

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A', NEW DELHI**

**BEFORE SH. BHAVNESH SAINI, JUDICIAL MEMBER
AND
SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER**

(THROUGH VIDEO CONFERENCING)

ITA No.1949/Del/2001
(for Assessment Year 1997-98)

DCIT Central Circle-10, New Delhi	Vs.	M/s. Zorawar Vanaspati Ltd., L-25, Cannaught Place, New Delhi
(APPELLANT)		(RESPONDENT)

And

ITA No.1863/Del/2001
(for Assessment Year 1997-98)

M/s. Zorawar Vanaspati Ltd., L-25, Cannaught Place, New Delhi	Vs.	DCIT Central Circle-10, New Delhi
(APPELLANT)		(RESPONDENT)

Assessee by	--None--
Revenue by	Sh. Bhopal Singh, Sr. DR

Date of hearing:	19/11/2020
Date of Pronouncement:	23/11/2020

ORDER**PER ANIL CHATURVEDI, AM:**

The cross appeals filed by the assessee and Revenue are directed against the order dated 27.02.2001 of the Commissioner of Income Tax (A)-VIII, New Delhi relating to Assessment Year 1997-98.

2. The relevant facts as culled from the material on records are as under:

3. Assessee is a company who filed its return of income for A.Y. 1997-98 on 26.03.1998 declaring total income of Rs. NIL. The case was selected for scrutiny and accordingly notices u/s 143(2) and 142(1) were issued and served on assessee. Thereafter, AO vide order dated 24.03.2000 passed u/s 144 of the Act determined the total income at Rs.60,39,585/- by making addition of Rs.60,39,585/- u/s 68 of the Act. Aggrieved by the order of AO, assessee carried the matter before the CIT(A) wherein assessee apart from challenging the addition u/s 68 also challenged the levy of interest u/s 234A and 234B of the Act made by the AO on the assessed income.

4. CIT(A) vide order dated 27.02.2001 in Appeal No.32/2000-2001 upheld the addition of Rs.68,39,585/- made by AO but however directed the AO to recompute the interest u/s 234A and 234B of the Act on the returned income.

5. Aggrieved by the order of CIT(A), assessee and Revenue preferred appeal before the ITAT. The grievance of the Revenue was against the direction of CIT(A) in computing the interest u/s 234A and 234B of the Act on returned income. Revenue preferred the appeal before the Co-ordinate Bench of Tribunal. The Co-ordinate Bench of Tribunal in ITA No.1949/Del/2001 dismissed the appeal of the Revenue against which Revenue preferred an appeal before the Hon'ble Delhi High Court in ITA No.596/2005. The Hon'ble Delhi High Court vide judgment dated 24.07.2009 set aside the order of ITAT and remanded the matter back to ITAT and *inter alia* directed the ITAT to hear the appeal of Revenue along with appeal of the assessee in ITA No.1949/Del/2001 because one of the issue of challenging of interest u/s 234A & 234B was common in both the appeals.

6. Both the cross appeals are thus before us.

7. None appeared on behalf of the Assessee.

8. Before us, Learned DR intimated that the tax effect in Revenue's appeal is below Rs.50 lac and thus sought to withdraw the appeal in view of the Circular No. 17/2019 dated 08.08.2019 issued by the Central Board of Direct Taxes.

9. We have heard the Learned DR and perused all the materials available on record. As far as Revenue's appeal is concerned, an undisputed fact that the Revenue's appeal is below tax of Rs.50 lakh. Accordingly we are inclined to allow withdrawal of appeal filed by the Revenue. **Thus appeal of the Revenue is dismissed.**

10. As far as appeal of the assessee is concerned, the case record reveals that neither the assessee nor the counsel for assessee is appearing in the matter since 2013 which shows that assessee is not interested in prosecuting its appeal. Further before us no infirmity is pointed in the order of CIT(A) on the addition made on merits. We further find that the order passed by the AO was an ex parte order as none had appeared before the AO and therefore he had passed an order u/s 144 of the Income Tax Act. In the absence of any documents on record to point out any fallacy in the findings of the AO/ CIT(A), we find no reason to interfere in the order of CIT(A) and **thus the appeal of assessee is dismissed.**

11. In the result, both the appeals are dismissed.

Order pronounced in the open court on 23.11.2020

**Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER**

**Sd
(ANIL CHATURVEDI)
ACCOUNTANT MEMBER**

Priti Yadav, Sr. PS

Date:- 23.11.2020

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

ASSISTANT REGISTRAR
ITAT NEW DELHI