

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC" NEW DELHI**

BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER

आ.अ.सं./I.T.A No.1268/Del/2024

निर्धारणवर्ष/Assessment Year: 2011-12

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| Inderjeet Gupta 1B-128, NIT Near Vijay Ram Lila Park, Faridabad, Haryana. | <u>बनाम</u> Vs. | ITO, Ward 1(3), CGO Complex, NIT 4, Faridabad, Haryana. |
| PAN No.AKNPG1793M | | |
| अपीलार्थी Appellant | | प्रत्यर्थी/ Respondent |

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| निर्धारितकीओरसे / Assessee by | None |
| राजस्वकीओरसे / Revenue by | Shri Sanjay Kumar, Sr. DR |

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| सुनवाईकीतारीख/ Date of hearing: | 26.11.2024 |
| उद्घोषणाकीतारीख / Pronouncement on | 26.11.2024 |

आदेश /O R D E R

This appeal is filed by the assessee against the order of the Ld.CIT(Appeals) - NFAC, Delhi dated 30.10.2023 for the AY 2011-12.

Assessee has raised the following grounds:

1. *“On the facts and in the circumstances of the case and in law the Ld. assessing officer has erred both in law and in facts of the case in holding reassessment proceedings and passing assessment order u/s 156 on the ground that he has failed to issue valid notices to the appellant for holding assessment proceedings. Where an appeal is filed before the Commissioner of Income Tax (Appeals) erred in order u/s 250 of the income tax act-1961.*

2. As per all notice that we have received against the appellant is an Individual engaged in business of trading of Scrap under the name & style of “DEVANSH ENTERPRISES”. Registered under “Vivad Se Vishwas Scheme”

3. “Vivad se Vishwas Scheme” is useful for taxpayers with ongoing legal tax disputes at any stage. Under this scheme, the interest and penalty associated with the disputed tax amount is completely waived off. Allows declarations of confidence to be filed even if the time for filing appeals has not expired, allowing them to be treated as deemed appeals. Vivad Se Vishwas also envisages the option for the assessee to file only the declaration for his own appeal or the declaration for the department's appeal or both.

4. On the facts and circumstances of the case, the Ld. Assessing Officer has erred both on facts and in law in making the penalty of total amount Rs.1,64,200/- against which we opted VIVAD SE VISHWAS and agreed an amount of Rs.49,260 (Rs.41,050+8000) 25% of 1,64,200/- filed Form No. 3 Dated on:- 01-02-2021 and after that we have received Form No. 4 Dated on:-30-05-2022. And due to COVID-19 (CORONA) time we were unable to pay penalty on given time.

5. Now we have received FORM -5 (ORDER FOR FULL AND FINAL SETTLEMENT OF TAX APPEAR UNDER SECTION 5 [2]). As per rules that amount was paid has been refundable to declarant as per Appellant is also registered under “Vivad Se Vishwas Scheme”.

6. PRINCIPLES OF NATURAL JUSTICE:- That having regard to the facts and circumstances of the case, the Ld. Assessing Officer has erred both on facts and in law in deciding the appeal ex parte in violation of the principles of natural justice and without granting to the assessee a fair, proper and meaningful opportunity and the findings of the Ld. Assessing Officer that the assessee is not serious and sincere to pursue the case is wholly incorrect and in disregard of the fact that there was reasonable cause for alleged non-compliance on the dates fixed for hearing. “The Appellant craves leave to add, amend, alter vary and/ or withdraw any or all the above grounds

of Appeal. That the relief prayed for may kindly be allowed and the order of the Assessing Officer may kindly be quashed, set aside, annulled or modified.

7. PRAYER :- In view of our above submissions and considering the facts & circumstances of our case, It is prayed that the assessment order passed by the Ld. A.O. may be quashed and set aside in view of the numerous case laws applicable to the facts, circumstances of our case and existing legal position which has been wholly ignored by the A.O. both on facts and in law in making the addition of the whole amount of alleged bogus purchases which is uncalled for, unsustainable and unlawful and is levied automatically in mechanical manner without application of rationality and without arriving at convincing, conclusive findings.”

2. In spite of issue of notice, none appeared on behalf of the assessee nor any adjournment application was filed. The appeal is disposed of on hearing the Ld. DR.

3. Ld. DR inviting the attention of the Bench submitted that the appeal of the assessee was dismissed as infructuous by the Ld.CIT(Appeals) for the reason that the assessee had opted under Vivad se Vishwas Scheme (VSVS) and a certificate in Form 5 was also issued by Pr.CIT towards full and final payment of taxes due under the said Scheme. Therefore, the present appeal of the assessee against such order of the Ld.CIT(Appeals) also becomes infructuous.

4. On hearing the Ld. DR and perusing the order of the Ld.CIT(Appeals) it is observed that the appeal of the assessee was

dismissed by the Ld.CIT(Appeals) as the assessee opted under VSVS and settled the disputed taxes. It is also observed from the order of the Ld.CIT(Appeals) that the Pr. CIT has certified that full and final payment of Rs.1,64,200/- as taxes in terms of Form No.5 dated 23.10.2023 had been paid by the assessee. Therefore, since the assessee had already settled the dispute under the VSVS Scheme, the present appeal filed by the assessee against the order of the Ld.CIT(A) also becomes infructuous and accordingly the same is disposed of.

5. In the result, appeal of the assessee is dismissed as infructuous.

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

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

Dated: 26.11.2024

**Kavita Arora, Sr. P.S.*

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT
(DR)/Guard file of ITAT.

By order

Assistant Registrar, ITAT: Delhi Benches-Delhi