

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DEHRADUN “SMC” BENCH, DEHRADUN**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER
(Through Video Conferencing)**

ITA No.915/Del/2015
Assessment Year: 2010-11

Sh. Tej Pal Singh, S/o- Sri Dila Ram, 101/14, Ganeshpur, Roorkee, Haridwar	Vs.	Income Tax Officer, Ward-2, Roorkee
PAN :AYNPS9526N		
(Appellant)		(Respondent)

Assessee by	Sh. Piyush Kumar Kamal, Adv. Sh. D.K. Gandhi, Adv.
Department by	Ms. Poonam Sharma, CIT(DR)

Date of hearing	12.01.2026
Date of pronouncement	12.01.2026

ORDER

PER SATBEER SINGH GODARA, JM:

This assessee's appeal for assessment year 2010-11, arises against the Commissioner of Income Tax (Appeals) [in short, the "CIT(A)"], Dehradun's order dated 17.11.2014 passed in case no. 170/CIT(A)-I/DDN/13-14, involving proceedings under section 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

Heard both the parties. Case file perused.

2. Coming to the assessee's sole substantive grievance canvassed in the instant appeal challenges the CIT(A)'s action partly upholding the assessment findings adding the alleged unexplained investment amounting to Rs.47,12,595/- in assessment order dated 22.03.2013 and upheld to the extent of Rs.11,82,128/- in the lower appellate discussion to the very effect, reading as under:

“8. In third issue with regard to unexplained investment on account of excise duty and license fee, which the Assessing Officer has computed at Rs.47,12,595/-, the assessee has again stated that he has been assessed u/s 44AF and, therefore, no further addition can be made to his income on this count. He has also submitted that he ran a running business and he obtained the money for excise duty and license fee from the sale produce of the country liquor. Hence even on merits, there was not enough ground for making such an addition.

9. I have considered the submissions of the assessee on both accounts. It is observed that while the provisions of section 44AF may override the provisions of section 20 to 43(c), they do not override the provisions of section 69 of the I.T. Act. 1961, which is the section under which unexplained investment is sought to be taxed. Section 69 hold that when the assessee has made investment which are not recorded in his books of accounts, if any, and the assessee is not able to offer an explanation about the nature and source of the investment or the explanation offered by him is not satisfactory, the value of this investment may be deemed to be the income of the assessee in this financial year. In the instant case, the total turnover of the assessee has been determined at Rs.37,80,467/- (which were the gross receipts disclosed by the assessee). On the other hand, the total investment on account of license fee and excise duty were Rs.49,62,595/-. Even if we accept the assessee's contentions that he had running business and the sale proceeds accounted for the investment in the payment of excise duty and license fee, that still leave a figure of Rs. 11,82,128/- to be unexplained out of the said investment. Furthermore the assessee deposited all excise duty and license fee and cannot be explained out of the sale proceeds, because the sale proceeds would only have being realized by the assessee much later. In view of these facts, it is held that the assessee has

failed to explain investment to the extent of Rs. 11,82,128/- out of the total investment of Rs.47,12,595/- in payment of excise duty and license fee. Accordingly, an addition of Rs.11,82,128/- on this count is sustained and the remaining amount is deleted.”

This is what leaves the assessee aggrieved.

3. We have given out thoughtful consideration to the assessee's and the Revenue's vehement submissions reiterating their respective stands. Suffice to say, it has already come on record that the learned CIT(A) has discussed the entire issue at length whilst concluding that the assessee could not explain his investment to the tune of Rs.11,82,128/- only in payment of excise duty and licence fee. The fact also remains that keeping in mind the assessee's regular business activity engaged in the business of sale of liquor, his socio-economic status and past accumulated savings, it could safely be presumed that he was having at least some cash in hands whose benefit could not be altogether denied in entirety. We thus deem it appropriate in this factual backdrop that a *lumpsum* addition of Rs. 4 lakhs only would be just and proper with a rider that the same shall not be treated as a precedent. The assessee gets relief of Rs.7,82,128/- in other words.

No other ground or argument has been pressed.

4. This assessee's appeal is partly allowed.

Order pronounced in the open court on 12th January, 2026

Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 15th January, 2026.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi