

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'E': NEW DELHI**

**BEFORE,  
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER  
AND  
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No.4664/Del/2019  
(ASSESSMENT YEAR 2014-15)**

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| Narender Kumar Arora,<br>D-46, 1 <sup>st</sup> Floor,<br>New Multan Nagar,<br>Delhi-110 056<br><br>PAN-ADOPA 7245C | Vs. | Principal Commissioner<br>of Income Tax, Delhi-1,<br>New Delhi |
| <b>(Appellant)</b>   |     | <b>(Respondent)</b>  |

|               |   |
|---------------|---|
| Appellant by  | Mr. Supreet Arora, Authorized<br>Representative   |
| Respondent by | Ms. Sarita Kumari, Commissioner<br>of Income Tax, Departmental<br>Representative ("CIT- DR" for<br>short) |

**ORDER**

**PER ANADEE NATH MISSHRA, AM:**

(A) This appeal by Assessee is filed against the order of Learned Principal Commissioner of Income Tax, Delhi-1, ["Ld. Pr.CIT(A)", for short], dated 22/03/2019 for Assessment Year 2014-15. Grounds taken in this appeal are as under:

*"1. That the Ld. Pr. CIT has erred in invoking the provisions of section 263 of the Income Tax Act on the ground that the assessment order passed by the Assessing Officer for AY 2014-15 is not only prejudicial to the*

*interest of Revenue but is also erroneous in so far as the Assessing Officer has failed to make adequate inquiry.*

2. *The learned Pr. CIT while holding that assessment order dated 25/07/2016 is erroneous in so far as it is prejudicial to the interest of revenue has failed to appreciate that while framing the assessment order, the AO had made extensive enquiry regarding Long Term Capital Gain on sale of shares of Kappac Pharma Ltd., and sought explanation from the assessee from the to time for which the replied were submitted along with all the evidences. After considering these replies, the AO adopted one permissible view by accepting the claim of the assessee and thus invocation of power u/s 263 is on the basis of change of opinion, which is not permissible in law.*

3. *That the appellant craves leave to add, alter or delete the above grounds of appeal at the time of hearing.”*

(B) It has been intimated from the assessee's side that the assessee opted for Vivad se Vishwas Scheme, 2020 ("VSVS", for short) and that the Designated Authority had already issued Form-5 under VSVS. A copy of Form-5 issued by the Designated Authority was also placed on record. A letter has been filed from the assessee's side, seeking to drop the appellate proceedings in ITAT. The learned Sr. DR for Revenue submitted before us, at the time of hearing, that the appeal has become infructuous in view of the assessee opting for VSVS; and that the appeal may be dismissed as withdrawn. After due consideration and in view of the foregoing, we are of the opinion that this appeal has become infructuous on account of aforesaid

VSVS, and that this appeal may be treated as withdrawn on account of the aforesaid VSVS. Accordingly, this appeal having become infructuous, is treated as withdrawn and is hereby dismissed.

**(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 of the assessee is dismissed.

This order was already pronounced orally on 19<sup>th</sup> January, 2023 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 19/01/2023.

Sd/-  
**(CHALLA NAGENDRA PRASAD)**  
**JUDICIAL MEMBER**

Sd/-  
**(ANADEE NATH MISSHRA)**  
**ACCOUNTANT MEMBER**

Dated:19/01/2023

*Pk*

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI