

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.172/Agr/2017
(निर्धारणवर्ष / Assessment Year: 2009-10)

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| ACIT, Circle 3(1) Gwalior. | बनाम/ Vs. | Shri Praveen Kumar Shivhare Gandhi Nagar, Gwalior. |
| स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AQXPS-3369-R | | |
| (अपीलार्थी/ Appellant) | : | (प्रत्यर्थी / Respondent) |

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| अपीलार्थीकीओरसे/ Appellant by | : | Sh. Rajendra Sharma, Adv. – Ld. AR |
| प्रत्यर्थीकीओरसे/ Respondent by | : | Dr. Arun Kumar Yadav – Ld. CIT-DR |

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

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by revenue for Assessment Year (AY) 2009-10 arises out of an order of learned Commissioner of Income Tax (Appeals), Gwalior [CIT(A)] dated 22-02-2017 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 153A r.w.s. 143(3) of the Act on 21-12-2010. Having heard rival submissions and upon perusal of case records, our adjudication would be as under.
2. From case records, it emerges that pursuant to search action u/s 132 on 12-05-2008 in the case of Shri Chironjilal Shivhare prop. M/s C.P. Industries, notice u/s 143(2) was issued to the assessee on 23-08-2010. The original return of income was filed by the assessee in 12-10-2009 whereas return in response to notice u/s 153A was filed on 09-08-2010.

The Ld. AO assessed total income of Rs.353.29 Lacs after various additions since the assessee failed to file satisfactory replies.

3. The Ld. CIT(A) considering the remand report deleted addition u/s 68 for Rs.81.54 Lacs for sundry creditors represented by M/s C.P. Industries since entire transaction was with that entity only and the assessment of proprietor of that entity was completed u/s 153A.

The Ld. AO made addition of unsecured loans of Rs.115.89 Lacs which was stated to be taken from 6 entities. In the remand proceedings, Ld. AO accepted the claim of the assessee partially and accordingly, the addition of Rs.115.72 Lacs was deleted.

The Ld. AO made addition of deposit in bank account for Rs.97.01 Lacs. The assessee furnished sources of each of the deposits. The Ld. CIT(A) observed that the bank account reflected clearing receipts as well as cash deposits and withdrawal, The availability of funds was duly supported by statement of affairs and Ld AO did not record any adverse findings. No material was seized in this regard. The assessee duly discharged the onus by explaining that these were business transactions.

The Ld. AO made addition of capital introduction for Rs.53.45 Lacs. The assessee stated that the same were out of withdrawals which fact was not disputed by Ld. AO. The same was supported by cash flow statement / statement of affairs. The deposits were duly covered by withdrawals and accordingly, the addition was deleted.

Aggrieved as aforesaid, the revenue is in further appeal before us.

4. We find that Ld. CIT(A) has rendered factual finding on each of the aspects and also by considering the remand report of Ld. AO. These findings remain to be controverted before us also. We find that the assessee had furnished cash flow statement / statement of affairs. No

defect was pointed out by Ld. AO in the same. This being the case, the adjudication of Ld. CIT(A) could not be faulted with. We order so.

5. The appeal stand dismissed.

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)

लेखासदस्य /ACCOUNTANT MEMBER

Dated: 22.04.2025

आदेश की प्रतिलिपि अग्रेषित /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