

**IN THE INCOME TAX APPELLATE TRIBUNAL "G" BENCH, MUMBAI**

BEFORE SHRI PRASHANT MAHARISHI, AM  
AND  
SHRI RAHUL CHAUDHARY, JM

**ITA No. 1228/Mum/2021**

(Assessment Year 2015-16)

Somnath Buildcon P. Ltd.  
702, 7<sup>th</sup> Floor, Building No.-A/1,  
Aston, Sundervan Complex,  
Lokhandwala Road,  
Andheri West,  
Mumbai-400 054

**(Appellant)**

The Pr. CIT  
Room No. 612, 6<sup>th</sup> Floor,  
Vs. Aayakar Bhavan, M.K. Road,  
Mumbai-400 020

**(Respondent)**

**PAN No.AAMCS2935H**

**Assessee by** : Shri Sambhav Shah, AR

**Revenue by** : Shri Ajay Kumar, DR

**Date of hearing:** 17.05.2022

**Date of pronouncement :** 23.05.2022

**ORDER**

**PER PRASHANT MAHARISHI, AM:**

01. ITA No. 1228/Mum/2021 is filed by the assessee against the order of the learned Pr. Commissioner of Income Tax, Mumbai for A.Y. 2015-16 on 15<sup>th</sup> March, 2021.
02. At the time of hearing, the assessee has filed a letter dated 14<sup>th</sup> May, 2022 stating that subsequently, the learned Assessing Officer has passed an order of assessment under Section 143(3) read with section 263 of the Act, where no additions have been made on some of the issues and on some of the issues additions were

deleted later on by the learned PCIT. Therefore, the assessee is withdrawing the above appeal.

03. The learned Departmental Representative has not objected to the same.
04. We have carefully considered the rival contentions and find that the assessee has submitted a letter dated 14<sup>th</sup> May, 2021, which is as under:-

*"Subject: Request for leave to withdraw the Appeal*

*1. The abovementioned appeal was preferred by the assessee against order passed by the Id. PCIT under s 263 of the Income Tax Act, 1961. The original assessment order under s 143(3) was set aside and the Id. Assessing Officer was directed to verify certain issues after allowing assessee an opportunity of making submissions on merits.*

*2. Subsequently, Id. Assessing Officer has passed order of assessment under s 143(3) r.w.s. 263. Assessee's case in respect of some issues/transactions was accepted after verification, and no addition made; while in respect of certain other issues/transactions, additions were made. Assessee is in appeal on merits against the said order before the CIT(A) / appellate authority in accordance with law.*

*3. In view of the aforesaid, the assessee seeks the leave of the Hon'ble Bench to withdraw the present appeal before the Hon'ble ITAT (which was on issue*

*of exercise of powers under s 263), as the assessee would instead seek to challenge the additions made by the Id. AO / order passed by the Id. AO in giving effect to the directions under s 263 on merits, in accordance with law.*

*Assessee seeks to respectfully submit that it is not seeking to withdraw/give up its case on merits, but is only seeking to withdraw the present appeal relating to exercise of powers under s 263 which is pending before the Hon'ble Tribunal. Assessee will contest the additions made on merits in accordance with law.*

*4. In these circumstances, the assessee respectfully seeks leave of the Hon'ble Bench to withdraw the present appeal accordingly. The assessee requests that the present application be placed before the Hon'ble Bench for suitable orders."*

05. As the assessee seeks to withdraw the appeal, the request of the assessee is accepted. Accordingly, the appeal of the assessee becomes infructuous and hence, dismiss.
06. In the result, the appeal of the assessee is dismissed as withdrawn.

Order pronounced in the open court on 23.05.2022.

Sd/-  
(RAHUL CHAUDHARY)  
(JUDICIAL MEMBER)

Sd/-  
(PRASHANT MAHARISHI)  
(ACCOUNTANT MEMBER)

Mumbai, Dated: 23.05.2022  
Sudip Sarkar, Sr.PS



Copy of the Order forwarded to :

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

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Mumbai