

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "A-Bench" JAIPUR

श्री गगन गोयल, लेखा सदस्य एवं श्री नरेन्द्र कुमार, न्यायिक सदस्य के समक्ष  
BEFORE: SHRI GAGAN GOYAL, AM & SHRI NARINDER KUMAR, JM

आयकर अपील सं./ITA No. 1497/JP/2024  
निर्धारण वर्ष/Assessment Year: 2017-18

Edila Business World Pvt. Ltd C-Block, Multimetals Ltd., Campus 6-7 Heavy Industrial Area, Ladpura, Kota	बनाम Vs.	Assessment Unit, Income Tax Department
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.:AABCE 6793J		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assessee by : Shri Vijay Goyal, CA  
राजस्व की ओरसे / Revenue by: Shri Manoj Kumar, JCIT-DR

सुनवाई की तारीख / Date of Hearing : 10/02/2025  
उदघोषणा की तारीख / Date of Pronouncement : 10/02/2025

आदेश / ORDER

PER: NARINDER KUMAR, JUDICIAL MEMBER

The assessee – a private limited company- has challenged the order dated 24-05-2023 passed by Id.CIT(A), NFAC, Delhi, u/s 250 of the Income Tax Act, 1961.

2. Vide impugned order, appeal No. NFAC/2016-17/10242855, relating to assessment year 2017-18 came to be dismissed, while observing in the manner as :-

“The present appeal has been instituted on 23-04-2023 against the order u/s 143(3) r.w.s. 263 for the AY 2017-18. Subsequent to the filing of the present appeal, the appellant has filed an application under Vivad Se Vishwas Scheme (VSVS) and has since been issued an order for full and final settlement of Tax arrears u/s 5(2) r.w.s. 6 of VSVS Act, 2020 vide Form No.5 bearing Acknowledgement No. 703982780061120 dated 6-11-2020 issued by PCIT (Udaipur) certifying therein the payment of a sum of Rs.Nil as full and final settlement under the Scheme. The appellant has since filed a request for withdrawal of appeal.

In view thereof, the present appeal has been rendered infructuous and is deemed to have been withdrawn in accordance with the provisions of the said scheme. The appeal is therefore dismissed accordingly.”

3. Arguments heard. File perused.

4. As noticed above, ld. CIT(A) dismissed the appeal filed by the assessee on 23-04-2023, on the ground that the appellant had filed a request for withdrawal of the said appeal, the assessee having filed an application under Vivad Se Vishwas Scheme and order had already been issued for full and final settlement of tax arrears.

5. Ld. AR for the appellant states at the Bar that the assessee never filed any application for settlement under Vivad Se Vishwas Scheme after filing of the appeal on 23-04-2023.

Ld. AR explains that earlier a Vivad Se Vishwas Scheme was announced by the Govt. of India, under VSVS Act, 2020, and the appellant filed requisite forms to get benefit of the said scheme, and ultimately, in pursuance of issuance of Form 3, the assessee had withdrawn said appeal i.e. Appeal No. Kota/10609/2019-20, which was pending at that time, before the ld. CIT(A), Kota.

In this regard, on 6-11-2020, Form No. 5 was issued to the assessee by the ld. PCIT, Udaipur.

However, subsequently, on 17-03-2022, Ld.PCIT, Udaipur issued notice dated 17-03-2022 u/s 263 of the Income Tax Act. It led to passing of an ex-parte order dated 25-03-2022. Thereby, the assessment order dated 29-12-2019 initially issued by the AO u/s 143(3) of the Act, disallowing miscellaneous expenses of Rs.1.00 lac. was set aside.

6. We have enquired from the ld. AR for the appellant if the assessee ever challenged said order dated 25-03-2022 passed by ld. PCIT, Udaipur, under section 263 of the Act, setting aside the assessment order dated 29-12-2019.

Learned AR states at the Bar that the assessee did not challenge the said order u/s 263 of the Act.

Ld. AR for the appellant further submits that in terms of the order passed u/s 263 of the Act, the AO issued fresh assessment order dated 25-03-2023 assessing the income of the assessee at Rs.1,42,30,760/-.

Aggrieved by the said assessment order, the assessee was in appeal in before ld. CIT(A), NFAC, Delhi.

7. In the course of arguments , ld. DR for the Department has not disputed any of the above facts submitted by the ld. AR for the appellant.

8. Ld. DR for the Department also does not dispute that no application under Vivad Se Vishwas Scheme was submitted by the assessee after filing of the appeal against the fresh assessment order dated 25-03-2023.

9. The fact remains that the assessee was in appeal before the ld. CIT(A) against assessment order dated 25-03-2023 and the same was required to be disposed off by the ld. CIT(A), NFAC on merits.

10. As noticed above, Ld. CIT(A) has dismissed the appeal presented on 23-04-2023, under some mistaken belief that appellant had filed a request for withdrawal of the said appeal.

Ld.AR for the appellant has pointed out that subsequently the assessee even filed an application seeking rectification of the above said order, but the said application has never been decided by ld.CIT(A).

In the course of arguments, the Id.DR for the Department has not disputed even this submission, which is also one of the grounds of appeal raised by the assessee.

11. In the given situation, when the application u/s 154 of the Act filed by the assessee against order dated 12-08-2023 is stated to have been not disposed by the Id. CIT(A) and the appeal filed there on 23-04-2023 challenging the fresh assessment order u/s 143(3), while giving effect to the order passed by the Id.PCIT u/s 263 of the Act, was never requested to be withdrawn, Ld CIT(A) fell in error in passing the impugned order.

### **Result**

12. As a result, this appeal is hereby disposed of, for statistical purposes, and the appeal instituted by the assessee on 23-04-2023 before the Id. CIT(A) is restored to its original number for decision afresh, in accordance with law, by providing reasonable opportunity of being heard to the assessee.

13. File be consigned to record room after the needful is done by the office.

Order pronounced in the open court on 10/02/2025.

Sd/-

(गगन गोयल )  
(GAGAN GOYAL)  
लेखा सदस्य / Accountant Member

Sd/-

(नरेन्द्र कुमार)  
(NARINDER KUMAR)  
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 10/02/2025

\*Mishra, Sr. PS

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- Edila Business World Private Ltd. Kota
2. प्रत्यर्थी / The Respondent- Assessment Unit, Income Tax Department
3. आयकरआयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्डफाईल / Guard File ITA No.1497/JPR/2024)

आदेशानुसार / By order,

सहायकपंजीकार / Asstt. Registrar