

**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 Nos:- 5515, 5517, 5518, 5519/Del/2018
(Assessment Years: 2009-10, 2011-12, 2012-13 & 2014-15)**

Shri Sudhanshu Rathi, 210, Jagdamba Tower, 13, Preet Vihar Commercial Complex, Delhi-110092.	Vs.	Dy. Commissioner of Income Tax, Central Circle, Noida.
APPELLANT		RESPONDENT
PAN No: AIAPR3907M		

Assessee By : Shri Deepesh Garg, Advocate
Revenue By : Shri H.K. Chaudhary, CIT(DR)

PER BENCH:

(A) For the sake of convenience and brevity these appeals by assessee are disposed off through this consolidated order. Grounds taken in these appeals of the Assessee are as under:

ITA No.-5515/Del/2018

"1) That having regard to the fact and circumstances of the case, Ld. CIT (A) has erred in law and on facts in confirming the action of Ld. AO in assuming jurisdiction and issue of notice u/s 153A r/w section 143(3) of the Income Tax Act, 1961 by Ld. Assessing Officer and the consequent assessment proceedings in the case are bad in law and against the facts and circumstances of the case and void-abinitio and basic jurisdictional conditions and pre-requisites under section 153 A were not met.

2) *That in any case and in any view of the matter, the assessment framed under section 153 A of the Act, is bad in law and against the facts and circumstances of the case.*

3) *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of the Ld. A.O. in making an addition of a sum of Rs. 4,33,189/- being rent paid, commission expenses, miscellaneous expenses, conveyance, telephone and other expenses holding the same to have been incurred allegedly for non business purpose that too without any basis and merely on the basis of surmises and conjectures, in the proceedings u/s 153 A of the Act, and more so when there was no incriminating material found as a result of search.*

4) *That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in making addition of Rs. 4,33,189/- is bad in law and against the facts and circumstances of the case.*

5) *That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. A.O. in passing the impugned assessment order without there being requisite approval in terms of section 153D and in any case approval if any is mechanical without application of mind and is no approval in the eyes of law.*

6) *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. A.O. in passing the impugned order and that too without giving adequate opportunity of hearing and without observing the principle of natural justice.*

7) *That the appellant craves the leave to add, alter or amend the grounds of appeal at any stage and all the grounds are without prejudice to each other."*

ITA No.-5517/Del/2018

"1) That having regard to the fact and circumstances of the case, Ld. CIT (A) has erred in law and on facts in confirming the action of Ld. AO in assuming jurisdiction and issue of notice u/s 153A r/w section 143(3) of the Income Tax Act, 1961 by Ld. Assessing Officer and the consequent assessment proceedings in the case are bad in law and against the facts and circumstances of the case and void-abinitio and basic jurisdictional conditions and pre-requisites under section 153 A were not met.

2) *That in any case and in any view of the matter, the assessment framed under section 153A of the Act, is bad in law and against the facts and circumstances of the case.*

3) *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of the Ld. A.O. in making an addition of a sum of Rs. 1,98,680/- being conveyance expenses, telephone*

expenses and other expenses, news paper & magazine holding the same to have been incurred allegedly for non business purpose that too without any basis and merely on the basis of surmises and conjectures, in the proceedings u/s 153 A of the Act, and more so when there was no incriminating material found as a result of search.

4) *That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in making addition of Rs. 1,98,680/- is bad in law and against the facts and circumstances of the case.*

5) *That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. A.O. in passing the impugned assessment order without there being requisite approval in terms of section 153D and in any case approval if any is mechanical without application of mind and is no approval in the eyes of law.*

6) *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. A.O. in passing the impugned order and that too without giving adequate opportunity of hearing and without observing the principle of natural justice.*

7) *That the appellant craves the leave to add, alter or amend the grounds of appeal at any stage and all the grounds are without prejudice to each other."*

ITA No.-5518/Del/2018

"1) *That having regard to the fact and circumstances of the case, Ld. CIT (A) has erred in law and on facts in confirming the action of Ld. AO in assuming jurisdiction and issue of notice u/s 153A r/w section 143(3) of the Income Tax Act, 1961 by Ld. Assessing Officer and the consequent assessment proceedings in the case are bad in law and against the facts and circumstances of the case and void-abinitio and basic jurisdictional conditions and pre-requisites under section 153 A were not met.*

