$~62

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 17354/2024 & CM APPL. 73896/2024

VMVS TEXTILES PRIVATE LIMITED .....Petitioner

Through: Mr. Prashant Shukla, Advocate

versus

PRINCIPAL COMMISSIONER OF INCOME TAX-7 DELHI AND ORS .....Respondent

Through: Mr. Puneet Rai, SSC with Mr. Ashwini Kumar, Mr. Rishabh N. and Mr. Nikhil Jain, Advocates.

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

O R D E R

% **19.12.2024**

1. The petitioner has filed the present petition being aggrieved of the rejection remarks (hereafter the impugned rejection remarks) as reflected in the portal indicating that the petitioner's declaration filed under Section 4 of the Direct Tax Vivad Se Vishwas Scheme, 2024 (hereafter *DTVSV Scheme*) has been rejected on the basis of the guidelines issued by CBDT in terms of Circular dated 15.10.2024. The impugned rejection remarks are set out below:-

> "***Rejection remarks** :*
> *The assessee is not eligible to opt for DTVSVS,2024 as per S. No. 8 of guidelines issued by the CBDT vide F.No. 370142/22/2024-TPL circular no. 12 of 2024 dated 15.10.2024, as the appeal of the assessee has been disposed of by the Hon'ble Supreme Court of India vide order dated 03.10.2024. Hence, the application/Form-1 filed by the assessee is hereby rejected.*
> ***Rejection date** :*
> *14-Nov-2024*"

2. In the aforesaid context, serial No. 8 of the aforesaid Circular dated

15.10.2024 is reproduced below:-

S. No.	Issue	Comments
<u>Appeal disposed off</u>		
8	Suppose a taxpayer is eligible to apply for DTVSV Scheme, 2024 as his appeal is pending as on 22.7.2024. But subsequently, before the taxpayer could file declaration under the DTVSV Scheme, 2024, his appeal has been disposed off. Can such a taxpayer still file declaration under the Scheme?	The DTVSV Scheme 2024 is a Scheme for settlement of tax dispute . Where a decision has been given prior to the taxpayer filing a declaration, there is no dispute pending unless the taxpayer or the Department again prefers an appeal. Therefore, where an appeal is pending as on 22.7.2024 but is not pending as on the date of making declaration under the Scheme such cases shall not be eligible for the Scheme. However, in case where a taxpayer files declaration under section 90 of the Scheme and intimates the same to the appellate authority, the concerned appellate authority may consider not disposing the a peal of the taxpayer.

3. As is apparent from the above, the Circular clarifies that only those disputes are covered in respect of which appeals/petitions are pending on the date of the declaration. The petitioner contends that according to the statutory scheme, the question whether a dispute pending is required to be considered with reference to the specified date. However, in terms of the Circular, if a dispute is finally decided after the specified date but before a declaration is filed, the same would not be covered under the DTVSV Scheme.

4. Thus, according to the petitioner, the Circular militates against the express language of the DTVSV Scheme.

5. Learned counsel appearing for the Revenue states, at the outset, that

the Circular dated 15.10.2024 has been modified by a Circular No.19 of 2024 dated 16.12.2024 and its entry at Serial No.8 is deleted. The said circular further clarifies that the dispute would be settled under the Scheme in the same manner as if an appeal was pending on the specified date notwithstanding that the said appeal had been finally disposed of. The relevant extract of the said Circular is set out below:-

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

6. It is apparent from the above, that the basis on which the impugned rejection remarks were entered, does not hold good. In view the above, impugned rejection remarks are set aside and the designated authority is directed to consider the petitioner's application in accordance with law.

7. The petition stands disposed of in the aforesaid terms.

VIBHU BAKHRU, ACJ

TUSHAR RAO GEDELA, J

DECEMBER 19, 2024
yrj

Click here to check corrigendum, if any