

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G": NEW DELHI
BEFORE SHRI SAKTIJIT DEY, HON'BLE VICE PRESIDENT
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 240/Del/2023
(Assessment Year: 2015-16)**

Shikha Mittal, 443, Deepali Enclave, Pitampura, New Delhi (Appellant) PAN:AAMPG5980H	Vs. Pr. CIT (Central)-2, New Delhi (Respondent)
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Assessee by :	Shri Amol Sinha, Adv
Revenue by :	Ms. Jaya Chaudhary, CIT DR

Date of Hearing	24/10/2024
Date of pronouncement	26/11/2024

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.240/Del/2023 for AY 2015-16, arises out of the order of the Pr. Commissioner of Income Tax-2, Delhi [hereinafter referred to as 'Id. Pr. CIT', in short] in Appeal No. 22/1042265218(1) dated 31.03.2022 against the order of assessment passed u/s 153A of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 25.12.2019 by the Assessing Officer, ACIT, Circle-20, Delhi (hereinafter referred to as 'Id. AO').
2. At the outset, there is a delay of 247 days in filing of appeal by the assessee before us. The assessee had filed a condonation petition together with a sworn affidavit supporting the same. Considering the reason adduced thereon, we find that assessee was prevented from sufficient cause in not filing the appeal before us in time. Hence, we are inclined to condone the

delay in filing of appeal and admit the appeal of the assessee for adjudication.

3. The present appeal is against the revision order passed by the Id PCIT u/s 263 of the Act dated 31.3.2022 seeking to revise the search assessment order passed by the Id AO u/s 153A r.w.s. 143(3) of the Act dated 25.12.2019. The assessee had raised the following additional grounds before us:-

"a) Whether the Ld. Pr. CIT was justified in exercising his jurisdiction u/s 263 of the Act to set aside the assessment order which already has attained finality after being settled under Vivad se Vishwas Act, 2020.

b) Whether the Ld. Pr. CIT in exercising his power under section 263 of the Act, when in fact it is he who has issued FORM 3 and FORM -5 under VSV Act, 2020."

4. We find that the additional grounds raised by the assessee go to the root of the matter and hence we are inclined to admit the same and take up for adjudication first.

5. We find that in the search assessment framed u/s 153A r.w.s. 143(3) of the Act dated 25.12.2019, the Id AO had determined the total income of the assessee at Rs 50,02,680/- as against the returned income of Rs 7,01,820/-. The assessee challenged the said assessment before the Id CIT(A). When the appeal was pending before the Id CIT(A), the assessee settled the dispute by paying the requisite taxes thereon by availing the benefit provided in Vivad Se Vishwas Act , 2020 ('VSV' in short). The copy of Form 3 issued by Id PCIT accepting the VSV application of the assessee and determining the tax payable by the assessee under VSV 2020 is enclosed in Pages 4 to 5 of the Paper Book. The assessee duly paid the said taxes. Thereafter, Form 5 was issued by Id PCIT settling the entire tax dispute prevailing in Asst Year 2015-16 which is enclosed in Page 7 of the Paper

Book. Hence, the entire dispute that arise out of the assessment order framed by the Id AO u/s 153A r w.s. 143(3) of the Act dated 25.12.2019 stood settled by VSV 2020.

6. The Id PCIT is now seeking to revise the very same search assessment order dated 25.12.2019 stating that the said order is erroneous and prejudicial to the interest of the revenue. Without going into the merits of such revision, we hold that the Certificate in Form 5 was issued by the Id PCIT himself under VSV 2020 accepting to the plea of the assessee to settle the entire dispute arising out of the assessment order dated 25.12.2019. Now the very same PCIT having accepted earlier that the assessment order was correct in all aspects, now cannot say that the very same assessment order is erroneous and prejudicial to the interest of the revenue warranting revision u/s 263 of the Act. Hence we have no hesitation to quash the revision order passed u/s 263 of the Act by the Id PCIT. Accordingly, the additional grounds and the original grounds raised by the assessee are allowed.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 26/11/2024.

-Sd/-
(SAKTIJIT DEY)
VICE PRESIDENT

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 26/11/2024
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi