

IN THE INCOME TAX APPELLATE TRIBUNAL

NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER AND

SHRI K.M. ROY, HON'BLE ACCOUNTANT, MEMBER

ITA Nos.173, 174 & 175/NAG/2016

(Assessment Years: 2008-09, 2009-10 & 2010-11)

Dy.CIT – Central Circle – 2(2) Room No. 207, 2 nd Floor Aayakar Bhavan, Civil Lines Telanghedi Road Nagpur – 440001	v.	M/s. Shree Agrawal Finance India Pvt., Ltd., 216, Dev Kripa Society Wardhman Nagar, Nagpur – 440008 PAN – AABCA4981E
(Appellant)		(Respondent)

ITA No.178/NAG/2016

(Assessment Year: 2011-12)

Dy.CIT – Central Circle – 2(2) Room No. 207, 2 nd Floor Aayakar Bhavan, Civil Lines Telanghedi Road Nagpur – 440001	v.	M/s. Thanjavur Commerce Pvt., Ltd. 216, Wardhman Nagar Nagpur – 440008 PAN – AABCT8675J
(Appellant)		(Respondent)

ITA No.294/NAG/2016

(Assessment Year: 2010-11)

Dy.CIT – Central Circle – 2(2) Room No. 207, 2 nd Floor Aayakar Bhavan, Civil Lines Telanghedi Road Nagpur – 440001	v.	Shri Dharampal R. Agrawal 290, Satnami Layout Wardhman Nagar, Nagpur – 440008 PAN – ABHPA2471M
(Appellant)		(Respondent)

ITA No.375/NAG/2016
(Assessment Year: 2010-11)

Dy.CIT – Central Circle – 2(2) Room No. 207, 2 nd Floor Aayakar Bhavan, Civil Lines Telangkhedi Road Nagpur – 440001	v.	M/s. Mansa Agro Food Processing Pvt. Ltd. 216, Wardhman Nagar Nagpur – 440008 PAN – AABCM6900C
(Appellant)		(Respondent)

Assessee Represented by	:	Shri Sachin V. Luthra, CA
Revenue Represented by	:	Shri Sandipkumar Salunke, CIT(DR)
Date of conclusion of hearing	:	23.01.2025
Date of pronouncement of order	:	21.03.2025

ORDER

PER K.M. ROY, ACCOUNTANT MEMBER

The Revenue has filed these appeals challenging different impugned orders of different assessees, passed by the learned Commissioner of Income Tax (Appeals) – 3, Nagpur [hereinafter in short "Learned CIT(A)"] vide respective Order No & Date of order as stated below: -

ITA No. & A.Y.	Order No.	Dated
ITA No. 173/NAG/2016 (A.Y. 2008-09)	CIT(A)-3/525/2012-13	20.01.2016
ITA No. 174/NAG/2016 (A.Y. 2009-10)	CIT(A)-3/526/2012-13	21.01.2016
ITA No. 175/NAG/2016 (A.Y. 2010-11)	CIT(A)-3/527/2012-13	21.01.2016
ITA No. 178/NAG/2016 (A.Y. 2011-12)	CIT(A)-3/520/2012-13	29.01.2016
ITA No. 294/NAG/2016 (A.Y. 2010-11)	CIT(A)-3/100/2013-14	26.02.2016
ITA No. 375/NAG/2016 (A.Y. 2010-11)	CIT(A)-3/515/2012-13	05.04.2016

2. Revenue has raised following grounds of appeal in its appeals: -

Grounds raised in ITA No. 173/NAG/2016 (A.Y. 2008-09)

“1. On the facts and circumstances of the case and in law, the learned CIT(A) erred in holding that the notice and action u/s 153A of the I.T. Act was bad in law, even though the Assessing Officer had recorded his satisfaction that the documents seized from various premises, belonged to the assessee, which is the only pre-condition for issue of notice under Section 153A of the Income-tax Act, 1961?”

2. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in upholding the additional ground and cancelling the assessment whereas the Delhi High Court in the case of CIT Vs. Anil Kumar Bhatia reported in 352 ITR 493 and the Karnataka High Court in the case of Canara Housing Development Co. Vs. DCIT, have affirmed the scope of the Assessing Officer to assess the total income in the proceedings u/s.153A of the Income Tax Act. Also, the Pune ITAT has held in the case of Kranti Realtors Pvt Ltd. (ITA No. 2021 to 2023/Pn/2013 dated 10.11.2015), that the Bombay High Court decision of CIT Vs. Continental Warehousing Corporation is on 'completed basis' and where no assessment has been completed u/s.143(3), the AO is competent to invoke the jurisdiction/ u/s. 153A/153C of the Act and complete the assessment following the procedure laid down u/s. 143(3) of the Act, even in the absence of incriminating documents found.

3. On the facts and circumstances of the case and in law, the learned CIT(A) has erred in allowing additional evidence under rule 46A whereas the assessee's case is not covered by the exceptions provided under rule 46A of the I.T. Rules.

4. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made by the Assessing Officer of treating the income from house property of Rs.1,10,250/- as business income

5. On the facts and circumstances of the case, the learned CIT(A) erred in deleting the disallowance made by the Assessing Officer of Rs.33,075/- and treating the same as business income, which was claimed as deduction u/s.24 by the assessee.

6. *On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made by treating agricultural income of Ra 1,17,510/- as business income.*
7. *On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made by treating unsecured loans of Rs.2,25,308/- as unexplained.*
8. *On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made by treating creditors and credit balances of Rs.45,23,158/- as unexplained credit.*
9. *On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made for disallowance of interest paid amounting to Rs.64,75,640/-.*
10. *On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition of Rs.19,29,504/- made on account of disallowance of expenses on ad-hoc basis.*
11. *On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition on account of deemed dividend of Rs.4,62,42,721/- (after rectification Rs.36,00,764/-).*
12. *Any other ground that may be urged at the time of hearing.”*

Grounds raised in ITA No. 174/NAG/2016 (A.Y. 2009-10)

1. *On the facts and circumstances of the case and in law, the learned CIT(A) erred in holding that the notice and action u/s 153A of the I.T. Act was bad in law, even though the Assessing Officer had recorded his satisfaction that the documents seized from various premises, belonged to the assessee, which is the only pre-condition for issue of notice under Section 153A of the Income-tax Act, 1961?*
2. *On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in upholding the additional ground and cancelling the assessment when in two recent cases, the Hon'ble High Courts have affirmed the scope of the Assessing Officer to assess the total income in the proceedings u/s.153A of the Income Tax Act. The Pune ITAT has held in the case of Kranti Realtors Pvt Ltd. (ITA No. 2021 to*

2023/Pn/2013 dated 10.11.2015), that even in the absence of incriminating documents found, where no assessment has been completed u/s.143(3), the AO is competent to invoke the jurisdiction /s: 153A/153C of the Act and complete the assessment following the procedure laid down t/s. 143(3) of the Act.

3. On the facts and circumstances of the case and in law, the learned CIT(A) has erred in allowing additional evidence under rule 46A whereas the assessee's case is not covered by the exceptions provided under rule 46A of the I.T. Rules.

4. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made by the Assessing Officer of treating the income from house property of Rs.1,40,852/- as business income

5. On the facts and circumstances of the case, the learned CIT(A) erred in deleting the disallowance made by the Assessing Officer of Rs.42,256/- and treating the same as business income, which was claimed as deduction u/s.24 by the assessee.

6. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made by treating agricultural income of Rs.1,14,993/- as business income.

7. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made by treating creditors and credit balances of Rs.43,46,756/- as unexplained credit.

8. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made for disallowance of interest paid amounting to Rs.22,06,391/.

9. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition of Rs.16,81,109/- made on account of disallowance of expenses on ad-hoc basis.

10. on the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition on account of deemed dividend of Rs.2,69,20,275/- (after rectification Rs.44.94.814/-).”

Grounds raised in ITA No. 175/NAG/2016 (A.Y. 2010-11)

- “1. On the facts and circumstances of the case and in law, the learned CIT(A) has erred in allowing additional evidence under rule 46A whereas the assessee's case is not covered by the exceptions provided under rule 46A of the I.T. Rules.
2. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made by the Assessing Officer of treating the income from house property of Rs.3,72,266/- as business income
3. On the facts and circumstances of the case, the learned CIT(A) erred in deleting the disallowance made by the Assessing Officer of Rs.1,11,680/- and treating the same as business income, which was claimed as deduction u/s.24 by the assessee.
4. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made by the Assessing Officer of treating the agricultural income of Rs. 1,31,742/- as business income.
5. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made by the Assessing Officer of disallowing dividend income of Rs. 6,89,429/-. The Ld. CIT(A) erred in allowing the income as exempt u/s.10(35) when the assessee had originally claimed as exempt u/s.10(34).
6. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition of Rs. 65,20,000/- made on account of unexplained unsecured loans
7. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition of Rs.23,24,977/- made on account of unexplained creditors.
8. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition of Rs.6,75,000/- made on account of disallowance of interest paid.

9. *On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition of Rs.9,61,032/- made on account of disallowance of expenses on ad-hoc basis.*
10. *On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made by the Assessing Officer by disallowing the deemed dividend of Rs. 17,33,575/-.*
11. *Any other ground that may be urged at the time of hearing.”*

Grounds raised in ITA No. 178/NAG/2016 (A.Y. 2011-12)

- “1. *On the facts and circumstances of the case and in law, the learned CIT(A) has erred in allowing additional evidence under rule 46A whereas the assessee's case is not covered by the exceptions provided under rule 46A of the I.T. Rules.*
2. *On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the : addition made by the Assessing Officer of Rs. 1,47,80,937/- on account of unexplained cash deposits, by admitting additional evidence under rule 46A of the I.T. Rules.*
3. *On the facts and circumstances of the case, the learned CIT(A) erred in restricting the addition of Rs. 15,51,529/-on account of unrecorded receipts to Rs. 15,400/- by admitting additional evidence under rule 46A of the I.T. Rules.*
4. *Any other ground that may be urged at the time of hearing.”*

Grounds raised in ITA No. 294/NAG/2016 (A.Y. 2010-11)

- “1. *On the facts and circumstances of the case and in law, the learned CIT(A) has erred in allowing additional evidence under rule 46A whereas the assessee's case is not covered by the exceptions provided under rule 46A of the I.T. Rules.*
2. *On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made on account treatment of agricultural income of Rs.2,43,271/- as business income by admitting additional evidence under rule 46A of the I.T. Rules.*

3. *On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made on account of disallowance of interest of Rs.5,25,000/- by admitting additional evidence under rule 46A of the I.T. Rules.*

4. *On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made on account of unexplained credits of Rs.1,59,49,806/- as capital introduced, by admitting additional evidence under rule 46A of the I.T. Rules.*

5. *Any other ground that may be urged at the time of hearing.”*

Grounds raised in ITA No. 375/NAG/2016 (A.Y. 2010-11)

“1. *On the facts and circumstances of the case and in law, the learned CIT(A) erred in holding that the notice and action u/s 153A of the I.T.Act was bad in law, even though the Assessing Officer had recorded his satisfaction that the documents seized from various premises, belonged to the assessee, which is the only pre-condition for issue of notice under Section 153A of the Income-tax Act, 1961?*

2. *On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in upholding the additional ground and cancelling the assessment whereas the Delhi High Court in the case of CIT Vs. Anil Kumar Bhatia reported in 352 ITR 493 and the Karnataka High Court Court in the case of Canara Housing Development Co. Vs. DCIT, have affirmed the scope of the Assessing Officer to assess the total income in the proceedings u/s.153A of the Income Tax Act.*

3. *On the facts and circumstances of the case and in law, the learned CIT(A) failed to appreciate that the Assessing Officer is required to assess or re-assess the total income of 6 assessment years as per provisions of section 153A(1)(b) of the I.T. Act.*

4. *On the facts and circumstances of the case and in law, the learned CIT(A) failed to appreciate that the facts of the Delhi High Court decision in the case of CIT(C)-III Vs. Kabul Chawla (ITA No.707/2014) is different as it is regarding assessments where no incriminating material was unearthed during the search.*

5. *On the facts and circumstances of the case and in law, the learned CIT(A) erred in treating mere processing of return u/s. 143(1) of the I.T.Act, 1961, as 'completed assessment by ignoring the decision of the Supreme Court in the case of DCIT Vs. Zuari Estate Development & Investment Co.Ltd. (CA 6758 of 2004) and CIT Vs. Rajesh Jhaveri Stock Brokers (P) Ltd. 291 ITR 500 (2007).*

6. *On the facts and circumstances of the case and in law, the learned CIT(A), by relying on the decision of the Hon'ble ITAT, Nagpur, in the case of Late Shri Shaktikumar Sancheti in ITA No.203/Nag/2014 dated 5.2.2016, has failed to appreciate that the Hon'ble ITAT, Pune bench, has held in the case of Kranti Realtors Pvt Ltd. (ITA No. 2021 to 2023/Pn/2013 dated 10.11.2015), when return was processed u/s.143(1) and no assessment was made, additions may or may not be based on incriminating material found during search*

7. *On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made by the Assessing Officer of Rs.2,15,455/- by treating agricultural income as business income, without going into the merits of the case.*

8. *On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made by the Assessing Officer of Rs. 93,93,881/- on account of unexplained purchases, without going into the merits of the case.*

9. *On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made by the Assessing Officer of Rs.28,42,550/- on account of unexplained credits, without going into the merits of the case.*

10. *On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made by the Assessing Officer of Rs.4,02,252/- on account of estimated profit, without going into the merits of the case.*

11. *On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made by the Assessing Officer of Rs.3,00,000/- on account of unexplained cash deposits, without going into the merits of the case.*

12. *On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made by the Assessing Officer of Rs.1,59,654/- on account of disallowance u/s.40A(3), without going into the merits of the case.*

13. *On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made by the Assessing Officer of Rs.4,44,150/- on account of disallowance u/s.40A(2)(b), without going into the merits of the case.*

14. *On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made by the Assessing Officer of Rs.2,000/- on account of disallowance of deemed dividend u/s.2(22)(e), without going into the merits of the case.*

15. *On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made by the Assessing Officer of Rs.50,075/- on account of disallowance of brought forward losses, without going into the merits of the case.*

16. *Any other ground that may be urged at the time of hearing.”*

3. At the outset, the learned Authorized Representative appearing for the assessee submitted that the tax effect on the amount disputed by the Revenue is below the revised monetary limit of Rs.60 lakhs applicable to appeals before the Tribunal, as per CBDT Circular No.09 of 2024, dated 17/09/2024. Thus, the learned AR submitted that the Revenue's appeals being covered under the aforesaid Circular is not maintainable.

4. The learned Departmental Representative agreed that the tax effect on the amount disputed by the Revenue is below the monetary limit of Rs.60 lakhs for both the appeals under consideration.

5. Having heard the arguments of rival parties, perused the material available on record and gone through the orders of the authorities below, we are of the view that the tax effect on the amount disputed by the Revenue in the present appeals are below the revised monetary limit of Rs.60 lakhs as per CBDT Circular cited supra. The tax demand involved in each appeal is demonstrated below: -

ITA No. & A.Y.	Name of the Assessee	Tax Demand
ITA No. 173/NAG/2016 (A.Y. 2008-09)	M/s. Shree Agrawal Finance India Pvt., Ltd.,	57,02,276/-
ITA No. 174/NAG/2016 (A.Y. 2009-10)	M/s. Shree Agrawal Finance India Pvt., Ltd.,	43,65,772/-
ITA No. 175/NAG/2016 (A.Y. 2010-11)	M/s. Shree Agrawal Finance India Pvt., Ltd.,	45,30,832/-
ITA No. 178/NAG/2016 (A.Y. 2011-12)	M/s. Thanjavur Commerce Pvt., Ltd.	54,73,469/-
ITA No. 294/NAG/2016 (A.Y. 2010-11)	Shri Dharampal R. Agrawal.	56,02,698/-
ITA No. 375/NAG/2016 (A.Y. 2010-11)	M/s. Mansa Agro Food Processing Pvt. Ltd.	46,28,126/-

6. It also stands clarified by the CBDT that the revised monetary limit of Rs.60 lakh, as per the aforesaid CBDT Circulars, would also apply to all pending appeals. In view of the aforesaid, Revenue's appeals deserve to be dismissed. However, the Revenue is given liberty to seek recall of this consolidated order if, at a later point of time, it is found that the appeals

fall under any of the exceptions provided in the CBDT Circular referred to above.

7. In the result, appeals filed by the Revenue are dismissed.

Order pronounced in the open Court on 21st March, 2025

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

Sd/-
K.M. ROY
ACCOUNTANT MEMBER

DATED:21.03.2025
Giridhar, Sr. PS (On Tour)

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

//True Copy//

By Order

Sr. Private Secretary
ITAT, Nagpur