

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES: H : NEW DELHI

BEFORE SHRI G.S. PANNU, HON'BLE VICE PRESIDENT
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No.684/Del/2023
Assessment Year: 2012-13

Vivek Singhal,
C/o Akhilesh Kumar, Advocate,
206-207, Ansal Satyam,
RDC Ghaziabad,
Uttar Pradesh – 201 002.

Vs Pr. CIT,
Ghaziabad.

PAN: APQPS3067Q

(Appellant)

(Respondent)

Assessee by	: Shri Akhilesh Kumar & Shri Pushkar Pandey, Advocates
Revenue by	: Ms Sapna Bhatia, CIT-DR
Date of Hearing	: 05.04.2024
Date of Pronouncement	: 04.06.2024

ORDER

PER ANUBHAV SHARMA, JM:

This is appeal preferred by the assessee against the order dated 24.03.2022 of the Principal Commissioner of Income Tax, Ghaziabad (hereinafter referred to as 'the Ld. PCIT') arising out of the order dated 28.12.2019 passed u/s 147/143(3) of the Income Tax Act, 1961 (hereinafter

referred as 'the Act') by ITO, Ward-2(2)(5), Ghaziabad (hereinafter referred to as the Ld. AO).

2. Heard and perused the record. At the time of hearing, it came up that as per the assessee the issue stood resolved between the assessee and the Revenue in the proceedings under Vivad Se Vishwas Scheme (VSVS) and Form No.5 under VSVS stood issued on 09.04.2021. However, the ld.PCIT, who was also the first appellate authority in the matter of the assessee, had invoked the provisions of section 263 of the Act and directed the ld. AO to conduct further enquiry in regard to the issue. The ld. DR has, however, submitted that although the tax demand was settled under VSVS, the ld. PCIT has found that the ld. AO has fallen in error in making an addition to the extent of only 10% of the excess cash deposit while, in fact, the whole of the excess cash deposited should have been added to the income of the assessee.

3. The fact that the assessee had approached the competent authority under VSVS and Form No.5 was issued on 09.04.2021, was not disputed by the ld. DR. Consequent upon the impugned order of assessment dated 28.12.2019, the assessee had approached the ld. first appellate authority against this order which was withdrawn on 20.03.2021. However, subsequently, the ld. PCIT issued notice u/s 263 of the Act on 08.03.2022 to which the assessee failed to respond. The ld. AR has submitted that the assessee was under the impression that the

issue stands settled under VSVS and, therefore, there was no proper representation before the ld. PCIT.

4. In the light of the aforesaid, there is a question on merits of the issue raised in the proceedings u/s 263 of the Act by the ld.PCIT. We, therefore, consider it an appropriate case for the assessee to raise the plea of settlement of the issue under VSVS before the ld.PCIT. Needless to say, the assessee will be given an opportunity to contest the case on merits otherwise than on the issue of settlement under VSVS.

5. In the result, the appeal of the assessee is allowed for statistical purposes only.

Order pronounced in the open court on 04.06.2024.

Sd/-

(G.S. PANNU)
VICE PRESIDENT

Dated: 04th June, 2024.

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Asstt. Registrar, ITAT, New Delhi