

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “SMC”: NEW DELHI**

Ms. MADHUMITA ROY, JUDICIAL MEMBER

ITA No. 40/DEL/2025
Assessment Year: 2013-14

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|--------------------------------------------------------------------------------------------|--------------------------|---------------------------------------------------|
| Narendra singh, 6A, Ranet Matukali, Sahaswan, Budaun, Uttar Pradesh-243601. | Vs | Income Tax Officer, Ward-2(3), Budaun. |
| PAN- CJXPS 8455 H | | |
| APPELLANT | | RESPONDENT |
| Assessee represented by | None | |
| Department represented by | Sh. Sanjay Kumar, Sr. DR | |
| Date of hearing | 17.04.2025 | |
| Date of pronouncement | 17.04.2025 | |

ORDER

PER Ms. MADHUMITA ROY, JM:

The instant appeal, filed by the assessee, is directed against the order dated 13.12.2025 passed by the Learned Commissioner of Income-tax (Appeals)/ National Faceless Appeal Centre (NFAC), Delhi, arising out of the assessment order dated 29.09.2021 passed by the ITO-2(3), Badayun-1, under Section 147 read with section 144 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), for assessment year 2013-14 with the following grounds:

“1. The Learned Commissioner of Income Tax (Appeal) has erred in law and on facts in dismissing the appeal of the assessee, with total disregard to the facts and circumstances of the case.

2. *The Learned Commissioner of Income Tax (Appeal) failed to appreciate that the reassessment proceeding were initiated by the Assessing Officer solely on the basis of cash deposits in bank of the assessee.*

3. *without prejudice to the above, The Learned Commissioner of Income Tax (Appeal) further failed to take the note of the facts that only deposits could not be added as unexplained income and the frequent withdrawals clear showed that the Assessee was conducting the business and credit of cash withdrawals should have been allowed by Assessing Officer.*

4. *The Learned Commissioner of Income Tax (Appeal) failed to appreciate that the assessee case was covered under the provision of u/s 44AD of the Income Tax Act 1961.*

5. *The assessee reserves its right to add, amend, alter or delete any ground of appeal at the time of hearing.”*

2. None appeared at the time of hearing of the matter neither any adjournment has been sought for. I have heard the learned DR and perused the material available on record. At the outset Ld. DR submitted that in this case during assessment proceedings the assessee failed to appear before the AO who was constrained to complete the assessment ex parte. In appeal before the Ld. First Appellate Authority also the assessee did not appear and the learned CIT(A) also decided the appeal ex parte, qua the assessee. He submitted that before this Tribunal also the assessee has not cared to appear at the time of hearing which shows that the assessee is not interested to pursue the appeal. He supported the orders of the authorities below.

3. Considering the stand of the assessee that his case was covered under Section 44AD of the Act and both the orders of lower authorities having been passed ex parte, qua the assessee, this Bench, in order to prevent the miscarriage of justice, considers it fit

and proper to afford an opportunity to the assessee of being heard and thus remit the issue to the file of Ld. Assessing Officer to finalize the assessment afresh upon granting adequate opportunity of being heard to the assessee and upon considering the evidence on record or any other evidence which the assessee may choose to file at the time of hearing of the matter. It is also made clear that in the event the assessee does not cooperate with the Ld. AO, the said authority would be at liberty to pass orders strictly in accordance with law. Ordered accordingly.

4. In the result, assessee's appeal is allowed for statistical purposes.

Order pronounced in open court on 17.04.2025.

Sd/-
(Ms. MADHUMITA ROY)
JUDICIAL MEMBER

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI