

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
ITA No. 181/SRT/2018 (AY 2013-14)
(Hearing in Virtual Court)

Mohit Dhanjibhai Patel, C-22, Radheshyam Society, Singanpore Char Rasta, Ved Road, Surat-395003 PAN : ATHPP 2794 A	Vs	ITO- Ward-3(2)(5), Aayakar Bhawan, Majura gate Surat.
Applicant		Respondent

Assessee by	Sh. T.R Mody CA
Revenue by	Miss Anupma Singla – Sr. DR
Date of hearing	07.06.2021
Date of pronouncement	07.06.2021

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)-3, Surat, dated 08.02.2018, which in turn arise from the penalty levied under section 271(1)(c) dated 30.08.2016 for assessment year (AY) 2013-14. The appeal came up hearing on 07th June 2021. Perusal of record shows that the learned Counsel for the assessee has filed an application on 02 June 2021 inter alia stating therein that the assessee has availed the benefits of Vivad se Visvas Scheme -2020 (VSV-20) and has received Form-3 of VSV-20. The assessee also filed copy of Form-3 bearing acknowledgement No. 817634900141220 dated 14.12.2020 from designated authority and prayed for withdrawal of appeal. The learned counsel in his

application further mentioned that on the date of filing of the appeal on 15/03/2018, the assessee was provided appeal ITA No. 179/SRT/2018 and furnished the copy of receipt of appeal by the registry official on 15/03/2018 and Appeal number as ITA No.179/SRT/2018. However, in the cause list of this Bench circulated in advance the ITA No. is mentioned as ITA No. 181/SRT/2018, which may kindly be clarified while passing the order for withdrawal of this appeal. The learned counsel for the assessee prayed for withdrawal of the appeal.

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Departmental Representative (Sr DR) submits that she has no objection if the appeal of the assessee is dismissed as withdrawn.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 contents of the application filed by the assessee and the submissions of Sr DR for the revenue. We find that the assessee while filing the application before designated authority, for availing the benefit of VSV-20, mentioned the appeal no. as ITA No. 179/SRT/2018, which is not the correct number of assessee's appeal. The correct number of assessee's appeal is ITA No. 181/SRT/2018, therefore, the concerned authorities are directed to rectify the mistake. Further considering the facts that the assessee has settled the dispute with the department for assessment by vailing the benefit of scheme 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 or any further direction and in such event, the appeals shall get restored.

4. The assessing officer is directed to pass consequential order as per CBDT Circular No. 3/2021 dated 04.03.2021. In the result the appeal of the assessee is dismissed as withdrawn.

Order announced at the time of hearing of appeal on 07th June 2021 in the Virtual Court hearing.

Sd/-

(Dr ARJUN LAL SAINI)
ACCOUNTANT MEMBER

Surat, Dated: 07/06/2021
(Self)

Copy to:

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

Sd/-

(PAWAN SINGH)
JUDICIAL MEMBER

By order

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Assistant Registrar, ITAT, Surat