

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AGRA

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

आयकरअपील सं. / ITA No.216/Agr/2024
(निर्धारणवर्ष / Assessment Year: 2011-12)

Shri Subhash Chandra Gupta Kharagjeet Nagar, Mainpuri UP 205001	बनाम/ Vs.	ITO-2(5) Mainpuri
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. ADJPC-7010-N		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Shri Rajiv Kulshreshtha (Advocate) – Ld. AR
प्रत्यर्थीकीओरसे/ Respondent by	:	Shri Shailendra Shrivastava – Ld. Sr. DR

सुनवाईकीतारीख/ Date of Hearing	:	18-02-2025
घोषणाकीतारीख / Date of Pronouncement	:	28-03-2025

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2011-12 arises out of an order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 27-10-2022 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) r.w.s. 147 of the Act on 27-12-2014. The sole grievance of the assessee is confirmation of addition of Rs.11 Lacs. Having heard rival submissions and upon perusal of case records, the appeal is disposed-off as under.

2. During assessment proceedings, it transpired that the assessee deposits cash of Rs.11 Lacs in its bank account. It was stated by the

assessee that was engaged in selling vegetables. However, Ld. AO noted discrepancies in original return of income filed on 31-03-2012 and revised return of income filed during reassessment proceedings. The assessee was required to prove business activities and the assessee filed affidavit on 16-10-2018 in support of its contentions. However, in the absence of any satisfactory explanation as forthcoming from the assessee, Ld. AO made addition of Rs.11 Lacs and also made another addition of Rs.26.18 Lacs which represent balance in proprietor's capital account since no business income was shown by the assessee. During first appeal, the Ld. CIT(A) accepted the explanation for Rs.26.18 Lacs and deleted this addition but sustained another addition of Rs.11 Lacs for want of satisfactory explanation against which the assessee is in further appeal before us.

3. The undisputed fact that emerges is that the assessee has declared other incomes during AYs 2009-10, 2010-11 and 2011-12 which are stated to be business income. In support of business income, the assessee has filed an affidavit which has been extracted in the assessment order. The assessee also filed ledger extract of agricultural receipts before lower authorities which was not considered. Considering the nature of the business, the assessee may not be in a position to furnish concrete evidence to establish the fact of carrying out the said business. In the absence of any contrary fact on record, the assessee's explanation has to be accepted. The assessee has already shown presumptive income of 8% u/s 44AD. Therefore, separate addition of Rs.11 Lacs is not justified. We delete the same.

4. The appeal stand allowed in terms of our above order.

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. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AGRA