

आयकर अपीलिय अधीकरण, न्यायपीठ –“A” कोलकाता,  
**IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH: KOLKATA**  
[Before Shri J. Sudhakar Reddy, AM and Shri A. T. Varkey, JM]

**ITA No. 1206/Kol/2019**  
Assessment Year: 2012-13

M/s. Lily India Ltd PAN: AABCK 2334B	Vs.	D.C.I.T Cir-8(1), Kolkata
Appellant		Respondent

Date of Hearing	07.07.2020
Date of Pronouncement	10.07.2020
For the Appellant	Shri Miraj D.Shah, ld.AR
For the Respondent	Shri Jayanta Khanra, JCIT, ld. Sr.DR

**ORDER**

This is an appeal preferred by the assessee against the order of Ld. CIT(A)-3, Kolkata dated 18-02-2019 for the assessment year 2012-13.

2. At the outset, Shri Miraj D.Shah, ld. AR for the assessee has brought to our notice that assessee had availed the scheme (Direct Tax Vivad Se Viswas Act, 2020), wherein the Parliament has introduced a Dispute Resolution Scheme ( in short, the ‘DRS’), which is applicable to all appeals/petitions filed by the tax-payers or Income Tax Department, which is pending until 31<sup>st</sup> January, 2020 before any Appellate Forum including this Tribunal. The procedure to avail the said scheme is prescribed as under:-

(i) **Filing of declaration in Form 1 and Form 2**

Declaration under section 4(1) of the Scheme shall be made in Form 1 consisting of the details regarding the appeal to be settled. Undertaking to be furnished by the declarant in Form 2 concerning the waiving of his right to seek or pursue any remedy under any law is to be accompanied along with Form 1.

(ii) **Certificate from the Designated Authority in Form 3**

The Designated Authority within 15 days from the receipt of the declaration in Form 1 and Form 2 will issue a certificate in Form 3 under section 5 (1) of the Scheme determining the amount payable under the Scheme.

(iii) **Payment of taxes and withdrawal of appeal**

The declarant shall pay the amount (if not already paid) as determined in Form 3 within 15 days from the date of receipt of such certificate. The declarant is also required to withdraw the appeal for which the declaration is filed after receipt of certificate under section 5 (1) of the Scheme.

3. It has been brought to our notice that the assessee had availed the aforesaid scheme and has duly filed the declarations in Form 1 and Form 2 and is awaiting the decision of the Designated Authority to issue certificate in Form 3 as per section 5(1) of the scheme determining the tax payable by the assessee under the scheme. So we note that the assessee is awaiting certificate in Form 3 from the Designated Authority, and once it receives Form 3, it can request for withdrawal of this appeal as required under the scheme.

4. However we keeping in view the fact that the assessee had already filed declarations in Form 1 and Form 2 and has opted for the Dispute Resolution Scheme (supra), there is no purpose served in keeping this appeal pending before us. Accordingly, we treat this appeal as withdrawn expecting that the Designated Authority may issue certificate in Form 3 in accordance to law. However in case, if the Designated Authority does not issue Form 3 as per section 5(1) of the Scheme, then the assessee is at liberty to move appropriate application to recall this tribunal order. With this caveat, we dismiss the appeal of the assessee as withdrawn.

5. In the result, the appeal of assessee is dismissed as withdrawn.

Order is pronounced in the open court on 10 July 2020.

Sd/-  
( J. Sudhakar Reddy)  
Accountant Member

Sd/-  
(Aby. T. Varkey)  
Judicial Member

Dated : 10 July 2020

\*\*PP(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant –M/s. Lily India Pvt. Ltd C/o ARSK & Associates, Chartered Accountants, 22 R.N Mukherjee Road, 3<sup>rd</sup> Fl., Kolkata-1.
2. Respondent –DCIT, Cir-8(1), AaykarBhavan, P-7 Chowringhee Sq., Kolkata-69.
3. CIT(A)-4, Kolkata (sent through e-mail)
4. CIT- , Kolkata.
5. DR, ITAT, Kolkata. (sent through e-mail)  
By order,

/True Copy,

Assistant Registrar