

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'Friday': NEW DELHI)
(THROUGH VIDEO CONFERENCING)**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No:- 892/Del/2019
(Assessment Year: 2015-16)**

Addl. Commissioner of Income Tax, Special Range-1, New Delhi.	Vs.	M/s ADM Agro Industries India Pvt. Ltd., Gurgaon.
APPELLANT		RESPONDENT
PAN No: AAHCA6963E		

**ITA No:- 893/Del/2019
(Assessment Year: 2013-14)**

Addl. Commissioner of Income Tax, Special Range-1, New Delhi.	Vs.	M/s ADM Agro Industries Latur & Vizag Pvt. Ltd. New Delhi.
APPELLANT		RESPONDENT
PAN No: AAACT0700F		

ITA No:- 894/Del/2019
(Assessment Year: 2014-15)

Addl. Commissioner of Income Tax, Special Range-1, New Delhi.	Vs.	M/s ADM Agro Industries Latur & Vizag Pvt. Ltd. New Delhi.
APPELLANT		RESPONDENT
PAN No: AAAC0700F		

Revenue By : Shri Robin Rawa, Sr. DR
Assessee By : Ms. Soumya Singh, CA

Per Anadee Nath Misshra, AM

(A) These appeals by Revenue are filed against the order of Learned Commissioner of Income Tax (Appeals)-32, New Delhi, ["Ld. CIT(A)", for short], dated 27.11.2018 for Assessment Year 2015-16. Grounds taken in these appeals of Revenue are as under:

ITA No.-892/Del/2019

"1. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting addition of Rs. 4,06,204/- made by the AO on account of Employee's contribution to PF deposited beyond the due date u/s 2(24)(x) r.w. section 36(1)(va) of the IT Act, 1961.

2. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting addition of Rs. 3,33,35,609/- made by the AO on account of disallowance u/s 14A r.w.r. 8D of Income Tax Rules.

3. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting addition of Rs. 1,20,171/- made by the AO on account of Static Creditors.

4. The appellant craves leave, modify, add or forgo any ground(s) of appeal at any time before or during the hearing of this appeal."

ITA No.-893/Del/2019

"1. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting addition of Rs. 4,84,535/- made by the AO on account of Employee's contribution to PF deposited beyond the due date u/s 2(24)(x) r.w. section 36(1)(va) of the IT Act, 1961.

2. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting addition of Rs. 2,20,83,156/- made by the AO on u/s 194C r.w.s. 40(a)(ia) of the Act on account of payment made to Mathadi workers..

3. The appellant craves leave, modify, add or forgo any ground(s) of appeal at any time before or during the hearing of this appeal."

ITA No.-894/Del/2019

"1. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting addition of Rs. 4,22,466/- made by the AO on account of Employee's contribution to PF deposited beyond the due date u/s 2(24)(x) r.w. section 36(1)(va) of the IT Act, 1961.

2. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting addition of Rs. 49,41,840/- made by the AO on account of Static Creditors.

3. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting addition of Rs. 1,64,91,830/- made by the AO on u/s 194C r.w.s. 40(a)(ia) of the Act on account of payment made to Mathadi workers..

4. The appellant craves leave, modify, add or forgo any ground(s) of appeal at any time before or during the hearing of this appeal."

(A.1) Vide consolidated order dated 28.08.2019 these appeals filed by Revenue were dismissed in *limine*; on the ground that tax effect in each of these appeals was below Rs. 50 lakh. This was in view of Circular No. 17/2019 dated 08.08.2019 of Central Board of Direct Taxes ("CBDT", in short) where under the minimum prescribed monetary limit for filing of appeal in ITAT by Revenue was enhanced to Rs. 50 lakhs. In the aforesaid order dated 28.08.2019, the appeals filed by Revenue were dismissed, treating the appeals as withdrawn/not pressed by Revenue and it was held that the appeals filed by Revenue

were not maintainable, having regard to aforesaid CBDT Circular dated 08.08.2019. However, it was clarified in aforesaid order dated 28.08.2019 of ITAT that Revenue would be at liberty to approach ITAT under section 254(2) of I.T. Act, seeking recall of the order, for restoration of appeals if it was found that the appeals were not covered by aforesaid CBDT circular dated 08.08.2019.

(A.2) Later, Revenue filed Miscellaneous Applications vide MA No. 852/Del/2019 (arising out of Revenue's appeal vide ITA No. 892/Del/2019), vide MA No. 853/Del/2019 (arising out of Revenue's appeal vide ITA No. 893/Del/2019) and vide MA No. 854/Del/2019 (arising out of Revenue's appeal vide ITA No. 894/Del/2019). In these Miscellaneous Applications, it was submitted that the tax effect in each of aforesaid three appeals of Revenue vide ITA Nos. 892, 893 & 894/Del/2019 was more than Rs. 50 lakhs, prescribed as minimum monetary limit in CBDT Circular dated 08.08.2019. It was further submitted that the appeals of Revenue should be restored for hearing on merits.

(A.2.1) We have already passed a separate order in aforesaid Miscellaneous Applications of Revenue vide MA Nos. 852, 853 & 854/Del/2019 heard on 22.10.2021; wherein aforesaid order dated 28.08.2019 was recalled in respect of Revenue's appeals vide ITA Nos. 893, 894 & 895/Del/2019 and wherein the aforesaid appeals of Revenue, vide ITA Nos. 893, 894 & 895/Del/2019 were restored for *denovo* hearing. The aforesaid appeals of Revenue, upon restoration, were also heard on 22.10.2021; and this order is now being passed on the aforesaid appeals of Revenue, after restoration of the appeals.

(B) At the time of hearing, at the outset, the Ld. Authorized Representative ("AR", for short) for the Assessee informed us that the assessee has opted for Vivad Se Vishwas Scheme, 2020 ("VSVS", for short) for the settlement of subject matter of the disputes in these appeals. She also drew our attention to e-mail sent on 24.09.2021 from assessee's side, to ITAT, intimating that the assessee has opted to settle the dispute, under the Vivad se Vishwas Scheme. She further submitted that Form 3 has already been issued by the designated authority under VSVS; and furthermore, she also submitted that the assessee has paid the applicable taxes under VSVS. She also submitted that the assessee has already filed Form-4. She submitted before us that these appeals may be dismissed on account of the aforesaid VSVS as the assessee has already paid applicable taxes, and has filed Form-4. The learned Senior Departmental Representative [Ld. Sr. DR)", for short] did not express any objection to this. After due consideration, and in view of the foregoing; we treat these appeals as not maintainable, and as withdrawn by Revenue on account of the aforesaid VSVS. Accordingly, the appeals are hereby dismissed being treated as withdrawn and not maintainable.

(B.1) Before we part, we hereby clarify, by way of abundant caution, that if for some reason it is found by Revenue that the disputes under these appeals before us are not fully settled under the aforesaid VSVS, then Revenue will be at liberty to approach ITAT for restoration of these appeals, in accordance with law.

(B.2) With these directions, the aforesaid appeals of Revenue are dismissed, being treated as withdrawn and not maintainable.

(C) For statistical purposes, this appeal is dismissed.

This order was already pronounced on 22.10.2021 in Open Court, in the presence of Representatives of both sides; after conclusion of the hearing. This order in writing is now signed today on 26.10.2021.

**Sd/-
(KUL BHARAT)
JUDICIAL MEMBER**

**Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER**

Dated: 26.10.21

*(Pooja)/

*Kavita Arora

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI