

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO.7569 OF 2012

M/S ELECTREX (INDIA) LTD.

APPELLANT(S)

VERSUS

THE COMMISSIONER OF INCOME TAX & ANR.

RESPONDENT(S)

WITH

CIVIL APPEAL NO.7570 OF 2012

O R D E R

1. Since the issues involved in both the captioned appeals are same, they were taken up for hearing analogously and are being disposed of by this common order.
2. The appellants herein have questioned the legality and validity of the impugned judgment and order passed by the High Court of Karnataka affirming the liability to pay interest on the income calculated under the MAT provisions [Section 115J] of the Income Tax Act, 1961.
3. Today when the matters were taken up for final hearing the learned counsel appearing for the Revenue pointed out that the issue is covered by the decision of this Court in the case of Joint Commissioner of Income Tax, Mumbai vs. M/s. Rolta India Ltd. [(2011) 2 SCC 408].

4. On the other hand, the learned counsel appearing for the appellants submitted that the Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes has issued a Circular no. 12 of 2024 dated 15th October 2024, providing some guidelines on the provisions of the Direct Tax Vivad Se Vishwas Scheme 2024. The appellants would like to avail the benefit as provided under the Scheme 2024. It has been pointed out that for the purpose of availing the benefit under the Scheme, the petition has to be pending before the High Court. The Scheme provides that for the purpose of seeking benefit under the said scheme the appeal should be pending as on 22nd July 2024.

5. For the sake of the convenience we quote the relevant clause of the scheme:-

"S. No.	Issue	Comments
<u>Eligible cases</u>		
1.	Which appeals are covered under Direct Tax Vivad Se Vishwas Scheme, 2024?	Please refer to Section 89 of the Direct Tax Vivad Se Vishwas Scheme, 2024 ('the DTVSV Scheme, 2024' or 'the Scheme') (contained in Chapter IV of the Finance (No.2) Act, 2024). Section 89 of the Scheme provides for the definition of "appellant" which is (i) a person in whose case an appeal or a writ petition (WP) or special leave petition (SLP) has been filed either by him or by the income-tax authority or by both, before an appellate forum and such appeal or petition is pending as on the

		<p>specified date i.e. 22.7.2024; or</p> <p>(ii) a person who has filed his objections before the Dispute Resolution Panel (DRP) under section 144C of the Income-tax Act, 1961 ('the Act') and the DRP has not issued any direction on or before 22.7.2024; or</p> <p>(iii) a person in whose case the DRP has issued direction under section 144C(5) of the Act and the AO has not completed the assessment under section 144C(13) on or before 22.7.2024; or</p> <p>(iv) a person who has filed an application for revision under section 264 of the Act and such application is pending as on 22.7.2024.</p>
<p><u>Appeal disposed off</u></p>		
<p>8.</p>	<p>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</p>	<p>The DTVSV Scheme, 2024 is a Scheme for settlement of tax disputes. 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.</p> <p>However, in cases where a taxpayer files declaration under section 90 of the Scheme and intimates the same to the appellate authority, the</p>

	Scheme?	concerned appellate authority may consider not disposing the appeal of the taxpayer.
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In addition to the aforesaid, we also looked into clause 10 of the circular which reads:-

<u>Settling issues in part</u>		
10.	Where disputed tax contains qualifying tax arrears along with non-qualifying tax arrears (such as, tax arrears mentioned in section 96(a) for eg. tax arrear in respect of undisclosed foreign income), whether the taxpayer can apply for the Scheme in such a case?	As per section 91(2) of the Scheme, after filing of declaration, appeals before ITAT/CIT(A)/JCIT(A) are deemed to be withdrawn from the date of issue of certificate by the Designated Authority. Further as per section 91(3) of the Scheme, the taxpayer is required to withdraw appeals and furnish proof thereof alongwith intimation of payment u/s 92(2) of the Scheme. Therefore, the Scheme does not envisage settling issue in part. The dispute has to be settled in full as per the Scheme. Thus, where there are non-qualifying tax arrears, such disputes are not eligible to be covered under the Scheme."

6. Clause 10 referred to aforesaid, makes it clear that as per Section 91(3) of the scheme the tax payer is required to withdraw appeals and furnish proof thereof along with intimation of payment under Section 92(2) of the Scheme.

7. In view of the aforesaid, both the appeals are disposed of as withdrawn with liberty to the appellants to approach the authority for the purpose of availing the benefits under the Scheme 2024.

8. In the event of any further difficulty, we grant liberty to the parties to come back before us by way of an appropriate petition.

.....J.
[J.B. PARDIWALA]

.....J.
[R. MAHADEVAN]

New Delhi;
13th November, 2024

CD

ITEM NO.102

COURT NO.15

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.7569/2012

M/S ELECTREX (INDIA) LTD.

Appellant(s)

VERSUS

THE COMMISSIONER OF INCOME TAX & ANR.

Respondent(s)

WITH

C.A. No. 7570/2012 (IV-A)

Date : 13-11-2024 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE R. MAHADEVAN

For Appellant(s) Mr. K. V. Mohan, AOR
Mr. R.k Raghavan, Adv.
Mr. K.v.balakrishnan, Adv.

Ms. Mrinal Kanwar, AOR
Mr. Vaibhav, Adv.

For Respondent(s) Mr. S Dwarakanath, A.S.G.
Mr. Raj Bahadur Yadav, AOR
Mr. Shashank Bajpai, Adv.
Mr. Udai Khanna, Adv.
Mr. H R Rao, Adv.
Mr. Navanjay Mahapatra, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeals are disposed of in terms of the Signed order.

(CHANDRESH)
COURT MASTER (SH)

(POOJA SHARMA)
COURT MASTER (NSH)

(Signed order is placed on the file)