

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“DB” BENCH, AGRA**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER &  
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

**ITA No. 150 & 151/Agr./2019  
(Assessment Year 2013-14)**

DCIT, Circle-2(2)(1) Civil Lines, Dabrai, NH-2 Firozabad - 283205	Vs.	M/s Uma Glass Works 22, Industrial Estate, Firozabad UP 283203
स्थायीलेखासं. / जीआइआरसं. / PAN/GIR No: AACFU5061D		
Appellant	..	Respondent

**C.O. No.65/Agr./2019  
(Assessment Year 2013-14)**

M/s Uma Glass Works 22, Industrial Estate, Firozabad UP 283203	Vs.	The DCIT, Circle 2(2)(1) Civil Lines, Dabrai, NH-2 Firozabad - 283205
स्थायीलेखासं. / जीआइआरसं. / PAN/GIR No: AACFU5061D		
Appellant	..	Respondent

Appellant by :	Sh. Sahib P Satsangi, CA
Respondent by :	Sh. Sukesh Kumar Jain, CIT, DR

Date of Hearing	12.02.2025
Date of Pronouncement	12.02.2025

**ORDER**

**PER BENCH:**

These two Revenue's appeals and assessee's Cross Objection involve the same assessee herein, namely M/s Uma Glass Works. All other relevant details thereof are as under:

Sr. No.	Appeal No.	A.Y.	Assessee	Respondent	Order appealed against	Proceedings u/s
1.	150/Agr/2019	2013-14	M/s Uma Glass Works	DCIT	CIT(A)-2, Agra's case No. 442/(e-filed) / CIT(A)-2 / Agra / DCIT-2(2)(1) / Firozabad/2017-18 Dated 28.02.2019	154
2-3	151/Agr/2019 & CO 5/Agr/2019	2013-14	M/s Uma Glass Works.	DCIT	CIT(A)-2, Agra's case No. 342/(e-filed) / CIT(A)-2 / Agra / DCIT-2(2)(1) / Firozabad/2017-18 Dated 28.02.2019	154

2. Both the learned representative invite our attention to the Revenue's main appeal herein ITA No. 151/Agr./2019 raising the following substantive/revised grounds:

“1. That the Ld. Commissioner of Income Tax (Appeals)-2, Agra has erred in law and on facts in deleting the additions made by the AO without appreciating the facts of the case.

2. That the Ld. Commissioner of Income Tax (Appeals)-2, Agra has erred in law and on facts in holding that the Assessee's explanation in relation to the discrepancies identified in the assessment order was justified merely on the basis of the remand report by the Assessing Officer, without any verification or inquiry by the CIT(Appeals).

3. That the Ld. Commissioner of Income Tax (Appeals)-2, Agra has erred in law and on facts in ignoring the fact that the Assessee had failed to disclose the figures shown in the Audited Balance Sheet filed before the Department in the Income Tax Return filed by the Assessee, as the figure for Power & Fuel in Part-A - P&L, Para 10 of the Income Tax Return in ITR-S for A.Y. 2013-14 was disclosed at Rs. 16,59,940/- whereas the figure for Purchase of Fuels was shown at Rs.5,00,28,472.50 and that for Consumption of Fuels was shown at Rs.4,99,90,988.50 in the Schedule 17 "Consumption Chart of Principal Items of Raw Material & Chemicals" of the Balance Sheet for A.Y. 2013-14 and available on assessment record.

4. That the Ld. Commissioner of Income Tax (Appeals)-2, Agra has erred in law and on facts in ignoring the fact that the Assessee had failed to disclose the figures shown in the Audited Balance Sheet filed before the Department in the Income Tax Return filed by the Assessee, as the figure for Purchases in Part-A - P&L, Para 6 of the Income Tax Return in IT-S for A. Y. 2013-14 was disclosed at Rs. 12,72,65,556/-, and the figure for Consumption of Store & Spare Parts in Part-A - P&L, Para 9 of the Income Tax Return in ITR-S for A.Y. 2013-14 was disclosed at NIL ;Whereas the figure for Purchase of Raw Materials & Chemicals was shown at Rs. 11,69,65,243.11, Purchase of Packing Material was shown at Rs.20,88,286/-, Purchase of Oil & Lubricants was shown at Rs.13,29,550.96 and Purchase of Consumable Store was shown at Rs.6,58,826.83 in the Schedule 17 "Consumption Chart of Principal Items of Raw Material & Chemicals" of the Balance Sheet for A. Y. 2013-14 and available on assessment record.

