



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

BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER AND
SHRI RAVISH SOOD, JUDICIAL MEMBER

ITA no.6947/Mum./2016
(Assessment Year : 2012-13)

Al Ghurair Construction Foundations
India Pvt. Ltd., Gala no.2, Rajdeo
Compound, Near Gokuldharm Market
A.K. Vaidya Marg, Malad (E)
Mumbai 400 097 PAN – AAJCA9550H

..... Appellant

v/s

Dy. Commissioner of Income Tax
Circle-12(1)(1), Mumbai

..... Respondent

Assessee by : Shri Akash Kumar
Revenue by : Shri Anand Mohan a/w
Shri Sunil Deshpande and
Shri Sushil Kumar Mishra

Date of Hearing – 08.02.2021

Date of Order – 19.02.2021

ORDER

PER S. RIFAUR RAHMAN, A.M.

The aforesaid appeal has been filed by the assessee challenging the assessment order dated 26th March 2016, passed under section 143(3) r/w section 144C(13) of the Income Tax Act, 1961 (for short "*the Act*") for the assessment year 2012-13 in pursuance to the directions of the Dispute Resolution Panel (DRP), Mumbai.

2. During the course of hearing, we find that the assessee has filed a letter dated 16th February 2021, before the Registry of the Tribunal seeking withdrawal of the appeal in view of the fact that the assessee has applied for settling the tax dispute under the Vivad Se Vishwas Tax Scheme, 2020. The letter submitted by the assessee is accompanied by the acknowledgement in Form-I and II of the declaration filed under the aforesaid scheme. The aforesaid letter and the declarations are kept on record.

3. The learned Departmental Representative has no objection for withdrawal of the appeal by the assessee.

4. Heard the learned Counsels for both the parties and perused material on record. Considering the fact that the assessee has sought withdrawal of the present appeal, as it has applied for settling the dispute under Vivad Se Vishwas Scheme, 2020, we permit the assessee to withdraw the appeal at this stage. However, liberty is granted to the assessee to seek restoration of this appeal in the event the application filed under Vivad Se Vishwas Tax Scheme is not accepted by the Department. It is further made clear that in such eventuality if the assessee seeks restoration of the present appeal by filing misc. application, the delay, if any, should be condoned without insisting upon filing any application for condonation of delay. This is in

view of the decision of the Hon'ble Madras High Court in order dated 16th October 2020, delivered in M/s. Nannusamy Mohan (HUF) v/s ACIT, TCA no.372 of 2020. With the aforesaid observations, the appeal is dismissed as withdrawn.

5. In the result, appeal is dismissed.

Order pronounced in the open court on 19.02.2021

**Sd/-
RAVISH SOOD
JUDICIAL MEMBER**

**Sd/-
S. RIFAUR RAHMAN
JUDICIAL MEMBER**

MUMBAI, DATED: 19.02.2021

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The CIT(A);*
- (4) *The CIT, Mumbai City concerned;*
- (5) *The DR, ITAT, Mumbai;*
- (6) *Guard file.*

*Pradeep J. Chowdhury
Sr. Private Secretary*

True Copy
By Order

Assistant Registrar
ITAT, Mumbai