

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI “SMC” BENCH: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No.2555/Del/2023  
[Assessment Year : 2018-19]**

Ravinder Hooda, H.No.308/6, Sir Chhotu Ram Colony, Gali No.8, Sukhpura Chowk, Rohtak, Haryana-124001. <b>PAN-ACLPH6161Q</b>	vs	Jt DIT (I and CI), Chandigarh.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	Shri Subodh Jain, Adv. & Shri Samyak Jain, CA	
<b>Respondent by</b>	Shri Om Parkash, Sr.DR	
<b>Date of Hearing</b>	21.02.2024	
<b>Date of Pronouncement</b>	23.02.2024	

**ORDER**

**PER KUL BHARAT, JM :**

The present appeal filed by the assessee is directed against the order passed by Ld.CIT(A), National Faceless Appeal Centre (“NFAC”) dated 11.07.2023 for the assessment year 2018-19. The assessee has raised following revised grounds of appeal:-

1. *“That the CIT(A) erred on facts and in law in not quashing the order dated 27.06.2019 passed by the Learned Assessing Officer under section 271FA of the Income Tax Act, 1961 (‘the Act’) on the ground of being bad in law.*
  - 1.1 *That the CIT(A) erred on facts and in law in not quashing the impugned order passed under section 271FA of the Act, since the same was passed without giving a proper opportunity of being heard to the appellant which is against the principal of natural justice.*
  - 1.2 *That the Ld. AO has grossly erred in imposing penalty under section 271FA of the Act, since the late filing of the SFT statement Online by*

*the appellant was due to the technical problems faced by the appellant while filing the same. However, the fact should be appreciated by your Honour, that the SFT statement was duly filed manually by the appellant for the said year on 29/11/2018.*

2. *That the CIT(A) erred on facts and in law in sustaining the penalty of Rs. 1,01,900/-, imposed by the assessing officer under section 271FA of the Act, since the appellant opted for the Vivad Se Vishwas Scheme and paid the due amount of Rs. 30,570/- vide challan no. 04599 dated 29/10/2021 and BSR Code 0302275.*

2.1 *That the Ld. CIT(A) has erred in facts in considering that the Form 4 of the VSVS was not submitted by the appellant, however, the same was duly submitted by the appellant manually to the Commissioner of Income Tax, Rohtak. The said form was submitted manually as the assessee was facing problem while filing the same online.”*

2. Facts giving rise to the present appeal are that the assessee is Sub-Registrar in Haryana Government, posted at Madlauda Panipat. The Assessing Officer (“AO”) initiated penalty proceedings u/s 271FA of the Income Tax Act, 1961 (“the Act”) and thereafter, imposed penalty of INR 1,01,900/- vide order dated 27.06.2019.

3. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A), who after considering the submissions, sustained the addition and dismissed the appeal of the assessee.

4. Aggrieved against the order of Ld.CIT(A), the assessee preferred appeal before this Tribunal.

5. Apropos to the grounds of appeal, Ld. Counsel for the assessee contended that the assessee had adopted “Vivad se Vishwas Scheme” but Form

Nos. 4 & 5 were not generated. It is stated that the demand created by penalty has been paid by the assessee vide Challan No.04599 dated 29.10.2021 and BSR Code 0302275.

6. On the other hand, Ld. Sr. DR for the Revenue opposed these submissions and supported the orders of the authorities below.

7. I have heard Ld. Authorized Representatives of the parties and perused the material available on record and gone through the orders of the authorities below. It is stated by the Ld. Counsel for the assessee that the assessee had opted for “Vivad Se Vishwas Scheme” but Form No.4 could not be submitted electronically and same was submitted manually. Therefore, looking to the totality of the facts, I am of the considered view that Ld.CIT(A) ought to have accepted the submissions of the assessee and granted relief to the assessee. I hold accordingly. The AO is directed to give benefit of “Vivad Se Vishwas Scheme” to the assessee upon furnishing of the requisite documents. Grounds raised by the assessee are accordingly, allowed.

8. In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on 23<sup>rd</sup> February, 2024.

**Sd/-**

**(KUL BHARAT)  
JUDICIAL MEMBER**

*\* Amit Kumar \**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI