

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.4562/Mum/2024
(Assessment Year :2020-21)**

&

**ITA No.4559/Mum/2024
(Assessment Year :2021-22)**

ITD CEMINDIA JV 9 th Floor, Prima Bay Tower – B Gate No.5, Saki Vihar Road Powai, Mumbai-400072	Vs.	The Deputy Commissioner of Income Tax Central Circle 5(1) Mumbai
PAN/GIR No. AAAAI1305D		
(Appellant)	..	(Respondent)

**ITA No.5209/Mum/2024
(Assessment Year :2020-21)**

&

**ITA No.5212/Mum/2024
(Assessment Year :2021-22)**

The Deputy Commissioner of Income Tax Central Circle 5(1) Mumbai	Vs.	ITD CEMINDIA JV 9 th Floor, Prima Bay Tower – B Gate No.5, Saki Vihar Road Powai, Mumbai-400072
PAN/GIR No. AAAAI1305D		
(Appellant)	..	(Respondent)

**ITA No.4531/Mum/2024
(Assessment Year :2018-19)**

ITD Cementation India Limited 9 th Floor, Prima Bay Tower – B	Vs.	The Deputy Commissioner of Income Tax Central Circle 5(1) Mumbai
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Gate No.5, Saki Vihar Road Powai, Mumbai-400072		
PAN/GIR No. AA ACT1426A		
(Appellant)	..	(Respondent)

ITA No.5233/Mum/2024
(Assessment Year :2018-19)

The Deputy Commissioner of Income Tax Central Circle 5(1) Mumbai	Vs.	ITD Cementation India Limited 9 th Floor, Prima Bay Tower – B Gate No.5, Saki Vihar Road Powai, Mumbai-400072
PAN/GIR No. AA ACT1426A		
(Appellant)	..	(Respondent)

ITA No.4617/Mum/2024
(Assessment Year :2018-19)
ITA No.4615/Mum/2024
(Assessment Year :2020-21)
ITA No.4613/Mum/2024
(Assessment Year :2021-22)
&
ITA No.4612/Mum/2024
(Assessment Year :2022-23)

ITD ITD Cem Joint Venture 9 th Floor, Prima Bay Tower-B, Gate No.5 Saki Vihar Road Powai, Mumbai-400072	Vs.	The Deputy Commissioner of Income Tax Central Circle 5(1) Mumbai
PAN/GIR No. AA AJI0262Q		
(Appellant)	..	(Respondent)

ITA No.5231/Mum/2024
(Assessment Year :2018-19)
ITA No.5230/Mum/2024

(Assessment Year :2020-21)
ITA No.5229/Mum/2024
(Assessment Year :2021-22)
&
ITA No.5228/Mum/2024
(Assessment Year :2022-23)

The Deputy Commissioner of Income Tax Central Circle 5(1) Mumbai	Vs.	ITD ITD Cem Joint Venture 9 th Floor, Prima Bay Tower-B, Gate No.5 Saki Vihar Road Powai, Mumbai-400072
PAN/GIR No. AAAJI0262Q		
(Appellant)	..	(Respondent)

Assessee by	Shri Vijay Mehta
Revenue by	Shri R.A. Dhyani, CIT DR & Shri Krishna Kumar, Sr. DR
Date of Hearing	24/12/2024
Date of Pronouncement	24/12/2024

आदेश / O R D E R

PER BENCH:

The aforesaid cross appeals have been filed by the assessee as well as by the Revenue against separate impugned order passed by ld. CIT(A)-53, Mumbai for the quantum of assessment passed u/s.143(3) / 147 for the A.Yrs. 2018-19, 2020-21, 2021-22 and 2022-23.

