

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

<b>Shiv Construction,</b>	Vs.	ITO,
Kishni Chauraha, Karhal		Ward-4(2)(5),
Mainpuri, UP		Mainpuri
(Appellant)		(Respondent)
<b>PAN:ABBFS3968H</b>		

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.244/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 10.02.2023 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 12.03.2021 by the Assessing Officer, NeAC, Delhi (hereinafter referred to as 'ld. AO').
2. At the outset, we find that there is a delay of 30 days in filing of appeal by the assessee before us. Considering the reasons adduced in the condonation petition together with the affidavit thereon, in the interest of substantial justice, we are inclined to condone the delay and admit the appeal of the assessee for adjudication.

3. None appeared on behalf of the assessee despite issuance of notice. Hence we proceed to dispose of this appeal after hearing the Id DR and based on materials available on record.

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

*"1. Because the learned CIT(Appeals), has erred on facts and in law in deciding the appeal of the appellant in limine vide impugned order passed ex parte without affording reasonable opportunity of being heard, which is against the principles of natural justice*

*2. Because the Id. CIT(Appeals), has erred on facts and in law in confirming the assessment order passed by the Assessing Officer by dismissing the appeal of the appellant at the very threshold for want of prosecution without deciding the issues involved on merits as contemplated u/s 250 of the I.T. Act, 1961.*

*3. Because the learned CIT(Appeals), erred in facts and law in confirming the assessment order having been passed after taking into account earlier year assessment order, which was proded by the Assessing officer Firozabad without territorial jurisdiction and without issuing any notice to the appellant.*

*4. Because the id CIT(A), has wrongly affirmed the assessment order ignoring the fact that the appellant has maintained all the books of accounts in ordinary course of business, the same have been audited by the chartered accountants and requisite details were furnished before the Ld. AQ*

*5. Because the CITIAL was not justified in confirming the rejection of books of accounts and arbitrary application of fup Rate of 8%, ignoring the fact that net profit is well deduced from the audited books of accounts maintained by the assessee.*

*6. Because the order of Id. CIT(Appeals), is bad in law and against the facts, which is liable to be set aside.*

*7. Because the appellant craves leave to amend, add, delete and alter any or more grounds upto the time or during the course of hearing."*

5. 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.

6. 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