

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

**ITA No. 41/AGR/2024  
(Assessment Year: 2017-18)**

<b>Manish Kumar Chaturvedi,</b> 1882, Shivaji Nagar, Jhansic 284001 (Appellant) <b>PAN:AKKPC5294Q</b>	Vs. Income Tax Officer, Ward-2(3)(2), Jhansi 284 001 (Respondent)
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Assessee by :	None
Revenue by:	Shri Shailender Shrivastava, Sr. DR
Date of Hearing	06/02/2025
Date of pronouncement	06/02/2025

**ORDER**

**PER M. BALAGANESH, A. M.:**

1. The appeal in ITA No.41/AGR/2024 for AY 2017-18, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'ld. NFAC', in short] dated 01.12.2023 against the order of assessment passed u/s 144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 26.12.2019 by the Assessing Officer, ITO, Ward-2(3)(2), Jhansi (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), (hereinafter referred to as the CIT(A)), NEAC, Income Tax Department has been arbitrary and unjust in passing ex-parte order under section 250 of the Income Tax Act, 1961 (hereinafter referred to as the Act') by upholding the assessment order passed by ITO Ward, 2(3) (2), Jhansi [hereinafter referred to as the AO] u/s 144 of the Act and not giving proper and sufficient opportunity of being heard to the appellant despite appellant's written requests for seeking adjournment on reasonable grounds and so in view of*

*principles of equity and natural justice the appellant should have been given proper opportunity of being heard prior to disposal of his case by the Ld CIT(A).*

*2. That the order passed by the learned CIT(A) is bad in law and liable to be quashed as it fails to adjudicate on the fact that:*

*a) no proper approval was taken by the AO from Principal Commissioner of Income Tax while initiating proceedings for verification of cash transactions relating to demonetization period in accordance with the Standard Operating Procedure (SOP) mandated by the CBDT from time to time in its circulars,*

*b) the notice under section 142 (1) of the Act was issued in the case of the appellant in violation of time period as laid in the Standard Operating Procedure (SOP) mandated by the CBDT from time to time in its circulars, and*

*c) the entire proceedings for verification of cash transactions relating to demonetization period were conducted by the AO in complete disregard to the Standard Operating Procedure (SOP) mandated by the CBDT from time to time in its circulars, thereby rendering the entire proceedings as void ab inito resulting into deletion of impugned demand of Rs. 17,66,523.*

*3. That the Ld. CIT(A) has erred in law and on facts in upholding the order passed by the AO without considering the fact that:*

*(i) the AO has made addition of Rs. 13,00,000 in his assessment order by ignoring the statements on oath made by the relatives of the appellant before him who had given money to the appellant from their explained sources for medical treatment of appellant's father prior to the date of demonetisation,*

*ii) the AO has made addition of Rs. 13,00,000 in his assessment order by solely doubting the genuineness of transaction though accepting the source of such cash deposited and accepting the identity of the individuals from whom money was received by the appellant,*

*iii) the AO has neither controverted to nor doubted the contents of statement on oath made by the individuals who had given cash to the appellant for medical treatment of his father from their explained sources yet, the AO has made addition of Rs. 13,00,000 solely on the basis of surmisen and conjectures and without any cogent reason and thus such addition of Rs. 13,00,000 deserves to be deleted,*

*(iv) the AO has not taken cognizance of the medical prescriptions/reports and documentary evidence submitted by the*

*appellant during the course of assessment proceedings pointing out the fact that the father of the appellant had been keeping ill since a long time prior to the period of demonetization and was medically advised for operation subject to optimality of other critical medical factors and has doubted genuineness of transaction solely because the father of the appellant was operated the after period of demonetization, which is factual and very plausible and hence addition of Rs. 13,00,000 deserves to be annulled.*

*4. That the Ld. CIT(A) has erred in law and on facts in upholding the order passed by the AO without considering the fact that the AO has unilaterally determined the total receipts of the appellant to be Rs. 26,77,190 for the AY 2017-18, thus resulting into impugned addition of Rs. 1,10,175 that deserves to be vitiated.*

*5. That without prejudice to the above, the Ld. CIT (A) has erred in law and on facts in upholding the order passed by the AO without considering the fact that the AO has unilaterally and conveniently determined the surplus of receipts above Rs. 13,00,000 i.e. Rs. 13,77,190 (Rs. 26,77,190 less Rs. 13,00,000) to be gross receipts under section 44AD of the Act and applied 8% as net profit rate resulting into impugned income of Rs. 1,10,175 without substantiating or establishing the nature of impugned receipts of Rs. 13,00,000 during the AY 2017-18 and why provisions of 44AD of the Act be not applicable on such receipts as well.*

*6. That the Ld. CIT(A) has erred in law and on facts in upholding the order passed by the AO without considering the fact that the savings bank interest earned by the appellant of Rs. 1,444 is eligible for deduction under section 80TTA of the Act and not taxable.*

*7. That the Ld. CIT(A) has erred in law and on facts in upholding the assessment order passed by the AO without considering the facts and circumstances present in the case of the appellant and without acknowledging that the AD had passed the impugned assessment order without taking cognizance of medical reports and material information/evidences relating to medical history of appellant's father as submitted by the appellant during the course of such assessment proceedings and thus AO has solely doubted the genuineness of transactions in the instant case without acknowledging the material submitted to him on record and so such matter deserves to be set aside to AO for fresh appreciation of facts.*

*8 (a) That in any view of the case, charge of interest under sections 234A and 234B of the Act is unwarranted.*

*(b) That further in any view of the case, the initiation of penalty proceedings u/s 274 r.w.s 271 of the Act and under section 270A(2) (b) and 271F of the Act is unwarranted.*

*9. That the appellate order dated 01.12.2023 passed by the Ld. CIT (A) is against the law and facts of the appellant's case."*

3. None appeared on behalf of the assessee despite issuance of notice of hearing. Hence we proceed to dispose of this appeal after hearing the Id DR and based on materials available on record. We find that the assessee had not filed his income tax return for the year under consideration. The Id AO observed that there were some cash deposits made by the assessee during the demonetization period and accordingly issued notice u/s 142(1) of the Act seeking explanation for the cash deposits, among others. The Id AO framed the assessment u/s 144 of the Act on 26-12-2019 determining total income of the assessee at Rs 14,11,619/- after making the following additions / disallowances :-

Income from business estimated u/s 44AD of the Act	- Rs 1,10,175
Cash deposits added u/s 69A rws 115BBE of the Act	- Rs 13,00,000
Interest from Savings Bank Account	- Rs 1,444

4. Before the Id NFAC, there was no representation by the assessee despite issuance of several notices. However, we find on perusal of the order of the Ld NFAC, that the Id NFAC had passed an order ex parte without adjudicating the issue on merits. Hence we deem it fit and appropriate, in the interest of justice and fair play, to restore this appeal to the file of Id NFAC for de novo adjudication of the grounds raised by the assessee before it in accordance with law. Needless to mention that the assessee be given reasonable opportunity of being heard. The assessee is at liberty to raise additional grounds and file additional evidences, if any, if it so desires. With these directions, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 06/02/2025.

-Sd/-  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

-Sd/-  
**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**

Dated: 06/02/2025  
A K Keot

Copy forwarded to

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

ASSISTANT REGISTRAR  
ITAT, New Delhi