

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH : BANGALORE**

**BEFORE SHRI. CHANDRA POOJARI, ACCOUNTANT MEMBER  
AND  
SMT. BEENA PILLAI, JUDICIAL MEMBER**

<b>ITA No. 678/Bang/2022</b>
<b>Assessment Year : 2014-15</b>

M/s. CommScope India Pvt. Ltd., (formerly known as Andrew Telecommunications India Pvt. Ltd.), Plot no. N2, Phase IV, Verna Industrial Estate verna, Salcete, Goa – 403 722. <b>PAN: AABCA8820A</b>	<b>Vs.</b>	The Commissioner of Income Tax (Appeals), NFAC, Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Ms. Vaidehi G., CA & Shri Dhiraj R, Advocate
Revenue by	:	Smt. Priyadarshini Baseganni, Addl. CIT (DR)

Date of Hearing	:	15-09-2022
Date of Pronouncement	:	29-09-2022

**ORDER**

**PER BEENA PILLAI, JUDICIAL MEMBER**

Present appeal arises out of order dated 06/09/2021 passed by NFAC, Delhi for A.Y. 2014-15.

2. The only allegation raised by the Ld.AR is that the Ld.CIT(A) has dismissed the appeal by holding as under:

*“2.0 It is noted that the appellant opted for the Direct Tax Vivad Se Vishwas Scheme vide application dated 18.03.2021. Pursuant thereto, the PCIT (Central), Bengaluru has certified the full and final payment of Rs. 0/- as taxes in terms of Form No. 5 dated 27.05.2021. In view of the above, the appeal is treated as infructuous as sub section 2 of section 4 of the Direct Tax Vivad Se Vishwas Act, 2020.”*

3. However, the Ld.AR submitted that assessee filed VsV scheme for order passed u/s. 143(3) dated 01/12/2016 in case of CommScope India Pvt. Ltd. The appeal that arised out of the 143(3) order was therefore withdrawn by the assessee on 06/09/2021 against which a Form 3 & 5 has also been issued subsequently. It is the submission of the Ld.AR that the appeal that was filed by the assessee before the Ld.CIT(A) was against an order passed u/s. 201 of the Act for which assessee had not opted for VsV scheme. The Ld.AR submitted that a mail to that effect was also sent to the NFAC on 11/07/2022, which was ignored and the appeal was dismissed on wrong assumption of fact.

The Ld.DR did not object for the submissions made by the Ld.AR. We have perused the submissions advanced by both sides in the light of records placed before us.

4. We note that, the NFAC while passing the impugned order dismissed the appeal filed by assessee against an order passed by the Ld.AO u/s. 201 of the Act, by holding that, the same has been settled under VsV Act. This is factually incorrect as we verify from the documents placed before us.

In the interest of justice, the present appeal is remanded back to the Ld.CIT(A) to adjudicate the issue on merits by passing a detailed order.

Needless to say that proper opportunity of being heard must be granted to assessee.

**Accordingly, the grounds raised by the assessee stands allowed for statistical purposes.**

**In the result, the appeal filed by the assessee stands allowed for statistical purposes.**

Order pronounced in open court on 29<sup>th</sup> September, 2022.

Sd/-  
(CHANDRA POOJARI)  
Accountant Member

Sd/-  
(BEENA PILLAI)  
Judicial Member

Bangalore,  
Dated, the 29<sup>th</sup> September, 2022.  
/MS /

**Copy to:**

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|---------------|------------------------|
| 1. Appellant  | 4. CIT(A)              |
| 2. Respondent | 5. DR, ITAT, Bangalore |
| 3. CIT        | 6. Guard file          |

By order

Assistant Registrar,  
ITAT, Bangalore