

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "K" MUMBAI**

**BEFORE SHRI VIKAS AWASTHY (JUDICIAL MEMBER) AND
SHRI N.K. PRADHAN (ACCOUNTANT MEMBER)**

**IT (TP) A No. 1425/MUM/2016
Assessment Year: 2011-12**

Kodak India Pvt. Ltd.,
Kalyaniwalla & Mistry,
3rd Floor, Army & Navy
Building, 148, M.G. Road,
Fort,
Mumbai - 400001

Vs. Assistant Commissioner of
Income Tax, Circle 14(2)
(1),
Room No. 432, 4th Floor,
Aayakar Bhavan, M.K.
Road,
Mumbai - 400020

**PAN No. AAACK2172J
Appellant**

Respondent

**ITA No. 2021/MUM/2016
Assessment Year: 2011-12**

Asstt. Commissioner of
Income Tax - 14(2)(1),
Room No. 474, 4th Floor,
Aayakar Bhavan, Maharashtra
Karve Road,
Mumbai - 400020

Vs. M/s Kodak India Pvt. Ltd.,
1st Floor, Dani Corporate
Marg, Santacruz (W),
Mumbai - 400098

Appellant

**PAN No. AAACK2172J
Respondent**

Assessee by: Mr. Raunak Vardhan, AR
Revenue by : Mr. Anand Mohan, CIT (DR)

Last Date of Hearing : 21/01/2021
Date of pronouncement: 21/01/2021

ORDER

PER N.K. PRADHAN, A.M.

The captioned cross appeals- one filed by the assessee and the other by the revenue are directed against the order u/s 143 (3) r.w.s. 144C (13) of the Income Tax Act, 1961 ('the Act') passed by the Assistant Commissioner of Income Tax - 14 (2) (1), Mumbai.

2. The Ld. counsel for the appellant has filed a letter dated 20.01.2021 stating that they have filed declarations in Form -1 and Form-2 under the Direct Tax Vivad Se Vishwas Act, 2020 on 24.12.2020 in respect of the above-mentioned appeals and are waiting for Certificate in Form-3 from the Designated Authority determining the amount payable.

We brought to the attention of the Ld. Departmental Representative (DR) the above submission of the appellant.

3. We have heard the Ld. counsels and perused the relevant materials on record. The Government of India enacted the Direct Tax Vivad Se Vishwas Act, 2020 (Act No. 3 of 2020) to provide for resolution of disputed tax and for matter connected therewith or incidental thereto. The Act of the Parliament received the assent of the President on 17.03.2020 and published in the Gazette of India on 17.03.2020. In terms of the said Act, the assessee has been given an option to put an end to the tax disputes, which may be pending at different levels either before the First Appellate Authority or before the Tribunal or before the High Court or before the Supreme Court of India.

Considering the letter dated 20.01.2021 filed by the appellant and keeping in view the decision of the Hon'ble Madras High Court in the case

of *M/s Nannusamy Mohan (HUF) v. ACIT* (TCA No. 372 of 2020, order dated 16.10.2020), we are inclined to dismiss the appeal filed by the assessee as withdrawn. The appeal filed by the revenue is dismissed as infructuous. However, liberty is granted to the assessee as well as the revenue to seek the restoration of the appeal in the event the declaration filed under the aforesaid Act is considered void by the Department. It is further made clear, in such eventuality, if the assessee as well as the revenue seeks restoration of the appeal by filing miscellaneous application, the delay if any would be condoned without insisting upon filing any application for condonation of delay.

4. In the result, the appeal filed by the assessee is dismissed as withdrawn; the appeal filed by the revenue is dismissed as infructuous subject to the observation above.

Order pronounced in the open Court on 21/01/2021.

Sd/-
(VIKAS AWASTHY)
JUDICIAL MEMBER

Sd/-
(N.K. PRADHAN)
ACCOUNTANT MEMBER

Mumbai;

Dated: 21/01/2021

Alindra, P.S.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Dy./Assistant Registrar)
ITAT, Mumbai