

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

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

ITA No.2523/Del/2022  
Assessment Year: 2018-19

Lease Plan India P. Ltd.,  
C4C/332, Ground Floor,  
Janakpuri,  
New Delhi – 110 058.

Vs DCIT,  
Circle-13(1),  
New Delhi.

PAN: AAACL6053B

(Appellant)

(Respondent)

Assessee by : Ms Poonam Ahuja, Advocate  
Revenue by : Shri Dharamvir Singh, CIT-DR  
Date of Hearing : 13.11.2024  
Date of Pronouncement : 20.11.2024

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the assessee against the order dated 18.08.2022 of the Commissioner of Income Tax (Appeals), NFAC, Delhi (hereinafter referred as Ld. First Appellate Authority or in short Ld. 'FAA') in Appeal No.NFAC/2017-18/10077107 arising out of the appeal before it against the order dated 25.11.2021 passed u/s 143(3) R.W.S. 144c(3) r.w.s. 144B of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') by the National Faceless Assessment Centre, Delhi (hereinafter referred to as the Ld. AO).

2. On hearing both the sides, it comes up that amongst other grounds raised on merits, the assessee has raised a ground No.3 as follows:-

*“3. That in view of the facts and circumstances of the case, the Appeal Centre vide order dated 18.08.2022 ("impugned order") for Assessment Year ("AY") 2018-19 has erred in treating the appeal of the Appellant as infructuous as per the Direct Tax Vivad Se Vishwas Act, 2020.*

*a. That in view of the facts and circumstances of the case, the Appeal Centre vide order dated 18.08.2022 has wrongly considered the fact that the Appellant opted for the Vivad Se Vishwas Scheme, 2020.*

*b. That in view of the facts and circumstances of the case, the Appeal Centre has wrongly considered the fact that Form 5 dated 16.11.2021 has been generated in regard to the captioned appeal.*

*c. That in view of the facts and circumstances of the case, the Appeal Centre has failed to consider the fact that the Appellant had opted for the Vivad Se Vishwas Scheme, 2020 for the penalty appeal for the same assessment year, i.e., AY 2018-19.”*

3. On appreciation of the impugned order dated 18.08.2022 of the NFAC, we find that in para 2.0, with the following observations, the appeal of the assessee has been treated as dismissed for statistical purposes:-

*“2.0 It is noted that the appellant opted for the Vivad Se Vishwas Scheme 2020. As per 360 profile of the appellant in the ITBA Portal form 5 has been duly generated dated 16.11.2021. In view of the above, the appeal is treated as infructuous as per the Direct Tax Vivad Se Vishwas Act, 2020.”*

4. The ld. AR has pointed out that the assessee has never opted for the settlement of the issues involved in the present appeal by way of settlement under Vivad Se Vishwas Scheme 2020 (VSVS) and in fact, against an order dated 29<sup>th</sup> August, 2019 passed by the Id.ACIT, Special Range-5, Delhi u/s 271D r.w.s. 274 of the Act, the assessee had approached for settlement under

VSVS and the relevant Form 3 was issued after the settlement under the said scheme. Thus, it was only in regard to the disputed penalty for AY 2018-19 of Rs.7,75,650/-, Form No.5 was ultimately issued.

5. The Id. DR could not dispute the aforesaid facts.

6. In the light of the aforesaid, we are of the considered view that the impugned order of the NFAC is the outcome of an erroneous understanding of the facts and the merits of the grounds raised by the assessee needs to be decided by NFAC again.

7. Consequently, the aforesaid ground No.3 as submitted before us stands sustained and the impugned order of the NFAC is quashed. NFAC is directed to restore the appeal before it for disposal of the same on merits after giving due opportunity of hearing as per law to the assessee. This appeal be considered allowed for statistical purposes.

Order pronounced in the open court on 20.11.2024.

Sd/-

(PRADIP KUMAR KEDIA)  
ACCOUNTANT MEMBER

Sd/-

(ANUBHAV SHARMA)  
JUDICIAL MEMBER

Dated: 20<sup>th</sup> November, 2024.

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

Asstt. Registrar, ITAT, New Delhi