

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

**BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No:- 2290/Del/2019
(Assessment Year: 2010-11)**

Chetan Negi, Delhi.	Vs.	ITO, Ward-46(3), New Delhi.
APPELLANT		RESPONDENT
PAN No: ABDPN1548G		

**Assessee By : Shri Heera Lal Sharma, CA
Revenue By : Shri Om Parkash, Sr. DR**

Per Anadee Nath Misshra, AM

(A) This appeal by Assessee is filed against the order of learned Commissioner of Income Tax (Appeal)- 16, New Delhi, dated 21/12/2018 for Assessment Year 2010-11.

Grounds taken in this appeal of Assessee are as under:

"1. On the facts and circumstances of the case, the order passed by the learned Commissioner of Income Tax (Appeals) [CIT(A)] is bad both in the eye of law and on facts.

2. On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law, in confirming the action of the AO, despite the fact that the reopening by the AO and consequent reassessment without complying with the statutory conditions prescribed under Section 147 read with Section 148 of the Act is bad in law.

3(i) On the facts and circumstances of the case the learned CIT(A) has erred, both on facts and in law, in sustaining the addition of an amount of Rs.

10,44,526/- made by AO on account of deposits made by the appellant in his bank account.

3(ii) That the learned CIT(A) has erred, both on facts and in law, in confirming the upholding the applicability of Section 68 of the Act.

3(iii) That the learned CIT(A) has erred, both on facts and in law, in going beyond the scope of her power, as specified under section 251 of the Income Tax Act, by invoking Sec 69A of the Act.

4. On the facts and circumstances of the case the, learned CIT(A) has erred, both on facts and in law, in upholding the addition of Rs 18,15,780/- made by AO, on account of income declared as gifts from relatives.

5. The appellant craves leave to add, amend or alter any of the grounds of appeal."

(B) At the time of hearing, the learned Authorized Representative ("Ld. AR", for short) for the Assessee informed us that the assessee has opted to settle the aforementioned appeal under Vivad Se Vishwas Scheme, 2020 ("VSVS", for short) and that Form-3 has already been issued. He drew our attention to E-mail sent from the 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 Senior Departmental Representative ["Ld. Sr. 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 09/02/2021 issued by the Designated Authority under VSVS; which was also filed from the assessee's side during appellate proceedings in ITAT. After due consideration, we are of the opinion that this appeal has become infructuous on account of the assessee opting for VSVS; and the assessee's appeal accordingly 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 24th November, 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 25.11.2021.

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

Dated: 25.11.2021

(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	