

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "H": NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No. 799/Del/2022
(Assessment Year: 2011-12)**

Bucher Hydraulics Pvt. Ltd, Plot No. 6, Sector-5, IMT Manesar, Gurugaon, Haryana (Appellant)	Vs. DCIT, Circle-4(2), New Delhi (Respondent)
--	---

PAN: AAEC5991H

Assessee by :	Shri Pradeep Dinodia, CA Shri R. K. Kapoor, CA
Revenue by:	Shri Mathew Jacob, Sr. DR
Date of Hearing	12/12/2024
Date of pronouncement	12/12/2024

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.799/Del/2022 for AY 2011-12, arises out of the order of the Assessing Officer [hereinafter referred to as 'ld. AO', in short] dated 30.03.2022 against the order of assessment passed u/s 143(3)/144C r.w.s. 254 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act')
2. The assessee filed a letter dated 10.12.2024 before us stating that he has availed the Vivad Se Vishwas Scheme, 2024 introduced by the Statute to settle the tax disputes prevailing in this year by filing Form 1 u/s 91(1) and an undertaking u/s 91(4) of the Direct Tax Vivad Se Vishwas Scheme (DTVSV) 2024. The contents of the letter is as under:-

"SUB: PRAYER FOR GRANTING PERMISSION TO WITHDRAW APPEAL

MAY IT PLEASE YOUR HONOURS,

The above noted appeal is fixed for hearing before the Hon'ble 'H' Bench on Thursday i.c. 12th December, 2024.

In this connection we have been directed to submit that the assessee has opted for Vivad Se Vishwas Scheme and has already applied for the same. Form No. 1 filed by the assessee against which Form No 2 issued by the department for your honou's ready reference and records and to be submitted on the date of hearing.

Under the circumstances, it is prayed that the appeal filed by the assessee may be allowed to be withdrawn and necessary order may kindly be passed in this regard.

The inconvenience caused to your honour is sincerely regretted.

Pray accordingly.

*(R.K. KAPOOR)
CHARTERED ACCOUNTANT
FOR S. R. DINODIA & CO. LLP
CHARTERED ACCOUNTANTS
AUTHORISED REPRESENTATIVES
MOBILE NO. 9811192258
E-MAIL-rkkapoor@srdinodia.com"*

3. 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 Vishwas Scheme Act 2024", there is no need to keep appeal 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."

4. 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 appeal 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.

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

6. **In the result, the appeal of the assessee is dismissed.**

Order pronounced in the open court on 12/12/2024.

-Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated:12/12/2024

A K Keot

Copy forwarded to

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

ASSISTANT REGISTRAR
ITAT, New Delhi