

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

**BEFORE HON’BLE SHRI SATBEER SINGH GODARA, JM AND  
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

1. आयकरअपील सं./ ITA No.148/Agr/2024  
(निर्धारणवर्ष / Assessment Year: 2014-15)
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2. आयकरअपील सं./ ITA No.165/Agr/2024  
(निर्धारणवर्ष / Assessment Year: 2015-16)
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3. आयकरअपील सं./ ITA No.149/Agr/2024  
(निर्धारणवर्ष / Assessment Year: 2016-17)
- &
4. आयकरअपील सं./ ITA No.152/Agr/2024  
(निर्धारणवर्ष / Assessment Year: 2017-18)
- &
5. आयकरअपील सं./ ITA No.153/Agr/2024  
(निर्धारणवर्ष / Assessment Year: 2018-19)

Shri Sunil Chauhan 9/47, Pokhar Para Gali Agra 282 003	<u>बनाम/</u> Vs.	DCIT Central Circle Agra
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. <b>ALVPC-9479-M</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकीओरसे/ <b>Appellant by</b>	:	Shri Deependra Mohan (CA) – Ld. AR
प्रत्यर्थीकीओरसे/ <b>Respondent by</b>	:	Dr. Arun Kumar Yadav – Ld. CIT-DR

सुनवाईकीतारीख/ <b>Date of Hearing</b>	:	19-02-2025
घोषणाकीतारीख / <b>Date of Pronouncement</b>	:	28.03.2025

## आदेश / O R D E R

### Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeals by assessee for Assessment Years (AY) 2014-15 to 2018-19 arises out of common order of learned Commissioner of Income Tax (Appeals), Kanpur [CIT(A)] dated 12-02-2024 in the matter of separate assessments framed by Ld. Assessing Officer [AO] u/s 143(3) / 153A of the Act. The registry has noted delay in the range of 3 days to 13 days in the appeals which stand condoned. The only prayer made by Ld. AR is to make a reasonable estimation.
2. From case records of AY 2014-15, it emerges that pursuant to search action in assessee's group of case on 19-07-2018 leading to seizure of incriminating material, the impugned assessment was framed. The assessee sold certain plots at 'Shree Shyamji Enclave' and on the basis of incriminating material, Ld. AO alleged receipt of on-money for Rs.383.25 Lacs by the assessee through sale of plots during AYs 2014-15 to 2018-19. After considering assessee's submissions, Ld. AO brought the same to tax to the extent of assessee's 1/4<sup>th</sup> share in the project. The same was assessed under the head 'capital gains' as against 'business income' as offered by the assessee on presumptive basis u/s 44AD in the return of income filed in response to notices issued u/s 153A wherein the assessee had considered the registered sale price as well as on-money as the business receipts. Similar assessments were framed for other years.
3. The substantive findings of Ld. CIT(A) are contained in para 6.20 onwards. The Ld. CIT(A), considering the fact that the department

accepted the business income as offered by the other three joint owners in their respective assessments, accepted the 'business income' claim of the assessee. However, Ld. CIT(A) estimated the margin of 20% and re-computed the income of the assessee, for all the years. Aggrieved, the assessee is in further appeal before us.

4. The Ld. AR has submitted that in the case of other joint owners, Ld. AO has estimated addition of 10% and therefore, similar addition may be adopted for the present assessee. The copies of relevant assessment orders of other joint owners have been placed on record. The same has been opposed by Ld. CIT-DR.

5. We find force in the argument of Ld. AR since the other co-owners have been assessed at lower rates on similar facts. Therefore, the higher estimation of 20% as made by Ld. CIT(A) could not be held to be justified. On the facts and circumstances of the case, we direct Ld. AO to estimate the net profit @12% of sale consideration including on-money and re-compute the income of the assessee, for all the years. No other ground has been urged in the appeals.

6. All the appeals stand partly allowed.

*Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal) Rules, 1963.*

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

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

Dated: 28.03.2025

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AGRA