

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM BENCH, VISAKHAPATNAM**

**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.478/Viz/2018
(निर्धारण वर्ष/Assessment Year:2009-10)**

Asst.Commissioner of
Income Tax
Circle-1(1)
Visakhapatnam

(अपीलार्थी/ Appellant)

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

सुनवाई की तारीख / Date of Hearing
घोषणा की तारीख/Date of Pronouncement

Vs. M/s Bharat Heavy Plates &
Vessels Ltd.
10-3, Administrative Building
BHPV Post, Nathayyapalem
Visakhapatnam
[PAN : AAACB7076N]
(प्रत्यर्थी/ Respondent)

Smt. Suman Malik, DR
Shri I.Kama Sastry, AR

03.03.2021
03.03.2021

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)]-1, Visakhapatnam in ITA No.283/2011-12/ACIT,C-3(1), Vsp/2011-12 dated 20.06.2018 for the Assessment Year (A.Y.) 2009-10.

2. When this appeal is taken up for hearing, the assessee 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 of Income Tax (Pr.CIT), Visakhapatnam was pleased to issue a Certificate in Form No.3 on 29.12.2020. Form No.3 is a certificate under sub-section (1) of section 5 of the Direct Tax Vivad Se Vishwas Act, 2020, issued by the Pr.CIT, determining the total tax payable by the assessee in response to the application made by the assessee under the scheme. Thus, on issue of the certificate in Form No.3, the tax dispute stands settled unless the certificate is withdrawn or cancelled by the Pr.CIT. The assessee has filed a letter dt.16.02.2021 withdrawing the appeal. During the appeal hearing, the Ld.DR did not object for dismissal of appeal as withdrawn. 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 Commissioner is withdrawn at a future date due to any unforeseen contingencies.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

***I.T.A. No.478/Viz/2018, A.Y.2009-10
M/s Bharat Heavy Plates & Vessels Ltd., Visakhapatnam***

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 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 3rd March, 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 : 03.03.2021	
L.Rama, SPS	

I.T.A. No.478/Viz/2018, A.Y.2009-10
M/s Bharat Heavy Plates & Vessels Ltd., Visakhapatnam

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

1. राजस्व/The Revenue – Asst.Commissioner of Income Tax, Circle-1(1), Visakhapatnam
2. निर्धारिती/ The Assessee– M/s Bharat Heavy Plates & Vessels Ltd., 10-3, Administrative Building, BHPV Post, Nathayyapalem, Visakhapatnam
3. The Pr.Commissioner of Income Tax -1, Visakhapatnam
4. The Commissioner of Income Tax (Appeals)-1, Visakhapatnam
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/DR, ITAT, Visakhapatnam
- 6.गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

// True Copy //

Sr. Private Secretary
ITAT, Visakhapatnam