

**IN THE INCOME TAX APPELLATE TRIBUNAL
"F" Bench, Mumbai**

**Before Shri Jason P. Boaz, Accountant Member
and Shri Sandeep Gosain , Judicial Member**

ITA No. 1632/Mum/2015
(Assessment Year: 2011-12)

Vitkovice Heavy Machinery A.S. C.o. MZSK & Associates Level 9, The Ruby, North West Wing, Senapati Bapat Road Dadar (W), Mumbai 400028	Vs.	DCIT (International Taxation) 4(3)(1) Room No. 116, First Floor Scindia House, N.M. Road Ballard Estate, Mumbai 400038
PAN – AADCV2727K		

Appellant

Respondent

Appellant by: Shri Bhavin Shah
Respondent by: Shri C.V. Chandra

Date of Hearing: 08.11.2016
Date of Pronouncement: 08.11.2016

ORDER

Per Jason P. Boaz, A.M.

This appeal by the assessee is directed against the order of assessment passed under section 144C(13) r.w.s. 143(3) of the Income Tax Act, 1961 (in short 'the Act') in pursuance of the directions of the Dispute Resolution Panel – II, Mumbai issued under section 144C(5) of the Act on 23.12.2014.

2. In this appeal the assessee has raised the following grounds: -

“Ground No. 1: On the facts and circumstances of the case, the learned Assessing Officer (‘AO’), while giving effect to the directions issued by the Honourable DRP, has erred in computing the taxable income of the Appellant Company at Rs.55,15,418 as against Rs.11,86,560 disclosed in the return of income filed by the Appellant Company.

The Appellant Company craves leave to add, alter, supplement, amend, vary, withdraw or otherwise modify the ground mentioned herein above at or before the time of hearing.”

3. In the course appellate proceedings, the assessee filed letter dated 08.11.2016 before the Bench in which it is submitted that the assessee company has received the necessary relief from the Assessing Officer (AO)

vide order under section 154 of the Act dated 09.06.2015 and therefore the captioned appeal and ground raised (supra) becoming infructuous, the assessee desires to withdraw this appeal. The contents of the letter dated 08.11.2016 of the assessee (supra) filed before us is extracted hereunder: -

“November 8, 2016

*To
Hon'ble Members,
Income Tax Appellate Tribunal,
Bench 'F, Mumbai*

*Re: Vitkovice Heavy Machinery A.S. ('Appellant Company')
Assessment year ('AY'): 2011-12
PAN: AADCV2727K
Appeal No: 16321Mum12015*

Sub: Non-pressing of ground of appeal

With reference to the captioned subject and appeal, the Appellant Company wishes to submit as under:

The Appellant Company is in receipt of an acknowledgement-cum-notice (photocopy of the said notice has been enclosed as Annexure 1), scheduling the first hearing before your Honour on November 8, 2016.

In this regard, the Appellant Company submit that the sole ground involved in captioned appeal is in relation to error in computing taxable income by the Learned Deputy Commissioner of Income-tax, International Taxation - 4(3)(1) ('AO') after receiving the necessary directions from the Dispute Resolution Panel - II ('DRP').

Subsequently, the Appellant Company has received an order dated June 9, 2015 (photo copy of the said order has been enclosed as Annexure 2) under section 154 of the Income Tax Act, 1961 wherein the above-mentioned error has been rectified by the learned AO.

In view of the fact that subsequently the Appellant Company has received the necessary relief from the Learned AO, the ground raised in the captioned appeal becomes infructuous. Accordingly, the Appellant Company desires not to press the ground and captioned the appeal may be kindly withdrawn.

We request your Honour to take the above on record and oblige.

Thanking you,

Yours sincerely

For Vitkovice Heavy Machinery A.S.

Sd/-

Jan Gajada

Vicechairman of the Board

VITKOVICE HEAVY MACHINERY a.s. VITKOVICE HEAVY MACHINERY a.s.”

Sd/-

Jiri Broz

Member of the Board

4. In view of the assessee's letter dated 08.11.2016 (supra) seeking to withdraw this appeal for the reasons cited therein, the grounds raised by the assessee are rendered infructuous and consequently the appeal is dismissed as withdrawn.

5. In the result, the assessee's appeal for A.Y. 2011-12 is dismissed.

Order pronounced in the open court on 8th November, 2016.

Sd/-
(Sandeep Gosain)
Judicial Member

Sd/-
(Jason P. Boaz)
Accountant Member

Mumbai, Dated: 8th November, 2016

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The DRP-II, Mumbai*
4. *The CIT/DIT concerned*
5. *The DR, "F" Bench, ITAT, Mumbai*

By Order

//True Copy//

Assistant Registrar
ITAT, Mumbai Benches, Mumbai

n.p.