

**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.242/AGR/2024  
(Assessment Year: 2017-18)**

<b>Subhash Kumar,</b> Anand Jewellers, Topi Bazar, Sarafa Road, Lashkar, Gwalior (MP) (Appellant) <b>PAN:AUCPK4620L</b>	Vs.	Income Tax Officer, Ward-2(1), Gwalior (MP)  (Respondent)
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Assessee by :	Shri Ashok Vijaywargis, CA
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.242/AGR/2024 for AY2017-18, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'ld. NFAC', in short] dated 07.05.2024 against the order of assessment passed u/s 144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 23.12.2019 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, on the facts and circumstances of the case and in law, and in any view of the matter, the Ld. authorities below have erred in passing ex-parte order and dismissing the appeal stating in para 2.1 at page 2 of the appeal order that "The appellant had been given ample opportunities by way of issuing notices as detailed above but the appellant had neither responded to the notices nor filed any written submission in compliance to such notices issued." Whereas, the appellant has filed an application for adjournment on*

26.04.2024 i.e. on the date of hearing, which was neither considered nor rejected.

2. That, on the facts and circumstances of the case and in law, and in any view of the matter, the Ld. CIT(A) has erred in not deciding the following grounds of appeal raised before him:

1. That, on the facts and circumstances of the case and in law and in any view of the matter, the impugned assessment order and addition made therein is unjustified and not according to law.

2. That, on the facts and circumstances of the case and in law and in any view of the matter, the Ld. Assessing Officer has erred in completing the assessment u/s 144 of the Income Tax Act, 1961.

3. That, on the facts and circumstances of the case and in law and in any view of the matter, the Ld. Assessing Officer has erred in making Addition of Rs. 18,24,500/- in respect of cash deposit in bank considering it as alleged unexplained money invoking provision of section 69A of the Income Tax Act, 1961 in following bank accounts:

Name, address of the bank and account number	Date of cash deposit	Amount
Punjab National Bank, Gwalior A/c No. 3237002100027216	22-11-2016	50,000/-
	28-12-2016	3,00,000/-
Punjab National Bank, Gwalior A/c No. 3237002100027234	22-11-2016	50,000/-
	16-12-2016	3,93,000/-
Punjab National Bank, Gwalior A/c No. 3237002100027225	22-11-2016	50,000/-
	29-12-2016	5,11,500/-
Punjab National Bank, Gwalior A/c No. 3237002100027243		4,70,000/-
<b>Total</b>		<b>18,24,500/-</b>

4. That, on the facts and circumstances of the case and in law and in any view of the matter, the Ld. Assessing Officer has erred in making Addition of Rs. 13,60,000/- in respect of other deposit considering it as alleged unexplained money invoking provision of section 69A read with section 115BBE of the Income Tax Act, 1961

Name, address of the bank and account number	Amount
Punjab National Bank, Gwalior A/c No. 3237002100027216	6,00,000/-

<i>Punjab National Bank, Gwalior A/c No. 3237002100027234</i>	<i>3,20,000/-</i>
<i>Punjab National Bank, Gwalior A/c No. 3237002100027225</i>	<i>2,20,000/-</i>
<i>Punjab National Bank, Gwalior A/c No. 3237002100027243</i>	<i>2,20,000/-</i>
<i>Total</i>	<i>13,60,000/-</i>

- 5. That, on the facts and circumstances of the case and in law and in any view of the matter, the Ld. Assessing Officer has erred in charging income tax at higher rate invoking provision of section 115BBE of the Income Tax Act, 1961 in respect of Rs. 31,84,500/- (18,24,500 plus 13,60,000) considering it as alleged unexplained money invoking provision of section 69A of the Income Tax Act, 1961,*
- 6. That, on the facts and circumstances of the case and in law and in any view of the matter, the Ld. Assessing Officer has erred in not allowing reasonable and proper opportunity of hearing.*
- 7. That, on the facts and circumstances of the case and in law and in any view of the matter, the Ld. Assessing Officer has erred in initiating penalty proceedings u/s 271AAC(1) of the Income Tax Act, 1961.*
- 8. That, on the facts and circumstances of the case and in law and in any view of the matter, the Ld. Assessing Officer has erred in initiating penalty proceedings u/s 272A(1) (d) of the Income Tax Act, 1961.*
- 9. That, on the facts and circumstances of the case and in law and in any view of the matter, the Ld. Assessing Officer has erred in initiating penalty proceedings u/s 271F of the Income Tax Act, 1961.*
- 10. That, on the facts and circumstances of the case and in law and in any view of the matter, the Ld. Assessing Officer has erred in charging interest of Rs. 7,13,400/- u/s 234A of the Income Tax Act, 1961.*
- 11. That, on the facts and circumstances of the case and in law and in any view of the matter, the Ld. Assessing Officer has erred in charging interest of Rs. 8,11,800/- u/s 234B of the Income Tax Act, 1961.*
- 3. That, on the facts and circumstances of the case and in law, and in any view of the matter, the Ld. authorities below have erred in not allowing the reasonable and proper opportunity of hearing before passing the order.*

4. *That, the appellant craves leave to add, amend, withdraw any ground (s) of appeal before and/or at the time of hearing."*

3. We have heard the rival submissions and perused the materials available on record. The Id AR before us stated that the Id NFAC had passed an exparte order without adjudicating the issue on merits. We find on perusal of the order of the Id NFAC, the same has been decided exparte without the presence of the assessee. 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.

4. 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**