$~**S-35**

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 12786/2022 & CM APPL.38906/2022**

AQUARIUS FINCAP AND CREDITS PRIVATE LIMITED
..... Petitioner

Through: Mr.Ashvini Kumar, Advocate.

versus

NATIONAL FACELESS APPEAL CENTRE & ANR.
..... Respondents

Through: Mr.Sanjay Kumar, Advocate with Ms.Easha Kadian, Advocate.

% Date of Decision: 5th September, 2022

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, J (Oral):

1. Present writ petition has been filed challenging the order dated 18th May, 2022 passed under Section 250 of the Income Tax Act, 1961 ['the Act'] disposing of the appeal filed by the petitioner for the Assessment Year 2011-12. Petitioner also seeks the restoration of the quantum appeal before the CIT(A), National Faceless Appeal Centre, Delhi [NFAC].

2. Learned counsel for the petitioner states that the Petitioner had filed two appeals before the CIT(A), Delhi-I for the year under consideration, one against the assessment order dated 29th December, 2018 passed under Section 143 read with Section 147 of the Act and the other against the penalty order dated 14th June, 2019 passed under Section 271(1)(b) of the

Act. He states that during the pendency of both the appeals, the Direct Tax Vivad Se Vishwas Scheme Act, 2020 (DTVSV Act, 2020) was enacted by the legislature. He further states that the Petitioner opted for the scheme, and filed Forms 1 & 2 on 11th December, 2020 seeking to settle only the penalty appeal pending before the NFAC.

3. Learned counsel for the petitioner states that a Form-3 dated 23rd December, 2020 was issued to the Petitioner, pursuant to which the Petitioner filed a letter dated 22nd February, 2021 with Respondent No.1, for withdrawal of the appeal filed by the Petitioner against the penalty order dated 14th June, 2019 only. He states that the request for such withdrawal was acknowledged and the Petitioner availed the benefit of the DTVSV Act, 2020 with respect to the penalty appeal. He, however, states that Respondent No.1 without appreciating the facts and submissions filed by the Petitioner also disposed of the quantum appeal vide order dated 18th May, 2022 on the ground that the petitioner had opted to settle the case under the DTVSV Act, when, in fact, that was not the case. He states that the petitioner only availed the benefit of the DTVSV Act against the appeal filed qua the penalty order and the request for withdrawal of appeal was only limited to the appeal against the penalty order.

4. Learned counsel for the petitioner states that the Petitioner has filed two rectification applications seeking rectification of the impugned order wrongfully disposing of the quantum appeal of the Petitioner. He, however, states that the petitioner has not received any communication regarding the same.

5. Issue notice. Mr.Sanjay Kumar, learned counsel for the respondents-revenue, accepts notice. He states that he has no instructions.

6. Keeping in view the facts of the present case, the present writ petition along with application stands disposed of with a direction to the NFAC to decide the petitioner's rectification applications both dated 21st April, 2022, annexed as Annexure P-1 to the present writ petition, in accordance with law within eight weeks. The rights and contentions of all the parties are left open.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 5, 2022
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