

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'J' BENCH
MUMBAI**

**BEFORE: SHRI C.N. PRASAD, JUDICIAL MEMBER
&
SHRI M.BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.3965/Mum/2019
(Assessment Year :2014-15)**

&

**ITA No.3966/Mum/2019
(Assessment Year :2013-14)**

DCIT-14(3)(1) Room No.455, 4 th Floor Aayakar Bhavan M.K.Road, Marine Lines Mumbai – 400 020	Vs.	M/s. Reliance Big Entertainment Pvt. Ltd., 502, Plot No.91/94, Reliance Centre, Near Prabhat Colony, Off. W.E. Highway Santacruz East Mumbai – 400 055
PAN/GIR No. AAFC6658L		
(Appellant)	..	(Respondent)

**ITA No.2860/Mum/2019
(Assessment Year :2014-15)**

M/s. Reliance Big Entertainment Pvt. Ltd., 8 th Floor, Reliance Centre, Off Western Express Highway Santacruz East Mumbai – 400 055	Vs.	DCIT-14(3)(1) Room No.455, 4 th Floor Aayakar Bhavan M.K.Road, Marine Lines Mumbai – 400 020
PAN/GIR No. AAFC6658L		
(Appellant)	..	(Respondent)

Assessee by	Shri Amit Khatiwalla & Shri Jitendra Sanghavi
Revenue by	Shri Sunil Jha
Date of Hearing	25/03/2021
Date of Pronouncement	25/03/2021

आदेश / O R D E R

PER M. BALAGANESH (A.M):

ITA No.3965/Mum/2019 (A.Y.2014-15) &

ITA No.2860/Mum/2019 (A.Y.2014-15)

These cross appeals in ITA Nos.3965/Mum/2019 & 2860/Mum/2019 for A.Y.2014-15 arise out of the order by the Id. Commissioner of Income Tax (Appeals)-57, Mumbai in appeal dated 29/03/2019 (Id. CIT(A) in short) against the order of assessment passed **u/s.143(3) r.w.s. 144C(3)** of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 22/11/2017 by the Id. Dy. Commissioner of Income Tax-14(3)(1), Mumbai (hereinafter referred to as Id. AO).

ITA No.3966/Mum/2019 (A.Y.2013-14)

This appeal in ITA No.3966/Mum/2019 for A.Y.2013-14 arise out of the order by the Id. Commissioner of Income Tax (Appeals)-57, Mumbai in appeal dated 29/03/2019 (Id. CIT(A) in short) against the order of assessment passed **u/s.143(3) r.w.s. 144C(4)** of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 31/01/2017 by the Id. Dy. Commissioner of Income Tax-14(3)(1), Mumbai (hereinafter referred to as Id. AO).

2. We find that the assessee filed letters dated 03/03/2021 and 22/01/2021 mentioning that application had been preferred under direct tax "Vivad Se Viswas Scheme 2020" to settle this tax dispute for the year under consideration and had obtained Form-3 from the designated authority thereon, copy of which were enclosed alongwith this letter.

3. We have heard rival submissions and perused the materials available on record. Since, the assessee had already filed an application under direct tax "Vivad Se Viswas Scheme Act 2020", there is no need to keep the appeal pending before us in view of the decision of Hon'ble Madras High Court in the case of Nannusamy Mohan (HUF) vs. ACIT in T.C.A. No.372 of 2020 dated 16.10.2020, wherein the Hon'ble High Court after considering the intention of the assessee to avail the benefit of 'Vivad se Vishwas Scheme-2020' (VSV scheme), had dismissed the appeal by observing in Para 7 to 9 as under:-

"7. As observed, the assessee is given liberty to restore this appeal in the event the ultimate decision to be taken on the declaration to be filed by the assessee under Section 4 of the said Act is not in favour of the assessee. If such a prayer is made, the Registry shall entertain the prayer without insisting upon any application to be filed for condonation of delay in restoration of the appeal and on such request made by the assessee by filing a Miscellaneous Petition for Restoration, the Registry shall place such petition before the Division Bench for orders.

8. In the light of the above, we direct the appellant/ assessee to file the Form No.I on or before 20.11.2020 and the competent authority shall process the application/ declaration in accordance with the Act and pass appropriate orders as expeditiously as possible preferably within a period of 6 (6) weeks from the date on which the declaration is filed in the proper form.

9. *With this declaration, the Tax Case appeal stands disposed of with the aforementioned liberty and Consequently the Substantial Question of Law are left upon. No costs.*”

4. In the light of the view taken by Hon'ble Madras High Court cited (supra), we also give liberty to the assessee to get the appeal restored in the event that the assessee does not succeed on the declaration filed by the assessee under direct tax "Vivad Se Viswas Scheme-2020". In other words if the assessee's declaration to be filed is not accepted by the Revenue for any reason whatsoever, the assessee can make a prayer before the Bench for recalling of the order by filing a miscellaneous application for restoration of appeal. The Registry will place such petition before the Bench concerned.

5. In view of the aforesaid observations, we dismiss these appeals with a liberty to get them recalled in the eventuality of assessee's declaration not getting accepted by the Revenue.

6. **In the result, the appeals of the Revenue as well as appeal of the assessee are dismissed.**

Order pronounced in the open Court on 25/03/2021.

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

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Mumbai; Dated 25/03/2021
KARUNA, sr.ps

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai