

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

BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

Miscellaneous Application No.164/Del/2021
(ITA No.2996/Del/2017)
Assessment Year: 2008-09

ITO,
Ward-22(4),
New Delhi.

Vs SBS Realtors Pvt. Ltd.,
B-14/C, Freedom Fighters Enclave,
Neb Sarai,
New Delhi – 110 068.

PAN : AALCS5106R

(Applicant)

(Respondent)

Assessee by	:	Shri Rajesh Jain, CA
Revenue by	:	Shri Vipul Kashyap, Sr. DR
Date of Hearing	:	23.08.2024
Date of Pronouncement	:	30.08.2024

ORDER

PER ANUBHAV SHARMA, JM:

This Miscellaneous Application is filed by the Revenue in regard to the order dated 06.04.2021 by which the appeal of the assessee was allowed. The ld. DR, arguing in support of the application, has primarily reasserted the facts as contained and narrated in the Miscellaneous Application. It comes up that the Revenue wants interference of this Bench u/s 254(2) on the basis that the assessee had taken recourse to settlement under the Vivad Se Vishwas Scheme (VSVS) and form No.3 stood issued. However, the assessee did not withdraw

the appeal. The Id. AR has submitted that in Form No.3, the tax chargeability rate was taken @ 125% instead of 100%. The assessee was not satisfied. The case of the Revenue now is that the assessee had not brought this fact to the notice of the Bench hearing the appeal.

2. On the basis of the aforesaid and after going through the content of the Miscellaneous Application, we are of the considered view that it is the prerogative of the assessee to have settled the issue under VSVS or contest it on merits before the Tribunal. If the assessee was not satisfied with the tax chargeability rate, then, it was irrelevant to apprise the Bench hearing the appeal on merits. The order dated 06.04.2021 has been on the basis of merits of the issues involved and there is no word in the application as to what mistake has occurred in the order itself which is liable to be rectified. The application, thus, has no merit and is, accordingly, dismissed.

Order pronounced in the open court on 30.08.2024.

Sd/-

(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

Dated: 30th August, 2024.

dk

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi