

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

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER &
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

**ITA No.292/Agr/2017
(Assessment Year 2008-09)**

Shri Vijay Singh, 1967-A,Dampier Nagar, Mathura, U.P.	Vs.	ITO, Ward-3(5) Aaykar Bhavan, Mathura UP
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AQXPS6802P		
Appellant	..	Respondent

Appellant by :	Sh. Anurag Singh, Adv.
Respondent by :	Sh. Shailender Shrivastava, Sr. DR

Date of Hearing	12.02.2025
Date of Pronouncement	12.02.2025

ORDER

PER SATBEER SINGH GODARA, JUDICIAL MEMBER:

This assessee's appeal for assessment year 2008-09 arises against Commissioner of Income Tax (Appeals)-I, [in short, the "CIT(A)"], Agra's in case No. 118/CIT(A)-I/Agra/ITO-3(5)/Mathura/2015-16 dated 27.03.2017, in proceedings under Section 254/143(3) of the Income Tax Act, 1961, [hereinafter referred to as 'the Act'].

2. Heard both the parties at length. Case file perused.
3. It emerges during the course of hearing that this is the second round of litigation between the parties before the tribunal. Coming to the

basic relevant facts, there is hardly any dispute between the parties that the learned Assessing Officer has framed assessment assessing the assessee's cash deposits of Rs.24,90,250/- as his business turnover thereby applying GP rate of 5% thereupon followed by second addition amounting to Rs.1.77 lacs representing margin money investment in a car, respectively. The matter thereafter travelled up to the tribunal in assessee's first round appeal ITA No. 44/Agr/2013 wherein the learned co-ordinate bench deleted the profit rate addition of RS.1,17,012/- and restored the latter "car" issue back to the Assessing Officer.

4. It is in this factual backdrop that the learned Assessing Officer framed his consequential assessment on 27.03.2015 accepting the assessee's stand qua the latter issue only. He however went by the tribunal's observations to add the entire cash deposits of Rs.24. 90 lacs (supra) as unexplained which stand upheld in the lower appellate proceedings. This is what leaves the assessee aggrieved.

5. We have given our thoughtful consideration to the assessee's and Revenue's vehement argument reiterating their respective stands. The Revenue highlights the tribunal "earlier" first round detailed discussion in para 5 at page 6 & 7 that it had come very harsh on the lower authorities assessing the entire cash deposits as assessee's business turnover; and, therefore, we ought to affirm the impugned addition of Rs.24.90 lacs as is done by the lower authorities.

6. We find no reason to concur with the Revenue's foregoing stand. This is for precise reason that once the very issue stood settled in first round wherein the impugned addition of Rs.1.17 lacs representing the profit rate stood deleted, we fail to understand how the very addition would be revived once merely based on same observations. We thus

accept the assessee's instant ground to delete the impugned addition in very terms.

7. This assessee's appeal is allowed.

Order pronounced in the open court on 12.02.2025

Sd/-
(Manoj Kumar Aggarwal)
ACCOUNTANT MEMBER

Sd/-
(Satbeer Singh Godara)
JUDICIAL MEMBER

Dated 12.02.2025

PS: Rohit/Subodh, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR

ITAT AGRA