

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'G': NEW DELHI)
(THROUGH VIDEO CONFERENCING)**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No:- 2940/Del/2017
(Assessment Year: 2010-11)**

M/s SSK Chemicals Pvt. Ltd., WZ- 177J, Gali No. 16, Block – G, Jail Road, Hari Nagar, New Delhi-110058.	Vs.	Income Tax Officer, Ward- 24(2), New Delhi.
APPELLANT		RESPONDENT
PAN No: AAEC8450K		

Assessee By : Shri Deepak Oswal, CA
Revenue By : Shri H.K Choudhery, CIT(DR)

Per Anadee Nath Misshra, AM

(A) This appeal by Assessee is filed against the order of learned Pr. Commissioner of Income Tax -8, New Delhi, dated 20/3/2017 for Assessment Year 2010-11. Grounds taken in this appeal of Assessee are as under:

"A. On the facts and in the circumstances of the case, the Respondent has erred, both on facts and in law, in passing the impugned order u/s 263 which is illegal, without jurisdiction, violative of natural justice, unauthorized by law, without fair and objective application of mind to the facts of the case and the law applicable and hence, liable to be set aside.

B. The Respondent has ignored the fact that any allegation of

accommodation entry raised by the DIT against the Shareholder who applied for the Shares, has nothing to do with the appellant as no such allegation is made against the appellant and as the appellant is only concerned with the source of Share application money and not the source of that source and the order of the A O being in accordance with the law declared by the Supreme Court as well as High Courts and the Tribunal in various cases, the CIT erred in treating the order passed by the A O as erroneous so as to assume jurisdiction u/s 263 based on misconstruction of jurisdictional facts, which is impermissible in law.

C. The CIT also erred in issuing the notice u/s 263 prepared by the A O to review his own order, impermissible in law, mechanically to vacate the order correctly passed by the A O, wholly unauthorized by law.

D. The CIT has alleged that the handwritten slips of paper forming part of the impugned order and the Table made therefrom forming part of the same order had not been followed/adopted by the AO to make illegal additions and hence, the order of assessment is erroneous, ignoring the fact that the name of the appellant nowhere figures in any of the handwritten slips and the Tables included by him in the order and hence, the assumption of jurisdiction for revision is clearly untenable.

E. The CIT had also erred in ignoring the fact that the AO had verified the existence and creditworthiness of the Shareholders who applied for Shares in the company and the genuineness of the transactions relating thereto had been duly verified by the AO and hence, the assessment order cannot be regarded as erroneous and cannot in turn be treated as prejudicial to the interest of the Revenue.

F. The CIT in exercise of revisionary jurisdiction cannot disregard the correctness of the assessment order in the light of the facts and records of the case and the binding judicial pronouncements applicable to the assessment made by the AO and cannot vacate the correct order made in assessment which would be nothing but abuse of power and misuse of authority by the Commissioner, impermissible in law.

G. The CIT cannot also be guided by subsequent amendments to Section 263 to apply the same to the A Y 2010-11 and his illegal notice and order cannot be sustained, both on facts and in law.

H. The CIT also erred in disregarding binding decisions of the Supreme Court and the High Courts brought to his notice and thereby passing orders which are clearly violative of judicial discipline, unauthorized by law.”

(B) At the time of hearing, the learned Authorized Representative ("Ld. AR", for short) for the Assessee informed us that the assessee has filed application for Vivad Se Vishwas Scheme, 2020 ("VSVS", for short) and that Form-3 has already been issued. He drew our attention to letter dated 01.10.2021 filed from assessee's side in Income Tax Appellate Tribunal ("ITAT", for short) giving intimation of the same. In this letter it has been also stated that the assessee wishes to withdraw the appeal. In view of this, the learned AR as well as the Learned Commissioner of Income Tax (Departmental Representative) ["Ld. CIT(DR), for short] submitted before us that this appeal may be allowed to be withdrawn and may be dismissed on account of the aforesaid VSVS. We have also perused Copy of Form -3 dated 29-Sep-2021 issued by the Designated Authority under VSVS; which was also filed from the assessee's side alongwith above mentioned letter. After due consideration, we are of the opinion that this appeal has become infructuous on account of aforesaid VSVS, and is hereby allowed to be withdrawn on account of the aforesaid VSVS. In view of the foregoing, and as both sides are in agreement to this, this appeal having become infructuous, is being dismissed, having been withdrawn by the appellant assessee.

(B.1) Before we part, we hereby clarify, by way of abundant caution, that if for some reason the disputes under this appeal before us are not settled under the aforesaid VSVS, then the assessee will be at liberty to approach ITAT for restoration of this appeal, in accordance with law.

(C) In the result, this appeal is dismissed.

This order was orally pronounced on 05th October, 2021 in Open Court, in the presence of representatives of both sides, after conclusion of the hearing. Now this order in writing is signed today on 7th October, 2021 .

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

Dated: 7th October, 2021.
(Pooja)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	