

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'H', NEW DELHI**

**BEFORE SH. N.K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH. KUL BHARAT, JUDICIAL MEMBER**

ITA No.6572/Del/2019
Assessment Year: 2015-16

DCIT Circle-1 Noida	Vs	Dinesh Singh F-100, Alpha-2, Greater Noida, PAN No. ALXPS3313A
(APPELLANT)		(RESPONDENT)

Appellant	Sh. Sanjai Kumar Yadav, Addl. CIT
Respondent	Dr. Rakesh Gupta, Advocate Sh. Deepesh Garg, Advocate

Date of hearing:	10/11/2022
Date of Pronouncement:	10/11/2022

ORDER

PER N.K. BILLAIYA, AM:

This appeal by the revenue is preferred against the order of the CIT(A)-1, Noida dated 31.12.2018 pertaining to A.Y.2015-16.

2. The grievance of the assessee read as under :-

1. *That the Ld.CIT(A) has erred in law and on facts by deleting the addition of Rs. 93,29,500/- and Rs. 2,79,885/- ignoring the fact that the finding was given by the Investigation*

Wing of Income Tax Department, Kolkata that the script of, inter alia, M/s CCL International Ltd, has been utilized as a tool to provide the accommodation entry in the garb of Long Term Capital Gain to convert the unaccounted money into accounted one with no payment of taxes and the Income Tax department has carried out search/survey operations u/s 132/133A of the Act at various premises of share brokers, who have confessed that the script of M/s CCL International Ltd, have been utilized as a tool to provide the accommodation entries.

2. *The Ld. CIT(A) has erred in law and on facts by deleting the addition of Rs. 93,29,500/- and Rs. 2,79,885/- made by the Assessing Officer u/s 68 of the Income Tax Act, 1961 on account of sale proceed of the shares and u/s 69C of the Income Tax Act, 1961 on account of commission paid respectively after holding that " The impugned assessment order can not be sustained qua the findings of the Ld. AO regarding the bonafides and correctness of the transactions of Long Term Capital Gain in the sale of shares of M/s CCL International Ltd. and same is liable to be deleted. The appellant has discharged its primary onus by providing the identity, genuineness of the transaction and claims of the creditworthiness of the parties and the onus has shifted to the revenue. The Ld. A.O. has done nothing to discharge its onus to conclude to the contrary. Mere guess work, conjecture or surmise cannot take place then position of proved facts", thereby ignoring that the Assessing Officer has referred to the findings of SEBI, and the report of the Investigation Wing of Income-tax Department at Kolkata [wherein names of 84 Penny Stock companies has been mentioned), each of which has revealed huge issues of money laundering and bogus transaction of shares.*

3. *The Ld. CIT(A) has erred in law and on facts by deleting the addition of Rs. 93,29,500/- and Rs. 2,79,885/- made by the Assessing Officer u/s 68 of the Income Tax Act, 1961 on account of sale proceed of the shares and u/s 69C of the Income Tax Act, 1961 on account of commission paid respectively ignoring the fact that the rigorous inquiries as per provisions of the Income Tax Act,1961 and detailed analysis of evidence has been made to establish that the Long Term*

Capital Gain on share transactions of M/s CCL International Ltd was bogus in nature.

4. *The appellant craves to leave, add, alter and amend any of the grounds of appeal on or before hearing.*

5. *That the order of the Ld. CIT(A) deserved to be set-aside and the order of the AO be restored.*

3. At the very outset the Counsel for the assessee stated that though the first appellate authority has decided the quarrel in favour of the assessee and against the revenue yet the assessee in his wisdom chose to settle the quarrel under the VSV Scheme, 2020. The Counsel for the assessee drew our attention to the requisite forms issued by the department stating that the quarrel has been settled by the payment of taxes thereon.

4. We have carefully perused the documents furnished by the assessee. It is a fact that the first appellate authority has decided the quarrel in favour of the assessee and against the revenue. It is equally true that the assessee still moved an application for the settlement of the dispute under the VSV Scheme, 2020 form No.3 dated 29.01.2021 show the balance of tax payable as on 31.03.2021 as Rs.3266320/-. We find that as per form No.4 the assessee has paid Rs.1633115/- on 14.08.2020 and Rs.1633205/- on 28.08.2021 totalling to Rs.3266320/-. These documents are very much placed on record.

5. Considering the facts of the case in totality the appeal is dismissed as infructuous as the requisite taxes have been paid by

the assessee settling the dispute under the VSV Scheme, 2020.

6. In the result, the appeal of the revenue is dismissed.
7. Decision announced in the open court on 10.11.2022.

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

NEHA, Sr. Private Secretary

Date:- .11.2022

Copy forwarded to:

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

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
 ITAT NEW DELHI

Date of dictation	10.11.2022
Date on which the typed draft is placed before the dictating Member	10.11.2022
Date on which the typed draft is placed before the Other member	10.11.2022
Date on which the approved draft comes to the Sr.PS/PS	11.11.2022
Date on which the fair order is placed before the Dictating Member for Pronouncement	11.11.2022
Date on which the fair order comes back to the Sr. PS/ PS	11.11.2022
Date on which the final order is uploaded on the website of ITAT	11.11.2022
Date on which the file goes to the Bench Clerk	11.11.2022
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	