IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "D", MUMBAI

BEFORE SHRI RAJESH KUMAR, ACCOUNTANT MEMBER
& SHRI AMARJIT SINGH, JUDICIAL MEMBER

ITA No. 3220/MUM/2017
Assessment Year : 2010-11

Income Tax Officer 19(2)(2), Mumbai.	Vs.	Reliance Capital Partners, Trade World, Kamla Mills Compound, B Wing, 7th Floor, S B Marg, Lower Parel, Mumbai 400 013. PAN AAIPR8153R
(Appellant)		(Respondent)

Appellant by	:	Ms Ashima Gupta
Revenue by	:	None

Date of Hearing : 11.01.2021		Date of Pronouncement : 11.01.2021

O R D E R

Per Rajesh Kumar, Accountant Member:

This appeal by the Revenue is directed against order of learned CIT(A)-34, Mumbai, dated 02.02.2017, pertaining to A.Y. 2010-11.

2. None appeared on behalf of the assessee but the assessee's representative, vide letter dated 3.11.2020, has informed that the assessee is opting for solution of dispute under the Vivad Se Vishwas Scheme. The learned DR did not have any objection.

3. We find that in a similar situation, Hon'ble Madras High Court has in the case of M/s. Nannusamy Mohan (HUF) vs ACIT, vide order dated 16.10.2020, held as under :-

> *"3. The learned counsel for the appellant / assessee, on instructions, submitted that the appellant / assessee intends to avail the benefit of Vivad*

Se Vishwas Scheme ('VVS Scheme' for brevity) and in this regard, the assessee is taking steps to file the application / declaration in Form No. I.

4. It may not be necessary for this Court to decide the Substantial Questions of Law framed for consideration on account of certain subsequent developments. The Government of India enacted the Direct Tax Vivad Se Vishwas Act, 2020 (Act 3 of 2020) to provide for resolution of disputed tax and for matters connected therewith or incidental thereto. The Act of the Parliament received the assent of the President on 17th March 2020 and published in the Gazette of India on 17th March 2020.

5. In terms of the said Act, the assessee has been given an option to put an end to the tax disputes, which may be pending at different levels either before the First Appellate Authority or before the Tribunal or before the High Court or before the Hon'ble Supreme Court of India. Under Section 2(j) "disputed tax" has been defined. In terms of Section 3, where a declarant means a person, who files a declaration under Section 4 on or before the last date files a declaration to the designated authority in accordance with the provisions of Section 4 in respect of tax arrears, then, notwithstanding anything contained in the Income Tax Act or any other law for the time being in force, the amount payable by the declarant shall be determined in terms of Section 3(a-c) thereunder.

6. The First Proviso to Section 3 states that in case, where an Appeal or Writ Petition or Special Leave Petition is filed by the Income Tax authority on any issue before the Appellate Forum, the amount payable shall be one-half of the amount in the table stipulated in Section 3 calculated on such issue, in such a manner as may be prescribed. The second proviso deals with the cases, where the matter is before the Commissioner (Appeals) or before the Dispute Resolution Panel. The third proviso deals with cases, where the issue is pending before the Income Tax Appellate Tribunal. The filing of the declaration is as per Section 4 of the Act and the particulars to be furnished are also mentioned in the Sub Sections of Section 4. Section 5 of the Act deals with the time and manner of the payment and Section 6 deals with Immunity from initiation of proceedings in respect of offence and imposition of penalty in certain cases. Section 9 of the Act deals with cases, where the Act 3 of 2020 will not be applicable.

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 six (6) weeks from the date on which the declaration is filed in the proper form."

Respectfully following the above and noting the fact that the assessee is opting for resolution of dispute under Vivad Se Vishwas Scheme in the present appeal, we dismiss this appeal.

4. In the result, appeal is dismissed.

Order pronounced in the open court on 11th January, 2021

Sd/-	Sd/-
(AMARJIT SINGH)	(RAJESH KUMAR)
JUDICIAL MEMBER	ACCOUNTANT MEMBER

Mumbai, Date : 11th January, 2021.
SA
Copy to :

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

By Order

(Assistant Registrar)
Income Tax Appellate Tribunal, Mumbai