IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE

BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2176/PUN/2024
निर्धारण वर्ष / Assessment Year : 2017-18

Shetkari Shikshan Prasarak Mandal, 0 Anand Bhavan, Nagar Road, At Post Tq Ashti, Dist. Beed- 414203. PAN : AAETS0130K	Vs.	DCIT, Exemption Circle, Aurangabad.
Appellant		Respondent

Assessee by	:	Shri Prateek Jha
Revenue by	:	S/Shri Ajay Kumar Keshari & Milind Debaje
Date of hearing	:	23.04.2025
Date of pronouncement	:	21.07.2025

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 30.09.2024 passed by Ld. CIT(A)/NFAC for the assessment year 2017-18.

2. The assessee has raised the following grounds of appeal :-

"1. On the facts and circumstance prevailing in the case, the Honorable CIT Appeal (NFAC) has erred in confirming the order passed u/s 154 rws 143(3) of the Income-tax Act dated 21.10.2021 passed by Dy.CIT Exemption Aurangabad on 21.10.2021 in as much as he did not considered the grounds of appeal in fair and judicious manner.

2. On the facts and circumstance previeling in the case, the Honorable CIT Appeal (NFAC) has erred in confirming the order passed u/s 154 rws 143(3) of the Income-tax Act dated 21.10.2021 passed by Dy.CIT Exemption Aurangabad in as much as he did not consider facts that the JAO has charged interest u/s 234A and 234B without assuming the Jurisdiction even though, the mistake was not apparent from record to be rectified u/s 154 of the Income-tax Act.

3. On the facts and circumstance previeling in the case, the Honorable CIT Appeal (NFAC) has erred in confirming the order passed u/s 154 rws 143(3) of the Income-tax Act dated 21.10.2021, even though, the claim of the appellant raised in grounds of appeal was supported with the Judicial decisions delivered by the honorable ITAT in the cases of Rushikesh Balbhim Pathare v/s ACIT and Akshar Udyog Ahmednagar v/s ACIT. Thus, the Hon'ble CIT Appeal has not maintained Judicial discipline even though, the aforesaid decision delivered by Hon'ble ITAT Pune was having binding force.

4. On the facts an circumstance previeling in the case, the ld. CIT A (NFAC), has erred in dismissing the ground of appeal in regard to charging of interest u/s 234A,234B of the Income-tax Act that, the JAO DCIT Exemption has charged interest by passing the order u/s 154 even though there was no mistake apparent from the record which could be cured u/s 154 as per the legal narratives.

5. On the facts and circumstance previeling in the case, the ld. CIT A (NFAC), has erred in non adjudication of legal grounds as per section 250(6) when he is duty bound to decide each and every ground of appeal raised by the assessee in appeal either legal or on facts. In the present appeal the CIT A (NFAC) has not given due consideration on the Judicial pronouncement delivered by Jurisdictional Courts. (Ram Vinod Agrawal v/s CIT ITAT Pune SMC Pune) It is requested that the interest charged u/s 234A and 234B may kindly be deleted.

6. On the facts and circumstance previeling in the case, the ld. CIT A (NFAC), has erred in not considering the issue that the appellant has availed the scheme of Vivad Se Vishwas and made the payment of Rs 1,94,48,037/- as per Form No 4, certificate/order of full and final settlement was issued on 15.11.2021 by CIT Exemption Pune, as such it was not open to disturb the demand by raising u/s 154 of the Income-tax Act. Therefore, the act of the AO and the Hon'ble CIT NFAC Delhi was totally against the spirit of the scheme of Vivad Se Vishwas framed by the Govt Of India.

3 Facts of the case in brief, are, that the assessee is a trust furnished its return of income on 22nd March 2018 declaring income at Rs.NIL. The return was processed under section 143(1) of the Income-tax Act. The case was selected for scrutiny under CASS. Statutory notices under section 143(2) and 142(1) were issued and served upon the assessee. The trust is registered under section 12A and section 80G of the Income-tax Act. The assessing officer completed the assessment under section 143(3) of the income tax act on 30th December, 2019 and made addition of Rs.6,29,38,630/- on ad hoc basis towards anonymous donation to be taxed under section 115 BBC of the Income-tax Act, since assessee trust was unable to provide complete details of donors. Against the above assessment order the assessee preferred appeal before the ld.CIT(Appeal)[NFAC]. Meanwhile, the scheme Vivad

se Vishwas-2020 was introduced and the assessee trust opted for the said scheme and filed Form No.1 and Form No.2 on 22nd March, 2021. In response to this, on 30th March, 2021 Form No.3 was issued by designated authority wherein the amount payable was determined and directed to be paid by the assessee trust. The assessee trust paid the above determined amount of ₹ 1,94,48,037 on 30 March 2021 itself & intimated the same to the designated authority by filing form no 4 on 30-03-2021, and awaited for Form No.5 for full and final settlement of dues from the designated authority. Ultimately, Form No.5 was also issued by the designated authority on 15th November, 2021.

