

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM BENCH, VISAKHAPATNAM
(through web-based video conferencing platform)**

**श्री एन के चौधरी, न्यायिक सदस्य एवं श्री डि.एस. सुन्दर सिंह, लेखा सदस्य के समक्ष
BEFORE SHRI N.K.CHOUDHRY, HON'BLE JUDICIAL MEMBER &
SHRI D.S. SUNDER SINGH, HON'BLE ACCOUNTANT MEMBER**

**आयकर अपील सं./I.T.A.No.700/Viz/2019
(निर्धारण वर्ष/Assessment Year:2017-18)**

Asst.Commissioner of Income Tax
Central Circle-2
Guntur

Vs. M/s DTE Exports Private
Limited
D.No.5-7-6, 1/5,Brodipet
Guntur
[PAN : AAACD7845B]

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से / Respondent by

: Shri T.S.N.Murthy, CIT(DR)
: Shri M.V.Prasad, AR

सुनवाई की तारीख / Date of Hearing

: 28.01.2021

घोषणा की तारीख/Date of Pronouncement

: 01.02.2021

आदेश /ORDER

Per D.S.Sunder Singh, Accountant Member :

This appeal is filed by the revenue against the order of the Commissioner of Income Tax (Appeals) [CIT(A)]-3, Visakhapatnam in Appeal No.134/2019-20/CIT(A)-3/VSP/2019-20 dated 23.08.2019 for the Assessment Year (A.Y.) 2017-18.

2. When this appeal is taken up for hearing, the Ld.AR has filed a letter stating that the assessee preferred an application u/sec. 4(2) of Vivad Se

Vishwas Act, 2020 and the Principal Commissioner (Central), Visakhapatnam was pleased to issue a Certificate in Form No.3 on 27.08.2020. The Ld.AR further stated that once Form No.3 is issued by the Pr. Commissioner, the appeal shall be deemed to have been withdrawn from the date on which Form No.3 is filed. The Ld.DR did not object for dismissal of appeal, however, submitted that appeal may be recalled in case the certificate issued by the Pr. Commissioner is withdrawn at a future date due to any unforeseen contingencies.

3. We have heard both the sides and gone through the Form No.3 and also the petition filed by the assessee praying for dismissal of the departmental appeal as the issue is settled under Vivad se Vishwas Scheme. During the appeal hearing, the Ld.DR did not object for disposal of the appeal as requested by the assessee, since, the Pr.CIT had issued Form No.3 determining the total tax liability as per sub section (1) of section 5 of Vivad se Vishwas Act towards full and final settlement of the tax dues. Since, the dispute is settled under the Vivad se Vishwas Scheme and accepted by the Pr.CIT, the appeal filed by the department becomes infructuous, hence the same is dismissed. However, it is open to the department to file an appropriate application before the Tribunal in case

I.T.A. No.700/Viz/2019, A.Y.2017-18
M/s DTE Exports Pvt. Ltd., Guntur

the certificate issued by the Pr. Commissioner is withdrawn at a future date due to non payment of taxes as specified in Form No.3 or any unforeseen contingencies. Accordingly, the appeal filed by the department is dismissed as infructuous.

5. In the result, revenue's appeal is dismissed as infructuous.

Order pronounced in the open court on 1st February, 2021.

Sd/- (एन के चौधरी) (N.K.CHOUDHRY)	Sd/- (डि.एस.सुन्दर सिंह) (D.S.SUNDER SINGH)
न्यायिक सदस्य / JUDICIAL MEMBER	लेखा सदस्य / ACCOUNTANT MEMBER
Dated : 01.02.2021	
L.Rama, SPS	

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:-

1. राजस्व/The Revenue – Asst.Commissioner of Income Tax, Central Circle-2 Guntur
2. निर्धारिती/ The Assessee– M/s DTE Exports Private Limited, D.No.5-7-6, 1/5,Brodipet, Guntur
3. The Pr.Commissioner of Income Tax (Central), Visakhapatnam
4. The Commissioner of Income Tax (Appeals)-3, Visakhapatnam
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/DR, ITAT, Visakhapatnam
- 6.गार्डफ़ाईल / Guard file

// True Copy //

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam