(A) has dismissed the appeal filed by the assessee as infructuous on the ground that the assessee had opted for the Vivad Se Vishwas Scheme, 2020.

3. The Ld. Counsel for the assessee submitted that the assessee had challenged the order passed by the ACIT, Circle-78(1), New Delhi u/s 201(1A) of the Act before the CIT(A) and at no point of time the assessee had filed any application for Vivad Se Vishwas Scheme, 2020 and the issue was not settled under the said scheme. But, the assessee had opted for Vivad Se Vishwas Scheme, 2020 for the assessment orders passed u/s 143(3) r.w.s 92CA of the Act for

A.Y. 2013-14, 2014-15 and 2015-16, but the Ld. CIT(A) erroneously dismissed the appeals filed against the order passed u/s 201(1A) of the Act on the wrong findings that the assessee had opted for Vivad Se Vishwas Scheme, 2020. Therefore, Ld. AR sought for restoring the matter to the file of the Ld. CIT(A) for fresh adjudication on the merit of the case.

4. Per contra, the Ld. DR relied on the orders of the Lower Authorities.

5. We have heard the parties and perused the materials available on record. The assessee has not opted for the Vivad Se Vishwas Scheme, 2020 in respect of the orders passed u/s 201(1A) of the Act for A.Y.2013-14, 2014-15, 2015-16. The Ld. CIT(A) has committed error in dismissing the appeal filed by the assessee by recording erroneous finding and dismissed the Appeal as having become infrutuous. Therefore, the issues involved in the present appeals are restored to the file of the Ld. CIT(A) with direction to decide the same afresh in accordance with law after hearing the assessee.

6. In the result, the appeals filed by the assessee are partly allowed for statistical purposes.

Order pronounced in open Court on 19th January, 2024.

Sd/-

(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Sd/-

(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Dated: 19/01/2024

PK/Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI