

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
MUMBAI BENCH "G", MUMBAI**

**BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER  
AND SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

**ITA No.3517/Mum/2023  
Assessment Year: 2015-16**

DCIT-19(3), Mumbai	Vs.	Sunita Sarwankumar Saraf 50, Chhotalal Bhavan, 418, Kalbadevi Road, Mumbai, Maharashtra-400002.  PAN: AALPS 9589 F
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri Madhur Agarwal  
Revenue by : Dr. Kishor Dhule, CIT, DR

Date of Hearing : 01.07.2024

Date of Pronouncement : 29.07.2024

**ORDER**

**PER AMARJIT SINGH, ACCOUNTANT MEMBER:**

This appeal of the revenue for the assessment year 2015-16 is directed against the order dated 04.08.2023 passed by the Id. Commissioner of Income-tax, Appeals, NFAC, Delhi [hereinafter referred to as 'the Id. CIT(A)']. The revenue has raised the following grounds of appeal:

*"i. Whether on the facts and in the circumstances of the case and in law, Id. CIT(A) is erred in directing to allow credit of taxes paid under Vivas Se Vishwas Scheme (VsVs) from tax liability compound separately u/s 143(3) r.w.s. 263 of the Act, without appreciating that the rate of tax under VsVs and under normal are entirely different?"*

*ii. Whether on the facts and in the circumstances of the case and in law, Id. CIT(A) is erred in not appreciating that Vivas Se Vishwas Scheme (VsVs) was entirely different Scheme of calculating tax which was higher than the calculation tax under normal assessment. Hence credit of taxes paid under VsVs cannot be granted from tax liability in a different scheme?"*

*iii. The appellant craves leave to amend or to alter any ground or add a new ground which may be necessary.”*

2. Fact in brief is that return of income declaring total income of Rs. 17,72,760/- was filed on 18.08.2015. The case was subject to scrutiny assessment and assessment u/s 143(3) of the Act was finalized on 20.12.2017 and the total income was assessed at Rs. 11,33,87,020/- after disallowing the claim of capital gain of Rs. 11,56,74,995/- on sale of shares of M/s. Greencrest which was claimed as exempt u/s 10(38) of the Act. Subsequently, the ld. PCIT has passed order u/s 263 of the Act on 20.12.2017 on the ground that interest payment to Global Capital on account of purchase and sale of transactions of shares and expenses of Rs. 30,499/- claimed against the interest income ought to have been disallowed. Therefore, the ld. PCIT treated the order passed u/s 143(3) dated 20.12.2017 as erroneous and prejudicial to the interest of revenue and the case was set aside for passing the fresh assessment order.

3. Therefore, assessing officer has passed order u/s 143(3) r.w.s. 263 of the Act on 31.03.2022 and assessed the total income at Rs. 11,78,11,737/- after disallowing the interest expenses as referred in the order passed u/s 263 of the Act. The assessee has filed appeal against the order passed by the AO u/s 143(3) r.w.s. 263 of the Act. The ld. CIT(A) has sustained the addition made in consequent to order passed u/s 143(3) r.w.s. 263 of the Act as the same was not settled through VSV Scheme, 2020.

4. However, allowed the ground of appeal of the assessee pertaining to allowability of credit of taxes paid as per VSV Scheme, 2020. The ld. CIT(A) has directed the assessing officer to give credit of the taxes paid as per VSV Scheme, 2020 after verification from the records.

5. Heard both the sides and perused the material on record. The solitary issue in the ground of appeal before us is against the direction of ld. CIT(A) in allowing the credit of taxes paid under VSV Scheme for the tax liability raised on account of demand raised as per assessment order passed u/s 143(3) r.w.s. 263 of the Act. In the case of the assessee, assessment order u/s 143(3) of the Act was passed on 20.12.2017. The assessee has filed application under the VSV Scheme, 2020 on 26.12.2020 and settled the pending demand arising from original assessment order passed u/s 143(3) of the Act. Thereafter on 31.03.2022 the assessing officer has passed order u/s 143(3) r.w.s. 263 of the Act and made further addition including addition which had already been settled under the VSV Scheme, 2020.

6. After perusal of the material on record, it is noticed that assessing officer has made addition in the original assessment order passed u/s 143(3) of the Act on account of disallowance of long term capital gain on sale of shares of Rs. 11,13,26,495/- and commission expenses of Rs. 2,78,316/- u/s 69C of the Act to the total income of the assessee. The aforesaid amount has already been settled by the department under the VSV Scheme as discussed supra in this order. However, the assessing officer again added the aforesaid amount in the order passed u/s 143(3) r.w.s. 263 of the Act on 28.03.2022 without disproving the fact that major addition made in the order passed on 31.03.2022 had already been made in the order passed u/s 143(3) of the Act on 20.12.2017 which had already been settled under the VSV Scheme on 26.12.2020 much before passing the order u/s 143(3) r.w.s. 263 of the Act.

7. Looking to the facts and circumstances, we find that no infirmity in the decision of ld. CIT(A) in directing the assessing officer to provide credit of the taxes paid as per VSV Scheme, 2020 after verification of

records. Therefore, both the grounds of appeal of the revenue are dismissed.

8. In the result, appeal of the revenue is dismissed.

Order pronounced in the open court on 29.07.2024.

**Sd/-**  
**(PAWAN KUMAR GADALE)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(AMARJIT SINGH)**  
**ACCOUNTANT MEMBER**

Mumbai, Dated: 29.07.2024  
Biswajit, Sr. P.S.

Copy to:

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

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By Order

Assistant Registrar  
ITAT, Mumbai Benches, Mumbai