

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

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND
SHRI ASHWANI TANEJA, ACCOUNTANT MEMBER**

**ITA No.1229/M/2015
Assessment Year: 2010-11**

Shri Dilip N Chheda, 7, Krishna Mahal, 94, Bhaudaji Cross Road, No.10, Matunga, Mumbai – 400 019 PAN: AAAPC5740P	Vs.	Add. CIT 20(2), Piramal Chambers, Lal Baug, Mumbai – 400 012
(Appellant)		(Respondent)

Present for:

Assessee by : None
Revenue by : Shri B.S. Bist, D.R.

Date of Hearing : 18.10.2016
Date of Pronouncement : 18.10.2016

ORDER

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 11.12.2014 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2010-11.

2. The assessee has taken the following grounds of appeal:

"1. The learned Commissioner of Income Tax (Appeals)-32, Mumbai, committed a gross error of law and fact in confirming the order of the assessing officer treating the short term capital gains declared by the appellant as business income.

2. The learned Commissioner of Income Tax (Appeals) committed a gross error of law and fact in coming to the conclusion that the income generated from purchase and sale of shares and declared as short term capital gains by the appellant has to be treated as income from business.

3. The learned Commissioner of Income Tax (Appeals) grossly erred in coming to his conclusion by mechanically upholding the order of the assessing officer without any independent justification.

4. The learned Commissioner of Income Tax (Appeals) committed a

gross error of law and fact in coming to his conclusion without appreciating that in the earlier years on identical facts and circumstances the assessing officer had accepted the appellants stand that the similar impugned income was liable to be treated as short term capital gains.

5. The learned Commissioner of Income Tax (Appeals) grossly erred in not dealing with alternate the ground of appeal raised by the appellant regarding the valuation of closing investment as stock in trade and valuing it at lower of cost or market value.

6. The appellant craves leave to add, alter or amend the above grounds of appeal.”

3. None has come present on behalf of the assessee. A letter dated 14.10.16 has been received vide which the assessee has sought permission to withdraw the appeal as he does not want to pursue the matter.

4. The Ld. D.R. has not objected to the said application.

5. The application of the assessee is therefore allowed and the appeal of the assessee is hereby **dismissed as withdrawn**.

Order pronounced in the open court on 18.10.2016.

Sd/-
(Ashwani Taneja)
ACCOUNTANT MEMBER

Sd/-
(Sanjay Garg)
JUDICIAL MEMBER

Mumbai, Dated: 24.10.2016.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.