

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

**BEFORE SHRI PAVAN KUMAR GADALE (JUDICIAL MEMBER) AND  
SHRI N.K. PRADHAN (ACCOUNTANT MEMBER)**

**ITA No. 4765/MUM/2019  
Assessment Year: 2015-16**

Shri Abhishek Bansal,  
A/407 Sheth Heights, Mahul  
Road, Chembur,  
Mumbai-400071.

**Vs.** Asst. Commissioner of Income  
Tax, Circle 27(1),  
Vashi Railway Station Building  
Tower No. 6, 4<sup>th</sup> floor, Vashi  
Navi Mumbai-400703.

**PAN No. BCAPB 0726 M  
Appellant**

**Respondent**

Assessee by : None  
Revenue by : Mr. Brajendra Kumar, DR

Date of Hearing : 14/01/2021  
Date of pronouncement : 14/01/2021

**ORDER**

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

This is an appeal filed by the assessee. The relevant assessment year is 2015-16. The appeal is directed against the order of the Commissioner of Income Tax (Appeals)-25, Mumbai [in short 'CIT(A)'] and arises out of the penalty levied u/s 271B the Income Tax Act 1961, (the 'Act').

2. The Ld. counsel for the appellant has filed a letter dated 22.12.2020 stating that the assessee has opted for Vivad Se Vishwas Scheme and accordingly has received Form 5 (Order for full and final settlement) from the Commissioner of Income Tax.

We brought to the attention of the Ld. Departmental Representative (DR) the above submissions of the appellant.

3. 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 dated 22.12.2020 of the Ld. counsel for the appellant 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Nannusamy Mohan (HUF) v. ACIT* (TCA No. 372 of 2020, order dated 16.10.2020), we are inclined to dismiss this appeal as withdrawn.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 14/01/2021.**

Sd/-  
(PAVAN KUMAR GADALE)  
JUDICIAL MEMBER

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

Mumbai;

Dated: 14/01/2021

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./Assistant Registrar)  
**ITAT, Mumbai**