

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
'A' BENCH, CHENNAI

जस्टिस श्री चंद्रकांत वसंत भडंग, अध्यक्ष एवं श्री मंजुनाथ. जी, लेखा सदस्य के समक्ष  
**BEFORE Mr.JUSTICE (RETD.) C.V. BHADANG, PRESIDENT**  
**AND SHRI MANJUNATHA.G, ACCOUNTANT MEMBER**

आयकर अपीलसं./ITA No.: **1231/CHNY/2023**

निर्धारण वर्ष/Assessment Year: 2016-17

**Hwashin Automotive India Pvt.  
Ltd.,**  
F65a, Sipcot Industrial Park,  
Irungattukottai, Sriperumbudur,  
Kancheepuram – 602 105.

**The Deputy Commissioner of  
Income Tax,**  
vs. Corporate Circle 1(1),  
Chennai.

**PAN: AAACH 9909E**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri Shreyansh Kochar, CA

प्रत्यर्थी की ओर से/Respondent by

: Shri P. Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 23.01.2024

घोषणा की तारीख/Date of Pronouncement

: 23.01.2024

**आदेश /ORDER**

**PER MANJUNATHA G, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is directed against the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), New Delhi dated 08.09.2023 and pertains to assessment year 2016-17.

2. The brief facts of the case are that the assessee is engaged in manufacturing of Automobile and Auto parts, filed its return of income for the assessment year 2016-17 on 29.11.2016 declaring

loss of Rs.82,99,72,844/-. The case was selected for scrutiny under CASS and assessment u/s.143(3) r.w.s. 144C(3) of the Act was completed after making downward adjustment of Rs.21,83,52,256/- and assessed loss at Rs.61,16,20,588/-. Subsequently, it was observed that certain income has escaped assessment and accordingly the case was reopened by issuance of notice u/s.148 of the Income Tax Act, 1961 (hereinafter the 'Act') on 16.03.2021. In response, the assessee filed return of income on 03.04.2021 and the Assessing Officer issued notice u/s.143(2) of the Act dated 28.07.2021 along with reasons for re-opening. In response, the assessee filed reply along with its submissions on 02.08.2021. Subsequently, the Assessing Officer completed assessment u/s.147 of the Act vide order dated 31.03.2022 by disallowing unrealized forex loss of Rs.9,97,73,769/- and added to the income of the assessee. The assessee preferred an appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee as infructuous on the presumption that the assessee has opted Vivad se Viswas Scheme. Aggrieved by the CIT(A) order, the assessee is in appeal before us.

3. We have heard Id. Counsel for the assessee and the Id. DR, present for the Revenue.

4. The Id. Counsel for the assessee pointed out that appeal filed by the assessee against the assessment order dated 31.03.2022 has been dismissed by the CIT(A) as infructuous on the wrong presumption that the assessee has availed the benefit of Vivad se Viswas Scheme 2020. The fact remains that the assessee has availed the benefit of Vivad se Viswas Scheme 2020 for the disputed taxes as per the order passed u/s. 143(3) of the Act dated 24.12.2019. This fact has been fairly accepted by the Ld. DR for the Revenue. From the above, it is clear that the appeal has been dismissed on wrong facts. Therefore, in our considered view, the appeal needs to go back to the file of the CIT(A). Thus, we set aside the order of the CIT(A) and direct the CIT(A) to reconsider the issue in accordance with law.

5. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court at the time of hearing on 23<sup>rd</sup> January, 2024 at Chennai.

Sd/-

(जस्टिस चंद्रकांत वसंत भडंग)  
**(JUSTICE C.V. BHADANG)**  
अध्यक्ष/PRESIDENT)

चेन्नई/Chennai,  
दिनांक/Dated, the 23<sup>rd</sup> January, 2024

Sd/-

(मंजुनाथ. जी)  
**(MANJUNATHA.G)**  
लेखा सदस्य/ACCOUNTANT MEMBER

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.