

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AGRA BENCH, AGRA**

**BEFORE : SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER
AND
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

ITA No.110/Agr/2023
Assessment Year: 2009-10

Narendra Kumar Bansal, C/o M/s. Pawan Traders, Vijaypur, Sheopur (MP)	Vs.	Income-tax Officer, Ward 2, Morena.
PAN : AJBPB4786C		
(Appellant)		(Respondent)

Assessee by	Sh. Rajendra Sharma, Advocate & Sh. Manuj Sharma, Advocate
Department by	Sh. Shailendra Srivastava, Sr. DR

Date of hearing	22.04.2025
Date of pronouncement	22.04.2025

ORDER

Per Sunil Kumar Singh, Judicial Member:

This appeal has been preferred by assessee against the impugned order dated 30.06.2023 passed in Appeal no. CIT(A), Gwalior/10321/2017-18 by the Ld. Commissioner of Income– tax(Appeals)/National Faceless Appeal Centre (NFAC) [hereinafter referred to as the "CIT(A)"] u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] for the Assessment Year [A.Y.] 2009-10, wherein Id. CIT(A) has dismissed assessee's first appeal.

2. Briefly stating, assessee filed his return of income on 09.09.2010, declaring total income of Rs.1,20,180/- for A.Y. 2009-10. It was noticed that the assessee deposited cash of Rs.16,65,840/- in the bank. After getting approval from PCIT, Gwalior u/s. 151(1) of the Act dated 30.03.2016, notice u/s. 148 of the Act was issued, which was duly served upon the assessee. Statutory notices were also issued with the questionnaire asking assessee to explain the source of cash deposited in bank account with supporting documents. Assessee submitted before Id. Assessing Officer that the cash deposited in the bank is from personal savings and receipts from family members and friends with specific mention of Shri Satish Kumar Mangal and Shri Dwarika Prasad Sharma. However, for want of confirmation certificates from the aforesaid persons, the Assessing Officer was not satisfied and further found that the assessee also deposited cash of Rs.3,86,850/- in another saving bank account of Bank of Maharashtra and treated aforesaid deposits as unexplained money u/s. 69A of the Act and assessed total income of the assessee at Rs.21,72,870/-.

3. Assessee preferred an appeal before Id. CIT(Appeals) where he could not succeed and assessee's first appeal was dismissed.

4. Assessee has come before this Tribunal with the following grounds :

"Ground No. 1:- On the facts and in the circumstances of the case the learned CIT appeal (NFAC) has erred in confirming the validity of proceeding initiated u/s 147 the proceeding u/s 147 may kindly be declared as unlawful and cancelled so also the assessment.

Ground No.2:- That without prejudice ground no.1 above the learned CIT appeal NFAC was not justified in confirming the addition of Rs. 2052690/- as un-explained investment u/s 69A.

Additional legal Ground No. 3-

"3. That the order passed by the NFAC is bad in law being not passed in accordance with the provisions of Section 250 of the Income Tax Act, the order passed by the NFAC is liable to be set aside."

Additional legal Ground No. 4-

"4. That the provisions of Section 69A of the Income Tax Act are not attracted in the case of assessee, the AO has wrongly invoked the provisions of Section 69A of the Income Tax Act in the case of assessee, the assessment completed making of addition invoking of Section 69A of the Income Tax Act is against the provisions of Income Tax Act, the assessment so completed is bad in law. The NFAC while passing the order under Section 250 of the Income Tax Act has not considered the aforesaid facts and position of law, the order passed, sustaining the addition by NFAC is bad in law, liable to be set aside. The addition made by the AO is liable to be deleted."

Additional legal Ground No. 5-

"5. That while passing the appellate order under Section 250 of the Income Tax Act, the NFAC has completely ignored the fact that the AO while completing of the assessment has not issued the notice under Section 143(2) of the Income Tax Act which is required to be issued for completing of the assessment, therefore, the assessment completed, without issuing of notice under Section 143(2) of the Income Tax Act is not valid assessment. Order passed by the NFAC on this score is bad in law."

5. Perused the records and heard learned representatives for assessee and Revenue.

6. Learned representative for assessee, at the very first instance made an endorsement that he does not wish to press upon the additional ground No. 5. Hence, additional ground No. 5 stands rejected.

7. Learned representative for assessee has further submitted that the source of aforesaid cash deposit was disclosed before the Assessing Officer with specific names of the persons mentioned as above along with confirmation certificates. However, no endeavors were made by the Assessing Officer to verify the source. He further submitted that Id. CIT(Appeals) has also ignored the aforesaid evidence during the first appellate proceedings. Ld. AR for assessee has further requested that the matter be restored to the first appellate authority for verification of the source from which the assessee has mentioned and pass such order for verification.

8. Learned departmental representative has supported the impugned order.

9. It transpires from the perusal of the impugned order that learned Assessing Officer has stated in the assessment order that assessee submitted the name of Shri Satish Kumar Mangal and Dwarika Prasad Sharma, from whom the amount was received. Further, the confirmation certificates from these persons along with documents from bank and post

office were not submitted. Perusal of the impugned order further shows that the assessee reiterated the names of aforesaid persons along with their confirmations. However, Id. CIT(Appeals) has suo moto framed four questions as to why Mr. Dwarika Prasad Sharma and Satish Kumar Mangal and another person Shri Magendra Kumar Tiwari lent money to the assessee. However, no efforts could be seen to have been made by first appellate authority to verify the claim of assessee either by seeking remand report from Id. Assessing Officer or to get such claim verified at its own. In such circumstances, we accede to the request of Id. Representative for assessee to restore the matter back to Id. CIT(Appeals) for verification of the aforesaid evidence adduced before the authorities below. We order accordingly.

10. In the result, the appeal is allowed for statistical purpose and the matter is restored back to the file of Id. CIT(Appeals) who shall pass order afresh in the light of observations made herein above. Needless to say that Id. CIT(Appeals) shall ensure compliance of the principles of natural justice.

Order pronounced in the open court on 22.04.2025.

Sd/-

**(BRAJESH KUMAR SINGH)
ACCOUNTANT MEMBER**

Dated: 22.04.2025

*aks/-

Sd/-

**(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, Agra