

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH “K(SMC)”, MUMBAI
BEFORE SMT BEENA PILLAI, JUDICIAL MEMBER
AND
SMT RENU JAUHRI, ACCOUNTANT MEMBER
ITA No.2387/M/2024
Assessment Year: 2017-18**

Prapti Developers 201/202, 2 nd Floor, Brahman Dev Arcade, Kalyan Shil Road, Golavli, Dombivali (East), Maharashtra-421203. PAN: AAQFP9352G	Vs.	Circle 3 Rani Mention, Murbad Road, Kalyan West- 421301.
(Appellant)		(Respondent)

Present for:

Assessee by : None

Revenue by : Shri Rajesh Pardeshi, Sr. DR

Date of Hearing : 07.11.2024

Date of Pronouncement : 19.12.2024

ORDER

Per Beena Pillai, JM:

Present appeal is filed by the assessee against order dated 19.02.2024 passed by Ld.CIT(A), Ranchi for A.Y. 2017-18 on following grounds of appeal:



“The department not issue from.5 under VSV Scheme-2020 which is not only unjustifiable but against principal of natural justice. Please allow credit of Rs.1,61,670/- which we have paid along with form no.35 and issued from no.5 under VSV scheme 2020 as a order completion of the case.”

Brief facts of the case are as under:

2. A survey action u/s.133A of the Act was conducted on 12/9/2017 in case of assessee. Assessee had declared voluntary income of Rs. 2037887/- in its hands. However, in the return of income filed subsequently on 26.03.2018 the assessee declared income of Rs.2,26,358/-. The Ld.AO while passing the assessment order added the differential amount of Rs.18,11,259/- in the hands of the assessee, thereby raised demand of Rs.8,08,349/-.

Aggrieved by the order of the Ld.AO, assessee preferred appeal before the Ld.CIT(A).

3. It is submitted that, while filing the appeal assessee had pre-deposited Rs.1,61,670/- a copy of the same is placed in the paper book filed before this *Tribunal*. In the meantime, the Ministry of Finance declared scheme of Vivad se Vishwas 2020, the benefit of which was taken by the assessee. It is submitted that, as per Form 3 the amount payable under the Vivad se Vishwas Scheme was Rs.5,69,122/-. The assessee paid Rs.4, 07,452/- as per Form 4 and the balance amount of Rs.1,61,670/- was prayed to be adjusted against the amount already paid on 03.02.2020 while filing the appeal before the Ld.CIT(A).



3.1. Before the Ld.CIT(A), the assessee furnished acknowledgments of receipt and Form 1, 2, 3 and 4 under the Vivad se Vishwas Scheme based on which the Ld.CIT(A) dismissed the appeal under ground of appeal being infructuous pursuant to adopt the benefit under Vivad se Vishwas Scheme by the assessee for the year under consideration.

4. Before this *Tribunal* the assessee filed appeal stating that Form 5 under the Vivad se Vishwas Scheme 2020 is not issued to the assessee yet, as the assessee has completely paid the entire amount as determined as per Form 3 of Vivad se Vishwas Scheme 2020. The Ld.AR submitted that, assessee prays to grant credit of Rs.1,61,670/- paid alongwith Form 35 being the exact outstanding amount after adjusting the amount paid as per Form 4 under the Vivad se Vishwas Scheme.

4.1. On the contrary, the Ld.DR has submitted that, the amount submitted by the assessee having paid alongwith Form 35 needs necessary verification.

5. Considering the submissions of both sides, in the interest of justice we remit this issue to the Ld.AO to verify the payment made by the assessee alongwith Form 35 and to credit of such amount if paid to the assessee by issued Form 5 under the Vivad se Vishwas Scheme 2020.

Needless to say that proper opportunity must be granted to the assessee.



Accordingly the grounds raised by the assessee stands allowed for statistical purposes.

In the result the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 19-12-2024.

**Sd/-
RENU JAUHRI
ACCOUNTANT MEMBER**

**Sd/-
BEENA PILLAI
JUDICIAL MEMBER**

Mumbai, Dated: 19.12.2024.
Snehal C. Ayare, Stenographer/Dragon

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai