

**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, MUMBAI**

BEFORE SHRI MAHAVIR SINGH, VP AND SHRI MANOJ KUMAR AGGARWAL, AM

ITA No. 4328/Mum/2011  
(Assessment Year 2004-05)

ITA No. 299/Mum/2012  
(Assessment Year 2003-04)

Bharat Petroleum Corporation Ltd. (Kochi Refineries Ltd.), Bharat Bhavan, 4&6 Currimbhoy Road, Ballard Estate, Mumbai-400001	Vs.	ACIT Circle-2(1), Aayakar Bhavan, Mumbai-400020.
(Appellant)		(Respondent)
PAN No. AABCC1084G		

Appellant by	:	Shri Ninad Patude, AR
Respondent by	:	Shri Narendra Singh Jangpani, CIT-DR

Date of hearing:	12.01.2021
Date of pronouncement:	12.01.2021

**ORDER**

**PER MAHAVIR SINGH, VP:**

These two appeals by assessee are arising out of the orders of Commissioner of Income Tax (Appeals)-4, Mumbai [in short CIT(A)] for Assessment Year 2003-04 in Appeal No. CIT (A)-4/IT-76/AC.2(1)/2007-08 vide order dated 18.10.2011 and for Assessment Year 2004-05 in Appeal No. CIT(A)-4/ACIT-2(1)/IT-77/2007-08 dated. 10.03.2011. The assessments for Assessment Year 2003-04 and 2004-05 were framed by Assistant Commissioner of Income Tax, Circle-1(1), Ernakulum (in short ACIT) vide its orders under section 143(3) of the Income-Tax Act, 1961 (hereinafter 'the Act') for the Assessment Years 2003-04 & 2004-05 of even date 23.12.2005.

2. At the outset, the Id. counsel for the assessee stated that it had already mailed a petition with Mumbai ITAT that assessee want to avail Vivad se Vishwas Scheme for resolution of the above two captioned appeals and for this Form No. 1 & 2 has already been filed. When this mail was perused, we noted the same/reads as under:

We refer to the captioned appeals which are fixed for hearing before the Mumbai Bench 'B' on 12 January 2021 at Sr. Nos. 01 & 02.

In this connection we would like to point out the Appellant has already filed applications with the designated Authority under section 2 of the Vivad se Vishwas Act, 2020 for resolution of he captioned appeals and is awaiting the approval in 'Form - 3' from the concerned Commissioner of Income-tax. Under the circumstances, we have to request your Honours to adjourn the hearing of the captioned appeals for the time being and oblige.

We trust that our reasonable request will be acceded to and we regret the inconvenience caused.

3. We noted that the assessee in these two appeals want to avail Vivad se Vishwas Scheme for resolution of the above captioned appeals and assessee has already filed applications in Form No. 1 & 2 with the designated authority under section 2 of the Vivad se Vishwas Act, 2020. When this fact was confronted to Id. CIT-DR, he stated that the Tribunal can take decision.

4. In view of the above and after hearing both the sides and going through the facts, we dismiss this appeal as withdrawn, subject to assessee's right for revival of the appeal in case due to some unforeseen reasons, the matter is not settled under the Vivad se Vishwas scheme. The assessee is at liberty to approach the Tribunal for restoration of his appeal in that event. This issue is settled by Hon'ble Madras High Court in the case of M/s Nannusamy Mohan (HUF) vs. ACIT (TCA

No. 372 of 2920, order dated 16.10.2020) wherein on identical circumstances, the assessee's appeal was dismissed as withdrawn. Respectfully following the Hon'ble Madras High Court in the case of M/s Nannusamy Mohan (HUF) vs. ACIT (supra), we dismissed the appeals of the assessee as withdrawn.

**5. In the result, both the appeals of the assessee are dismissed as withdrawn.**

Order pronounced in the open court on 12.01.2021

Sd/-

MANOJ KUMAR AGGARWAL  
(ACCOUNTANT MEMBER)

Mumbai, Dated: 12.01.2021

SK.PS

Sd/-

(MAHAVIR SINGH)  
(VICE PRESIDENT)

**Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. आयकरआयुक्त (अपील)/ The CIT(A)
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधिआयकर ,अपीलीयअधिकरणमुंबई ,/  
DR, ITAT, Mumbai
6. गार्डफाईल /Guard file.

BY ORDER,

(Asstt.Registrar)  
**ITAT, Mumbai**