2) *That in any case and in any view of the matter, the assessment framed under section 153 A of the Act, is bad in law and against the facts and circumstances of the case.*

3) *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of the Ld. A.O. in making an addition of a sum of Rs. 4,33,189/- being rent paid, commission expenses, miscellaneous expenses, conveyance, telephone and other expenses holding the same to have been incurred allegedly for non business purpose / bogus and that too without any basis and merely on the basis of surmises and conjectures, in the proceedings u/s 153 A of the Act, and more so when there was no incriminating material found as a result of search.*

4) *That in any case and in any view of the matter, action of Ld. CIT(A) in*

confirming the action of Ld. AO in making addition of Rs. 4,33,189/- is bad in law and against the facts and circumstances of the case.

5) *That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. A.O. in passing the impugned assessment order without there being requisite approval in terms of section 153D and in any case approval if any is mechanical without application of mind and is no approval in the eyes of law.*

6) *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. A.O. in passing the impugned order and that too without giving adequate opportunity of hearing and without observing the principle of natural justice.*

7) *That the appellant craves the leave to add, alter or amend the grounds of appeal at any stage and all the grounds are without prejudice to each other."*

ITA No.-5519/Del/2018

"1) *That having regard to the fact and circumstances of the case, Ld. CIT (A) has erred in law and on facts in confirming the action of Ld. AO in assuming jurisdiction and issue of notice u/s 153A r/w section 143(3) of the Income Tax Act, 1961 by Ld. Assessing Officer and the consequent assessment proceedings in the case are bad in law and against the facts and circumstances of the case and void-abinitio and basic jurisdictional conditions and pre-requisites under section 153 A were not met.*

2) *That in any case and in any view of the matter, the assessment framed under section 153A of the Act, is bad in law and against the facts and circumstances of the case.*

3) *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of the Ld. A.O. in making an addition of a sum of Rs. 78,564/- being conveyance expenses, telephone expenses and other expenses, holding the same to have been incurred allegedly for non business purpose/ bogus that too without any basis and merely on the basis of surmises and conjectures, in the proceedings u/s 153 A of the Act, and more so when there was no incriminating material found as a result of search.*

4) *That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in making addition of Rs. 78,564/- is bad in law and against the facts and circumstances of the case.*

5) *That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. A.O. in passing the impugned assessment order without there being requisite approval in terms of section 153D and in any case approval if any is mechanical without application of mind and is no approval in the eyes of law.*

6) *That having regard to the facts and circumstances of the case, Ld. CIT(A)*

has erred in law and on facts in confirming the action of Ld. A.O. in passing the impugned order and that too without giving adequate opportunity of hearing and without observing the principle of natural justice.

7) That the appellant craves the leave to add, alter or amend the grounds of appeal at any stage and all the grounds are without prejudice to each other."

(B) At the time of hearing, the learned Counsel for the Assessee informed us that the assessee has filed application for Vivad Se Vishwas Scheme, 2020 ("VSVS", for short). He drew our attention to e-mail dated 03.01.2022 filed from assessee's side in Income Tax Appellate Tribunal ("ITAT", for short) giving intimation of the same. Alongwith this letter copies of Forms- 1, 2, 3, 4 and 5 have also been attached. It is further stated in this letter that the assessee seeks permission to withdraw the appeals. In view of this, the learned Counsel as well as the Learned Commissioner of Income Tax (Departmental Representative) ["Ld. CIT(DR), for short] submitted before us that these appeals may be allowed to be withdrawn and may be dismissed on account of the aforesaid VSVS. We have also perused copies of Form-5, issued by the Designated Authority under VSVS. After due consideration, we are of the opinion that these appeals have become infructuous on account of aforesaid VSVS, and are 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, these appeals having become infructuous, are 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 these appeals before us are not settled under

the aforesaid VSVS, then the assessee will be at liberty to approach ITAT for restoration of these appeals, in accordance with law.

(C) In the result, these appeals are dismissed.

This order was orally pronounced on 3rd January, 2022 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 03/01/2022.

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

Dated: 03/01/2022
(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	