

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

**BEFORE SHRI C.N. PRASAD (JUDICIAL MEMBER) AND
SHRI N.K. PRADHAN (ACCOUNTANT MEMBER)**

**ITA No. 7678/MUM/2016
Assessment Year: 2009-10**

DCIT, Central Circle-8(1),
Room No. 656, 6th floor,
Aayakar Bhavan, M.K. Road,
Mumbai-400 020.

Vs.

M/s Premium Transport Pvt.
Ltd.,
31, Chowringhee Road, Park
Street,
Kolkata-700 016

PAN No. AAACP 8957 E
Appellant

Respondent

Revenue by : Ms. Shreekala Pardeshi, DR
Assessee by : Mr. Jas Sanghavi, AR

Date of Hearing : 11/02/2021
Date of Pronouncement : 11/02/2021

ORDER

PER N.K. PRADHAN, A.M.

This is an appeal filed by the Revenue. The relevant assessment year is 2009-10. The appeal is directed against the order of the Commissioner of Income Tax (Appeals)-50, Mumbai [in short 'CIT(A)'] and arises out of assessment completed u/s 143(3) r.w.s. 153C the Income Tax Act 1961, (the 'Act').

2. The Ld. counsel for the assessee submits that the Respondent has filed declaration under the Direct Tax Vivad Se Vishwas Scheme, 2020 and Form No. 3 has been issued by the Income Tax Department.

We drew the attention of the Ld. Departmental Representative to the above submission.

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 was 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 statement of the Ld. counsel 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 this appeal filed by the Revenue as infructuous. However, liberty is granted to the Revenue to seek the restoration of the appeal in the event the declaration filed by the assessee under the aforesaid Act is considered void by the Department. It is further made clear, in such eventuality, if 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 Revenue is dismissed as infructuous subject to the observation above.

Order pronounced in the open Court on 11/02/2021.

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

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

Mumbai;

Dated: 11/02/2021

Rahul Sharma, Sr. 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