

**IN THE INCOME TAX APPELLATE TRIBUNAL (VIRTUAL COURT),
'D' BENCH MUMBAI**

BEFORE SHRI M.BALAGANESH, AM

&

SHRI AMARJIT SINGH, JM

**ITA No.2301/Mum/2018
(Assessment Year :2011-12)**

M/s. Bayer Cropscience Ltd., (Successor to Monsanto India Limited Ahura Centre 5 th Floor 96, Mahakali Caves Road Andheri (East) Mumbai – 400 093	Vs.	Deputy Commissioner of Income Tax Range 10(2)(2) Aayakar Bhavan M.K.Road, Mumbai – 400 020
PAN/GIR No.BCSL- AAACB9651K MIL- AAACM2875L		
(Appellant)	..	(Respondent)

**ITA No.2123/Mum/2018
(Assessment Year: 2011-12)**

Deputy Commissioner of Income Tax Range 10(2)(2) Aayakar Bhavan M.K.Road, Mumbai – 400 020	Vs.	M/s. Bayer Cropscience Ltd., (Successor to Monsanto India Limited Ahura Centre, 5 th Floor 96, Mahakali Caves Road Andheri (East) Mumbai – 400 093
PAN/GIR No.BCSL- AAACB9651K MIL- AAACM2875L		
(Appellant)	..	(Respondent)

Assessee by	Ms. Jasmin
Revenue by	Shri Sanjay Sethi
Date of Hearing	11/02/2021
Date of Pronouncement	11/02/2021

आदेश / ORDER

PER M. BALAGANESH (A.M):

These cross appeals in ITA No.2301/Mum/2018 & 2123/Mum/2018 for A.Y.2011-12 arise out of the order by the Id. Commissioner of Income Tax (Appeals)-17, Mumbai in appeal No.CIT(A)-17/IT-387/14-15 dated 31/01/2018 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 23/02/2015 by the Id. Dy. Commissioner of Income Tax-10(2)(2), Mumbai (hereinafter referred to as Id. AO).

2. At the outset, the Id. Counsel for the assessee stated in letter dated 08/02/2021 that assessee had preferred an application under Vivad-se-Vishwas Scheme 2020 in respect of the aforesaid assessment years by filing Form No.3 before the competent authority.

3. We have heard rival submissions and perused the materials available on record. Since, the assessee had already filed an application under direct tax "Vivad Se Viswas Scheme Act 2020", there is no need to keep the 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-2020". In other words if the assessee's declaration to be 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.

ITA No. 2301/Mum/2018 & 2123/Mum/2018
M/s. Bayer Cropscience Ltd., (Successor to
Monsanto India Limited)

5. In view of the aforesaid observations, we dismiss these cross appeals with a 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 as well as that of the revenue are dismissed.**

Order pronounced in open Court on 11/02/2021.

Sd/-
(AMARJIT SINGH)
JUDICIAL MEMBER

Mumbai; Dated 11/02/2021
KARUNA, *sr.ps*

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai