

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
ITA No. 375/SRT/2017 (AY 2011-12)
(Hearing in Virtual Court)

Kirtikumar Shah, 851-852,Gajanan Street, Pramukh Park, Near Pandesara Chokdi, Surat, PAN : ANJP 9031 P	Vs	ITO ward-3(3) Surat
Applicant		Respondent
Assessee by	Miss Chaitali Shah CA	
Revenue by	Miss Anupma Singla – Sr. DR	
Date of hearing	10.05.2021	
Date of pronouncement	10.05.2021	

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)-2, Surat, dated 25.02.2016, which in turn arise from the assessment order under section 143(3) 21.03.2014 for assessment year (AY) 2011-12. The appeal came up hearing on 10th May 2021. The learned Authorised representative (AR) for the assessee submits that the assessee has availed the benefits of Vivad se Visvas Scheme -2020 (VSV-20) and has settled the dispute with department and has received Form-3 of VSV-20 and this appeal may be dismissed as withdrawn. The Id AR for the assessee also

filed the copy of Form-3 of VSV-20 bearing acknowledgement No. 243797880060221.

2. On the other hand the learned Senior Departmental Representative (Sr DR) submits that she has no objection if the appeal of the assessee is dismissed as withdrawn.
3. We have considered the submissions of Id. Representative of the parties. And considering the fact assessee that the assessee has settled the dispute with the department under VSV-20, and has received Form-3 of VSV -20, the appeal of the assessee is dismissed as withdrawn with liberty to the assessee as well as to the revenue that in case, if the application preferred by the assessee under VSV-20 does not get finally settled for any reason whatsoever, then both the parties are at liberty to prefer Miscellaneous Application before this Tribunal for restoration of this appeal and in such event, the appeals shall get restored.
4. 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).

5. 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 10th May 2021 in the Virtual Court hearing.

Sd/-

(Dr ARJUN LAL SAINI)
ACCOUNTANT MEMBER

Sd/-

(PAWAN SINGH)
JUDICIAL MEMBER

Surat, Dated: 10/05/2021

(Self)

Copy to:

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

By order

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Assistant Registrar, ITAT, Surat