

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

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No:- 6711/Del/2018
(Assessment Year: 2015-16)**

Neera Gupta, New Delhi.	Vs.	ACIT, Central Circle-13.
APPELLANT		RESPONDENT
PAN No: AAAPG7190D		

Assessee By : None.
Revenue By : Shri R.K. Jain, Sr. DR

Per Anadee Nath Misshra, AM

(A) This appeal by Assessee is filed against the order of Commissioner of Income Tax (Appeal)- XXVI, New Delhi, dated 29th August, 2018 for Assessment Year 2015-16.

Grounds taken in this appeal of Assessee are as under:

"1. That the order of the Ld. CIT(A) is bad in law and on facts of the case.

2. The Ld. Assessing Officer has erred in law and on facts while making addition of Rs. 44,06,420/- u/s 68 by treating the long term capital gain as amount received from accommodation entries and has not applied his mind and not made honest efforts to verify the condition laid down u/s 68 although the transaction are exempt from tax as long term capital gain being fully covered u/s 10(38) of the Income Tax Act 1961 and satisfies all conditions laid down therein. The Ld. Assessing Officer

has passed the order based upon the information collected from various third party sources by ignoring all evidences of transactions of sales / purchase of shares while making such addition u/s 68 and independent verification. This has been further upheld by the Ld. CIT(A) in a pre-conceived manner on the basis of surmises and conjectures and also without considering the detailed submission and explanation on merits.

3. The Ld Assessing Officer has erred in law and facts while adding back on account of disallowances which is without any basis of evidences by taking adhoc percentage of commission on the amount of share transactions exempt from tax u/s 10(3) as long term capital gain. Thus the addition of Rs. 25,002 on account of such commission u/s 69C is bad in law.*

4. The appellant craves leave to add, amend, alter vary and / or withdraw any or all the above grounds of Appeal."

(B) At the time of hearing, we took notice of letter dated 13th October, 2021 by KNA Associates, Chartered Accountant. In this letter, it has been intimated that the assessee has opted for Vivad Se Vishwas Act, 2021 ("VSVS", for short), and has already filed Form 1, 2 and 4 under VSVS. We have also perused copy of Form -3 dated 02/01/2021 issued by the Designated Authority under VSVS; which was also filed from the assessee's side alongwith above mentioned letter. In view of this, the learned Senior Departmental Representative ("Ld. Sr. DR", for short) submitted before us that this appeal may be treated as withdrawn and may be dismissed on account of the aforesaid VSVS. After due consideration, and in view of the foregoing; we treat this appeal as withdrawn on account of the aforesaid VSVS. Accordingly, this appeal is dismissed, as withdrawn.

(B.1) Before we part, we hereby clarify, by way of abundant caution, that if for some reason it is found by the Assessee that the disputes under this appeal

before us are not fully settled under the aforesaid VSVS, then 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 28th October, 2021 in Open Court, in the presence of Sr. DR for the Revenue, after conclusion of the hearing. Now this order in writing is signed today on 02/11/2021.

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

Dated : 02/11/2021
(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	