

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

BEFORE SHRI MAHAVIR SINGH, VP AND SHRI M. BALAGANESH, AM

ITA No. 4429/Mum/2019
(Assessment Year 2013-14)

ACIT Circle-16(1), Room No. 439, 4 th Floor, Aayakar Bhavan, M.K. Road, Mumbai-400020.	Vs.	M/s UTV Software Communications Ltd., 1 st Floor, Building No.14, Solitaire Corporate Park, Guru Hargovindji Marg, Chakala, Andheri (E), Mumbai-400093
(Appellant)		(Respondent)
PAN No. AAACU4122G		

Appellant by	:	Ms. Shreekala Pardeshi, DR
Respondent by	:	Shri Gunal Bansal, AR

Date of hearing:	06.04.2021
Date of pronouncement:	06.04.2021

ORDER

PER M. BALAGANESH, AM:

In this appeal, the assessee had preferred to settle the dispute by availing the benefit of the Vivad se Vishwas Scheme, 2020. Form No. 1 & 2 has already been filed by the assessee before the competent authority.

2. In view of this, there is no need to keep these appeals pending before this Tribunal in the light of the decision of Hon'ble Madras High Court in the case of *M/s Nannusamy Mohan (HUF) vs. ACIT (TCA No. 372 of 2020 dated 16.10.2020)*, which is as under:

5. 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 Hon'ble Supreme Court of India. Under [Section 2\(j\)](#) "disputed tax" has been defined. In terms of [Section 3](#), where a declarant means a person, who files a declaration

under [Section 4](#) on or before the last date files a declaration to the designated authority in accordance with the provisions of [Section 4](#) in respect of tax arrears, then, notwithstanding anything contained in the [Income Tax Act](#) or any other law for the time being in force, the amount payable by the declarant shall be determined in terms of [Section 3\(a-c\)](#) thereunder.

6. The First Proviso to [Section 3](#) states that in case, where an Appeal or Writ Petition or Special Leave Petition is filed by the Income Tax authority on any issue before the Appellate Forum, the amount payable shall be one-half of the amount in the table stipulated in [Section 3](#) calculated on such issue, in such a manner as may be prescribed. The second proviso deals with the cases, where the matter is before the Commissioner (Appeals) or before the Dispute Resolution Panel. The third proviso deals with cases, where the issue is pending before the Income Tax Appellate Tribunal. The filing of the declaration is as per [Section 4](#) of the Act and the particulars to be furnished are also mentioned in the Sub Sections of [Section 4](#). [Section 5](#) of the Act deals with the time and manner of the payment and [Section 6](#) deals with Immunity from initiation of proceedings in respect of offence and imposition of penalty in certain cases. [Section 9](#) of the Act deals with cases, where the Act 3 of 2020 will not be applicable.

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 six (6) weeks from the date on which the declaration is filed in the proper form.

3. In view of the above, the appeal is hereby dismissed as withdrawn with liberty given to the assessee that in case, if the application preferred by the assessee under Vivad se Vishwas Scheme does not get finally settled for any reason whatsoever, then the assessee is at liberty to prefer Miscellaneous Application before this Tribunal for restoration of this appeal and in such an event, this appeal shall get restored.

4. The Assessing Officer is directed to pass the consequential order for the application preferred by the assessee under Vivad se Vishwas Scheme as per CBDT Circular No. 3/2020.

6. ***In the result, all the appeal of the revenue is dismissed.***

Order pronounced in the open court on 06.04.2021

Sd/-
MAHAVIR SINGH
(VICE-PRESIDENT)
Mumbai, Dated: 06.04.2021
SK.PS

Sd/-
(M. BALAGANESH)
(ACCOUNTANT MEMBER)

Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. आयकरआयुक्त (अपील)/ The CIT(A)
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधिआयकर ,अपीलीयअधिकरणमुंबई ,/
DR, ITAT, Mumbai
6. गार्डफाईल /Guard file.

BY ORDER,

(Asstt.Registrar)
ITAT, Mumbai