

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "I": NEW DELHI  
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER  
AND  
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

**ITA No.2748/Del/2011  
(Assessment Year: 2004-05)**

DCIT,  
Circle-4(1),  
New Delhi

Vs. M/s. LVMH Watch &  
Jewellery India Pvt. Ltd,  
International Trade Tower,  
301-302, 3<sup>rd</sup> Floor, Block-F,  
Nehru Place, New Delhi  
(Respondent)

(Appellant)

**PAN:AAACL7814N**

**ITA No.4022/Del/2010  
(Assessment Year: 2003-04)**

M/s. LVMH Watch &  
Jewellery India Pvt. Ltd,  
International Trade  
Tower, 301-302, 3<sup>rd</sup> Floor,  
Block-F, Nehru Place, New  
Delhi

Vs. DCIT,  
Circle-4(1),  
New Delhi

(Appellant)

(Respondent)

**PAN:AAACL7814N**

**ITA No.3643/Del/2010  
(Assessment Year: 2003-04)**

ACIT,  
Circle-4(1),  
New Delhi

Vs. M/s. LVMH Watch &  
Jewellery India Pvt. Ltd,  
International Trade Tower,  
301-302, 3<sup>rd</sup> Floor, Block-F,  
Nehru Place, New Delhi  
(Respondent)

(Appellant)

**PAN:AAACL7814N**

Assessee by :

Shri Tapas Ram Mishra, Adv  
Shri Neeraj Kumar Sharma, AR  
Shri Sahil Malhotra, AR

Revenue by:

Shri Rajesh Kumar, CIT DR  
Shri Gaurav Bansal, Sr. DR  
Shri Kanv Bali, Sr. DR

Date of Hearing

23/08/2024

Date of pronouncement

21/10/2024

## **ORDER**

### **PER M. BALAGANESH, A. M.:**

1. These appeals in ITA No.2748/Del/2011, 3643/Del/2010 filed by the revenue for AYs 2003-04 and 2004-05 and 4022/Del/2010 for AY 2003-04 filed by the assessee, arises out of the order of the Commissioner of Income Tax (Appeals)-XX, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No. 96/2007-08/CIT(A)-XX dated 29.06.2010 for AY 2003-04 and dated 13.04.2011 for AY 2004-05 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 29.03.2006 and 26.12.2006 for by the Assessing Officer.
2. Identical issues are involved in all these appeals and hence they are taken up together and disposed of by this common order for the sake of convenience.
3. These appeals were heard on merits of the additions made in the assessment elaborately. But before the passing of the orders, the assessee filed a letter dated 16.10.24 before us stating that it would be availing the Vivad Se Vishwas Scheme, 2024 introduced by the Statute to settle the tax disputes prevailing in these years. Accordingly, vide letter dated 16.10.24, the assessee made a prayer to this Bench not to pronounce the orders so as to enable the assessee to avail the Vivad Se Vishwas Scheme, 2024. We find that this request of the assessee to be fair keeping in mind the intention of the Government of India to resolve the various direct tax disputes pending in various appellate forums and courts by availing settlement scheme provided in Vivad Se Vishwas Scheme 2024.

4. True to the request of the assessee, we find that the assessee had proved its bonafide intention by availing the Vivad Se Vishwas Scheme 2024 on 17.10.24 by filing a declaration in Form 1 u/s 91(1) and an undertaking u/s 91(4) of The Direct Tax Vivad Se Vishwas Scheme (DTVSV) 2024 on 16.10.24 for Asst Years 2003-04 and 2004-05. The assessee had also enclosed the evidence in that regard before us. Since, the assessee had already filed an application under Direct Tax "Vivad Se Viswas Scheme Act 2024", there is no need to keep these appeals 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."*

5. 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 appeals restored in the event that the assessee does not succeed on the declaration filed by the assessee under Direct Tax "Vivad Se Viswas Scheme-2024". In other words, if the assessee's declaration 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.

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

**7. In the result, the appeals of the assessee as well as the revenue are dismissed.**

Order pronounced in the open court on 21/10/2024.

-Sd/-  
**(VIMAL KUMAR)**  
**JUDICIAL MEMBER**

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

Dated: 21/10/2024  
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi