

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'B': NEW DELHI)
(THROUGH VIDEO CONFERENCING)**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No:- 8143/Del/2018
(Assessment Year: 2015-16)**

M/s. FIBCOM INDIA LIMITED LGF-84, World Trade Centre Barakhamba Lane, New Delhi-110001	Vs.	Asstt. Commissioner of Income Tax, Circle-9(1), New Delhi.
APPELLANT		RESPONDENT
PAN No: AAACF2237P		

Assessee By : Shri Sidhant Arora, CA
Revenue By : Md. Gaysuddin Ansari, Sr. DR

Per Anadee Nath Misshra, AM

(A) This appeal by Assessee is filed against the order of Learned Commissioner of Income Tax (Appeals)-3, New Delhi, ["Ld. CIT(A)", for short], dated 25.09.2018 for Assessment Year 2015-16. Grounds taken in this appeal of Assessee are as under:

- "1. On the facts and circumstances of the case, the order passed by the learned Commissioner of Income Tax (Appeals) is bad both in the eye of law and on facts.*
- 2. On the facts and circumstances of the case, the learned Commissioner of*

Income Tax (Appeals) has erred both on facts and in law in confirming the disallowance of Rs.8,04,700/- on account of Royalty without affording opportunity to the appellant of being heard.

3. *On the facts and circumstances of the case, the learned Commissioner of Income Tax (Appeals) has erred both on facts and in law in confirming the disallowance of Rs. 1, 22,267/- on account of liquidated damages.*

4. *On the facts and circumstances of the case, the learned Commissioner of Income Tax (Appeals) has erred both on facts and in law in confirming adjustment of Rs. 8,04,700/- on account of Royalty expenses and Rs. 1,22,267/- on account of liquidated damages u/s 115JB arbitrarily & without any justification*

5. *That Learned CIT(A) has erred in law and on facts in passing order u/s 250 on 25.09.2018 despite the fact that next date of hearing was fixed on 09.10.2018 thus not providing proper opportunity to the appellant of being heard.*

6. *The appellant craves, leave, to add, alter, amend, and/or forego any of the grounds of appeal at the time of hearing.*

(B) At the time of hearing, at the outset, we took notice of letter sent by M/s Arora and Bansal, Chartered Accountants, the Authorised Representatives of the assessee, informing that the assessee has opted for Direct Tax Vivad Se Vishwas Act, 2020 ("VSVS", for short). It was further informed in their letter that Designated Authority under VSVS had issued Form-3 already and that the assessee had also filed Form-4 under VSVS. At the time of hearing before us, the Learned Authorised Representative ("Ld. AR" for short) for assessee as well as the learned Senior Departmental Representative ("Ld. Sr. DR", for short) submitted before us that this appeal may be treated as withdrawn and may be dismissed on account of the aforesaid VSVS. After due consideration, and in view of the foregoing; and as both sides have agreed to this; we treat this appeal as withdrawn on account of the aforesaid VSVS. Accordingly, this appeal is dismissed, subject to settlement of the disputes in the appeal, under the aforesaid VSVS.

(B.1) Before we part, we hereby clarify, by way of abundant caution, that if the disputes under this appeal are not fully settled under VSVS, then the assessee will be at liberty to approach ITAT for restoration of this appeal in accordance with law.

(C) In the result, this appeal is dismissed.

This order has been already pronounced on 15th September, 2021 in Open Court, in the presence of Representatives of both sides; after conclusion of the hearing. Now, this written order is signed today on 16/09/2021.

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

Sd/-

**(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER**

Dated: 16/09/2021
BINITA

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI