

**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 No. 201/AGR/2023**  
(Assessment Year: 2017-18)

<b>Kalpna Agrawal,</b> 16, Jagannath Puri, Uttar Pradesh	Vs.	ITO, Ward-1(3)(1), Mathura
(Appellant)		(Respondent)
<b>PAN: AAOPA7977Q</b>		

Assessee by :	Shri M. M. Agarwal, CA
Revenue by:	Shri Shailendra Srivastava, Sr. DR
Date of Hearing	03/02/2025
Date of pronouncement	03/02/2025

**ORDER**

**PER M. BALAGANESH, A. M.:**

1. The appeal in ITA No. 201/AGR/2023 for AY 2017-18, arises out of the order of the JCIT,-5, Kolkata [hereinafter referred to as 'ld. JCIT', in short] dated 30.11.2023 against the order of assessment passed u/s 143(1) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 18.01.2019 by the Assessing Officer, DCIT, CPC, Bengaluru (hereinafter referred to as 'ld. AO').

2. The assessee has raised the following grounds of appeal:-

*"1 Because, in the facts and circumstances of the case as well as in law, the FAA has erred in upholding the adjustment of Rs. 406,212 made by 'CPC in the intimation issued under section 143(1) dated 18.01.2019 by denying set off of brought forward loss relating to assessment year 2009-10. Tax effect Rs. 73,031."*

*2. Because, in the facts and circumstances of the case, as well as in law, the FAA has erred in ordering enhancement of Rs. 260,448 to the income determined 'CPC' in the intimation issued under section 143(1) dated 18.01.2019 by denying set off of brought forward loss relating to assessment year 2010-11. Tax effect Rs. 52,090*

*3. Because, while doing so, the FAA has: -*

*a) Wrongly held that Return of income for assessment year 2009-10 and 2010-11 were filed belatedly and these were non auditable cases and therefore, losses relating to those assessment years could not be allowed to be set off against income for the year under consideration.*

*b) Wrongly and incorrectly appreciated the submissions made and evidence on record submitted before it on its requisition*

*c) Acted beyond jurisdiction in adjudicating upon the merits of contents of the returns of income for assessment year 2009-10 and 2010-11*

*d) Failed to appreciate that turnover of business for assessment year 2009 -10 was evident from the audit report in Form No. 3CA -3CD,*

*statement of broker, ledger accounts and contract notes work all furnished during the course of appellate proceedings*

*e) Failed to appreciate that shortcoming, in the documents submitted before it were either not existing or if at all insignificant inconsequential in so far as determination of turnover, for purposes of audit, for assessment year 2009-10 and 2010-11*

*1) Failed to appreciate that CPC itself had allowed the brought forward loss for assessment year 2009 -10 while issuing intimation for assessment year 2010-11*

*g) Failed to appreciate that JAO had not denied furnishing of paper return by the appellant for assessment year 2009-10 and if the copy of said return produced by the appellant was to be doubted, it could be done by producing the original return supposed to be lying in the possession of JAO."*

3. We have heard the rival submissions and perused the material available on record. We find that the assessee's claim of set off of loss of AY

2009-10 has been denied by the Id CPC, Bengaluru on the ground that return of income for AY 2009-10 was filed belatedly by the assessee and hence, the assessee would not be entitled to carry forward the loss arising in that year. This action was also upheld by the Id NFAC.

4. Before us, the Id AR brought to our attention that assessee's case is a tax audit case and hence, due date of filing of return would get automatically extended. This fact was not appreciated by the Id JCIT(A) although the submission was made before him. Further, he stated that the said loss had already been quantified by the revenue and allowed to be carried forward for AY 2009-10 and the same cannot be questioned by the revenue in subsequent years as long as such loss is not wiped out. In our considered opinion, this matter requires factual verification, hence, we deem it fit and appropriate to sent it back to the file of the Id AO for de novo adjudication in accordance with law. Needless to mention that the assessee be given reasonable opportunity of being heard. The assessee is at liberty to furnish fresh evidences, if any, in support of her contentions.

5. No other arguments were advanced on behalf of the assessee with regard to other grounds.

6. In the result, the appeal is partly allowed for statistical purposes.

Order pronounced in the open court on 03/02/2025.

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

-Sd/-  
**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**

Dated: 03/02/2025  
A K Keot

Copy forwarded to

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

ASSISTANT REGISTRAR  
ITAT, New Delhi