

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "H" NEW DELHI**

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT
AND
SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER**

**ITA No.25/Del/2024
Assessment Year 2014-15**

The Bhiwani Central Cooperative Bank Ltd.SCO 224-225-226, Co-op Bank City Centre Near Huda Park, Bhiwani, Haryana - 127021 PAN No.AAATT7780Q	Vs.	ITO (TDS) Hisar
(Appellant)		(Respondent)

Assessee by : Sh. Lalit Mohan, CA
Department by : Sh. Amit Katoch, Sr. DR

Date of hearing : 03-04-2024
Date of pronouncement : 03-04-2024

ORDER

PER N.K BILLAIYA, AM :

This appeal by the assessee is preferred against the order of the CIT(A), Gwalior dated 06.11.2023 pertaining to A.Y. 2014-15.

2. The grievance of the assessee read as under :-

1. That the learned Commissioner of Income Tax (Appeals) National Faceless Appeal Centre (NFAC), New Delhi has erred both in law and, on facts in upholding the order concluding that the appellant is 'assessee-in-default for a sum of Rs. 72,15,932/- u/s 201(1) of the Act and Rs. 60,61,383/- u/s 201(1A) of the Act.

2. That the learned Commissioner of Income Tax (Appeals) National Faceless Appeal Centre (NFAC), New Delhi has erred both in law and on facts in dismissing the appeal by observing that "appellant has applied for Vivad Se Vishwas Scheme -2020 and Form No. 5 dated 22.2.2021 has been issued/granted to the appellant which is uploaded on 22.2.2021 under VSVS- 2020. Hence, this appeal has become infructuous. Thus appeal is dismissed as withdrawn". The finding is factually incorrect, legally misconceived and wholly untenable.

3. That furthermore the learned Commissioner of Income Tax (Appeals) National Faceless Appeal Centre (NFAC), New Delhi has erred both in law and on facts in upholding the conclusion of the learned Assessing Officer that appellant was obliged to deduct TDS u/s 194A of the Act against on interest of Rs. 7,21,59,321/- to Board of School Education, Haryana Bhiwani during the financial year 2013-14 relevant to assessment year 2014-15.

3.1 That the learned Commissioner of Income Tax (Appeals) National Faceless Appeal Centre (NFAC), New Delhi, has failed to appreciate that since income of the Board was eligible for exemption u/s 10(23C)(iiiab) of the Act, there was no obligation to deduct TDS u/s 194A of the Act.

4. That the learned Commissioner of Income Tax (Appeals) National Faceless Appeal Centre (NFAC), New Delhi has failed to appreciate that order dated 18.3.2021 u/s 201(1)/ 201(1A) of the Act for the financial year 2013-14 relevant to assessment year 2014-15 1 was barred by limitation and therefore deserved to be quashed as such.

5. *That since notice dated 18.3.2021 u/s 156 of the Act enclosed with order dated 18.3.2021 u/s 201(1)/201(1A) of the Act was without DIN No. and the same was in violation of CBDT Circular No. 19/2019 requiring mandatory DIN No. and therefore both the notice u/s 156 and impugned order dated 18.3.2021 u/s 201(1)/201(1A) of the Act are also otherwise illegal, invalid and non-est order.*

6. *That both the authorities below have framed the impugned order without granting sufficient proper opportunity to the appellant and therefore the same are contrary to principles of natural justice and hence vitiated.*

3. At the very outset the Counsel stated that the first appellate authority has dismissed the appeal as withdrawn on the wrong assumption of fact that the assessee has chosen to settle the dispute under VSVS scheme 2020.

4. It is the say of the Counsel that the impugned appeal was never a subject matter of VSVS scheme and prayed for the restoration of appeal to the files of the CIT(A) to be decided on merits of the case.

5. The DR fairly conceded to this.

6. In our considered opinion if the impugned appeal was never a subject matter of VSVS scheme then the CIT(A) ought to have decided the appeal on merits of the case.

7. In the interest of justice and fair play we deem it fit to restore the quarrel to the files of the CIT(A) with a direction to decide the appeal on merits of the case.

8. In the result, the appeal of the assessee is allowed for statistical purpose.

9. Order pronounced in the open court on 03.04.2024.

Sd/-
(SAKTIJIT DEY)
VICE PRESIDENT

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

Dated: -04-2024

Neha

Copy of order to: -

- 1) The Appellant
- 2) The Respondent
- 3) The CIT
- 4) The CIT(A)
The DR, I.T.A.T., New Delhi

Assistant Registrar
ITAT, New Delhi