

आयकर अपीलीय अधिकरण "C" न्यायपीठ मुंबई में।**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH, MUMBAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एस रिफ़ौर रहमान, लेखा सदस्य के समक्ष ।

BEFORE SRI MAHAVIR SINGH, VP AND SRI S RIFAUR RAHMAN, AM

आयकर अपील सं./ ITA No. 5519/Mum/2019

(निर्धारण वर्ष / Assessment Year 2008-09)

आयकर अपील सं./ ITA No. 5520/Mum/2019

(निर्धारण वर्ष / Assessment Year 2012-13)

आयकर अपील सं./ ITA No. 5521/Mum/2019

(निर्धारण वर्ष / Assessment Year 2013-14)

Peninsula Mega Township developers Pvt. Ltd. Peninsula Spenta, Mathuradas Mills Compound, Senapati Bapat Marg, Lower Parel, Mumbai-400 013	बनाम/ Vs.	The Dy. CIT, Central Circle 1(3), Old CGO Building, Annexe 9 th Floor, Room no. 905, M.K. road, Mumbai-400 020
(अपीलार्थी / Appellant)		(प्रत्यर्थी/ Respondent)
स्थायी लेखा सं./PAN No.AAEC2990B		

आयकर अपील सं./ ITA No. 5524/Mum/2019

(निर्धारण वर्ष / Assessment Year 2010-11)

City Park Private Limited (Now merged with Peninsula Land Ltd.) Peninsula Centre Plot No.4, Galaxy Co-op. Housing Society Off. Dhole Patil Road Pune-411 001	बनाम/ Vs.	The Dy. Commissioner of Income Tax, Circle 1(3), Mumbai-400 020
(अपीलार्थी / Appellant)		(प्रत्यर्थी/ Respondent)
स्थायी लेखा सं./PAN No.AACCC7598N		

आयकर अपील सं./ ITA No. 5525/Mum/2019
(निर्धारण वर्ष / Assessment Year 2008-09)

आयकर अपील सं./ ITA No. 5526/Mum/2019
(निर्धारण वर्ष / Assessment Year 2009-10)

आयकर अपील सं./ ITA No. 5527/Mum/2019
(निर्धारण वर्ष / Assessment Year 2010-11)

आयकर अपील सं./ ITA No. 5528/Mum/2019
(निर्धारण वर्ष / Assessment Year 2011-12)

आयकर अपील सं./ ITA No. 5529/Mum/2019
(निर्धारण वर्ष / Assessment Year 2012-13)

आयकर अपील सं./ ITA No. 5530/Mum/2019
(निर्धारण वर्ष / Assessment Year 2013-14)

आयकर अपील सं./ ITA No. 5531/Mum/2019
(निर्धारण वर्ष / Assessment Year 2014-15)

Peninsula Land Ltd. Peninsula Spenta, Mathuradas Mills Compound, Senapati Bapat Marg, Lower Parel, Mumbai-400 013	बनाम/ Vs.	The Dy. Commissioner of Income Tax, Circle 1(3), Mumbai-400 020
(अपीलार्थी / Appellant)		(प्रत्यर्थी/ Respondent)
स्थायी लेखा सं./PAN No. AA ACT5173A		

अपीलार्थी की ओर से/ Appellant by	:	Shri Kushal Shah, AR
प्रत्यर्थी की ओर से Respondent by	:	Shri V Shrikant, DR Ms Shreekala Pardeshai, DR

सुनवाई की तारीख / Date of hearing:	16.03.2021
घोषणा की तारीख / Date of pronouncement:	16.03.2021

आदेश / ORDER

महावीर सिंह, उपाध्यक्ष के द्वारा /

PER MAHAVIR SINGH, VP:

These appeals of different assessee's are arising out of the orders of the Commissioner of Income Tax (Appeals)-47, Mumbai, [in short CIT(A)], in Appeal Nos. CIT(A)-47/12886, 12904, 12909, 12919, 12920.16-17, CIT(A)/16451691/16-17, CIT(A)-47/12845 & 12859/16-17, CIT(A)-47/12842,12955,12849, 12851, 12854 & 12860/16-17 dated 25.06.2019. The assessments were framed by the Dy. Commissioner of Income Tax Officer, CC-1(3), Mumbai (in short DCIT/ITO/ AO), for the A.Ys. 2008-09 to 2014-15 vide order dated 30.12.2016 & 30.03.2016 under section 153A, 143(3) read with section 147 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

2. At the outset, the learned Counsel for the assessee Shri Kushal Shah stated that the assessee has opted for 'Direct Tax Vivad Se Viswas Scheme-2020' in all these appeals. The assessee has filed copies of Form No. 1 and 2 and also form No. 3 issued by the Department. Hence, he has requested for permission for withdrawal of the appeal subject to liberty to be granted to him. The DRs have not objected for the same.

3. After hearing both the sides and perusing the records, it is noticed that the assessee is opting for 'Direct Tax Vivad Se Viswas Scheme-2020' in all these appeals. In view of the decision of Hon'ble High Court of Madras in the case of Nannusamy Mohan (HUF) vs. ACIT in I.C.A. No.372 of 2020 dated 16.10.2020, wherein Hon'ble High Court after

considering the intent of the assessee to avail the benefit of 'Vivad Se Viswas Scheme-2020' has dismissed the appeal by observing in Para 7 to 9 as under: -

"7. As observed, the assessee is given liberty to restore this appeal in the event the ultimate decision to be taken on the declaration to be filed by the assessee under Section 4 of the said Act is not in favour of the assessee. If such a prayer is made, the Registry shall entertain the prayer without insisting upon any application to be filed for condonation of delay in restoration of the appeal and on such request made by the assessee by filing a Miscellaneous Petition for Restoration, the Registry shall place such petition before the Division Bench for orders.

8. In the light of the above, we direct the appellant/ assessee to file the Form No.I on or before 20.11.2020 and the competent authority shall process the application/ declaration in accordance with the Act and pass appropriate orders as expeditiously as possible preferably within a period of 6 (6) weeks from the date on which the declaration is filed in the proper form.

9. With this declaration, the Tax Case appeal stands disposed of with the aforementioned liberty and Consequently the Substantial Question of Law are left upon. No costs."

4. In the light of the view taken by Hon'ble Madrass High Court cited (supra), we also give liberty to the assessee to get the appeal restored in the event that the assessee does not succeed on the declaration filed by the assessee in the form No.1 and form No. 2 of the 'Direct Tax Vivad Se Viswas Scheme-2020'. In other words if the assessee's declaration is not accepted by the Revenue, the assessee can make a prayer before

the Bench for recalling of the order by filing a miscellaneous application for restoration of appeal. The Registry will place such petition before the Bench concerned.

5. In the result, all the appeals of the assessee's are dismissed as withdrawn.

Order pronounced in the open court on 16.03.2021.

Sd/-

(एस रिफ़ौर रहमान / S RIFAUR RAHMAN)

(लेखा सदस्य / ACCOUNTANT MEMBER)

Sd/-

(महावीर सिंह / MAHAVIR SINGH)

(उपाध्यक्ष / VICE PRESIDENT)

मुंबई, दिनांक/ Mumbai, Dated: 16.03.2021

सुदीप सरकार, व. निजी सचिव/ *Sudip Sarkar, Sr.PS*

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 (Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई / **ITAT, Mumbai**