

**IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, MUMBAI  
BEFORE SHRI RAJESH KUMAR, AM AND SHRI AMARJIT SINGH, JM**

आयकर अपील सं/ I.T.A. No.5168/Mum/2019

(निर्धारण वर्ष / Assessment Year: 2014-15)

Ms. Neena Sunil Shah 84, 14 <sup>th</sup> Floor, Daryamahal, B-80, Neapean Sea Road, Mumbai-400006.	<b>बनाम/</b> Vs.	ITO, Ward-18(2)(4) Room No.303, 3 <sup>rd</sup> Floor, Earnest House, NCPA Marg, Nariman Point, Mumbai- 400021.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : ADDPJ9899C		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Assessee by:	None
Revenue by:	Ms. Usha Gaikwad (DR)

सुनवाई की तारीख / Date of Hearing: 23/12/2020

घोषणा की तारीख /Date of Pronouncement: 23/12/2020

**आदेश / O R D E R**

**PER AMARJIT SINGH, JM:**

This is an appeal filed by the assessee against the order dated 29.07.2019 passed by the Commissioner of Income Tax (Appeals), 29 Mumbai [hereinafter referred to as the “CIT(A)”]. Relevant to the A.Y. 2014-15.

2. The assessee has raised the following grounds:-

“1. The order dated 29.07.2019 bearing No. CIT(A)-29/IT-615/ITO-18(2)(4)/2016-17 by CIT(A)-29, Mumbai is arbitrary, against natural justice, unlawful, against the provisions of Income Tax Act, 1961, invalid and therefore, liable to be quashed.

2. On facts and in the circumstances of the case and in law the CIT(A) has erred in confirming addition made u/s 68 of the



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I. T. Act, 1961 amounting to Rs.66,75,735/- on account of Long Term Capital Gain claimed by the appellant as unexplained investment.

3. On facts and in the circumstances of the case and in law the CIT(A) has erred in confirming addition made u/s 69 of the I. T. Act, 1961 amounting to Rs.2,00,272/- on account of 3% commission paid for the bogus transactions by the appellant as unexplained expenditure.
4. On facts and in the circumstances of the case and in law the CIT(A) has erred in enhancing the income of the appellant by Rs.10,20,000/- without any basis.
5. The appellant craves to alter, add, delete, substitute, or modify and other grounds of appeal.”

**3.** When this appeal was called out for hearing, the Id. Counsel of the assessee submitted that he has filed the necessary declaration under Direct Tax Vivad se Vishwas Act, 2020 (Act 3 of 2020) and is awaiting for final resolution of the matter under the said scheme. He submitted that upon completion of the necessary formalities, he will withdraw the appeal. In response to the suggestion from the Bench, he fairly accepted that he has no objection to the appeal being dismissed as withdrawn as long as his right for revival of the appeal are protected, in the event of, for some unfortunate reason, the matter being not settled under the *Vivad se Vishwas scheme*.

**4.** The Ld. DR also did not object to course so suggested.

**5.** In view of the above, we dismiss the appeal as withdrawn, subject to be rider that in the unlikely event of matter not being resolved under the



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*Vivad se Vishwas scheme*, the assessee shall have liberty to approach the Tribunal for restoration of his appeal.

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

Order pronounced in the open court on 23 /12/2020

Sd/-

(RAJESH KUMAR)

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated : 23/12/2020

Vijay Pal Singh (Sr.PS)

Sd/-

(AMARJIT SINGH)

न्यायिक सदस्य/JUDICIAL MEMBER

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai