

**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. 6762/MUM/2016
Assessment Year: 2005-06**

ITO-24(1)(2),
Room No. 605, 6th floor,
Piramal Chambers, Parel,
Mumbai – 400 012.

Appellant

Vs. Smt. Anushree Khetan,
35, 5th floor, Shanti Deep, Opp.
Hotel Subhash, JB Nagar,
Andheri (E), Mumbai-400 059.
PAN No. AOC PK 8810 J
Respondent

Revenue by : Mr. Brajendra Kumar, DR
Assessee by : Ms. Vinita Shah, AR

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 Revenue. The relevant assessment year is 2005-06. The appeal is directed against the order of the Commissioner of Income Tax (Appeals)-51, Mumbai [in short 'CIT(A)'] and arises out of the assessment completed u/s 143(3) r.w.s. 263 the Income Tax Act 1961, (the 'Act').

2. The Ld. counsel for the Respondent submits that the assessee has filed application under the Vivad Se Vishwas Scheme for above assessment year and Form 3 is awaited.

We brought to the attention of the Ld. Departmental Representative (DR) the above submission of the assessee.

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Mohan (HUF) v. ACIT* (TCA No. 372 of 2020, order dated 16.10.2020), we are inclined to dismiss this appeal as withdrawn.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