

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AGRA BENCH 'SMC' AGRA**

**(Through Physical/Virtual Hearing)**

**BEFORE SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER  
AND  
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**ITA No.63/Agr/2024  
[Assessment Year: 2014-15]**

Mayank Shivhare, Shivhare Associates, Jinsi Nala No.1, Opp. Sudarshan Hotel, Gwalior, Madhya Pradesh-474001	Vs	Income Tax Officer, Ward-1(2), Aayakar Bhawan, City Centre, Gwalior, Madhya Pradesh-474011
<b>PAN-AZVPS5145A</b>		
Appellant		Respondent

Appellant	None
Respondent	Shri Shailender Srivastava, Sr. DR

<b>Date of Hearing</b>	<b>01.04.2025</b>
<b>Date of Pronouncement</b>	<b>01.04.2025</b>

**ORDER**

**PER BRAJESH KUMAR SINGH, AM,**

This appeal filed by the assessee is directed against the ex-parte order dated 25.01.2024 of National Faceless Appeal Centre, Delhi, relating to Assessment Year 2014-15 arising out of order u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to 'the Act') dated 29.12.2016 passed by the Income Tax Officer, Ward-1(2), Gwalior.

2. None appeared on behalf of the assessee. However, the appeal is being decided after hearing the ld. Sr. DR and on the basis of material available on record.

3. Brief facts of the case: In this case, the assessment was completed u/s 143(3) of the Act. The assessee had filed ITR-4 showing salary income

of Rs.1,65,000/- and income from business Rs.8,91,329/- and income from other sources of Rs.1,24,685/-. The Assessing Officer noted that during the year, the assessee had sold 15000 shares of the company Turbo Tech Engineering Ltd. (scrip name Turbo Tech) and had declared long term capital gains amounting to Rs.25,75,402/- and claimed it as exempt u/s 10(38) of the Act. The Assessing Officer on the basis of enquiries made by the Investigation Wing of Kolkata and as per the facts discussed in the assessment order held that the shares of Turbo Tech Engineering Ltd. was a penny stock and taxed the entire receipts amounting to Rs.26,14,250/- on sale of the said shares as unexplained cash credit u/s 68 of the Act r.w.s 115BE of the Act.

4. Aggrieved with the said order, the assessee filed an appeal before the Ld. CIT(A). The Ld. CIT(A) decided the appeal ex-parte and confirmed the addition made by the Assessing Officer.

5. Aggrieved with the said order, the assessee is in appeal before us.

6. The Ld. DR supported the orders of the authorities below.

7. We have heard the ld. DR and perused the materials available on record. In this case, the assessee could not appear before the Ld. CIT(A). Therefore, we are of the considered view that in the interest of justice, one more opportunity be given to the assessee to represent its case effectively before the ld. CIT(A). We, therefore, set-aside the order of the ld. CIT(A) and restore the matter to his file to pass an order afresh after giving a reasonable opportunity of being heard to the assessee. Further, the assessee is also directed to appear before the ld. CIT(A). Accordingly,

grounds of appeal raised by the assessee are allowed for statistical purposes.

8. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 1<sup>st</sup> April, 2025.

**Sd/-**  
**[SUNIL KUMAR SINGH]**  
**JUDICIAL MEMBER**

**Dated** 01.04.2025.

*Shekhar*

Copy forwarded to:

1. Appellant
2. Respondent
3. PCIT
4. CIT(A)
5. DR

**Sd/-**  
**[BRAJESH KUMAR SINGH]**  
**ACCOUNTANT MEMBER**

Asst. Registrar,  
ITAT, New Delhi,