

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND  
DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER  
ITA No. 1240/AHD/2016 (AY 2005-06)  
(Hearing in Virtual Court)

M/s Enn Enn Enterprises, Adinath Bhagwan Derasar Trust, Shop No. 22,23, Near Jain Temple, Silvasa-396230 PAN : AABFE 8020 D	Vs	Income Tax Officer, Ward-1, Vapi
APPELLANT		RESPONDEDNT

Assessee by	Sh. Manish J Shah Advocate
Revenue by	Ms Usha Shrote Sr DR
Date of hearing	06.04.2021
Date of pronouncement	06.04.2021

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by assessee is directed against the orders of Id. Commissioner of income tax (Appeals), Valsad, dated 23.03.2016 in for assessment year (AY) 2005-06.
2. The appeal came up hearing on 6<sup>th</sup> April 2021. The learned Counsel for the assessee submits that the assessee has settled the dispute with the department by availing the benefit under Vivad se Visvas Scheme - 2020 (VSV-20). The learned Counsel for the assessee submits that the assessee has already received Form -1 & 2 of VSV-20, copy of which is placed on record. Form-3 is still awaited. The Id. Counsel for the assessee submits that the assessee may be allow to withdraw the appeal

- with the liberty to get the appeal revive/ restored, in case some further dispute is left with regards to the grounds of appeal in any of the appeal. The assessing officer may be directed to pass consequential order as per CBDT Circular No. 3/2021 dated 04.03.2021.
3. On the other hand the Id. Senior Departmental (Id. DR) appearing for the revenue has no objection if the appeal of assessee is dismissed as withdrawn with the liberty to get the appeal revived as prayed for.
  4. We have considered the submissions of the parties and have verified the facts from Form-1 & of VSV-20 is received by the assessee. Therefore, considering the submissions of the learned Counsel for the assessee that the assessee has settled the dispute with the department under VSV-20, the appeal of the are dismissed as withdrawn with liberty to the assessee that in case, if the application preferred by the assessee under VSV-20 does not get finally settled for any reason whatsoever,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 6<sup>th</sup> April 2021 in the Virtual Court hearing.

Sd/-  
**(Dr ARJUN LAL SAINI)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(PAWAN SINGH)**  
**JUDICIAL MEMBER**

Surat, Dated: 06/04/2021

Copy to:

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

**// True Copy //**

By order

Assistant Registrar, ITAT, Surat