

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "E": NEW DELHI  
BEFORE SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER  
AND  
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

ITA No.2956/Del/2011  
(Assessment Year: 2007-08)

New Video Pvt. Ltd, C/0. ND Kapur, & CO, CA, 2-A, Shanker Market Cannought Circus, New Delhi PAN:AAACN0155G	Vs.	DCIT, Circle-13(1), CR Building, New Delhi
<b>(Appellant)</b>		<b>(Respondent)</b>

ITA No.2587/Del/2011  
(Assessment Year: 2007-08)

ACIT, Circle-13(1), CR Building, New Delhi	Vs.	New Video Pvt. Ltd, C/0. ND Kapur, & CO, CA, 2-A, Shanker Market Cannought Circus, New Delhi PAN:AAACN0155G
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by :	Sh. Siddharth Godha, Adv
Revenue by:	Sh. Rajesh Kumar, Sr. DR
Date of Hearing	27/09/2016
Date of pronouncement	16/12/2016

**ORDER**

**PER PRASHANT MAHARISHI, A. M.**

1. These are the cross appeals filed by the parties against the order of the Id CIT(A)-XVI, New Delhi dated 12.01.2011 for the Assessment Year 2007-08.
2. The assessee has raised the following grounds of appeal:-
  - "1. *The learned CIT(A) has erred in law and on facts and under the circumstances of the case by invoking section 269SS of the Income Tax Act, 1961.*

2. *The learned CIT(A) has erred in law and on facts by invoking the penalty proceedings under section 271D of the Income Tax Act, 1961.*
  3. *The learned CIT(A) has erred in upholding the additions made by learned assessing officer to the extent of Rs. 29,14,046/- on account of alleged un-confirmed balances of sundry creditors.*
  4. *The learned Assessing Officer has erred in law and on facts and under the circumstances of the case by not allowing alleged un evidenced payments of Rs. 52,857/- and Rs. 2,80,305/- made under section 43B and 40(a)(i) of the Income Tax. Whereas learned CIT (A) has rejected the plea of the assessee company due to non production of evidences."*
3. The revenue has raised the following grounds of appeal:-
- “1. *That on the facts and circumstances of the case and in law the ld CIT(A) has erred in disallowance of Rs. 64,22,436/- made by the AO by invoking the provisions of Section 40A(2)(b) of the Act, 1961.*
  2. *That on the facts and circumstances of the case and in law the ld CIT(A) has erred in allowing a relief of Rs. 2164518/- out of disallowance of Rs. 5078564/- made by the AO on account of unconfirmed balances of sundry creditors.”*
4. The ground No. 1 and 2 of the appeal are against the initiation of penalty proceedings u/s 269SS read with section 271D of the Act. Both these grounds are premature as mere initiation of penalty proceedings the assessee is not aggrieved, he will have the full opportunity to explain his case therefore ground Nos. 1 and 2 are dismissed.
5. Ground No. 3 of the appeal is with respect to addition of Rs. 29140461/- alleged unconfirmed balance of sundry creditors. The brief facts of the issue is that an amount of Rs. 2914046/- was outstanding of the creditors for many years for which the assessee could not profit the confirmation. The assessee has submitted before the AO to issue summons or conduct enquiry u/s 133(6). The amount of advance includes 2914046/- of M/s. Supra Industrial Co. Pvt. Ltd of Dubai. The same outstanding of that party was Rs. 2489429/- and therefore in absence of complete postal address and confirmation the addition of Rs. 2914046/- was made. The above addition was contested before the ld CIT(A) who confirmed the addition and therefore the assessee is in appeal before us.
6. The ld AR submitted that amount of creditors of Rs. 2914046/- have also been paid or write off by the appellant during FY 2009-10 and 2011-12 and has been offered to the income for taxation in those respective years. He submitted this details with the with the prayer for admission of additional evidence on such write back. He pleaded that for this issue the matter may

be verified by the AO and after the same is offered for taxation for subsequent years as stated by him if found to be correct then addition in the current year may be deleted. Otherwise, he submitted that it will amount to double taxation of the same income. He further submitted that there is no change in the tax rights for both the years.

**Order pronounced in the open court on 16/12/2016.**

**-Sd/-**

**(SUDHANSHU SRIVASTAVA)  
JUDICIAL MEMBER**

**-Sd/-**

**(PRASHANT MAHARISHI)  
ACCOUNTANT MEMBER**

Dated: 16/12/2016  
*A K Keot*

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi