

**आयकर अपीलीय अधिकरण, कोलकाता पीठ 'सी', कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA**

**Before Shri Sanjay Garg, Judicial Member and Shri Rakesh Mishra, Accountant Member**

**I.T.A. No.1466/Kol/2023**  
Assessment Year: 2011-12

**Sajjan Kumar Bansal.....Appellant**

125, B K Pual Avenue,  
West Bengal-700006.

**[PAN: ADVPB8045Q]**

**vs.**

**ITO, Ward-37(4), Kolkata..... Respondent**

**Appearances by:**

Shri Vinod Jain, FCA, appeared on behalf of the assessee.

Shri Abhishek Kumar, JCIT- Sr. DR, appeared on behalf of the Revenue.

Date of concluding the hearing : September 04, 2024

Date of pronouncing the order : September 06, 2024

**आदेश / ORDER**

**संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:**

The present appeal has been preferred by the assessee against the order dated 12.05.2022 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. The ld. CIT(A) has dismissed the appeal of the assessee under mistaken belief that the assessee has availed Vivad Se Vishwas scheme, 2020 and he treated the appeal has deemed to be withdrawn as per clause 2 of section 4 of the Direct Tax Vivad Se Vishwas Act, 2020. However, the ld. counsel for the assessee has submitted that the assessee had availed Vivad Se Vishwas scheme in respect of earlier assessment order dated 31.03.2015 u/s 143(3)/147 of the Act. Thereafter, the assessment was again reopened u/s 147 of the Act and

the ld. counsel has submitted that the assessee had not availed Vivad Se Vishwas scheme in respect of assessment order dated 28.12.2018 passed u/s 147 of the Act. That the ld. CIT(A) mistakenly held that the assessee has availed Vivad Se Vishwas scheme in respect of the said order dated 28.12.2018.

3. Considering the above submissions, the impugned order of the ld. CIT(A) is set aside and the matter is restored to the file of the CIT(A) with a direction to decide the appeal of the assessee on merits after giving proper opportunity to the assessee to present his case.

4. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

***Kolkata, the 6<sup>th</sup> September, 2024.***

Sd/-

**[Rakesh Mishra]**

लेखा सदस्य/Accountant Member

Sd/-

**[Sanjay Garg]**

न्यायिक सदस्य/Judicial Member

Dated: 06.09.2024.

RS

*Copy of the order forwarded to:*

1. Sajjan Kumar Bansal
2. ITO, Ward-37(4), Kolkata
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches