

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AGRA BENCH, AGRA**

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

ITA Nos. 390, 389 & 391/Agr/2024
Assessment Years: 2013-14, 2014-15 & 2016-17

Naresh Singh, S/o Shri Daulatram Singh, Village Anti Gaon, Near Rudika Pura, Morena (MP)	Vs.	Income-tax Officer, Ward-1, Morena
PAN : DUYPS0031N		
(Appellant)		(Respondent)

With
ITA No. 435/Agr/2024
Assessment Year: 2015-16

Income-tax Officer, Ward-1, Morena	Vs.	Naresh Singh, P.S. Tower, Near Purana Rajput Hotel, A.B. road, Morena
(Appellant)		(Respondent)

Assessee by	Sh. Sanjay Kumar, CA
Department by	Sh. Shailendra Srivastava, Sr. DR

Date of hearing	17.02.2025
Date of pronouncement	17.02.2025

ORDER

Per Satbeer Singh Godara, Judicial Member:

The instant batch of four cases pertains to a single assessee herein, namely, Shri Naresh Singh. All other relevant details thereof are hereby tabulated as under:

Sl. No.	Appeal No.	Appellant	Respondent	Order Appealed against
1.	390/Agr/2024 A.Y. 2013-14	Shri Naresh Singh	ITO Ward-1, Morena	CIT(Appeals), NFAC, Delhi's Din & order No. ITBA/NFAC/S/250/2024-25/1068178943(1) dated 30.08.2024, involving proceedings under section 147 r.w.s. 144
2	389/Agr/2024 A.Y. 2014-15	Shri Naresh Singh	ITO Ward-1, Morena	CIT(Appeals), NFAC, Delhi's Din & order No. ITBA/NFAC/S/250/2024-25/1068182977(1) dated 30.08.2024, involving proceedings under section 147 r.w.s. 144
3	391/Agr/2024 A.Y. 2016-17	Shri Naresh Singh	ITO Ward-1, Morena	CIT(Appeals), NFAC, Delhi's Din & order No. ITBA/NFAC/S/250/2024-25/1068183313(1) dated 30.08.2024, involving proceedings under section 147 r.w.s. 144
4	435/Agr/2024 A.Y. 2015-16	ITO Ward-1, Morena	Sh. Naresh Singh	CIT(Appeals), NFAC, Delhi's Din & order No. ITBA/NFAC/S/250/2024-25/1068178943(1) dated 30.08.2024, involving proceedings under section 147 r.w.s. 144

2. Heard both the parties. Case files perused.

3. It emerges at the outset that the assessee's instant first and foremost appeal ITA No. 390/Agr./2024 for the assessment year 2013-14 raises a fundamental legal issue of correctness of the impugned section 69A addition of Rs.2,77,95,372/- made by the Assessing Officer in his assessment framed on 29.03.2022 on "protective" basis, which has been converted to a "substantive" one in para 5.6 of the lower appellate discussion.

4. Faced with this situation we sought to examine the correctness of such a "protective" addition made in the assessment without there being

even an iota of evidence as to whether any substantive addition had been made in any other assessee's hands or not. There is no clarity from the Revenue side to this effect. More so, the learned CIT(Appeals) itself has admitted in para 5.6 that there is no substantive addition made in any other assessee's hands. That being the case we quote age old landmark decision in Lalji Haridas vs. ITO [1961] 43 ITR 387 (SC) that a "protective" addition is applicable only when there arises a doubt in the mind(s) of the Assessing Officer as to in whose hands a particular income has to be assessed. We reiterate that there is no such doubt expressed or any substantive addition was made by the Assessing Officer before making protective addition. We further quote DHFL vs. ITO [2013] 34 taxmann.com 300 (Bom.) that a protective addition also could not be made in section 147/148 proceedings as well. We accordingly quash the impugned "protective" addition converted to substantive one; and, therefore, there is no need for us to delve with the relevant factual matrix at length. The assessee succeeds in his first and foremost legal argument. Thus appeal ITA No. 390/Agr./2024 is accepted.

5. In the assessee's latter twin appeals ITA No. 389 and 391/Agr./2024 for the assessment years 2014-15 and 2016-17, respectively, since raising identical question on merits as well as legality, our foregoing order has to be followed *mutatis mutandis* herein as well.

These assessee's twin appeals ITA Nos. 389 & 391/Agr/2024 are allowed in very terms.

6. Coming to Revenue's appeal ITA No. 436/Agr/2024, learned Sr. DR has not disputed the clinching fact even in Revenue's appeal that this time the Assessing Officer had made a "protective" addition herein as well without there being any corresponding substantive addition. We, thus, reject Revenue's appeal ITA No. 435/Agr/2024 therefore.

7. To sum up, the assessee's instant these appeals ITA Nos. 390, 389 & 391/Agr/2024 are allowed and the Revenue's case ITA No. 435/Agr/2024 is dismissed. A copy of this common order be placed in respective case files.

Order pronounced in the open court on 17.02.2025

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 17.02.2025

*aks/Subodh

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, Agra