

**आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम**

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
VISA KHAPATNAM BENCH, VISA KHAPATNAM**

**श्री एन के चौधरी, न्यायिक सदस्य एवं श्री डि.एस. सुन्दर सिंह, लेखा सदस्य के समक्ष**

**BEFORE SHRI N.K.CHOUDHRY, HON'BLE JUDICIAL MEMBER &  
SHRI D.S. SUNDER SINGH, HON'BLE ACCOUNTANT MEMBER**

**आयकर अपील सं./I.T.A.No.350/Viz/2019  
(निर्धारण वर्ष/Assessment Year: 2008-09)**

D.Venkata Prabhakar Rao  
D.No.1-50-4/2/4  
Flat No.202, S.S.Paradise  
HIG-9, Sector-1  
M.V.P.Colony  
Visakhapatnam  
**[PAN : AFJPD2541M]**  
**(अपीलार्थी/ Appellant)**

Vs. Income Tax Officer  
Ward-2(1)  
Visakhapatnam

**(प्रत्यर्थी/ Respondent)**

अपीलार्थी की ओर से/ Appellant by : None  
प्रत्यर्थी की ओर से / Respondent by : Shri B.Satyanarayana Raju, DR  
सुनवाई की तारीख / Date of Hearing : 16.02.2021  
घोषणा की तारीख/Date of Pronouncement : 03.03.2021

**आदेश /ORDER**

**Per D.S.Sunder Singh, Accountant Member :**

This appeal is filed by the assessee against the order of the Commissioner of Income Tax (Appeals) [CIT(A)]-1, Visakhapatnam in Appeal No.300/12-13/ITO Ward-2(1), VSKP/2018-19 dated 29.03.2019 for the Assessment Year (A.Y.)2008-09.

2. When this appeal is taken up for hearing, it is observed that the Ld.AR has filed a letter stating that the assessee preferred an application u/sec. 4(2) of Vivad Se Vishwas Act, 2020 and the Principal Commissioner of Income Tax (Pr.CIT)-1, Visakhapatnam was pleased to issue a Certificate in Form No.3 on 28.12.2020. Form No.3 is a certificate under sub-section (1) of section 5 of the Direct Tax Vivad Se Vishwas Act, 2020, issued by the Pr.CIT, determining the total tax payable by the assessee in response to the application made by the assessee under the scheme. Thus, on issue of the certificate in Form No.3, the tax dispute stands settled unless the certificate is withdrawn or cancelled by the Pr.CIT. The assessee has filed a letter dt.15.02.2021 withdrawing the appeal. During the appeal hearing, the Ld.DR did not object for dismissal of appeal as withdrawn. However, submitted that appeal may be recalled in case the certificate issued by the Pr.CIT is withdrawn at a future date due to any unforeseen contingencies.

3. We have heard the Ld.DR and gone through the Form No.3 and also the withdrawal petition filed by the assessee under Vivad se Vishwas Scheme. During the appeal hearing, the Ld.DR did not object for disposal of the appeal as requested by the assessee, since, the Pr.CIT had issued Form No.3 determining the total tax liability as per sub section (1) of section 5 of

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**Dande Venkata Prabhakara Rao, Visakhapatnam** 

Vivad se Vishwas Act towards full and final settlement of the tax dues. Since, the dispute is settled under the Vivad se Vishwas Scheme and accepted by the department and the assessee has submitted that he may be permitted to withdraw the appeal, we dismiss the appeal as withdrawn. However, in case the certificate issued by the Pr.Commissioner is withdrawn at a future date for any reason, it is open to the assessee to file an appropriate application before the Tribunal. In that event, the order passed by the Tribunal would be recalled in accordance with law.

5. In the result, assessee's appeal is dismissed as withdrawn.

Order pronounced in the open court on 3<sup>rd</sup> March, 2021.

Sd/- (एन के चौधरी) (N.K.CHOUDHRY)	Sd/- (डि.एस.सुन्दर सिंह) (D.S.SUNDER SINGH)
न्यायिक सदस्य / JUDICIAL MEMBER	लेखा सदस्य /ACCOUNTANT MEMBER
Dated : 03.03.2021	
L.Rama, SPS	

**I.T.A. No. 350/Viz/2019, A.Y. 2008-09**  
**Dande Venkata Prabhakara Rao, Visakhapatnam**

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee- D.Venkata Prabhakar Rao, D.No.1-50-4/2/4  
Flat No.202, S.S.Paradise, HIG-9, Sector-1, M.V.P.Colony, Visakhapatnam
2. राजस्व/The Revenue - Income Tax Officer, Ward-2(1), Visakhapatnam
3. The Pr.Commissioner of Income Tax -1, Visakhapatnam
4. The Commissioner of Income Tax (Appeals)-1, Visakhapatnam
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/DR, ITAT, Visakhapatnam
- 6.गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

// True Copy //

Sr. Private Secretary  
ITAT, Visakhapatnam