

आयकर अपीलीय अधिकरण
मुंबई पीठ "एस एम सी"
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI
श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
आअसं. 3700/मुं/2019 (नि.व.2009-10)
ITA NO. 3700/MUM/2019 (A.Y.2009-10)
आअसं. 3701/मुं/2019 (नि.व.2010-11)
ITA NO. 3701/MUM/2019 (A.Y.2010-11)

M/s. Metal Junction,
438, Office No.202, 2nd Floor,
Irani Bldg., Rockford House, Pathe
Bapurao Marg, Islampur Street,
Mumbai 400 004
PAN:AANFM3000D

: अपीलार्थी/ **Appellant**

बनाम/ Vs.

ITO Ward -19(2)(3),
Room No.221, 2nd Floor, Matru Mandir,
Grant Road, Mumbai 400 007

: प्रत्यर्थी/ Respondent

Assessee by : Shri Rushabh Mehta
Revenue by : Shri Sanjay J Sethi
सुनवाई की तारीख/
Date of Hearing : 05/01/2021
घोषणा की तारीख /
Date of Pronouncement : 05/01/2021

आदेश/ ORDER

These two appeals by the assessee are directed against the orders of Commissioner of Income Tax (Appeals)-18, Mumbai (in short 'the CIT(A)') for the assessment years 2009-10 and 2010-11, respectively. Both the impugned orders are of even date i.e. 14/03/2019.

2. Shri Rushabh Mehta, authorized representative of the assessee has filed a letter dated 05/01/2021 intimating that the assessee has opted for 'Vivad Se Vishwas Scheme, 2020' (in short 'VSVS') and has made declaration in the prescribed Form No. 1 & 2, hence, the assessee wants to withdraw the appeals. The relevant extract of the letter is reproduced herein below:

"Dear Sir,

*Reg: ITA No. 3700/Mum/2019 (A.Y. 2009-10) and
ITA No. 3701/Mum/2019 (A.Y. 2010-11}
PAN: AANFM3000D
Date of Hearing - 05.01.2021*

Sub: Withdrawal of appeal subject to VSVS form being processed

With reference to the above captioned appeals hearing of which is fixed today i.e. 05.01.2021; I, the authorized representative of the appellant, wish to submit as under:-

It may please be noted that in regard to both the aforesaid appeals i.e. for A.Y. 2009-10 and 2010-11, the appellant has filed the Form no. 1 and 2 under the Direct Tax Vivad Se Vishwas Scheme (for short, DTVSVS) and is presently awaiting the Form no. 3. Accordingly, I wish to withdraw the said appeals subject to the fact that the appellant is allowed the benefit under the DTVSVS.

In view of the above, I humbly request Your Honour to dismiss my appeals as withdrawn with a liberty to revive these appeals in case my application under the DTVSVS for these years is later rejected for whatever reasons.

*Thanking you,
Yours faithfully,
For Metal Junction*

Sd/-

CA Rushabh Mehta"

3. Shri Sanjay J Sethi, representing the Department stated that the Department has no objection if the assessee wants to withdraw appeals to avail the benefit of 'VSVS'.

4. Heard. In view of the fact that the assessee has opted for VSVS, and wants to withdraw appeals, the appeals by assessee are dismissed as withdrawn at this stage.

5. Liberty is granted to the assessee to revive the appeals in the event application filed by the assessee under VSVS fails to mature. It is further made clear that if the assessee /appellant seeks to restore the appeal in the event assessee's declaration made under VSVS is not accepted, the Registry shall not insist for filing of application for condonation of delay, if the Miscellaneous Application for recalling the order is filed beyond time on account of delay in communication of outcome under VSVS. [Re. M/s. Nannusamy Mohan(HUF) vs. ACIT in T.C.A No.372 of 2020 decided on 16/10/2020 by Hon'ble Madras High Court]

6. The appeals of assessee are dismissed as withdrawn with the liberty aforesaid.

Order pronounced in the open Court on Tuesday, the 05th day of January, 2021.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/ Mumbai, दिनांक/Dated: 05/01/2021

Vm, Sr. PS(O/S)

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/ The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
6. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)
ITAT, Mumbai