

INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "E": NEW DELHI

**BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER  
A N D  
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER  
(Through Video Conferencing)**

ITA. No. 1907/Del/2019  
(Assessment Year: 2015-16)

Manish Garg [HUF] 160 – Vaishali, Pitampura, New Delhi – 110 034. <b>PAN: AAJHM2526E</b>	Vs.	ITO, Ward : 40 (1) New Delhi
(Appellant)		(Respondent)

Assessee by :	N o n e;
Revenue by:	Ms. Aman Preet, Sr. D.R.;
Date of Hearing	21/12/2020
Date of pronouncement	21/12/2020

**ORDER**

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

1. This appeal is filed by the assessee against the order of the Id. CIT (Appeals) for Assessment Year 2015-16, dated 7.02.2019 wherein claim under Section 10(38) of the Income Tax Act, 1961 (the Act) of Rs.2,22,87,246/- on account of sale of shares of M/s KAPPAC Pharma Ltd. was added under Section 68 of the Act and benefit under Section 10(38) of the Act is denied.
2. The appeal was called for hearing on 21<sup>st</sup> December, 2020 where none appeared on behalf of the assessee. On earlier occasion on 1.12.2020 also none appeared.
3. On the merits case of the assessee is covered against him by the judgment of the Hon'ble Delhi High Court in the case of Udit Kalra vs. ITO [2019 (4) TMI 834 - DELHI HIGH COURT] wherein has declared M/s Kappac Pharma as bogus company who made only accommodation entries in which the assessee is a beneficiary. This is also followed by many decisions of coordinate benches holding against assessee.

4. The assessee has submitted a letter dated 12<sup>th</sup> March, 2020 under the signature of his Chartered Accountant Mr. Vikas Gupta that assessee is contemplating the option of Vivad se Vishwas Scheme. It was stated that at that particular time when this letter was given the Scheme was yet to be announced. Now despite notices the assessee is not appearing. The assessee has also disclosed his intention through his CA to settle the dispute under Vivad se Vishwas Scheme. As the assessee would like to opt for the above Scheme and to settle the impugned dispute, the appeal of the assessee is technically treated as withdrawn and dismissed.
2. Accordingly the appeal of the assessee is treated as dismissed as withdrawn with a liberty to the assessee that in case assessee is not granted Form No. 3 under the above Scheme for settlement of the above dispute, he may file an application for recall of the above order. Meanwhile, the appeal filed by the assessee is dismissed as withdrawn.

Order pronounced in the open court on : 21/12/2020.

Sd/-  
( H. S. SIDHU )  
JUDICIAL MEMBER

Sd/-  
(PRASHANT MAHARISHI)  
ACCOUNTANT MEMBER

Dated : 21 /12/2020

\*MEHTA\*

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

ASSISTANT REGISTRAR  
ITAT, New Delhi

Date of dictation	21.12.2020
Date on which the typed draft is placed before the dictating member	21.12.2020
Date on which the typed draft is placed before the other member	21.12.2020
Date on which the approved draft comes to the Sr. PS/ PS	21.12.2020
Date on which the fair order is placed before the dictating member for pronouncement	21.12.2020
Date on which the fair order comes back to the Sr. PS/ PS	21.12.2020
Date on which the final order is uploaded on the website of ITAT	21.12.2020
date on which the file goes to the Bench Clerk	21.12.2020
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	