

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR.**

**BEFORE SH. UDAYAN DAS GUPTA, JUDICIAL MEMBER  
AND SH. BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**I.T.A. Nos. 522 and 523/Asr/2024  
Assessment Year: 2016-17 and 2017-18**

Lohian Truck Operator Union Lohian Khas, Jalandhar. [PAN: AADFT5855D]  <b>(Appellant)</b>	<b>Vs.</b>	ITO, Ward, Nakodar.    <b>(Respondent)</b>
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<b>Appellant by</b>	<b>J.S. Bhasin, Adv.</b>
<b>Respondent by</b>	<b>Sh. Charan Dass, Sr. DR</b>

<b>Date of Hearing</b>	<b>27.05.2025</b>
<b>Date of Pronouncement</b>	<b>29.05.2025</b>

**ORDER**

**Per: Bench:**

The instant appeals of the assessee are directed against the order of the Id. Commissioner of Income Tax (Appeals), NFAC, Delhi, [in brevity the 'CIT (A)'], order passed u/s 250 of the Income Tax Act 1961, for A.Ys. 2016-17 and 2017-18 dated 08.08.2024 separately arising out of penalty order passed by the AO u/s 271B of the Act vide

both order dated 08.09.2022 for the respective assessment years 2016-17 and 2017-18.

2. During the proceedings, the Id. AR appeared on the behalf of the Assessee and submitted applications dated 24.01.2025 on e-mail, with the request for withdrawal of these appeals on the ground that the Assessee has opted to take benefit under the Direct Tax 'Vivad Se Vishwas Scheme 2024 and sought permission from the Bench to withdraw the aforementioned appeals. Necessary certificates in Form No.2 under Rule 5 have been issued to him which are placed on record.

3. Since, the assessee had already filed an application under Direct Tax "Vivad Se Viswas 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. 1 on or before 20.11.2020 and the competent authority shall process the application/ declaration in accordance with the Act and pass appropriate orders expeditiously 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 disposed aforementioned liberty Consequently the Substantial Question of Law are left upon.*

*No costs."*

4. In 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 the appeal with liberty to get them recalled in the eventuality of assessee's declaration not getting accepted by the Revenue.

6. In the result, both the appeals of the assessee are dismissed as withdrawn.

**Order pronounced in the open court on 29.05.2025**

**Sd/-**

**(Udayan Das Gupta)**  
**Judicial Member**

**AKV**

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

**Sd/-**

**(Brajesh Kumar Singh)**  
**Accountant Member**

True Copy  
By Order