

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'I-1', NEW DELHI**

**BEFORE SHRI O.P. KANT, ACCOUNTANT MEMBER
AND
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

ITA No.4473/Del./2013
Assessment Year: 2005-06

JCIT, Range-1,Sector-20, Noida	Vs.	M/s. Adobe Software India Pvt. Ltd. (Now Amalgamated with M/s. Adobe System India Pvt. Ltd.) A-1, Sector- 25A, Noida, Gautam Buddha Nagar,
PAN :AACCA2982J		
(Appellant)		(Respondent)

Appellant by	Shri Surender Pal, CIT(DR)
Respondent by	Shri Purushottam Anand, Adv.

Date of hearing	01.12.2020
Date of pronouncement	04.12.2020

ORDER

PER O.P. KANT, AM:

The instant appeal by the Revenue is directed against the order of the Commissioner of Income-tax (Appeals)-IV, Bengaluru, dated 19.03.2013 pertaining to assessment year 2005-06.

We have heard both the parties. At the outset, the Learned Counsel of the assessee submitted that an application filed in prescribed forms under the Direct Tax 'Vivad Se Vishwas Act, 2020' (in short 'the Act') by the assessee has been accepted and the designated authority has issued the certificate in prescribed form (Form No. 3) in terms of section 5(1) of the Act. He has filed electronically copy of Form No. 1 to 5 of the scheme, which are placed on record. The Form No. 1 consists declaration in respect of the present appeal of the Revenue also. The certificate in prescribed form No. 3 issued by the designated authority in the case of the assessee also refers to the present appeal and tax amount to be paid by the

assessee for settlement of issue-in-dispute in present appeal. The said Form no. 3 is reproduced as under:

PAN : AACCA2982J

Acknowledgement Number : 478864460200820

FORM-3

[See rule 3]

**FORM FOR CERTIFICATE UNDER SUB-SECTION (1) OF SECTION 5 OF THE DIRECT TAX
VIVAD SE VISHWAS ACT, 2020 (3 of 2020)
THE DIRECT TAX VIVAD SE VISHWAS RULES, 2020**

PART A - General Information

Whereas Mr./Mrs./M/s **ADOBE SYSTEMS INDIA PRIVATE LIMITED** (hereinafter referred to as the declarant) having PAN TAN **AACCA2982J** Aadhaar No. has filed a declaration under section 4 of the Act; Now, therefore, in exercise of the powers conferred by sub-section (1) of section 5 of the Act and after consideration of relevant material, the following amounts are hereby determined to be payable by the declarant towards full and final settlement of the tax arrear covered by the said declaration under the Act:

Details of order by which tax arrear determined from Form 1 part B										
1.	Assessment year/Financial year								2005-06	
2.	Whether search case ?								NO	
3.	Whether search case with disputed tax less than Rs. 5 crores in the assessment year? (information flag relevant for rate at which amount payable is to be computed)								NO	
S. No.	Nature of tax arrear	Reference number / Acknowledgement Number (Filed by assessee)	Reference number / Acknowledgement Number (Filed by Department)	If declaration is with respect to appeal, writ, SLP, arbitration, conciliation or mediation for disputed tax including disputed TDS/ TCS appeal, is there pending appeal, writ or SLP for interest or penalty imposed in relation to such disputed tax	For Penalty			For Interest		
					Appeal reference number / Acknowledgement Number	Appellate authority where appeal is pending	Amount of Penalty	Appeal reference number / Acknowledgement Number	Appellate authority where appeal is pending	Amount of Interest
1	Disputed Tax	ITA No. 710/Bang/2013	ITA No. 4473/Del/2013	No						
Details of pending appeal as per schedules (A, B, C) as applicable as per Form 1										
S. No.	Schedule Number	Appeal reference number	As per taxpayer			As per Income tax authority				
			Tax arrear (Rs.)	Amount payable under DTVSV on or before 31.12.2020	Amount payable under DTVSV after 31.12.2020	Tax arrear (Rs.)	Amount payable under DTVSV on or before 31.12.2020	Amount payable under DTVSV after 31.12.2020		
1	Schedule A(IV). To be filled in case appeal of assessee is pending before ITAT as on 31.01.2020 or the time for filing appeal by the assessee before ITAT has not expired as on 31.01.2020	ITA No. 710/Bang/2013	5663076	0	0	0	0	0	0	
2	Schedule A	ITA No. 447	32711641	11279876	0	32711641	11279876	12407863		

ment is pending before ITAT as on 31.01.2020 or the time to file appeal by the department in ITAT has not expired on 31.01.2020				
INFORMATION RELATED TO PAYMENTS AGAINST TAX ARREAR as per Part E(i) of Form 1				
S. No.	BSR Code	Date of payment	Serial Number of Challan	Amount
1				
Refund reduced in assessment as per part E(iv) of Form 1				0
Balance amount payable / refundable after adjusting amount already paid				
On or before 31.12.2020				11279876
After 31.12.2020				12407863
Remarks			on the basis of AOs report, the tax arrear as well as the amount payable stand verified.	

"The declarant is hereby directed to make the payment of sum payable, if any, as per Balance amount payable / refundable after adjusting amount already paid above within Fifteen days from the date of receipt of this certificate."

In case of non-payment of amount payable within the said period, the declaration under Form-1 shall be treated as void and shall be deemed never to have been made.

Certificate No. **478864460200820**

Place : noida

Name of the Designated Authority :

Date : 20/08/2020

Designation of designated authority : PCIT, Noida

Note- Submission of DTVS Form 4 online in e-Filing portal is mandatorily required.

2. The section 4(2) of the Act has provided that wherever certificate under section 5(1) has been issued by the designated authority, any appeal pending before the Income Tax Appellate Tribunal or Commissioner (appeals) in respect of the disputed income shall be deemed to have been withdrawn from the date on which the certificate has been issued by the designated authority. The relevant part of the aforesaid section is reproduced as under:

"4. (1) The declaration referred to in section 3 shall be filed by the declarant before the designated authority in such form and verified in such manner as may be prescribed.

(2) Upon the filing the declaration, any appeal pending before the Income Tax Appellate Tribunal or Commissioner (Appeals), in respect of the disputed income or disputed interest or disputed penalty or disputed fee and tax arrear shall be deemed to have been withdrawn from the date on which certificate under sub-section (7) of section 5 is issued by the designated authority.

3. Under the Rule 4 of the scheme, the form No. 3 has been prescribed for the certificate under section 5(1) of the Act. The said rule for of the Vivad Se Vishwas Rules, 2020 is reproduced as under:

“Form of Certificate by designated authority.

4. The designated authority shall grant a certificate electronically referred to in sub-section (1) of Section 5 in Form 3.”

4. In view of the above, it is evident that once the form No. 3 has been issued to the assessee by the designated authority, the appeals filed by the Revenue or the assessee in respect of the disputed income are deemed to be withdrawn. Accordingly, the appeal filed by the Revenue has become infructuous and thus same is dismissed.

Order pronounced in the open court on 4th December, 2020.

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Sd/-
(O.P. KANT)
ACCOUNTANT MEMBER

Dated: 4th December, 2020.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi