

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**

आयकरअपीलसं./ ITA No.190/Agr/2019
(निर्धारणवर्ष / Assessment Year: 2014-15)

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| DCIT (Central Circle) Agra | बनाम/ Vs. | Sh. Manoj Kumar Goyal 22, Nehru Nagar, Agra |
| स्थायीलेखासं./जीआइआरसं./PAN/GIR No. ABCPG-3816-F | | |
| (अपीलार्थी/Appellant) | : | (प्रत्यर्थी / Respondent) |

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| अपीलार्थीकीओरसे/ Appellant by | : | Shri Anurag Sinha, Adv.-Ld. AR |
| प्रत्यर्थीकीओरसे/Respondent by | : | Shri Sukesh Kumar Jain-Ld. CIT (DR) |

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| सुनवाईकीतारीख/Date of Hearing | : | 12-02-2025 |
| घोषणाकीतारीख /Date of Pronouncement | : | 22.04.2025 |

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by revenue for Assessment Year (AY) 2014-15 arises out of an order of learned Commissioner of Income Tax (Appeals)-IV, Kanpur [CIT(A)] dated 28-03-2019 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 29-03-2016. The assessee was subjected to search on 12-11-2013 and notice u/s 153A was issued on 25-06-2015 in response to which the assessee filed return of income on 16-12-2015 declaring income of Rs.103.36 Lacs.

2. Based on certain calculations as written in loose papers as seized from the premises of the assessee during search (Page nos. 39 to 45

of Annexure LP-1), Ld. AO alleged that the assessee made investment of Rs.969.77 Lacs in certain land. The said calculation was handwritten at the back of Page No.39. The assessee denied the same and stated that the paper did not relate to him and no such financial transaction as noted therein was entered into by him. The assessee explained that Page No.45 contained land details which were duly accounted for in AY 2007-08. The Ld. AO held that entries mentioned on rest of the pages belonged to the assessee and therefore, Page No.39 also pertains to the assessee. The Ld. AO observed that the assessee purchased 66.24 Beeghas of land at 14.50 Lacs per Beegha and the total land deal was for Rs.969.77 Lacs. The same was added to the income of the assessee as unaccounted investment in land while framing the impugned assessment.

3. During first appeal, the assessee raised a pertinent legal issue and stated that notice u/s 143(2) was issued before filing of return of income whereas no notice was issued after filing of return of income and therefore, the assessment was liable to be quashed. The same was subjected to remand proceedings. The Ld. CIT(A), after due consideration of material on record, observed that as per remand report notice u/s 143(2) was issued on 14-03-2016 whereas return of income was filed on 29-03-2016 vide acknowledgement no. 1253122961290316. The notice u/s 143(2) could be issued only after the said date. On these facts, Ld. CIT(A) relied on the decision of Hon'ble Apex Court in the case of **ACIT vs. Hotel Blue Moon (321 ITR 362)** and held that the impugned assessment was illegal and void-ab-

initio in the absence of notice u/s 143(2). Accordingly, the assessment was annulled and quashed. Aggrieved, the revenue is in further appeal before us.

Our findings and Adjudication

4. The factual findings as rendered by Ld. CIT(A) remain uncontroverted before us. It emerges that no notice u/s 143(2) has been issued after the date of filing of return of income by the assessee. In such a case, reliance on the decision of Hon'ble Apex Court in the case of **ACIT vs. Hotel Blue Moon (321 ITR 362)** could not be faulted with. In fact, the decision of Hon'ble Allahabad High Court in the case of **CIT vs. Sri Moins Iqbal, Sri Siraj iqbal (ITA No.168-169 of 2009 dated 28-07-2017)** also supports the conclusion of Ld. CIT(A). Since the impugned order has followed the ratio of binding judicial precedents, we see no reason to interfere in the same.

5. The appeal stand dismissed as indicated upon conclusion of hearing.

*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: 22.04.2025

आदेश की प्रतिलिपि ँ ग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AGRA