

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

ITA No. 169/AHD/2016 (AY 2010-11)

(Hearing in Virtual Court)

Tawania Industries Limited, 1,2, Ambica Industrial area. Society No.1,Bamroli Surat 395210 PAN : AADCT 0036A	Vs	Income Tax Officer, Ward-4(4), Room No.219, 2 nd Floor, Aaykar Bhavan, Majura Gate, Surat- 395001.
APPELLANT		RESPONDEDNT

Assessee by	None
Revenue by	Ms Usha Shrote Sr DR
Date of hearing	19.04.2021
Date of pronouncement	19.04.2021

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by assessee is directed against the order of ld. Commissioner of Income Tax (Appeals)-2, Surat, dated 05.11.2015 in for assessment year (AY) 2010-11.
2. The appeal came up hearing on 19th April 2021. The assessee has already filed an application dated 17.04.2021 stating therein that the assessee has settled the dispute with the Department by availing the benefit under Vivad se Visvas Scheme -2020 (VSV-20). The applicant assessee further submits that they have received Form-3 from the office of PCIT, Surat-1 dated 09.02.2021. The

applicant further stated that appeal may be kept pending till the receipt of certificate in Form-5 of VSVS-2020.

3. The Ld.Senior Departmental (ld. DR) appearing for the Revenue submits that the appeal may be disposed of as the assessee has already settled disputes with the Department. The ld.Sr.DR further submits that she has no objection if the appeal of assessee is dismissed as withdrawn.
4. We have considered the contents of application dated 17.04.2021 and the submission of ld.Sr.DR for the Revenue. We have noted that the assessee has received Form-3 vide Certificate No.247324730090221 dated 09.02.2021. Therefore, considering the submissions of the learned Sr.DR for the Revenue that the assessee has settled the dispute with the Department under VSV-20, the appeal of the are dismissed as withdrawn with liberty to the assessee that in case, if the application preferred by the assessee under VSV-20 does not get finally settled for any reason whatsoever, then the assessee is at liberty to prefer Miscellaneous Application before this Tribunal for restoration of this appeal and in such event, the appeals shall get restored.
5. The Hon'ble Madras High Court in the case of M/s Nannusamy Mohan (HUF) vs. ACIT (TCA No. 372 of 2020 dated 16.10.2020, also held that 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, the assessee is given liberty

to restore its appeal in the event 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 (Para-7).

6. Considering the request of the learned Counsel for the assessee and the decision of Hon'ble Madras High Court (supra), the appeal of the assessee is dismissed as withdrawn. The Assessing Officer is directed to pass consequential order as per CBDT Circular No. 3/2021 dated 04.03.2021.

Order announced at the time of hearing of appeal on 19th April 2021 in the Virtual Court hearing.

Sd/-
(Dr ARJUN LAL SAINI)
ACCOUNTANT MEMBER

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat, Dated: 19/04/2021

Copy to:

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

By order

/ / True Copy/ /

Assistant Registrar, ITAT, Surat