

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**

आयकरअपील सं./ ITA No.181/Agr/2024
(निर्धारणवर्ष / Assessment Year: 2014-15)

Shri Akhil Agarwal C/o Shri Dina Nath Gyasital Dal Bazar, Gwalior – 474001	बनाम/ Vs.	Pr. CIT Gwalior
स्थायीलेखासं./जीआइआरसं./TAN/GIR No. AEOPA-3934-K		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by :	Shri Mahavir Atal (CA) – Ld. AR
प्रत्यर्थीकीओरसे/ Respondent by :	Shri Sukesh Kumar Jain – Ld. CIT-DR

सुनवाईकीतारीख/ Date of Hearing :	20-02-2025
घोषणाकीतारीख / Date of Pronouncement :	28-03.2025

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. By way of this appeal, the assessee question to correctness of revisionary jurisdiction as exercised by Ld. Pr. Commissioner of Income Tax, Gwalior (Pr. CIT) for AY 2014-15 vide impugned order dated 31-03-2024 proposing revision of an assessment framed by Ld. AO u/s 147 of the Act on 26-03-2022. After hearing vehement arguments of both the sides, the appeal is disposed-off as under.

2. The perusal of assessment order would show that the assessee’s return of income was processed u/s 143(1). Pursuant to receipt of information that the assessee received accommodation entry of Rs.67.17 Lacs from Sharad Darak and his companies, the case was reopened to

examine the same. After considering various replies of the assessee, Ld. AO accepted the returned income in an assessment framed on 31-03-2024. The perusal of paper-book as placed on record would show that , vide notice u/s 142(1) dated 17-02-2022, Ld. AO called for various details from the assessee including transactions made at stock exchanges along with cash book and bank statements. The same was duly furnished by the assessee vide its reply dated 21-02-2022. The Ld. AO raised further queries on 23-03-2022 and issued a draft assessment order wherein the assessee was confronted with unsecured loans taken from various parties which were tabulated at para-3 of draft assessment order. The same include alleged accommodation entry of Rs.30Lacs as taken from M/s Jay Jyoti India Pvt. Ltd. The assessee was also confronted with the investigation conducted by SEBI. The Ld. AO proposed to add all these amounts to the income of the assessee. However, the assessee controverted the allegations of Ld. AO in its reply dated 25-03-2022 and filed various submissions, contract notes, orders issued by SEBI in the case of M/s Jay Jyoti India Pvt. Ltd, ledger extract of that entity etc. The assessee filed detailed submissions assailing the proposed additions. After due consideration of the same, Ld. AO accepted the stand of the assessee and chose not to make any additions to the returned income.

3. This assessment so framed was subjected to revisionary proceedings. In show-cause notice dated 28-02-2024, it was alleged by Ld. Pr. CIT that Ld. AO simply accepted the claim of the assessee without verifying the same. The assessee, in its reply dated 07-03-2024, vehemently argued that Ld. AO accepted the submissions after due verification. It was highlighted by the assessee that no loan was received from Shri Sharad Darak as alleged. The loan taken from M/s Jay Jyoti

India Pvt. Ltd was stated to be already settled through banking channels. The assessee paid interest after deduction of tax at source. The issue of alleged fictitious profits was also examined and verified by Ld. AO. In this background, the assessee assailed proposed revision of the order.

4. However, rejecting the same, Ld. Pr. CIT set aside the assessment order with a direction to Ld. AO to re-examine the issue of unsecured loans and fictitious profits after affording opportunity of hearing to the assessee. Aggrieved as aforesaid, the assessee is in further appeal before us.

5. From chronology of events, it is quite clear that initially the return was processed u/s 143(1). However, the case was reopened specifically to examine the impugned issues. During the course of assessment proceedings, various queries were raised by Ld. AO in notices issued u/s 142(1) and the assessee was confronted with the SEBI investigation. The assessee met each of the queries so raised and filed various replies and submissions. The assessee filed detailed replies giving all the particulars and also furnished various explanations on all these issues. Considering all these aspects / submissions, Ld. AO accepted the claim of the assessee and chose not to make any such addition to the returned income. In our view, whatever enquiries were required, the same were already made by Ld. AO and the allegation that the issues were accepted without verification is bereft of any substance. The Ld. AO had taken one of the possible views in the matter and the same could not be said to be opposed to any law or any statutory provisions. Having gone through the reply of the assessee and after having satisfied himself, Ld. AO accepted the claim of the assessee with due application of mind. Considering the given factual matrix, the said view of Ld. AO could be

said to be one of the possible views. In such a scenario, Ld. Pr. CIT, in our considered opinion, could not have substituted the opinion of Ld. AO with that of his own view unless the view of Ld. AO was shown to be perverse. We find that the view of Ld. AO was a plausible view. Accordingly, we quash the impugned revisionary order and restore the assessment as originally framed by Ld. AO.

6. 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