

CWP No.9090 of 2021 (O&M)

Date of decision : 28.04.2021

Narinder Kumar

..... Petitioner

versus

Principal Commissioner of Income Tax

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present :- Mr. Satish Jain, Advocate for the petitioner.

AJAY TEWARI, J. (Oral)

This petition has been filed challenging the order dated 15.04.2021 (Annexure P-1) as per which an application filed by the petitioner under Section 4(1) of the Direct Tax Vivad Se Vishwas Act, 2020 (Act No.3 of 2020) (VSV Act) has been rejected on the following grounds :-

“As per report of concerned A.O. the appeal filed by the assessee on 09.01.2019 was defective in terms of the assessed income, date of order, date of service of order. Therefore the case has been rejected.”

Notice of motion.

On the asking of the Court, Mr. Yogesh Putney, Advocate accepts notice on behalf of the respondent.

As per petitioner during the pendency of the application under the VIVAD SE VISHWAS Scheme it came to his notice that there were some inadvertent factual errors in his appeal and he had moved an application for amendment of the grounds of appeal but while deciding the prayer that fact was not considered and even though the proceedings were pending, it was summarily held that the appeal was defective.

We put it to the learned counsel for the respondent that in these circumstances without commenting on the merits of the case it would be appropriate if a fresh order is passed on his application under the VIVAD SE VISHWAS scheme after hearing the petitioner. Counsel for the respondent states that since a copy of the petition was not handed over to him he is not in a position to verify the facts. However, he is not in a position to deny that the fact of the application for amendment being on the record does not seem to have been considered while passing the impugned order.

In the circumstances, we deem it appropriate to dispose of this petition by setting aside the impugned order (Annexure P-1) with a direction to the respondent to reconsider the case of the petitioner under the Vivad Se Vishwas Scheme by passing a speaking order thereon within a period of 15 days from the date of receipt of a certified copy of this order after giving him an opportunity of hearing. For this purpose, the petitioner is directed to appear before the respondent on 04.05.2021 or on any other date which respondent may fix in this regard.

Petition stands disposed of with the above terms.

Since the main case has been decided, the pending Misc. Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(RAJESH BHARDWAJ)
JUDGE

28.04.2021

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Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No