

IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, MUMBAI

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT &
BEFORE SHRI S. RIFAUR RAHMAN, AM**

आयकर अपील सं/ I.T.A. No. 2456 & 2457/Mum/2019
(निर्धारण वर्ष / Assessment Year: 2012-13 & 2013-14)

Shri Avtarsingh H. Sethi, 368/105, Daddy Garden, Sher-E-Punjab CHS, Mahakali Caves Road, Andheri East, Mumbai-400 093.	बनाम/ Vs.	ACIT Cir – 24(1), R. No. 604, 6 th floor, Piramal Chambers, Mumbai-400 020
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AAGPS2706M		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
Assessee by:	Shri Hitesh Shah, AR	
Revenue by:	Shri Brajendra Kumar, DR	

सुनवाई की तारीख / Date of Hearing: 25/01/2021
घोषणा की तारीख /Date of Pronouncement: 10/02/2021

आदेश / O R D E R

PER S. RIFAUR RAHMAN, ACCOUNTANT MEMBER:

The present 2 appeals have been filed by the assessee against the order dated 18.02.2019 passed by Ld. Commissioner of Income Tax (Appeals)-36, Mumbai [hereinafter referred to as the “Ld. CIT (A)”] relevant to A.Y. 2012-13 & 2013-14 respectively.

2. At the outset, when the appeals were called out for hearing, the Ld. Counsel of the assessee submitted that he has filed the necessary declaration under Direct Tax Vivad se Vishwas Act, 2020 (Act 3 of 2020). Vide letter dated 25.01.2021, he confirmed the receipt of Form- 1 & 2 and prayer to withdraw the appeal. He prayed that its right for revival of the appeals are protected, in the event of, for some unfortunate reason, the matter being not settled under the *Vivad se Vishwas scheme*.



ITA No. 2456 & 2457/Mum/2019
Shri Avtarsingh H. Sethi

3. The Ld. DR did not object to course so suggested.
4. Considered the rival submissions and material placed on record. We notice that assessee filed the letter for withdrawal. Accordingly, liberty is granted to the assessee to revive the appeals in the event application filed by the assessee under VSVS fails to mature. It is further made clear that if the assessee /appellant seeks to restore the appeal in the event assessee's declaration made under VSVS is not accepted, the Registry shall not insist for filing of application for condonation of delay, if the Miscellaneous Application for recalling the order is filed beyond time on account of delay in communication of outcome under VSVS. [Re. M/s. Nannusamy Mohan(HUF) vs. ACIT in T.C.A No.372 of 2020 decided on 16/10/2020 by Hon'ble Madras High Court].
5. In view of the above, we dismiss the appeals as withdrawn, subject to the rider that in the unlikely event of matter not being resolved under the *Vivad se Vishwas scheme*, the assessee shall have liberty to approach the Tribunal for restoration of its appeals.
6. In the result, both the appeal are dismissed as withdrawn – subject to the observation above.

Order pronounced in the open court on 10/02/2021

Sd/-
(MAHAVIR SINGH)
VICE PRESIDENT

Sd/-
(S. RIFAUH RAHMAN)
ACCOUNTANT MEMBER

Mumbai; Dated : 10/02/2021
Dhananjay (Sr.PS)



ITA No. 2456 & 2457/Mum/2019
Shri Avtarsingh H. Sethi

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

**उप/सहायक पंजीकार / (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai**