

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

**BEFORE SHRI C.N. PRASAD (JUDICIAL MEMBER) AND
SHRI N.K. PRADHAN (ACCOUNTANT MEMBER)**

**ITA No. 5449/MUM/2018
Assessment Year: 2012-13
&
ITA No. 5448/MUM/2018
Assessment Year: 2013-14**

Shri Preyas Chandrakant Sheth,
A/31, Shree Vishnu Bhagwan
Co-op. HSG Sty., 137th S.V. Road,
Andheri (W),
Mumbai-400058.

PAN No. AAIPS 1580 M
Appellant

ACIT Tax-24(3),
Mumbai.

Vs.

Respondent

Assessee by : Ms. Vinita Shah, AR
Revenue by : Ms. Smita Verma, DR

Date of Hearing : 11/01/2021
Date of Pronouncement : 18/01/2021

ORDER

PER N.K. PRADHAN, A.M.

The captioned appeals filed by the assessee are directed against the order of the order of the Commissioner of Income Tax (Appeals)-36, Mumbai [in short 'CIT(A)'] and arise out of the assessment completed u/s 143(3) r.w.s. 147 of the Income Tax Act 1961, (the 'Act').

2. The Ld. counsel for the appellant submits that the assessee has filed application under the “Vivad Se Vishwas Scheme” for the aforesaid assessment years and the said application has been approved by the Pr. Commissioner of Income Tax. In this regard, the Ld. counsel files a copy of Form 3 received from the Department and submits that the appeals be dismissed as withdrawn.

The Ld. Departmental Representative (DR) has no objection to the above.

3. We have heard the Ld. DR and perused the relevant materials on record. 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 application of the assessee for withdrawal of appeal 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Mohan (HUF) v. ACIT* (TCA No. 372 of 2020, order dated 16.10.2020), we are inclined to dismiss these appeals as withdrawn. However, liberty is granted to the assessee to seek the restoration of these appeals 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 these appeals 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 appeals are dismissed as withdrawn, subject to the observation above.

Order pronounced in the open Court on 18.01.2021.

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

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

Mumbai;

Dated: 18.01.2021

Alindra, 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