

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.492/Agr/2012
(निर्धारणवर्ष / Assessment Year: 2003-04)

Shri Sridhar Pandey S/o Late Sh. Babu Ram Pandey Muradganj, Distt. Auriya (UP).	बनाम/ Vs.	ACIT-2, Agra
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. ALJPP-4364-J		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	None
प्रत्यर्थीकीओरसे/ Respondent by	:	Sh. Arun Kumar Yadav – Ld. CIT-DR

सुनवाईकीतारीख/ Date of Hearing	:	19-02-2025
घोषणाकीतारीख / Date of Pronouncement	:	23-04-2025

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2003-04 arises out of an order passed by learned Commissioner of Income Tax (Appeals)-1, Agra [CIT(A)] on 31-03-2012 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 153A of the Act on 06-12-2006. At the time of hearing, none appeared for assessee. Accordingly, the appeal was heard with the able assistance of Ld. CIT-DR who pleaded for dismissal of the appeal.

2. From case records, it could be ascertained that the assessee was subjected to search u/s 132 on 03-03-2005 and notice u/s 153A was issued on 24-01-2006. The assessee initially filed return of income on 30-03-2005 i.e., before issuance of notice u/s 153A. In response to notice u/s 153A, the assessee offered the same income. The Ld. AO, after rejecting

assessee's various submissions, assessed total income at Rs.72.50 Lacs. While doing so, the agricultural income of Rs.3.60 Lacs was treated as income from undisclosed sources. The Ld. AO made addition of peak of bank deposits and also made addition of unexplained expenses / payments for Rs.52.20 Lacs. Finally, addition of unexplained jewellery was made for Rs.3.71 Lacs. Upon further appeal, Ld. CIT(A) deleted all the additions except for sustaining addition of Rs.15.15 Lacs out of addition of Rs.52.20 Lacs as made by Ld. AO. Aggrieved, the assessee is in further appeal before us.

3. From the case records, it emerges that the addition of Rs.52.20 Lacs was on the basis of notings as founded recorded in a Diary marked as BK-1. However, the assessee disowned the same on the ground that the diary was in the name of Shri Alok Tiwari. There was no mention of any dates or the name of the assessee. We find that during first appeal, the assessee amply demonstrated this fact which is evident from assessee's submissions as extracted at para 8.3 of the impugned order. The Ld. CIT(A) also concurred that as regards to the amount of Rs.49.05 Lacs as allegedly paid to Shri Hari Narain Tripathi, there was no specific entry to that effect. The amount was receivable from that entity. However, the identity of that person was not established by Ld. AO. The Ld. CIT(A) noted that there was another entry for payment of Rs.12 Lacs for purchase of stamp paper which was to added as unexplained expenditure. Another amount as allegedly paid for Rs.3.15 Lacs on account of election expenditure was also confirmed. It could be seen that Ld. CIT(A) though deleted addition of Rs.49.50 Lacs as made by Ld. AO, he embarked upon the exercise of making altogether new addition which is impermissible unless the assessee is put to enhancement notice. There

is no such notice on record. The addition of Rs.3.15 Lacs has been sustained though the assessee never admitted to have paid the same. There is no corroboration of this payment. On these facts, the impugned addition of Rs.15.15 Lacs as sustained by Ld. CIT(A) stand deleted.

4. The appeal 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)

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