

**IN THE INCOME TAX APPELLATE TRIBUNAL (VIRTUAL COURT)
"J" BENCH, MUMBAI**

**BEFORE SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER AND
SHRI M. BALAGANESH, HON'BLE ACCOUNTANT MEMBER**

ITA NO. 1874/MUM/2015 (A.Y: 2010-11)

M/s. Tenova Hypertherm Pvt. Ltd., (Amalgamated with Tenova Metals India Pvt. Ltd., w.e.f 01.04.2013) 601, 6 th Floor, Boomerang B2 Wing, chandivali, Andheri (E) Mumbai - 400072 PAN: AACCT3824E	v.	Addl. CIT – Range – 11(3) Room No. 419A Aayakar Bhavan M.K. Road Mumbai – 400 020
(Appellant)		(Respondent)

ITA NO. 1631/MUM/2015 (A.Y: 2010-11)

ACIT – 11(3)(1) Room No. 427, Aayakar Bhavan M.K. Road, Mumbai – 400 020	v.	M/s. Tenova Hypertherm Pvt. Ltd., 2093, C Wing, Oberoi Garden Estate Chandivali, Andheri (E) Mumbai - 400072 PAN: AACCT3824E
(Appellant)		(Respondent)

ITA NO. 5214/MUM/2016 (A.Y: 2011-12)

M/s. Tenova Hypertherm Pvt. Ltd., (Amalgamated with Tenova India Pvt. Ltd.,) 601, 6 th Floor, Boomerang B2 Wing, Chandivali, Andheri (E) Mumbai - 400072 PAN: AACCT3824E	v.	ACIT – 11(3)(1) Room No. 427, 4 th Floor Aayakar Bhavan M.K. Road Mumbai – 400 020
(Appellant)		(Respondent)

ITA NO. 2133/MUM/2017 (A.Y: 2012-13)

M/s. Tenova Hypertherm Pvt. Ltd., (Amalgamated with Tenova India Pvt. Ltd., w.e.f 01.04.2013) 601, 6 th Floor, Boomerang B2 Wing, Chandivali, Andheri (E) Mumbai - 400072 PAN: AACCT3824E	v.	ACIT – Circle 11(3)(1) Room No. 204, 2 nd Floor Aayakar Bhavan M.K. Road Mumbai – 400 020
(Appellant)		(Respondent)

Assessee by	:	Shri Pranav Shah
Department by	:	Shri Manpreet S. Duggle
Date of Hearing	:	25.03.2021
Date of Pronouncement	:	25.03.2021

ORDER**PER C.N. PRASAD (JM)**

1. These appeals are filed by the assessee against different orders of Dispute Resolution Panel-II, Mumbai [hereinafter in short "DRP"] for the A.Ys. 2010-11, 2011-12 and A.Y.2012-13 passed u/s. 144C(5) of the Act and cross appeal is filed by the Revenue for A.Y. 2010-11.

2. In so far as appeal for A.Y. 2010-11 is concerned, Ld. Counsel for the assessee submitted that assessee opted for Vivad Se Vishwas Scheme and filed declaration and undertaking in Form-1 to settle the litigation and Form 3 is awaited from the Revenue. Coming to the appeals for the A.Y.2011-12 and A.Y. 2012-13, Ld. Counsel for the assessee through mail filed a letter dated 19.03.2021 issued by the assessee and sought for withdrawal of both the appeals. Contents of the letter in ITA.No.5214/Mum/2016 (A.Y. 2011-12) are as under: -

"Name of the Assessee *TAKRAF INDIA PRIVATE LIMITED*
(Successor of amalgamating company
TENOVA HYPERTHERM PRIVATE
LIMITED) ('THPL' or 'Company' or 'the
Appellant')

Assessment Year ('AY') *2011-12*

PAN *AAMCS6453Q*
(PAN of amalgamating company is AACCT3824E)

Appeal No

ITA 5214 /MUM /2016

Subject

Withdrawal of Appeal/s on account of application under The Direct Tax Vivad Se Vishwas Act, 2020 ('VSV Act)

This is with reference to the captioned appeal filed by the Appellant before the Income Tax Appellate Tribunal, Mumbai on August 18, 2016. The acknowledgment of filing the appeal is enclosed as Annexure 1.

In this regard, it is most humbly submitted that for the captioned Assessment Year 2011-12, the Appellant has filed a declaration in the-Form-1 under the provisions of section 4(1) of the VSV Act on the issues covered under the captioned appeal The Appellant has also furnished an undertaking in Form-2 under the provisions of section 4(5) of the VSV Act.

Subsequently, the Appellant has been granted a certificate by the Designated Authority in Form-3 under the provisions of section 5(1) of the VSV Act on December 21, 2020, Copy of action in Form 1 & 2 along-with. certificate in Form 3 is enclosed as Annexure 2.

In view of the provisions of section 4(2) of the VSV Act, the captioned appeal shall be deemed to have been withdrawn from the date on which certificate under section 5(1) of the VSV Act is issued ie, December 21, 2020,

It is most humbly submitted that your Honour may allow the withdrawal of appeal with a liberty to revive it again., in case the declaration, made under the above mentioned provisions of the VSV Act is rejected or withdrawn or cancelled and/or in a case where the order under section 5 of the VSV Act is not issued/acceptable to the Appellant.

We trust that your Honour would accede to our above request and grant leave to withdraw the captioned appeal. We shall be pleased to submit any other information that your Honour may require in this regard."

- 3.** On a perusal of the above letter and the enclosed copies of Form-3 it is noticed that assessee has already filed declaration and undertaking in Form-1 under Vivad Se Vishwas Scheme and received Form-3 from the

Revenue accepting the said declaration. Assessee requested for withdrawal of the appeals. Accepting the request of the assessee for withdrawal of appeals for the A.Y. 2011-12 and A.Y. 2012-13, these appeals are dismissed as withdrawn. The appeal for A.Y. 2010-11 is also dismissed as withdrawn since the assessee has already filed Form-1 and 2 opting to settle the dispute under Vivad Se Vishwas Scheme pending Form-3. In case the revenue is not accepting the proposal of the assessee the assessee/revenue are at liberty to file Miscellaneous Application for recall of the appeal for hearing on merits. With these observations appeal for A.Y. 2010-11 is also dismissed as withdrawn.

4. In the result, appeals of the assessee as well as revenue are dismissed as withdrawn.

Order pronounced in the virtual court on 25.03.2021.

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Mumbai / Dated 25/03/2021
Giridhar, Sr.PS

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

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, Mum