

**THE INCOME TAX APPELLATE TRIBUNAL,
AGRA BENCH: AGRA**

**BEFORE SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER
AND
SHRI SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No. 317/AGR/2024
Assessment Year: 2013-14

Taruna Vatssa, 456 Pachimpuri, Sikandra S.O. (Agra), Uttar Pradesh PIN: 282 007	Vs.	Income-Tax Officer, Agra
PAN :ABPPV0135B		
(Appellant)		(Respondent)

Assessee by	Shri S.C. Jain, Advocates
Department by	Shri Shildndra Shrivastava , Sr. DR

Date of hearing	13.01.2025
Date of pronouncement	07.02.2025

ORDER

PER SUDHIR KUMAR, JUDICIAL MEMBER:

The assessee preferred the captioned appeal, challenging the order dated 12.08.2024 passed by the Ld. Commissioner of Income

Tax(Appeals) (“Ld. CIT(A) for short”)/National Faceless Assessment Centre (NFAC) pertaining to assessment year 2013-14 and arises out of the assessment order dated 24.09.2021 passed under Sections 147 r.w.s. 144 of the Income Tax Act, 1961 (“The Act for short”).

2. The brief facts of the case are that the assessee is an individual who prematurely retired from Goa Glass Fibre Ltd., Colvale, Bardez, Goa on 20.04.2002 due to medical reason i.e. poor vision and since then, the assessee is living with his father at Agra. In this case, there was information in NMS Cycle-1, Priority 1, that during the financial year 2012-13 relevant to the assessment year 2013-14, the appellant had entered into transaction code 006 concerning a contract worth Rs. 10,00,000 or more in the Commodities Exchange for an amount of Rs. 6,13,46,831, and transaction code 261 regarding other transactions for Rs. 39,01,847. Since the appellant's income was below the taxable limit, he did not file a return of income for the assessment year 2013-14. Therefore, Assessing Officer believed that the income arising from the aforementioned transactions, chargeable to tax, had escaped assessment. As a result, the appellant's case for assessment year 2013-

14 was reopened under section 147 of the Income Tax Act, 1961, after obtaining the necessary approval from the competent authority. The Income Tax Officer, Ward 3, Panvel (Maharashtra), issued notices in the name of the appellant, addressed to Colvale, Bombay Goa Highway, Cardez, North Goa. However, these notices were not served upon the appellant, who has been residing in Agra since April 2002. This fact is verifiable, as the appellant has filed all returns post-retirement after 2002 with his Agra address, even before the initiation of proceedings. The notice under section 148 of the Income Tax Act, 1961, allegedly issued on 16/03/2020, required the appellant to comply within 30 days from the date of service. Subsequently, various notices under section 142(1) of the Income Tax Act, 1961, along with a questionnaire, were also issued. However, the appellant did not receive them, as the notices were not correctly addressed and thus never served. Thereafter, the learned Assessing Officer at NFAC passed assessment order under section 144 of the Income Tax Act, 1961, stating that the appellant had two trading accounts with different brokers and that a total transaction of Rs. 15,93,53,566.83 was carried

out on NSE/BSE during the financial year 2012-13 stating that the assessee failed to submit any documentary evidence regarding the purchase and sale of shares/commodities on the exchanges, ledger accounts, expenses incurred, income and expenditure accounts, balance sheets, bank details, etc. As a result, the income of the appellant was estimated by the Assessing Officer at 8% of the total transaction amount of Rs. 15,93,53,566.83, which amounts to Rs. 1,27,48,285. In this regard, requisitioned was made with Learned ITO Panvel by letter mail dated 31-10-2023. Unfortunately no letter / mail were received from him. Finally, aggrieved by this assessment order, the appellant filed an appeal with the Learned CIT(A)/NFAC, along with a condonation request supported by a duly sworn affidavit. Assessee's learned counsel submitted that learned CIT(A) failed to appreciate the facts and circumstances of the case, and the order passed is therefore bad in law and facts. An appeal has now been preferred before us.

3. We have heard rival submissions of both the parties and examined the relevant material available on record.

4. After careful perusal of the case material available on record, we find that both the authorities below have passed the erroneous orders without giving sufficient opportunity of being heard and considering the documents filed by the assessee. Therefore, in the light of issuance of notices and service upon the assessee as he has left the permanent house from Goa to Agra and more over assessee has filed return of income on the address of Agra but no notice was served on the given address in the ITR properly, we deem it fit to send the matter back to the file of the Assessing Officer to decide the matter in accordance with law after providing proper and due opportunity of being heard to the assessee. The assessee is also directed to co-operate in the assessment proceeding. Hence, keeping in view the entire factual position into consideration, the appeal of the assessee is disposed of accordingly

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

Order pronounced in the open court on 07/02/2025.

Sd/- (RAMIT KOCHAR) ACCOUNTANT MEMBER	Sd/- (SUDHIR KUMAR) JUDICIAL MEMBER
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Dated: 07 Feb., 2025.

Mohan Lal

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi