

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

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

ITA No. 616/Agr/2018
Assessment Years: 2009-10

Sohan Singh, Village & Post-Syarol, Block Tappal, Tehsil Khair, Aligarh.	Vs.	Income-tax Officer, Ward 1(1), Aligarh.
PAN : IDVPS6043H		
(Appellant)		(Respondent)

Assessee by	Sh. T.M. Shiv Kumar, Advocate
Department by	Sh. Shailender Shrivastava, Sr. DR

Date of hearing	13.02.2025
Date of pronouncement	13.02.2025

ORDER

Per Satbeer Singh Godara, Judicial Member:

This assessee's appeal for assessment year 2009-10, arises against the Commissioner of Income Tax (Appeals) [in short, the "CIT(A)"- Aligarh's order dated 05.03.2018 in Appeal No. 56/2017-18/Aligarh, involving proceedings under section 147 r.w.s. 144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

2. Heard both the parties at length. Case file perused.

3. It emerges during the course of hearing that the Assessing Officer had framed his assessment on 09.12.2016 inter alia adding cash deposits of Rs.21.18 lakhs and unexplained investment of Rs.17,54,600/-, respectively, in the assessee's hands. We next note from a perusal of the learned CIT(Appeals)'s lower appellate discussion that the assessee had attributed source of cash deposit to on-money in land transactions executed on 28.05.2008. The Assessing Officer submitted his remand report on 16.01.2018 (page 5 of CIT(Appeals)'s order) finding a clear cut nexus between assessee's cash deposits of Rs.20.00 lakhs on 30.05.2008 vis-à-vis sale deeds herein above. This being the clinching facts, we hereby quote Smt. B. Jayalakshmi Vs. ACIT (2018) 96 taxmann.com 486 (Mad.) and CIT v .D. M. Purnesh (2020) 426 ITR 169 (Karn)(HC) that such a remand report is indeed binding on the department. We accordingly conclude that the impugned cash deposit of Rs.20.00 lakhs out of Rs.21.18 lakhs deserves to be treated as explained.

4. Learned counsel highlights the fact that the balance amount of Rs.1.18 lakh already stands accepted as agricultural income. Thus, we delete entire cash deposit of Rs.21.18 lakhs made in assessee's hands in very terms.

5. Next comes the second issue between the parties regarding the investment amounting to Rs.17,54,600/-, we are of the considered view that once source of assessee's cash deposit hereinabove is already more than the impugned investment, he is held as entitled to get benefit of telescoping in these peculiar circumstances. We delete the impugned addition therefore.

6. This assessee's appeal is allowed.

Order pronounced in the open court on 13.02.2025.

**Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER**

**Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER**

Dated:

*aks/-/Subodh

Copy forwarded to:

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

Asst. Registrar, ITAT, Agra