

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "SMC" MUMBAI**

**BEFORE SHRI VIKAS AWASTHY (JUDICIAL MEMBER) AND  
SHRI N.K. PRADHAN (ACCOUNTANT MEMBER)**

**ITA No. 1195/MUM/2019  
Assessment Year: 2010-11**

Shri Chinmay R. Kallianpur,  
Tulsi Niwas, 580, Opp.  
Sonawala Agyari Marg, Mahim,  
Mumbai-400016.

Vs. ITO, Ward-21(1)(3),  
Room No. 106, 1<sup>st</sup> floor, Piramal  
Chambers, Parel,  
Mumbai-400012.

**PAN No. AOGPK7383E**  
**Appellant**

**Respondent**

Assessee by : Ms. Dinkle Hariya, AR  
Revenue by : Ms. Smita Verma, DR

Date of Hearing : 22/12/2020  
Date of pronouncement : 22/12/2020

**ORDER**

**PER N.K. PRADHAN, A.M.**

This is an appeal filed by the assessee. The relevant assessment year is 2010-11. The appeal is directed against the order of the Commissioner of Income Tax (Appeals)-48, Mumbai [in short 'CIT(A)'] and arises out of the assessment completed u/s 143(3) r.w.s. 147 the Income Tax Act 1961, (the 'Act').

2. The Ld. counsel for the appellant submits that the assessee has filed declaration under "Direct Tax Vivad Se Vishwas Act, 2020" (in short 'VSV Act') and filed a copy of Form No. 1 & 2. Further, it is stated that the assessee

is in receipt of Form No. 3, accepting the declaration from the Department. A copy of Form No. 3 is also filed. Thus it is submitted by the Ld. counsel that the assessee be allowed to withdraw the present appeal and liberty may be given by the Tribunal to revive the appeal, if the declaration is considered void under the VSV Act

The Ld. DR has no objection to the above.

3. We have heard the rival submissions and perused the relevant materials on record. The Government of India enacted the Direct Tax Vivad Se Vishwas Act, 2020 (Act No. 3 of 2020) to provide for resolution of disputed tax and for matter connected therewith or incidental thereto. The Act of the Parliament received the assent of the President on 17.03.2020 and published in the Gazette of India on 17.03.2020. In terms of the said Act, the assessee has been given an option to put an end to the tax disputes, which may be pending at different levels either before the First Appellate Authority or before the Tribunal or before the High Court or before the Supreme Court of India.

Considering the submissions of the Ld. counsels appearing for the parties and keeping in view the decision of the Hon'ble Madras High Court in the case of *M/s Nannusamy Mohan (HUF) v. ACIT* (TCA No. 372 of 2020, order dated 16.10.2020), we are inclined to dismiss this appeal as withdrawn. However, liberty is granted to the assessee to seek the restoration of this appeal in the event the declaration filed under the aforesaid Act is considered void by the Department. It is further made clear, in such eventuality, if the assessee seeks restoration of this appeal by filing miscellaneous application, the delay if any would be condoned without insisting upon filing any application for condonation of delay.

4. In the result, the appeal is dismissed as withdrawn, subject to the observation above.

**Order pronounced in the open Court on 22/12/2020.**

Sd/-  
(VIKAS AWASTHY)  
JUDICIAL MEMBER

Sd/-  
(N.K. PRADHAN)  
ACCOUNTANT MEMBER

Mumbai;

Dated: 22/12/2020

Rahul Sharma, Sr. P.S.

**Copy of the Order forwarded to :**

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

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**