

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**

**1. आयकरअपीलसं./ ITA No.364/Agr/2017
(निर्धारणवर्ष / Assessment Year:2008-09)**

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**2. आयकरअपीलसं./ ITA No.365/Agr/2017
(निर्धारणवर्ष / Assessment Year:2009-10)**

&

**3. आयकरअपीलसं./ ITA No.366/Agr/2017
(निर्धारणवर्ष / Assessment Year:2010-11)**

DCIT, Circle-2(1), Gwalior.	बनाम/ Vs.	Shri Saurabh Garg Tilak Road, Jiwaji Ganj, Morena.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. ACOPG-5549-C		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Dr. Arun Kumar Yadav – Ld. CIT-DR
प्रत्यर्थीकीओरसे/ Respondent by	:	Sh. Sanjay Kumar, CA – Ld. AR

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

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeals by revenue for Assessment Years (AY) 2008-09 to 2010-11 having common issues arises out of separate orders of first appellate authority. First, we take up appeal for AY 2008-09 wherein the grievance of the revenue is – (i) disallowance u/s 14A; (ii) Profit earned from out of books investments; (iii) Unexplained gifts of shares. The impugned order has been passed by Learned Commissioner of Income Tax (Appeals), Gwalior [CIT(A)] on 05-06-2017 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s 143(3) r.w.s. 153A

of the Act on 14-12-2011. Having heard rival submissions, the appeal is disposed-off as under. The assessee was subjected to search action u/s 132 on 11-03-2011 on the basis of which impugned assessment was framed. The order of Ld. CIT(A) is based on assessee's submissions as well as remand report of Ld. AO.

2. Disallowance u/s 14A

The assessee earned exempt dividend of Rs.14.57 Lacs but made interest payment of Rs.135.69 Lacs. The Ld. AO disallowed the same u/s 14A. However, Ld. CIT(A) deleted the same on the ground that this expenditure was not claimed by the assessee. This finding remains uncontroverted before us. Therefore, no interference is required in the impugned order on this issue.

3. Profit earned from out of books investments

3.1 Upon perusal of loose papers, it was alleged by Ld. AO that the assessee earned income of Rs.7.90 Lacs & Rs.13.50 out of books on investment in properties. The assessee made investment in certain properties at Guna and Kota for Rs.707.50 Lacs which was added as unexplained investment. During appellate proceedings, it transpired that the amount of Rs.7.90 Lacs and Rs.13.50 Lacs was admitted by assessee's father before Income Tax Settlement Commission (ITSC) and accordingly, these additions were deleted from the income of the assessee. On the issue of investment of Rs.707.50 Lacs which was based on loose papers, it was held by Ld. CIT(A) that there was no description of the land, name of seller and date of alleged transaction. The assessee did not purchase any such land having area as mentioned in the loose papers. No corroborative evidence was there to substantiate this investment. The loose papers were merely dumb

documents. Accordingly, the addition was deleted against which the revenue is in further appeal before us.

3.2 The above findings remain uncontroverted before us. The two items has already been admitted before ITSC. The details mentioned on the loose papers are bald notings from which the nature of transaction could not be deciphered. This being so, we confirm the impugned order on all these issues.

4. Unexplained gifts of shares

4.1 The assessee received gift of 368200 numbers of shares in K.S. Oil Mills Limited from Shri Vinit Garg which was considered as unexplained investment in the shares and the amount of Rs.15.39 Crores was added u/s 56 of the Act.

4.2 During appellate proceedings, the assessee filed copies of gift deed etc. The Ld. CIT(A) noted that the donor was assessed with the same assessing officer. The original gift deed was found in the seized record. The amendment to Sec.56 was applicable only from 01-01-2009 and therefore, this transaction could not be brought to tax in this year. Accordingly, the impugned addition was deleted.

4.3 The impugned issue is factual issue which has been dealt with by Ld. CIT(A) in correct perspective. The assessee's transaction was well documented and the transaction could not be brought to tax in this year. The corresponding ground stand dismissed. The revenue's appeal stand dismissed.

Assessment Year 2009-10

5. The issue that arises in revenue's appeal is disallowance u/s 14A and profit on sale of investments. Facts being identical as in AY 2008-09, we confirm impugned order on both these issues.

6. In this year, Ld. AO made another addition of Rs.70 Lacs for out of books investment in property situated at Prem Colony. The Ld. CIT(A) deleted the same on the ground that the assessee did not purchase the said property but assessee's father advanced sum of Rs.16 Lacs which was offered before ITSC. In view of these undisputed findings, we confirm the impugned order on this issue also. The revenue's appeal for AY 2009-10 stand dismissed.

Assessment Year 2010-11

7. The issue that arises in revenue's appeal is disallowance u/s 14A and profit on sale of investments. Facts being identical as in AY 2008-09, we confirm impugned order on both these issues.

8. In this year, Ld. AO made another addition of Rs.36.50 Crores for out of books investment in property situated at Kalyan Mumbai Project and Pritampura Project. The Ld. CIT(A) deleted the same on the ground that the details on loose papers were mere projections for development of land. No development activity was carried out by the assessee. No evidence of purchase of land or development of land was found during the course of search. There was no description of the land, name of seller and date of alleged transaction. The assessee did not purchase any such land having area as mentioned in the loose papers. No corroborative evidence was there to substantiate this investment. The loose papers were merely dumb documents. Similar findings were rendered on another similar addition as made by Ld. AO for Rs.131 Crores. Accordingly, the additions were deleted against which the revenue is in further appeal before us.

9. The above findings remain uncontroverted before us. The details mentioned on the loose papers are bald notings from which the nature of

transaction could not be deciphered. No land or development work is shown to have been carried out by the assessee. The addition is without any corroborative evidence. This being so, we confirm the impugned order on all these issues.

Conclusion

10. All the appeals 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)

लेखा 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