

आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर
IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR
श्री पार्थ सारथी चौधरी, न्यायिक सदस्य एवं श्री अवधेश कुमार मिश्र, लेखा सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM &
SHRI AVDHESH KUMAR MISHRA, AM

आयकर अपील सं. / ITA No: 834/RPR/2025
(निर्धारण वर्ष Assessment Year: 2013-14)

Vardaan Infrastructures Private Limited, C/s Shankar Marbles, Ring Road 1, Santoshi Nagar, Raipur, Chhattisgarh,	Vs	Income Tax Officer, Ward 4(1), Ayakar Bhawan, Civil Lines, Raipur, Chhattisgarh, 492001
PAN: AADCV3823C		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri Praveen Khandelwal and Shri Praveen Goyal, CAs
राजस्व की ओर से / Revenue by	:	Dr. Priyanka Patel, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	09/02/2026
घोषणा की तारीख / Date of Pronouncement	:	11/02/2026

आदेश / ORDER

Per Avdhesh Kumar Mishra, AM:

This appeal for Assessment Year ('AY') 2013-14 filed by the assessee is directed against the order dated 06.11.2025 of Commissioner of Income Tax (Appeals), ['CIT(A)'], National Faceless Appeal Centre ('NFAC'), Delhi passed under section 250 of the Income Tax Act, 1961 ('Act').

2. The grounds of appeal raised by the assessee are under:

"1. That on the facts and in the circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) erred in dismissing the appeal on an erroneous and unfounded assumption that the appellant had

opted for the Vivad Se Vishwas Scheme, 2020, whereas, in fact, the appellant had never filed any declaration under the said scheme. Therefore, the impugned order is based on incorrect facts and deserves to be quashed.

2. *That on the facts and in the circumstances of the case and in law, the notice issued u/s 148 of the Act dated 28/03/2021 by the assessing officer is illegal and barred by limitation as per first proviso to section 147 of the Act.*
3. *That on the facts and in the circumstances of the case and in law, the notice u/s 148 of the Act has been issued by the assessing officer on change of opinion, hence, illegal and bad in law.*
4. *That on the facts and in the circumstances of the case and in law, the notice u/s 148 of the Act has been issued on the basis of an audit objection and without independent application of mind, hence, illegal and bad in law.*
5. *That on the facts and in the circumstances of the case and in law, the assessment order passed u/s 147 r.w.s. 144B of the Act dated 30/03/2022 is illegal and void ab initio.*
6. *That on the facts and in the circumstances of the case and in law, the assessing officer erred in making addition of Rs. 50,11,769/-under the head capital gain.*
7. *That on the facts and in the circumstances of the case and in law, the assessing officer erred in making addition u/s 68 of the Act of Re. 2,19,14,303/- on account of share application money and unsecured loan.*
8. *The appellant craves to add, alter OR DELETE any of the grounds of appeal during the course of appellate proceedings.”*

3. The relevant facts giving rise to this appeal are that the assessee filed its original Income Tax Return ('ITR') of the relevant year on 31.03.2014 declaring income of Rs.2,17,900/-. The case was picked up for scrutiny and consequential assessment was completed under section 143(3) of the Act on 31.03.2016. Later, the case was re-opened under section 148 of the Act. In response to the show-

cause notice under section 148 of the Act, the assessee filed its ITR on 12.11.2021 declaring income of Rs.2,17,900/- (the income disclosed in original ITR). The re-opened assessment was completed at income of Rs.2,73,29,922/- vide order dated 30.03.2022 passed under section 147 r.w.s. 144B of the Act. Aggrieved, the assessee filed appeal before the Ld. CIT(A), who dismissed the appeal as under:

“2. During appellate proceedings, as per details available on record, it is noted that Form 5 under Direct Taxes Vivad se Vishwas Act, 2020 dated 20.12.2021 has been issued by designated Authority i.e. the Principal Commissioner of Income Tax-1, Raipur for A.Y. 2013-14 under consideration covering captioned appeal. Since appellant has opted to avail benefit of Vivad Se Vishwas Scheme, 2020. Considering the request of assessee present appeal is dismissed as withdrawn.”

4. At the outset, Shri Praveen Khandelwal, Ld. Authorized Representative ('AR') of the assessee drew our attention to the fact that the Ld. CIT(A) had erred in dismissing the appeal on the reasoning that the assessee had filed an application under Vivad Se Vishwas Scheme, 2020 ['VSVS']. He submitted that the assessee had filed an application under VSVS against the original assessment order passed under section 143(3) of the Act on 31.03.2016 and not against the reopened assessment order passed under section 147 r.w.s. 144B of the Act on 30.03.2022. Thus, there was a factual mistake on the part of the Ld. CIT(A). He, therefore, prayed for remanding the matter back to the file of Ld. CIT(A) to adjudicate the appeal *denovo*.

5. Dr. Priyanka Patel, Ld. Sr. DR did not raise any objection to the request of the Ld. AR.

6. We have heard both parties and perused the material available on the record. We find merit in the submission of the Ld. AR that the Ld. CIT(A) has erred in dismissing the appeal on the reasoning that the assessee has filed an application under VSVS. Considering the facts in entirety and without offering any categorical finding on the merit of the case, we deem it fit to set aside the impugned order and remit the matter back to the file of the Ld. CIT(A) for deciding the appeal afresh/denovo. Ordered accordingly.

7. In the result, the appeal of assessee is **allowed** as above.

Order pronounced in the open court on 11/02/2026.

Sd/-
(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(AVDHESH KUMAR MISHRA)
लेखा सदस्य / ACCOUNTANT MEMBER

रायपुर / Raipur; दिनांक Dated 11/02/2026
HKS, PS

आदेशकी प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. The Pr. CIT, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण,
रायपुर/ DR, ITAT, Raipur
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

//True copy//

(Senior Private Secretary)
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur