

**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 Nos. 549/Agr/2024  
(निर्धारणवर्ष / Assessment Years: 2011-12)**

**&**

**2. आयकरअपील सं. / ITA Nos.550/Agr/2024  
(निर्धारणवर्ष / Assessment Years: 2012-13)**

Sh. Bhagwat Prasad Sharma 185, Gayitri Vihar, Gwalior.	बनाम/ Vs.	Income-tax Officer, Ward 3(1), Gwalior.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. <b>AHIPS-2199-D</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकीओरसे/ <b>Appellant by</b>	:	Sh. Rajendra Sharma, Adv. – Ld. AR
प्रत्यर्थीकीओरसे/ <b>Respondent by</b>	:	Sh. Shailender Shrivastava – Ld. Sr. DR

सुनवाईकीतारीख/ <b>Date of Hearing</b>	:	21-02-2025
घोषणाकीतारीख / <b>Date of Pronouncement</b>	:	23-04-2025

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeals by assessee for Assessment Years (AY) 2011-12 & 2012-13 arise out of separate orders of first appellate authority. First, we take up appeal for AY 2011-12 which arises out of an order passed by learned Commissioner of Income Tax (Appeals), NFAC, Delhi [CIT(A)] on 23-09-2024 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 147 r.w.s. 144 of the Act on 14-12-2018. In the assessment order, Ld. AO made addition of cash deposit for Rs.12.06 Lacs for want of any satisfactory explanation from the assessee. The Ld. CIT(A) confirmed the assessment against which the assessee is in further appeal before us. The Ld. AR assailed reopening on the ground that the

case was reopened on wrong premise and therefore, the assessment is bad-in-law. Having heard rival submissions, the appeal is disposed-off as under. The registry has noted delay of 20 days in the appeals which stand condoned.

2. Upon perusal of reasons recorded, it could be seen that the case has been reopened on the ground that the assessee deposited cash of Rs.11.21 Lacs in its savings bank account. The assessee was a non-filer and accordingly, the case was reopened. In the absence of any reply from the assessee, Ld. AO assessed entire deposits and interest income. The Ld. CIT(A) confirmed the assessment for the same very reasons. The Ld. AR has stated that there are no such cash deposits and therefore, the formation of belief was on wrong premise. However, at this stage, this argument cannot be accepted since the assessee has remained non-compliant before both the lower authorities. On these facts, we set aside the impugned order and restore the appeal back to the file of Ld. CIT(A) for de novo adjudication after affording reasonable opportunity of hearing to the assessee. The assessee is directed to substantiate its case forthwith. All the issues are kept open. The appeal stand allowed for statistical purposes.

3. Facts as well as issue in AY 2012-13 are quite similar. Accordingly, our adjudication as above shall *mutatis-mutandis* apply to this appeal also.

4. Both the appeals 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)

लेखा सदस्य /ACCOUNTANT MEMBER

Dated: 23-04-2025

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