

**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. 329/AGR/2024
(Assessment Year: 2018-19)**

Tapas Jain, M/s. Dev Sales Dhanvantri Complex Bhind, Madhya Pradesh 477001 (Appellant) PAN: AIFPJ3617F	Vs. ITO, Ward-2(1), Gwalior (Respondent)
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Assessee by :	Shri Rajendra Sharma, 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.329/AGR/2024 for AY 2018-19, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'ld. NFAC', in short] dated 19.07.2024 against the order of assessment passed u/s 147 r.w.s. 144B of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 14.03.2023 by the Assessing Officer, ITO, Ward-2(1), Gwalior (hereinafter referred to as 'ld. AO').

2. The assessee has raised the following grounds of appeal :-

"1 That national faceless appeal centre has been erred on facts and in law while passing the appellate order "appeal is dismissed as not admitted", as per provisions of sec 249(3) the appeal filed by the appellant is liable to be admitted being the delay in filing of appeal was on account of sufficient cause, the appellate order dated 19.07.2024 passed by NFAC is liable to be set a side.

2 That National Faceless Appeal Centre, has not acted judicially while dismissing of the appeal as not admitted, being has not appreciated the facts, reasons, sufficient cause, the appellate order passed dated 19.07.2024 is against the equity and natural justice, liable to be set a side.

3 That while not admitting of the appeal, the NFAC has acted mechanically as has not appreciated that the assessment order passed under appeal was extra ordinary high pitch assessment, passed ex-party, on the income at Rs. 2,18,36,944/-, against return income at Rs. 2,92,990/- which is liable to be set a side.

4 That while not admitting the appeal, the NFAC has not appreciated that addition made in assessment at Rs. 2,15,43,954/- is made ignoring the procedure laid down for completing of assessment, the addition made having no basis are liable to be deleted. The appellate order passed by NFAC, not admitting of appeal is liable to be set a side.

5 That while not admitting of appeal the NFAC has not appreciated that order passed by AO (under appeal) was perverse order, in the equity and natural justice the appeal filed against such order was liable to be admitted and was to be decided on merit by passing of judicious order on merit, the appellate order passed dated 19.07.2024 is liable to be set a side.

6 That while not admitting of appeal, the NFAC has completely ignored that the addition made in the assessment, treating the deposits with bank as unexplained which represent the sales duly supported with the books of account, has wrongly been assessed by the AO as unexplained, No addition could have sustained if the appeal was decided on merit.

7 appellate order dated 19.07.2024 is bed in law liable to be set a side.”

3. We have heard the rival submissions and perused the material available on record. The assessee had not filed his original return of income for the year under consideration as stated by the Id AO in his order. Since there were some cash deposits made in the bank account, the Id AO reopened the assessment by issuing notice u/s 148 of the Act. The assessee filed his return of income declaring total income of Rs 2,92,990/- in response to notice u/s 148 of the Act. Later on, no effective representation was made by the assessee in the re-assessment proceedings by furnishing the requisite details and hence the assessment stood completed u/s 147 r.w.s 144B of the Act on 14-3-2023 determining total income of the assessee at Rs

2,18,36,944/-. The appeal was preferred by the assessee with a delay of 10 days which was not condoned by the Id NFAC and accordingly appeal stood dismissed as not maintainable. Considering the minor delay of 10 days, in the interest of substantial justice, we direct the Id NFAC to condone the delay , admit the appeal of the assessee and adjudicate the grounds raised before it denovo 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