3.1 However, on 14th October, 2021 the assessing officer issued a notice under section 154 of the Income-tax Act for rectification in the original assessment order and consequently passed rectification order on 21st October, 2021 raising an additional demand of ₹ 1,13,05,449. The assessee trust challenged this rectification order before learned CIT(Appeal)[NFAC]. After considering the reply of the Assessee, learned CIT(Appeal)[NFAC] dismissed the appeal filed by the assessee by observing as under.

"6.8 The Jurisdictional ITAT (Delhi) in the case of ***Interglobe Air Transport vs. ACIT in ITA No. 245/Del/2023 order dated 23/05/2023*** *for the AY 2017-18 has held that - "since the appeal before the Id. CIT(A) pertains to the order passed by the AO u/s 154, the matter is remanded to the file of the Id. CIT(A) for adjudication on the validity and issues raised in the order passed u/s 154 as the Id. CIT(A) erroneously considered the same as a part of the issues settled in VsV scheme."*

It is held in the above judgement that rectification order u/s 154 can be passed in case where assessee has sought settlement under VsV Scheme.

6.9 In view of the above facts of the case, the rectification order u/s 154 of the Income Tax Act, 1961 passed by the Assessing Officer and raising the demand of Rs 1,13,05,449- is hereby ***confirmed*** *and appeal is* ***dismissed****.*

7. In the result, appeal is ***dismissed****."*

3.2 It is the above order against which the assessee is in appeal before the Tribunal.

4 Learned AR appearing from the side of the assessee submitted before us that the order passed by ld.CIT(Appeal)[NFAC] is unjustified. Learned AR further submitted before the bench that the assessee opted for Vivad se Vishwas Scheme 2020 for full & final settlement of dues and the amount payable was determined by the designated authority by issuing form No. 3 and the assessee has already deposited the desired amount with in the given timeframe, therefore no further

liability can be fastened on the assessee. Learned AR referred to the chronology of events which suggests that the application in Form No.1 and 2 of VSVS 2020 was filed by the assessee on 22nd March, 2021 and Form No.3 that is determination of amount payable by the assessee was issued by the Department on 30th March, 2021 and the assessee has paid the determined amount of ₹ 1,94,48,037 on 30th March, 2021 itself. This shows that the assessee has already fulfilled his obligation under Vivad se Vishwas scheme 2020 well before initiation of proceedings of rectification under section 154 of the Income-tax Act. Learned AR further pointed out that the notice under section 154 for rectification was issued on 14th October, 2021 that is after six(06) months from the date of payment under VSVS 2020. Learned AR argued that once the amount is determined under VSVS scheme and is also paid by the assessee it is beyond the jurisdiction of the assessing officer to pass any rectification order in the assessment order which has already been subjected to VSV Scheme. In support of its contentions learned AR relied on the order passed by Hon'ble Delhi High Court in the case of Satish Kumar Dhingra

Vs. Assistant/Deputy Commissioner of Income Tax (2024) 166 Taxmann.com 290 wherein Hon'ble court held that once the amount payable is determined and assessee has also paid the same no rectification order can be passed. Accordingly, learned AR requested before the bench to cancel the rectification order and delete the demand.

5 Learned DR appearing from the side of the Revenue relied on the orders passed by subordinate authorities and requested to confirm the same. Learned DR further submitted that learned CIT(Appeal)[NFAC] rightly placed reliance on the decision passed by coordinate bench of this Tribunal passed in the case of Inter Globe Air Transport *Vs.* ACIT order dated 23-05-2023. However, he fairly admitted that the Judgment of Hon'ble Delhi High Court relied on by the assessee is recent & latest on the subject.

