

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. 4454/मुं/2019 (नि.व.2010-11)  
ITA NO. 4454/MUM/2019 (A.Y.2010-11)

Rajesh Natwarlal Shah,  
Flat No.4, Plot No.53,  
Devang Society, 90 ft.Road,  
Ghatkopar(East), Mumbai 400 077  
PAN:AACPS9519A

: अपीलार्थी/ **Appellant**

**बनाम/** Vs.

Income Tax Officer – 27(3)(1)  
Vashi Rly. Station Complex,  
Tower No.6, Vashi,  
Navi Mumbai 400 703

: प्रत्यर्थी/ Respondent

**Assessee by** : Shri R.S.Shah  
**Revenue by** : Shri Sanjay Sethi  
सुनवाई की तारीख/  
**Date of Hearing** : 07/01/2021  
घोषणा की तारीख /  
**Date of Pronouncement** : 07/01/2021

आदेश/ ORDER

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-25, Mumbai ( in short 'the CIT(A)') dated 20/05/2019 for the assessment year 2010-11.

2. The Id. Authorized Representative for the assessee has filed a letter dated 02/01/2021 stating that the assessee has filed a declaration under 'Vivad Se

Vishwas Scheme, 2020'( in short 'VSVS') and is awaiting the acceptance of the same. The relevant extracts of the letter is reproduced herein below:

*“ SMC II  
Hearing on 7th January, 2021  
ITANo.:4454/M/19 Rajesh N. Shah  
Assessment Year 2010-11 PAN No.: AACPS9519A*

*We, under the instruction from our above client, would like to state as under:*

*The above appellant has filed a Petition under VIVAD SE VISHWAS SCHEME. The said Petition is not yet determined.*

*In view of the same, the appeal may be dismissed with the direction that in case petition is not accepted, the appellant can approach the Income Tax Appellate Tribunal to receive the matter.*

*Thanking You.*

*Yours faithfully,*

*For R.R.Shah & Associates*

*Sd/-*

*Partner”*

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

4. In view of the fact that the assessee has opted for VSVS, the appeal of the assessee is dismissed as withdrawn at this stage.

5. Liberty is granted to the assessee to revive the appeal 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 appeal of assessee is dismissed as withdrawn with the liberty aforesaid  
Order pronounced in the open Court on Tuesday, the 05<sup>th</sup> day of January,  
2021.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/ Mumbai, दिनांक/Dated: 07/01/2021

Vm, Sr. PS(O/S)

**प्रतिलिपि अग्रेषित**Copy 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**