

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'B' BENCH
MUMBAI**

**BEFORE: SHRI VIKAS AWASTHY, JUDICIAL MEMBER
&**

SHRI M.BALAGANESH, ACCOUNTANT MEMBER

**ITA No.7662/Mum/2016
(Assessment Year : 2013-14)**

Shri Mahesh Rochiram Duhlani C/o. Shri Suresh N Otvani 305, 3 rd Floor, Adamji Building 413, Katha Bazar, Mumbai – 400 009	Vs.	Dy.Comm. of Income Tax 4(2)(2), Mumbai 642, Aaykar Bhavan M.K.Road Mumbai -400 020
PAN/GIR No. AACPD0862B		
(Appellant)	..	(Respondent)

Assessee by	None
Revenue by	Shri Tharian Oommen
Date of Hearing	11/08/2021
Date of Pronouncement	11/08/2021

आदेश / O R D E R

PER M. BALAGANESH (A.M):

This appeal in ITA No.7662/Mum/2016 for A.Y.2013-14 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-9, Mumbai in appeal No.CIT(A)-9/Cir.4/578/2015-16 dated 06/09/2016 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 29/02/2016 by the Id. Dy. Commissioner of Income Tax-4(2)(2), Mumbai (hereinafter referred to as Id. AO).

2. We find that the Id. Authorised representative of the assessee Shri Suresh N Otvani, Advocate had filed a letter dated 24/02/2020 stating that the assessee wishes to avail 'Vivad se Vishwas Scheme' for settling dispute arising out of this appeal. Accordingly, the Advocate had also sought to withdraw the appeal filed by the assessee.

3. None appeared on behalf of the assessee at the time of hearing. In view of the letter of the authorised representative dated 24/02/2020 seeking to withdraw the appeal on the ground of availing 'Vivad se Vishwas Scheme' and in view of the decision of the Hon'ble Madras High Court in case of Nannusamy Mohan (HUF) vs. ACIT in T.C.A. No.372 of 2020 dated 16.10.2020, there is no need to keep this appeal pending in this Tribunal wherein Hon'ble High Court after considering the intention of the assessee to avail the benefit of 'Vivad Se Viswas Scheme-2020' (VSV Scheme), had 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.”

3.1. In view of the aforesaid letter dated 24/02/2020 of the authorised representative and in view of the aforesaid decision of the Madras High Court, the appeal of the assessee is hereby dismissed with a liberty given to the assessee that in case if the declaration to be filed by the assessee / filed by the assessee under 'Vivad se Vishwas Scheme' is not attained finality for any reason whatsoever, the assessee is at liberty to approach this Tribunal with a Miscellaneous application for restoration of the appeal. The Registry will place such petition before the Bench concerned.

4. In the result, appeal of the assessee is dismissed as withdrawn as per the above mentioned observations.

Order pronounced in open Court on 11/08/2021.

Sd/-
(VIKAS AWASTHY)
JUDICIAL MEMBER

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Mumbai; Dated 11/08/2021
KARUNA, *sr.ps*

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai