

**INCOME TAX APPELLATE TRIBUNAL
AGRA BENCH "DB": AGRA
SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
(Through virtual hearing)**

**ITA No. 340/AGR/2024
(Assessment Year: 2012-13)**

Shyam Singh Yadav, OPP. Doordarshan Kendra, Thatipur Gaon, Morar, Gwalior, MP (Appellant) PAN: ABHPY8702B	Vs. ITO, Ward-2(2), Gwalior (Respondent)
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Assessee by :	Shri S. C. Jain, Adv
Revenue by:	Shri Shalendra Srivastava, Sr. DR

Date of Hearing	05/02/2025
Date of pronouncement	05/02/2025

ORDER

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.340/AGR/2024 for AY 2012-13, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'ld. NFAC', in short] dated 16.06.2024 against the order of assessment passed u/s 147 r.w.s 144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 04.12.2019 by the Assessing Officer, ITO, Ward-3(2), Gwalior (hereinafter referred to as 'ld. AO').
2. The assessee has raised the following grounds of appeal :-

"1. That the learned Commissioner of Income Tax (Appeals) [CIT(A)] erred in passing an ex parte order without providing the appellant with a fair opportunity to present his case despite being aware of the appellant's circumstances, existence of sufficient grounds and evidence intended to be placed on record.

2. That the CIT(A) has erroneously confirmed the addition of Rs. 91,40,236/- under Section 69A of the Income Tax Act, 1961, made by the Assessing Officer (AO) on account of unexplained cash credits, without

appreciating the fact that the appellant was running a legitimate business during the relevant period.

3 That the CIT(A) failed to take into account that the amount in question was reflected in the appellant's Form 26AS, with the payer deducting Tax at Source (TDS). This evidence clearly demonstrates that the receipts were business income and not unexplained or unaccounted credit.

4 That the AO failed to allow credit of TDS Rs.1,31,032 while computing the Tax 26AS, which were either on record or available on portal

5 That the CIT(A) has erred in law and on facts by confirming the addition of Rs. 17,78,091/- made by the Assessing Officer (AO) under the head "Income from House Property". The addition was made without properly considering the facts and circumstances of the case.

6 That the AO incorrectly computed the income from house property by disregarding the actual facts related to the property, including the documentary evidence to be provided. The addition was made without a proper basis and was confirmed by the CIT(A) without due consideration.

7 That the AO failed to account for the appropriate deductions under Section 24 of the Income Tax Act and did not consider the actual rent received from the property, which resulted in an erroneous computation of income. This oversight was not rectified by the CIT(A) during the appellate proceedings

8 That the impugned demand of Rs. 90,51,880/-which is a disputed demand be kindly stayed till decision in the appeal

9 That on the facts and circumstances of the case, and in law, the learned Assessing Officer (AO) has erred in charging interest under Sections 234A, 234B, and 234C of the Income Tax Act, 1961 without properly considering the specific facts and circumstances pertaining to the appellant's case.

10 That on the facts and circumstances of the case, and in law, the learned Assessing Officer (AO) has erred in initiating penalty proceedings under Sections 271(1)(c) and 271(1)(b) of the Income Tax Act, 1961 without proper justification or consideration of the specific facts of the case.

11 That the appellant reserves the rights of alteration, addition, deletion and/ or modification in the grounds of appeal at the time and/or before disposal of the appeal."

3. We have heard the rival submissions and perused the material available on record. The assessee has claimed before the Id NFAC that he was engaged in running a business as contractor and also earning income under the head income from house property and business. But he had not filed his return of income for the year under consideration. On perusal of the

order of the Id NFAC, we find that the Id NFAC had decided the issue ex parte. Hence, in the interest of justice and fairplay, we deem it fit and appropriate to restore this appeal to file of Id NFAC for de novo adjudication in accordance with law. Needless to mention the assessee be given reasonable opportunity of being heard. The assessee is directed to cooperate with Id NFAC for expeditious disposal of the appeal by not taking unwarranted adjournments. Hence, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 05/02/2025.

-Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 05/02/2025
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi