

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.122/Agr/2024
(निर्धारणवर्ष / Assessment Year: 2014-15)

Istiyaq Ahmad Dulare Shahzad Market, Jamia Urdu, Medical Road, Civil Lines, Aligarh (UP)	बनाम/ Vs.	Income-tax Officer, Ward 4(3)(1), Aligarh.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AIFPD-8104-M		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. Pankaj Garh, Adv. – Ld. AR
प्रत्यर्थीकीओरसे/ Respondent by	:	Sh. Shailender Shrivastava – Ld. Sr. DR

सुनवाईकीतारीख/ Date of Hearing	:	18-02-2025
घोषणाकीतारीख / Date of Pronouncement	:	22.04.2025

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2014-15 arises out of the order of learned Commissioner of Income Tax (Appeals), NFAC [CIT(A)] dated 09-02-2024 in the matter of an assessment framed by Ld. AO on *best judgment* basis u/s 144 r.w.s. 147 of the Act on 27-03-2022. Having heard rival submissions and upon perusal of case records, the appeal is disposed-off as under.

2. It emerges that the assessee’s case was reopened vide notice u/s 148 dated 30-03-2021 on the fact that the assessee sold a property for Rs.123.20 Lacs as against its stamp duty value of Rs.174.60 Lacs. Accordingly, the differential of Rs.51.40 Lacs would be assessable u/s 56(2)(viib). The same was added to the income of the assessee for want

of any response from the assessee. The Ld. AO also added the purchase amount of Rs.123.20 Lacs in the hands of the assessee as unexplained investment. The Ld. CIT(A) confirmed the assessment against which the assessee is in further appeal before us. The Ld. AR has pleaded that no reference was made to valuation officer. The Ld. AR also assailed the addition of unexplained investment on the ground that the investment was made from accounted sources only.

3. Considering the decision of Hon'ble High Court of Calcutta in the case of **Sunil Kumar Agarwal (47 Taxmann.com 158)**, we set aside the impugned order and restore the assessment back to the file of Ld. AO for de novo assessment. The Ld. AO is directed to refer the valuation of the property to Ld. DVO to ascertain the correct market value of the property and re-adjudicate this issue as well as the issue of unexplained investment. The assessee is directed to substantiate its case.

4. The appeal stand allowed for statistical purposes.

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)
लेखक सदस्य / ACCOUNTANT MEMBER

Dated: 22.04.2025

आदेश की प्रतिलिपि ञ ग्रेषित / 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