

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AGRA

**BEFORE HON’BLE SHRI SATBEER SINGH GODARA, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**1. आयकरअपील सं. / ITA No.78/Agr/2024
(निर्धारणवर्ष / Assessment Year: 2006-07)**

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| Shri Vikrant Yadav Krishna Nagar, Bharthana Road, Etawah (UP)-206001. | बनाम/ Vs. | Income-tax Officer, Ward 2(2)(5), Etawah. |
| स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AIRPY-5887-C | | |
| (अपीलार्थी/ Appellant) | : | (प्रत्यर्थी / Respondent) |

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**2. आयकरअपील सं. / ITA No.79/Agr/2024
(निर्धारणवर्ष / Assessment Year: 2006-07)**

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| Shri Dileep Yadav Krishna Nagar, Bharthana Road, Etawah (UP)-206001. | बनाम/ Vs. | Income-tax Officer, Ward 2(2)(5), Etawah. |
| स्थायीलेखासं./जीआइआरसं./PAN/GIR No. ABDPY-9221-D | | |
| (अपीलार्थी/ Appellant) | : | (प्रत्यर्थी / Respondent) |

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**3. आयकरअपील सं. / ITA No.236/Agr/2024
(निर्धारणवर्ष / Assessment Year: 2006-07)**

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| Shri Sukrant Yadav Krishna Nagar, Bharthana Road, Etawah (UP)-206001. | बनाम/ Vs. | Income-tax Officer, Ward 2(2)(5), Etawah. |
| स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AMEPY-2777-Q | | |
| (अपीलार्थी/ Appellant) | : | (प्रत्यर्थी / Respondent) |

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| अपीलार्थीकीओरसे/ Appellant by | : | Sh. Gaurav Goyal, CA – Ld. AR |
| प्रत्यर्थीकीओरसे/ Respondent by | : | Sh. Shailender Shrivastava – Ld. Sr. DR |

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| सुनवाईकीतारीख/ Date of Hearing | : | 19-02-2025 / 20-02-2025 |
| घोषणाकीतारीख / Date of Pronouncement | : | 22.04.2025 |

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Facts as well as issues in captioned appeals for Assessment Year (AY) 2006-07 are quite identical. The three assessees are partners in a

firm by the name M/s Rajeev Kumar Contractor. First, we take up appeal ITA No.78/Agr/2024 which arises out of an order passed by of learned Commissioner of Income Tax (Appeals)-2, Agra [CIT(A)] on 30-11-2018 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 144 r.w.s. 147 of the Act on 30-11-2017. The registry has noted delay of 5 years and 3 months, the condonation of which has been sought by Ld. AR on the strength of condonation petition which is supported by an affidavit of the earlier counsel of the assessee. The Ld. AR also stated that the assessment is time barred and therefore, liable to be quashed. The Ld. Sr. DR opposed the admission of the appeal. Having heard rival submissions and upon perusal of case record, the appeal is disposed-off as under.

2. Upon perusal of opening paragraph of assessment order, it could be seen that the assessee's case was reopened vide notice u/s 148 dated 02-11-2016 which is beyond 6 years from AY 2006-07. Apparently, the Ld. AO has reopened the case of the assessee by interpreting the decision of Tribunal in the case of firm (M/s Rajeev Kumar Contractor) in which the assessee acted as a partner. Initially, the addition of capital introduction was made in the hands of the firm which was deleted by the Tribunal vide ITA No.140/Agr/2014 order dated 04-02-2016 with the observation that Ld. AO would be at liberty to take this matter in the case of individual partners in accordance with the law. This is very clear from these observations that the case could be reopened only if permitted under law. The undisputed fact that emerges is that the notice has been issued beyond 6 years and therefore, the assessment is clearly time barred. Under these circumstances, we condone the delay in the appeal and allow the legal ground thus raised by the assessee. The assessment

stand quashed on this ground alone. Delving into other grounds has been rendered mere academic in nature. The appeal stand allowed.

3. Facts in other two appeals quite similar. Applying the same reasoning, the assessment for both these assesseees stand quashed. Both these assesseees succeed on legal ground.

4. All the appeals stand allowed.

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 अग्रेषित / 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