

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
AGRA BENCH, AGRA**

**BEFORE : SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER  
AND  
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

ITA No.171/Agr/2022  
Assessment Year: 2010-11

Himanshu Chhabra, 21/151, Dhulia Ganj, Agra.	<b>Vs.</b>	Income-tax Officer, Ward 1(1)(2), Agra.
<b>PAN : AIFPC0506L</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Sh. Prem Gul, CA
Department by	Sh. Shailender Shrivastava, Sr. DR

Date of hearing	25.03.2025
Date of pronouncement	25.03.2025

**ORDER**

**Per Annapurna Gupta, Accountant Member:**

The present appeal has been filed by the assessee against the order passed by the learned Commissioner of Income-tax (Appeals) National Faceless Appeal Centre (NFAC), Delhi [in short "CIT(A)"] u/s. 250(6) of the Income-tax Act, 1961 (hereinafter referred to as "the Act").

Grounds raised are as under :

"1. That the appellate order is bad in law as well as on the facts and circumstances of the case.

2. That the Ld, CIT (Appeals) has erred in law that appellant could not prove that the money deposited in the bank account was from business activity and hence addition-made u/s 69A of Rs. 20,84,500/- is sustained. The contention of CIT(Appeals) is not true. Appellant was engaged in share trading on behalf of his relatives from whom he had

received cash which was deposited in bank account. The affidavits provided by relative prove that payment of cash for share trading.

3. Any other ground as deem fit at the time of hearing of appeal."

2. The solitary issue in the present case relates to addition made to the income of the assessee on account of cash deposited in saving bank account of Rs.20,48,500/-, source of which remained unexplained.

The orders of the authorities below reveal that the assessee was noted to have entered into share trading transactions totaling Rs.24,52,19,359/- during the year, of which cash transactions amounted to Rs.24,48,500/-. The assessee was asked to explain the source, which he stated to the Assessing Officer as being money received from his friends and relatives residing in other cities. In the absence of any documentary evidence of the same, this entire amount of Rs.20,48,500/- invested by the assessee in share transactions was added to his income as income from unexplained sources.

3. During the appellate proceedings, the assessee submitted the affidavits of the persons from whom cash was received and deposited in his bank account, but they were treated to be non-genuine and all explanations of the assessee were rejected by the Id. CIT(Appeals) also. Accordingly, the assessment order was confirmed by the Id.

CIT(Appeals). His findings in this regard are in para 5.2 to 5.4 of his order as under :

“5.2 As per details available on record, the assessee made cash deposits totaling to Rs.20,48,500/- in his saving bank accounts. During the appellant proceedings, the assessee submitted that the assessee was a computer operator with a share broking firm wherein as a side business he started to do share trading for his relatives and friends. He opened a share broking account in his own name with M/s. Master Capital Services Ltd., Agra and M/s. Raghunandan Industries P. Ltd., Agra. The appellant has filed financial statement/ledger from the share brokers named above. On perusal of the same it is found that the entire transactions of shares and derivatives are taking place against the appellant's name as client. There is no evidence that those share transactions are related to any other persons as claimed by the assessee. The appellant is not a share broker or sub broker and therefore it is strange as to how he can start doing share trading for his relatives and friends who should have a separate client code and agreement with the broker. Each client/person has to open a client account with the share broker and the share broker purchases and sells shares on behalf of different clients. When the share broker issues the bills or brokers note, it is only in the name of the client. In the instant case, the client code is in the name of the appellant and all the transactions can only be held to be related to appellant as per law.

5.3 The assessee claimed to have taken the cash from the clients/friends/relatives and deposited the same as margin money from his client into his saving bank account with HDFC Bank which was transferred to the stock brokers from where the share/commodities transactions were made. On sale of shares, the fund was received in the HDFC bank account and cash was withdrawn and refunded to the clients. As discussed above, the appellant not being broker or sub broker cannot purchase or sell shares on behalf of others. Therefore, the assessee only can be treated as person doing the entire share trading. Without prejudice to the above, even if it is accepted that he has done share trading for others, there is no party wise identification of share transactions if the same belongs to others and how the others have reflected profit or loss arising out of aforesaid share trading in their returns of income. Further, there is no verifiable evidence that the friends and relatives of the appellant had given the cash out of any disclosed source. Therefore, the onus is entirely on the assessee to explain the source of cash deposits in his bank account with verifiable evidences which the appellant has failed.

5.4 During the appellate proceedings, the assessee also submitted name along with amounts and affidavits of the clients from whom the

cash was claimed to have received and deposited in the assessee's bank account. During the assessment proceedings also such vague claim of receipt of cash from different friends and relatives were made, but no party wise break up of cash received or affidavits from those persons were filed. The assessee had not given any reason for non-producing these documents or filing specific party wise details before the AO. The affidavits submitted by the assessee are also not found genuine as all these affidavits are made in same manner and on same date 11 August 2021 after 12-13 years from the dates of impugned transactions. In all the affidavits, no specific dates of giving cash and amount of cash given by those persons are mentioned. It is narrated in all the affidavits that the cash was given in small installments like 30,000/-- 50,000/- along with total of cash given in the year for share trading. The evidences to support availability of cash in the hands of deponents have not been filed. Moreover, the appellant has not submitted any reasonable cause or request to admit these additional evidences."

4. We have perused the orders of authorities below, more particularly, the order impugned before us and we do not find any merit in the same for confirming the addition of the cash invested by the assessee in its share trading transactions of Rs.20,48,500/- being from unexplained sources. The reason being that the assessee had explained the cash having been received from his relatives and friends and it furnished affidavits of those persons to the Id. CIT(Appeals) also. Learned CIT(Appeals) has rejected these affidavits as non-genuine without giving any plausible reason for the same. His reasoning is found mentioned at para 5.4, that all the affidavits are in the same manner and on the same date, i.e. 11 August, 2021, after 12-13 years from the dates of impugned transactions and the affidavits do not mention specific dates of giving cash nor do they mention the amount given in cash.

5. We do not find the same sufficient reason for dismissing the affidavits as non-genuine. Merely because the affidavits are identically worded or given on the same date, it does not impinge on their genuineness. Also, the fact that they are given 12-13 years after the date of transactions is of no relevant for stating that the affidavits are non-genuine. In fact, the requirement of obtaining affidavits itself arose only when the assessee's case came up for scrutiny and the assessee was asked to explain the source of cash. As long as the parties, who have given cash, confirmed this fact and there is no substantial infirmity pointed out in the affidavits, we find the act of the Id. CIT(Appeals) in rejecting these affidavits as in-genuine to be completely in disregard to law. Considering the fact that the assessee had substantiated its explanation of the source of cash coming from his friends and relative with their duly sworn affidavits, we find no reason to doubt the genuineness of the same. Even otherwise, we have noted that the assessee had entered into total share transaction of 24.52 crores, out of which his cash transactions were only Rs.20.48 lacs, which is not even 1% of the total share transactions entered into by the assessee. The quantum of cash invested by the assessee in his share transactions are too miniscule to harbor any doubt about the source of the same more particularly in the light of the fact that the assessee had substantiated the

source as being received from his friends and relatives by way of furnishing their affidavits. In the light of the same, we hold that the addition made in the hands of the assessee of the share transactions in cash amounting to Rs.20,48,500/- is totally unjustified and direct the same to be deleted.

6. Appeal of the assessee is allowed in above terms.

***Order pronounced in the open court on 25.03.2025.***

**Sd/-  
(SUNIL KUMAR SINGH)  
JUDICIAL MEMBER**

**Sd/-  
(ANNAPURNA GUPTA)  
ACCOUNTANT MEMBER**

Dated: 16.04.2025

\*aks/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, Agra