

आयकर अपीलिय 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. 7008/मुं/2018 (नि.व.2008-09)
ITA NO. 7008/MUM/2018 (A.Y.2008-09)
आअसं. 7009/मुं/2018 (नि.व.2007-08)
ITA NO. 7009/MUM/2018 (A.Y.2007-08)

Shri Saurabh Agarwal ,
172/17th Floor, Kalpataru Habitat,
Dr.S.S.Rao Road, Parel,
Mumbai 400 012
PAN:ADPPA2384P

: अपीलार्थी/ **Appellant**

बनाम/ Vs.

Income Tax Officer -17(3)(4),
Room No.615, 6th Floor,
Piramal Chambers, Lalbaug,
Mumbai 400 012

: प्रत्यर्थी/ Respondent

Assessee by : Shri Gaurav Kabra
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)-32, Mumbai (in short 'the CIT(A)') for the assessment years 2008-09 and 2007-08, respectively. Both the impugned orders are of even date i.e. 28/08/2018.

2. The authorized representative of the assessee has filed a letter dated Nil intimating that the assessee has opted for 'Viwad Se Vishwas Scheme, 2020' (in short 'VSVS'). The relevant extract of the letter is reproduced herein below:

"Respected Sirs,

Ref: In the matter of Shri Saurabh Agarwal
Appeal No.7008&7009/Mum/2018
Asst.Year 2007-08 & 2008-09
Hearing held on 05/01/2021

Sub: Submission of letter for withdrawal of Appeal.

With reference to the captioned appeal, we have to submit that during the course of hearing held on 05.01.2021, the Hon'ble bench has given a direction to submit the withdrawal letter since the appellant had filed the application under Viwad se Vishwas Scheme for the said assessment year. The said application form is being attached for your Honour ready reference and records.

Hence, in view of the said application being filed under the Viwad se Vishwas Scheme, the Appellant prays that the said appeal filed and being pending for disposal may kindly be treated as withdrawn by the Appellant, subject to the final acceptance of the said application by Department filed under the Viwad se Vishwas Scheme.

Hence, we request Your Honour to kindly treat this letter as suitable petition for withdrawal of the appeal for said assessment year.

Inconvenience caused to Your Honour in this matter is highly regretted.

*Thanking You,
Yours faithfully,*

*For Shah & Taparia
Chartered Accountants
Sd/-"*

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 wishes to withdraw both the 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. Both the appeals 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