

IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "B" BENCH

**Before: Smt. Annapurna Gupta, Accountant Member  
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No. 1354/Ahd/2024  
Assessment Year 2012-13**

Bhikhalal Chimanlal Shah 1, Biscuit Gali Pankorgnaka Ahmedabad-380013 Gujarat, India  <b>PAN: ALXPS4956P (Appellant)</b>	Vs	Assistant Commissioner of Income Tax Circle-1(2), Ahmedabad  <b>(Respondent)</b>
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**Assessee Represented: Shri Bandish Soparkar, A.R.  
Revenue Represented: Smt. Malarkodi R., Sr.D.R.**

Date of hearing : 17-10-2024  
Date of pronouncement : 23-10-2024

**आदेश/ORDER**

**PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-**

This appeal is filed by the Assessee as against the ex-parte appellate order dated 15.07.2022 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), arising out of the reassessment order passed under section 143(3) r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2012-13.

2. The Registry has noted that there is a delay of 667 days in filing the above appeal. The assessee filed a Notarized Affidavit that for the Asst. Year 2012-13, the assessments were reopened twice and two reassessment orders were passed on 19-12-2018 and 28-08-2019 against which two appeals were filed by the assessee as follows:

Order u/s. 143(3) rws 147 dated	19.12.2018	28.08.2019
Addition made	Rs.25,89,66,793/-	Rs.7,00,000/-
Assessed Income	Rs.43,26,75,783/-	Rs.43,33,75,783/-
Appeal against the reassessment order Filed on (date) and Appeal No.	10.01.2019 CIT(A), Ahmedabad- 1/10367/2018-19	05.10.2019 CIT(A), Ahmedabad- 1/10162/2019-20
Acknowledgement Number of Form 35	407203561100119	19105891105019
Settled under VSV Scheme	<b>No</b>	Yes
CIT(A) disposed off the appeal as settled in VSV Scheme	15.07.2022	09.06.2022

2.1. The assessee has chosen to avail Vivad Se Vishwas Scheme as against the second reassessment order dated 28-08-2019. Thus the appeal filed against that reassessment order was dismissed as withdrawn vide order dated 09-06-2022 by Ld. CIT(A).

2.2. Similarly Ld. CIT(A) by oversight mistake, dismissed the appeal against the first reassessment order, said to be covered under Vivad Se Vishwas Scheme vide the impugned order dated 15-07-2022. Noting this discrepancy, the assessee filed grievance petition on 23-12-2023 before Director of Income Tax (Systems). The same was acknowledged and replied vide resolution dated 04-06-2024

that the assessee opted for Vivad Se Vishwas Scheme, therefore the appeal stands dismissed as withdrawn. No further action pending in this office. The grievance may be treated as settled.

2.3. It is thereafter, the assessee filed the present appeal on 11-07-2024 with a delay of 667 days. The assessee being a Senior Citizen of 85 years old, requested to condone the delay and set aside the impugned order to the file of Ld. CIT(A), NFAC and decide the case on merits.

3. Ld. Sr. D.R. appearing for the Revenue has no serious objection in condoning the delay and also on verification records confirmed that both the appeals on two different reassessment orders were dismissed on the ground of assessee availed Vivad Se Vishwas Scheme and therefore requested to pass order in accordance with law.

4. We have given our thoughtful consideration and perused the materials available on record. We are satisfied with the reasons stated in the Affidavit filed by the assessee, and thereby we condone the delay of 667 days in filing the above appeal. It is seen from the impugned appellate order, the Ld. CIT(A) has relied upon Form No. 5 issued on 09-09-2021 with Certificate No. 249312720100221 for final payment of Rs.2,16,300/- under VSVS which is not relating to the present reassessment order. Further the assessee has not opted VSVS against this reassessment order. Thus there is clearcut mistake in disposing of the appeal which is liable to be set aside to the file of Ld. CIT(A), NFAC with a direction

to give proper opportunities of hearing to the assessee and thereafter pass order on merits.

5. At this juncture, we place our appreciation on the efforts of the senior citizen assessee in pursuing this appeal, instead of accepting the wrong appellate order which was in favour of the assessee. Therefore we impose cost of Rs.10,000/- payable by the Income Tax Department to the assessee, being cost of this litigation to the assessee.

6. In the result, the appeal filed by the Assessee is allowed for statistical purpose.

Order pronounced in the open court on 23-10-2024

**Sd/-**  
**(ANNAPURNA GUPTA)**  
**ACCOUNTANT MEMBER**  
**Ahmedabad : Dated 23/10/2024**

**Sd/-**  
**(T.R. SENTHIL KUMAR)**  
**JUDICIAL MEMBER**

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
अहमदाबाद