



**IN THE INCOME TAX APPELLATE TRIBUNAL**

**"SMC" BENCH, MUMBAI**

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER**

ITA no.2459/Mum./2019  
(Assessment Year : 2014-15)

Shri Suresh Krishna Shetty  
502/A, Maple Heights  
Balarajeshwar Road  
Mulund (W), Mumbai 400 080  
PAN – ACKPS7688C

..... Appellant

v/s

Income Tax Officer  
Ward-29(3)(4), Mumbai

..... Respondent

Assessee by : None  
Revenue by : Shri Sanjay J. Sethi

Date of Hearing – 24.11.2020

Date of Order – 24.11.2020

**ORDER**

The aforesaid appeal has been filed by the assessee challenging the order dated 11<sup>th</sup> February 2019, passed by the learned Commissioner of Income Tax (Appeals)-40, Mumbai, pertaining to the assessment year 2014-15.

2. The assessee has filed a letter dated 23<sup>rd</sup> November 2020, before the Registry of the Tribunal seeking withdrawal of the appeal in view of the fact that he has applied for settling the tax dispute under the Vivad Se Vishwas Tax Scheme, 2020. The letter submitted by the assessee is

accompanied by the acknowledgement in Form-I and II of the declaration filed under the aforesaid scheme. The aforesaid letter and the declarations are kept on record.

3. The learned Departmental Representative has no objection for withdrawal of the appeal by the assessee.

4. Heard the learned Departmental Representative and perused material on record. Considering the fact that the assessee has sought withdrawal of the present appeal as he has applied for settling the dispute under Vivad Se Vishwas Scheme, 2020, I permit the assessee to withdraw the appeal at this stage. However, liberty is granted to the assessee to seek restoration of this appeal in the event the application filed under Vivad Se Vishwas Tax Scheme is not accepted by the Department. It is further made clear, in such eventuality if the assessee seeks restoration of the present appeal by filing misc. application, the delay, if any, should be condoned without insisting upon filing any application for condonation of delay. This is in view of the decision of the Hon'ble Madras High Court in order dated 16<sup>th</sup> October 2020, delivered in M/s. Nannusamy Mohan (HUF) v/s ACIT, TCA no.372 of 2020. With the aforesaid observations, the appeal is dismissed as withdrawn.

5. In the result, appeal is dismissed.

Order pronounced in the open court on 24.11.2020.

**SAKTIJIT DEY  
JUDICIAL MEMBER**

**MUMBAI, DATED: 24.11.2020.**

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The CIT(A);*
- (4) *The CIT, Mumbai City concerned;*
- (5) *The DR, ITAT, Mumbai;*
- (6) *Guard file.*

*Pradeep J. Chowdhury  
Sr. Private Secretary*

True Copy  
By Order

Assistant Registrar  
ITAT, Mumbai