

**IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH, JABALPUR
(By Virtual Mode)
BEFORE SH. KUL BHARAT, VICE PRESIDENT
AND
SH. NIKHIL CHOUDHARY, ACCOUNTANT MEMBER**

ITA No.199/JAB/2024
A.Y. 2014-15

Pawan Yadav, Ekta Colony, Near Chandamgaon, Chhindwara, M.P., 480001	vs.	Income Tax Officer-1, Chhindwara
PAN:AILPY7272M		
(Appellant)		(Respondent)

Assessee by:	None
Revenue by:	Sh. Shrawan Kumar Meena, CIT DR
Date of hearing:	20.05.2025
Date of pronouncement:	22.05.2025

ORDER

PER NIKHIL CHOUDHARY, A.M.

This is an appeal filed by the assessee against the order of the Id. JCIT(A)-9, Delhi under section 250 of the Income Tax Act, 1961 dated 31.07.2024 by which the appeal against the order of the ITO, Ward-2, Chhindwara dated 12.09.2016 have been dismissed as withdrawn. The grounds of appeal are as under:-

"1. That the Ld. A.O. has in disallowing the erred cash deposits of Rs. 46,42,500.00 disregarding the actual facts, cash book produced, evidences submitted as a proof towards cash deposit. That considering the facts and evidences the cash deposit disallowance is liable to be quashed.

1.2 That Ld. A.O. has failed to consider that cash deposits have been withdrawn also and unused cash after withdrawal has been redeposited. That the fact of redeposit has not been considered by the Ld. A.O. and disregarding the same entire cash deposit without considering withdrawals and redeposit have been disallowed which is against facts and liable to be deleted.

1.3 The Ld. AO erred in law and facts of the case in adding Rs. 4642500 as unexplained cash credit in saving account, when all the evidence have been

submitted and such an action is an afterthought on assumption and presumption. The addition made therefore is liable to be deleted.

2. Disallowance treating the amounts as Short Term Capital Gains.

2.1 That the Ld. A.O. has disallowed amount of Rs. 32,98,000.00 treating the same as Short Term Capital Gains from Property transactions disregarding the actual facts and documents that the assessee was only a P.O.A. (Power Of Attorney Holder) for Sellers and he has not received the said amounts being disallowed. Thus the said act of disallowance is against facts, documents produced and is bad in law liable to be deleted.

2.2 On the facts and circumstances of the case the learned assessing officer erred in law as much as on facts by erroneously making responsible for Short Term Capital Gain at Rs. 3298000/- on basis of assumption and presumption and without bringing any material facts on records.

2.3 On the facts and circumstances of the case the learned assessing officer erred in law as much as on facts by holding that appellant is responsible for paying Short Term Capital Gain merely on basis of third party statement and without giving opportunity for cross examination to the appellant which is against the principles of natural law and justice. No show cause notice was issued before addition for assessee cross examination or reply.

3. General Other

3.1 That assessee craves and pleads to add, alter, amend or delete any other grounds till or at the stage of hearing as per law."

2. At the time of hearing of the case, it was submitted by the Id. Counsel for the assessee, Sh. Ashish Ternain, C.A. (hereinafter referred to as the 'Id. AR'), that during the pendency of the appeal, the assessee had availed the benefit of the Direct Tax Vivad Se Vishwas Scheme, 2024 and had settled the tax dispute with the Department. As proof of the same Form No.1, Form No.2 and the tax paid *challan* under the VSVS, 2024 was filed before us. It was submitted that since the assessee had opted for the Vivad Se Vishwas Scheme, 2024 therefore, the appeal filed may kindly be ordered to be withdrawn on the request of the assessee.

3. Sh. Shrawan Kumar Meena, CIT DR (hereinafter referred to as the 'Id. CIT DR') had no objection to the withdrawal of the appeal.

5. Accordingly, after considering the facts and circumstances of the case, the appeal of the assessee is dismissed as withdrawn.

6. In the result, the appeal of the assessee is dismissed.

Order pronounced on 22.05.2025 in the open Court.

Sd/-
[KUL BHARAT]
VICE PRESIDENT
DATED: 22/05/2025

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Copy forwarded to:

1. Appellant –
2. Respondent –
3. CITDR , ITAT,
4. CIT,
5. The CIT(A)

Sd/-
[NIKHIL CHOUDHARY]
ACCOUNTANT MEMBER

By order
Sr. P.S.