

**INCOME TAX APPELLATE TRIBUNAL
AGRA BENCH "SMC": AGRA
SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
(Through virtual hearing)**

**ITA Nos. 407 & 408/AGR/2024
(Assessment Years: 2010-11)**

Arun Kumar Sharma, Usayani, Tundla, Firozabad – 283203	Vs.	Income Tax Officer, Firozabad
(Appellant)		(Respondent)
PAN: CSDPS9586A		

Assessee by :	Shri Rajemndra Sharma, Adv
Revenue by:	Shri Shailendra Srivastava, Sr. DR
Date of Hearing	07/02/2025
Date of pronouncement	07/02/2025

ORDER

PER M. BALAGANESH, A. M.:

1. The appeal in ITA Nos. 407 & 408/AGR/2024 for AY 2010-11, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Id. NFAC', in short] dated 21.08.2024 & 27.08.2024 against the order of assessment passed u/s 147 r.s.w. 144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 24.10.2017 and u/s 271(1)(c) dated 26.04.2018 by the Assessing Officer, ITO, Ward-2(2)(1), Firozabad (hereinafter referred to as 'Id. AO'). Since these are quantum and penalty appeals for the same assessment year, they are taken up together and disposed of by this common order for the sake of convenience.

2. The only effective issue to be decided in this appeal is as to whether the Id NFAC was justified in confirming the addition made on account of cash deposits of Rs 36,59,641/- and consequential levy of penalty under section

271(1)(c) of the Act in the sum of Rs 10,32,000/- in the facts and circumstances of the instant case.

3. We have heard the rival submissions and perused the materials available on record. The assessee did not file any return of income for the assessment year 2010-11. No compliance was made by the assessee during the course of assessment proceedings. The Learned AO observed that there were cash deposits made in State Bank of India, Usaini, Firozabad during the financial year 2009-10 amounting to Rs 36,59,641/- by the assessee and sought explanation of source for the same. Since there was no compliance made by the assessee, the Learned AO was forced to complete the assessment under section 144 read with section 147 of the Act on 24.10.2017 determining total income at Rs 36,59,641/- and initiate penalty for concealment of income under section 271(1)(c) of the Act. The appeal was decided by the Learned NFAC ex parte. Since the quantum got confirmed in first appeal, the Learned AO levied concealment penalty under section 271(1)(c) of the Act in the sum of Rs 10,32,000/-. Hence there are two appeals filed before us (one on quantum and other on penalty).

4. On perusal of the order of the Id NFAC, we find that the Id NFAC had decided the issue ex parte without adjudicating the issue on merits giving its independent finding on the quantum proceedings. Hence, in the interest of justice and fairplay, we deem it fit and appropriate to restore this appeal to file of Id NFAC for de novo adjudication in accordance with law. Needless to mention the assessee be given reasonable opportunity of being heard. The assessee is directed to cooperate with Id NFAC for expeditious disposal of the appeal by not taking unwarranted adjournments. Hence, the grounds raised by the assessee are allowed for statistical purposes for the quantum proceedings.

5. Since the quantum proceedings are restored to the file of Learned NFAC, the penalty proceedings are also restored to the file of Learned NFAC for denovo adjudication in accordance with law with the same directions as in quantum proceedings.

6. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on 07/02/2025.

-Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 07/02/2025

A K Keot
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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi