

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, MUMBAI

BEFORE SHRI MAHAVIR SINGH, VP AND SHRI MANOJ KUMAR AGGARWAL, AM

ITA No. 3218/Mum/2019
(Assessment Year 2012-13)

Nirmal BOT Limited C-316/317, Kanakia Zillion, LBS Marg, Kurla West, Mumbai-400 070 (Appellant)	Vs.	ACIT-15(2)(1), Room No. 357, 3 rd Floor, Aayakar Bhavan, M.K. Road, Mumbai-400020. (Respondent)
PAN No. AACCN3935A		

Appellant by	:	Ms. Hetal Vora, AR
Respondent by	:	Shri Tharian Oommen, CIT-DR

Date of hearing:	13.01.2021
Date of pronouncement:	13.01.2021

ORDER

PER MAHAVIR SINGH, VP:

This appeal by assessee is arising out of the order of Commissioner of Income Tax (Appeals)-24, Mumbai [in short CIT(A)] in Appeal No. CIT (A)-24/ACIT-15(2)(1)/IT-431(1)/2017-18 vide order dated 01.02.2019. The assessment was framed by Assistant Commissioner of Income Tax, Mumbai (in short ACIT/ITO/AO) under section 143(3) read with section 147 of the Income-Tax Act, 1961 (hereinafter 'the Act') for the Assessment Year 2012-13 vide his order dated 27.12.2017.

2. At the outset, the Id. counsel for the assessee, Ms. Hetal Vora filed an adjournment petition stating that the assessee has filed Form No. 1 & 2 before the designated authority under Vivad se Vishwas Scheme and qua this assessee

has made a mention in adjournment petition dated 12.01.2021. The same reads as under:

Under instructions from our clients, we wish to submit that the company has filed Form 1 and Form 2 under the 'Vivad se Vishwas' scheme on December 22,, 2020 which is under process for disposal.

3. When these facts were confronted to Id. CIT-DR, he stated that the Tribunal can take decision.

4. In view of the above, after hearing both the sides and going through the facts, we dismiss this appeal as withdrawn, subject to assessee's right for revival of the appeal in case due to some unforeseen reasons, the matter is not settled under the Vivad se Vishwas scheme. The assessee is at liberty to approach the Tribunal for restoration of his appeal in that event. This issue is settled by Hon'ble Madras High Court in the case of M/s Nannusamy Mohan (HUF) vs. ACIT (TCA No. 372 of 2920, order dated 16.10.2020) wherein on identical circumstances, the assessee's appeal was dismissed as withdrawn. Respectfully following the Hon'ble Madras High Court in the case of M/s Nannusamy Mohan (HUF) vs. ACIT (supra), we dismissed the appeal of the assessee as withdrawn.

5. **In the result, the appeal of the assessee is dismissed as withdrawn.**

Order pronounced in the open court on 13.01.2021

Sd/-

MANOJ KUMAR AGGARWAL
(ACCOUNTANT MEMBER)

Mumbai, Dated: 13.01.2021

SK.PS

Sd/-

(MAHAVIR SINGH)
(VICE PRESIDENT)

Copy of the Order forwarded to :



1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. आयकरआयुक्त (अपील)/ The CIT(A)
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधिआयकर ,अपीलीयअधिकरणमुंबई ,/
DR, ITAT, Mumbai
6. गार्डफाईल /Guard file.

BY ORDER,

(Asstt.Registrar)
ITAT, Mumbai