6 We have heard the learned counsels from both the sides and perused the material available on record including the case laws relied on by both parties. In this regard we find that the assessee opted for the VSV 2020 scheme and furnished from no 1 and 2 on

22nd March, 2021. Later on form 3, that is determination of demand payable by the assessee, was also issued by the designated authority on 30th March, 2021 and the demand mentioned in Form No.3 was also deposited by the assessee on 30th March, 2021 itself and Form No.4 that is intimation of amount paid by the assessee was also given to the designated authority on 30 March 2021 itself. Subsequently, Form No.5 i.e. certificate of full and final settlement of tax arear was also issued by the designated authority on 15th November 2021. However we also find that on 14 October 2021 a notice for rectification under section 154 was issued by the assessing officer to rectify the demand raised in the original assessment order and later rectification order under section 154 was also passed on 21 October 2021 wherein additional demand of ₹ 1,13,05,449 was determined. It was the contention of learned AR that once the amount payable is determined by the designated authority and the assessee has also paid the same and intimated to the designated authority about payment of the same, no rectification order can be passed subsequent to these events. In support of this contention learned AR relied on the order passed by

Hon'ble Delhi High Court in the case of Satish Kumar Dhingra *Vs.* Assistant/ Deputy Commissioner of Income Tax (supra) wherein under identical facts, Hon'ble court quashed the rectification order by observing as under :

> ***11.*** *Notwithstanding the above, and in our considered opinion, the order under Section 154 is liable to be struck down on a more fundamental plane. As per the scheme of the DTVSV Act, we find that an applicant desirous of settlement is required to file a declaration carrying requisite particulars in terms of Section 4. That provision reads as under:-*
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> *"4. Filing of declaration and particulars to be furnished.—(1) The declaration referred to in Section 3 shall be filed by the declarant before the designated authority in such form and verified in such manner as may be prescribed.*
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> *(2) Upon the filing the declaration, any appeal pending before the Income Tax Appellate Tribunal or Commissioner (Appeals), in respect of the disputed income or disputed interest or disputed penalty or disputed fee and tax arrear shall be deemed to have been withdrawn from the date on which certificate under sub-section (1) of Section 5 is issued by the designated authority.*
>
> *(3) Where the declarant has filed any appeal before the appellate forum or any writ petition before the High Court or the Supreme Court against any order in respect of tax arrear, he shall withdraw such appeal or writ petition with the leave of the Court wherever*

required after issuance of certificate under sub-section (1) of Section 5 and furnish proof of such withdrawal alongwith the intimation of payment to the designated authority under sub-section (2) of Section 5.

(4) Where the declarant has initiated any proceeding for arbitration, conciliation or mediation, or has given any notice thereof under any law for the time being in force or under any agreement entered into by India with any other country or territory outside India whether for protection of investment or otherwise, he shall withdraw the claim, if any, in such proceedings or notice after issuance of certificate under sub-section (1) of Section 5 and furnish proof of such withdrawal alongwith the intimation of payment to the designated authority under sub-section (2) of Section 5.

(5) Without prejudice to the provisions of sub-sections (2), (3) and (4), the declarant shall furnish an undertaking waiving his right, whether direct or indirect, to seek or pursue any remedy or any claim in relation to the tax arrear which may otherwise be available to him under any law for the time being in force, in equity, under statute or under any agreement entered into by India with any country or territory outside India whether for protection of investment or otherwise and the undertaking shall be made in such form and manner as may be prescribed.

(6) The declaration under sub-section (1) shall be presumed never to have been made if,—

(a) any material particular furnished in the declaration is found to be false at any stage;

(b) the declarant violates any of the conditions referred to in this Act; (c) the declarant acts in any manner which is not in accordance with the undertaking given by him under sub-section (5),

and in such cases, all the proceedings and claims which were withdrawn under Section 4 and all the consequences under the Income-tax Act against the declarant shall be deemed to have been revived.

(7) No appellate forum or arbitrator, conciliator or mediator shall proceed to decide any issue relating to the tax arrear mentioned in the declaration in respect of which an order has been made under sub-section (1) of Section 5 by the designated authority or the payment of sum determined under that section."

12. *Section 5 prescribes the time and manner of payment of the amount which may be determined by the Designated Authority and reads thus:-*

" 5. Time and manner of payment.—(1) The designated authority shall, within a period of fifteen days from the date of receipt of the declaration, by order, determine the amount payable by the declarant in accordance with the provisions of this Act and grant a certificate to the declarant containing particulars of the tax arrear and the amount payable after such determination, in such form as may be prescribed.

(2) The declarant shall pay the amount determined under sub-section (1) within fifteen days of the date of receipt of the certificate and intimate the details of such payment to the designated authority in the

prescribed form and thereupon the designated authority shall pass an order stating that the declarant has paid the amount.

(3) Every order passed under sub-section (1), determining the amount payable under this Act, shall be conclusive as to the matters stated therein and no matter covered by such order shall be reopened in any other proceeding under the Income-tax Act or under any other law for the time being in force or under any agreement, whether for protection of investment or otherwise, entered into by India with any other country or territory outside India.

Explanation.—For the removal of doubts, it is hereby clarified that making a declaration under this Act shall not amount to conceding the tax position and it shall not be lawful for the income-tax authority or the declarant being a party in appeal or writ petition or special leave petition to contend that the declarant or the income-tax authority, as the case may be, has acquiesced in the decision on the disputed issue by settling the dispute."