5. That the Ld. Commissioner of Income Tax (Appeals)-2, Agra has erred in law and on facts in ignoring the fact that the Assessee had failed to disclose the figures shown in the Audited Balance Sheet filed before the Department in the Income Tax Return filed by the Assessee, as the figure for Closing Stock of Raw Material and that of Work-in-Progress in Part-A - P&L, Para 3 (i and ii) of the Income Tax Return in ITR-5 for A.Y. 2013-14 was disclosed at NIL whereas the figure for Closing Stock for Raw Materials & Chemicals was shown at Rs.5,15,83,972/- in the Schedule 17 "Consumption Chart of Principal Items of Raw Material & Chemicals" of the Balance Sheet for A. Y. 2013-14 and available on assessment record.

6. That the Ld. Commissioner of Income Tax (Appeals)-2, Agra has erred in law and on facts in passing a non speaking order and failing to demonstrate as to on the basis of which material it had been concluded that the genuineness of the transactions had been duly established, there being virtually no discussion in the said order on such score, except for vague description of the material submitted by the Assessee at the appellate stage, and thus has failed on the test laid down by the judgment of the Hon'ble High Court of Delhi in Para 40 of CIT Vs. Jansampark Advertising & Marketing Pvt. Ltd., 375 ITR 373.

7. That the Ld. Commissioner of Income Tax (Appeals)-2, Agra has erred in law and on facts in accepting the version of the Assessing Officer in the remand report, which was primarily on the basis of the Excise Records and Audited Balance Sheet of the Assessee, ignoring the fact that the Assessee had failed to reflect in the Income Tax Return filed by it, the figures for Purchases, Closing Stock, Consumption of Stores & Spare Parts, Power & Fuel etc. claimed in the Audited Balance Sheet filed by the Assessee and available on assessment record and thus could not have closed the chapter simply by allowing the appeal and deleting the addition made, as it was also the obligation of the first appellate authority to have ensured that Effective Inquiry was carried out and thus the decision of the Ld. CIT(Appeals) was in clear violation of the principle laid down by the Hon'ble High Court of Delhi in Para 42 of CIT Vs. Jansampark Advertising & Marketing Pvt. Ltd., 375 ITR 373.

8. That the order of Ld. Commissioner of Income Tax (Appeals)-2, Agra being erroneous in law and on facts deserves to be quashed and that of the Assessing Officer deserves to be restored."

3. It next emerges during the course of hearing that learned CIT(A) has gone by the Assessing Officer's favourable remand report accepting the assessee's case on merits submitted in the lower appellate proceedings as the learned CIT(A) himself extracted the same at page 43 of the lower appellate discussion.

4. That being the case, we quote CIT vs. D. M. Purnesh (2020) 426 ITR 169 (Kar.)(HC) and Smt. B. Jayalakshmi Vs. ACIT (2018) 96 taxmann.com 486 (Mad.) to hold that the Revenue could hardly be held

as an aggrieved party in such instance of the Assessing Officer's favourable remand report supporting the assessee's case. We accordingly conclude that the Revenue's instant appeal could not be accepted for the very precise reason the same stand rejected therefore.

5. Coming to the assessee's Cross Objection No. 65/Agr./2019 and Revenue's latter appeal ITA No.150/Agr./2019 both the learned representatives submit during the course of hearing that they do not need to be pressed since involving consolidated proceedings once we have confirmed the lower appellate findings subject to all just exceptions. Ordered accordingly.

6. These Revenue's "lead" appeal ITA No.151/Agr./2019 is dismissed. It's latter appeal ITA No.150/Agr./2019 and assessee's Cross Objection No. 65/Agr./2019 are dismissed as rendered infructuous in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 12.02.2025

Sd/-  
(Manoj Kumar Aggarwal)  
ACCOUNTANT MEMBER

Sd/-  
(Satbeer Singh Godara )  
JUDICIAL MEMBER

Dated 12.02.2025

PS: Rohit/Subodh, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR