

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "B", MUMBAI**

**BEFORE SHRI G.S. PANNU, HON'BLE PRESIDENT AND  
SHRI ABY T. VARKEY, HON'BLE JUDICIAL MEMBER**

**ITA NOS. 3149 TO 3159/MUM/2022 : A.Ys : 2004-05, 2005-06, 2007-08, 2010-11, 2011-12, 2013-14, 2014-15, 2015-16, 2016-17 & 2017-18**

M/s. Bayer CropScience Limited Vs. Asst. Commissioner of Income  
Bayer House, Central Avenue Tax-10(3), Mumbai. (Respondent)  
Hiranandani Estate  
Thane (West)  
Maharashtra – 400 607.  
**PAN: AAACB9651K** (Appellant)

**Appellant by : Shri Rahul Hakani  
Respondent by : Shri Chetan Kacha**

**Date of Hearing : 30/12/2022  
Date of Pronouncement : 30/12/2022**

**ORDER**

**PER G.S. PANNU, PRESIDENT**

When an application seeking early hearing in the captioned matters was called out, the learned representative for the assessee explained that there is an obvious and unintended error on part of the First Appellate Authority, viz. Commissioner of Income Tax (Appeals) in dismissing the appeals of the assessee

as infructuous in terms of clause 4(2) of the Direct Tax Vivad Se Vishwas Act, 2020 vide similarly worded but separate orders dated 13.06.2022.

2. It was pointed out, by referring to Ground of Appeal No. 1.2 of the Memo of Appeal, which reads as under :

*“1.2 The learned CIT(A) failed to appreciate that application under VSV Scheme filed by Appellant was for withdrawing an on-going dispute of Monsanto India Limited, i.e. company amalgamated/merged with Appellant vide NCLT order w.e.f. 1 April 2019, which was pending before the Income Tax Appellate Tribunal and not pending before the learned CIT(A).”*

that it is not the assessee which has opted to settle the dispute under Vivad Se Vishwas Scheme, 2020 but M/s. Monsanto India Limited, which is the entity that has amalgamated/merged with the assessee as per order of NCLT w.e.f. 01.04.2019. Thus, the First Appellate Authority has wrongly considered the assessee company having made an application under Vivad Se Vishwas Scheme, 2020.

3. It was, therefore, contended that assessee would be satisfied if the matter is remanded back to the file of the First Appellate Authority to consider and dispose-off the captioned appeals of the assessee on the Grounds raised therein on their merit.

4. The Ld. DR did not controvert the aforesaid factual matrix brought out by the Learned Representative. Both sides converged that the captioned appeals

can be disposed-off by restoring the matter back to the file of the First Appellate Authority for adjudication on merits.

5. In light of the uncontroverted factual position noted in the foregoing paragraphs, and with the consent of both sides, the impugned orders passed by the First Appellate Authority are hereby set-aside and the matters are restored to his file with directions to adjudicate the Grounds of Appeal raised therein *de novo* as per law. Of course, the First Appellate Authority shall provide appropriate opportunity of being heard to the assessee and, thereafter pass order in accordance with law.

6. It is hereby clarified that our decision to remand the matter back to the file of First Appellate Authority is no reflection on the merits of the issues raised in the appeals, which shall be dealt with by the CIT(A) as per law.

7. Resultantly, the captioned appeals are allowed, as above.

Above decision was pronounced in the open court in the presence of both the sides at the conclusion of hearing today, 30<sup>th</sup> December, 2022.

Sd/-  
(Aby T. Varkey)  
JUDICIAL MEMBER

Sd/-  
(G.S. Pannu)  
PRESIDENT

Mumbai, Date : 30<sup>th</sup> December, 2022

\*SSL\*

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT(A) concerned
- 4) The CIT concerned
- 5) The D.R, "B" Bench, Mumbai
- 6) Guard file

By Order

Dy./Asstt. Registrar  
I.T.A.T, Mumbai