13. *As we go through the provisions made in Sections 4 and 5, it becomes apparent that the Designated Authority upon receipt of a declaration made and referable to Section 4 is obliged to determine the amount payable by the declarant in accordance with the provisions of the DTVSV Act. To facilitate the aforesaid, the Designated Authority is required to grant a certificate which would encapsulate particulars of the tax arrears and the amount payable upon such determination. In terms of sub-section (2) of Section 5, the declarant is thereafter statutorily placed under an obligation to pay the amount as determined under sub-section (1) within 15 days of the*

receipt of the certificate and duly intimate the Designated Authority of compliance.

14. *Of significance are the provisions made in sub-section (3) and which confer conclusiveness and finality on the amounts that may be determined under sub-section (1) of Section 5. The aforesaid provision clearly injuncts the respondents thereafter from reopening any matter covered by an order of determination made by the Designated Authority in any other proceedings under the Income Tax Act or, for that matter, any other law for the time being in force.*

15. *We also bear in mind the provisions which stand enshrined in Section 4(6). On a conjoint reading of Section 4(6) alongside Section 5(3), we find that the determination as carried out by the Designated Authority is clearly rendered finality and cannot possibly be reopened or revised by any authority under the Income Tax Act by taking recourse to a power which may otherwise be available to be exercised. As is manifest from a reading of those provisions, the only contingency where a determination made may be liable to be revisited or recalled would be where it is subsequently found that the application made by the declarant is found to suffer from an incorrect declaration or the suppression of a material fact. Absent the above, the declaration and the determination is conferred finality under the DTVSV Act. The closure which comes to be accorded to the dispute thus is intended to operate upon both sides, namely, the assessee as well as the Revenue. This would clearly flow from the special legislative objectives underlying the DTVSV Act and its avowed intent of according a closure to all tax disputes.*

16. *It is perhaps for this reason that the Legislature constructed in Section 4(6) a salutary safeguard with regard to the conclusiveness and finality which otherwise stands attached to a determination under the enactment by virtue of Section 5(3).*

17. *However, the action which is asserted to be one in exercise of the powers conferred by Section 154 of the Act would clearly not fall within the ambit of Section 4(6). We note that it is not the case of the respondent that the petitioner had failed to make a disclosure with respect to any material particular or any disclosure so made subsequently being found to be false. In view of the aforesaid, we find ourselves unable to sustain the impugned action.*

18. *We consequently allow the instant writ petition and quash the rectification notice dated 08 March 2022, rectification order dated 30 March 2022 issued under section 154 of the Act, notice of demand dated 30 March 2022, order dated 28 April 2022 and notice of demand dated 28 April 2022. The parties shall proceed in terms of the determination made under the DTVSV Act.*

7. Respectfully following the above judgement passed by Hon'ble Delhi High Court, we are of the considered opinion that every order passed under Sub-section 1 of Section 5 of the VSV Scheme 2020 determining the amount payable under this Act shall be conclusive as to the matters stated therein and no matter covered

by such order shall be reopened in any other proceedings under the income tax act or under any other law for the time being in force.

7.1 Since the amount determined as payable under Sub-section (1) of Section 5 of the VSV Scheme is final and cannot be revised—except in cases where the assessee has failed to disclose any material particulars, or where a disclosure is subsequently found to be false—and since no such situation has arisen in the present case, and the amount payable under the VSV Scheme was already determined by the Designated Authority & the assessee duly deposited the required amount and submitted Form No. 4 to the Designated Authority on 30th March, 2021, which is six months prior to the passing of the impugned rectification order under Section 154 dated 21st October, 2021, therefore, we hold that the learned CIT(A)[NFAC] is, not justified in dismissing the appeal filed by the assessee.

8 In the light of above discussion & also in the light of Hon'ble Delhi High Court's Judgement passed in the case of Satish Kumar Dhingra *Vs.* Assistant/ Deputy Commissioner of Income Tax

(supra), we set aside the order passed by learned CIT(Appeal)[NFAC] and direct the assessing officer to cancel the demand raised through rectification order passed under section 154 of the Income-tax Act. The appeal filed by the assessee is accordingly allowed.

9. In the result, the appeal filed by the assessee in ITA No.2176/PUN/2024 for A.Y. 2017-18 is allowed.

Order pronounced on this 21st day of July, 2025.

Sd/-	Sd/-
(R. K. PANDA)	**(VINAY BHAMORE)**
VICE PRESIDENT	**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 21st July, 2025.

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "**B**" बेंच, पुणे / DR, ITAT, "**B**" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

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Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.