2. It has been stated by the ld. Counsel that assessee is going for 'Vivad Se Vishwas Scheme-2024'

and is in the process of filing of the application. The assessee has also filed a letter stating either to treat the appeal in abeyance or permission be allowed to withdraw the appeals with the liberty that in case the application for 'Vivad Se Vishwas Scheme-2024' is not materialized or not accepted by the department, liberty may be given to restore / revise the appeal. Contents of the letter is reproduced hereunder:-

"Respected Sirs,

Ref: Hearing before your Honours in the case of DCIT, CC 5(1), Mumbai, vs, ITD CEMENTATION INDIA LIMITED

Assessee Appeal No: ITA No. 4531/MUM/2024 for AY 2018-19

Department Appeal No: ITA No. 5233/MUM/2024 for AY 2018-19

Sub: Intimation for opting Direct Tax Vivad Se Vishwas Scheme, 2024 ('DTVSV')

1. We refer to the captioned appeal filed by the Appellant and the department for AY 2018-19. In this context, we wish to respectfully state and submit as under.

2. As per the provision of the DTVSV Scheme, 2024 and the Circular No. 19 of 2024 dated 16 December 2024, the Appellant is an eligible Assessee to file a declaration under the said scheme,

3. The management of the Appellant has evaluated the said scheme and find it appropriate to apply for settlement of the dispute arising from the order passed under Section 147 read with Section 143(3) of the Act

for AY 2018-19 to end the protected litigation with the tax authorities. Accordingly, the Appellant is in the process of filing the requisite Form with the tax authorities to settle the dispute.

4. In view of the same, we request your Honours to kindly keep the hearing of the appeals in abeyance till the application under DTVSV Scheme, 2024 is disposed off by the tax authorities.

5 Further, the Appellant shall file an application to withdraw an appeal filed before your Honour as per Section 91 of the DTVSV Scheme 2024 once the Appellant receives the certificate from tax authorities as prescribed under Section 92(1) of the said scheme.

6. In case your Honours decides to dispose off the said appeal, then leave may kindly be granted to restore the appeal in case, subsequently, DTVSV application does not materialize.

Inconvenience caused to Your Honours is deeply regretted.”

3. Similar letters have been filed in all the years captioned above.

4. Further, our attention was drawn to Circular No.19 of 2024 dated 16/12/2024 and the Guidance Note 2/2024, FAQ No.8 specifies the following: -

S. No.	Issue	Comments
<i>Eligibility of Cases</i>		
36.	<i>Suppose a taxpayer is eligible to apply for DTVSV Scheme, 2024 as his appeal is pending as on 22.7.2024. But subsequently,</i>	<i>Yes, such cases are eligible for settlement under the Scheme as appeal</i>

	<i>before the taxpayer could file declaration under the DTVSV Scheme, 2024, his appeal has been disposed off on merits or dismissed as withdrawn for the purposes of the Scheme. Can such a taxpayer still file declaration under the Scheme?</i>	<i>was pending as on 22.7.2024. Disputed tax will be calculated in the same manner as if the appeal pending on 22.7.2024 is yet to be disposed off.</i>
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5. Thus, it has been stated that here in this case, the appeal by the assessee as well as by the department was pending as on 22/07/2024 and even if appeal is dismissed as withdrawn for the purpose of the scheme, then also assessee is eligible for settlement under the VSVS.

6. The ld. DR also does not have any objection if the appeals are dismissed as withdrawn if the assessee is availing the VSVS scheme.

7. Since assessee is availing VSVS scheme to settle the issues in the aforesaid appeals filed by the assessee as well as by the department, therefore, assessee's appeals are treated as dismissed as withdrawn. In so far as Revenue's appeals are concerned, they are also dismissed in view of the undertaking given by the assessee that in both the cross appeals including department's appeal, assessee will be filing the application for settlement of taxes under 'Vivad Se Vishwas Scheme-2024'. Accordingly, assessee's appeals as wells as Revenue's appeals are

dismissed in limine, with a liberty to both the parties to restore / revive the appeal, in case the application for 'Vivad Se Vishwas Scheme-2024' in all the appeals do not materialize or is not accepted by the department. With this observation all the appeals are dismissed.

8. In the result, all the appeals of the Assessee and appeals of the Revenue are dismissed.

Order pronounced on 24th December, 2024.

Sd/-
(GIRISH AGRAWAL)
ACCOUNTANT MEMBER

Mumbai; Dated 24/12/2024
KARUNA, sr.ps

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai