

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

**BEFORE : SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER
AND
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

ITA No.76/Agr/2017
Assessment Year: 2010-11

ACIT, Circle 2(1), Gwalior.	Vs.	Govind Prasad Garg, Kothi No. 3, KS Complex, BTI Road, Morena.
PAN : ACOPG5423D		
(Appellant)		(Respondent)

Assessee by	Sh. Sanjay Kumar, CA
Department by	Sh. Sukesh Kumar Jain, CIT/DR

Date of hearing	26.03.2025
Date of pronouncement	29.04.2025

ORDER

Per Sunil Kumar Singh, Judicial Member:

This appeal has been preferred by Revenue against the impugned order dated 16.11.2016 passed in Appeal no. 693/IT/2011-12/Gwl by the Ld. Commissioner of Income– tax(Appeals), Gwalior [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.] 2010-11, wherein learned CIT(A) has set aside the assessment order and partly allowed assessee's appeal.

2. Brief facts state that consequent upon the search operation conducted u/s. 132(1) of the Act on 11.03.2011, the assessee filed return of income for

A.Y. 2010-11 on 09.09.2011, declaring total income at Rs.5,93,610/-. Statutory notices were issued and served upon the assessee with a detailed questionnaire. Assessee submitted his response on 16.12.2011 in respect of the unexplained cash credits of Rs.9,50,201/-, unexplained cash receipts of Rs.5,25,000/-, unexplained agricultural income of Rs.63,990/- and unexplained cash receipts of Rs.1.81 crores from sale of property at Indore. However, learned Assessing Officer observed that the assessee did not furnish PAN and confirmation of TR Associates from whom Rs.9,50,201/- were received in assessee's bank account No. SB 3017562777 of Central Bank of India, Morena. Further, Assessing Officer observed that the assessee did not furnish the source of receipts of cash of Rs.5,25,000/-. Learned Assessing Officer also found that the assessee did neither furnish the Mandi bills nor produced land holding details crop wise in respect of agriculture income of Rs.63,990/- and accordingly assessed total income at Rs.2,02,32,801/-.

3. Assessee preferred an appeal before learned CIT(Appeals) against the assessment order dated 19.12.2011 and made his submissions that the ld. Assessing Officer never specifically asked the said details in respect of the source of aforesaid additions and adduced additional evidences. Ld. CIT(Appeals) admitted assessee's additional evidences u/r 46A of the

Income-tax Rules, 1962, wherein assessee submitted all the documentary evidences in respect of the source of all credits and receipts. Ld. CIT(Appeals) called for the remand report from the Assessing Officer and after finding that there was no adverse report submitted by the Assessing Officer, allowed assessee's first appeal and deleted aforesaid additions.

4. Aggrieved by the impugned order, Revenue has filed this appeal on the following grounds :

"1. Whether on the facts and in the circumstances of the case, the Ld. CIT (A) has erred in law and in fact in allowing a relief of Rs.9,50,201/-, which was added by the A.O. on account of unexplained cash credit, during the relevant financial year, in spite of the facts on records that the assessee has failed to produce any admissible evidence during the course of assessment proceeding before the A.O.

2. Whether on the facts and in the circumstances of the case, the Ld. CIT (A) has erred in law and in fact in deleting the addition of Rs.5,25,000/- made by the A.O. on account of unexplained cash receipt as per LPS-12 [page no. 1 to 10], in spite of the facts on records that the assessee has failed to produce any admissible evidence during the course of assessment proceedings before the A.O.

3. Whether on the facts and in the circumstances of the case, the Ld. CIT (A) has erred in law and in fact in deleting the addition of Rs.63,990/- made by the A.O. on account of unexplained agriculture income, in spite of the facts on records that the assessee has failed to produce any admissible evidence during the course of assessment proceeding before the A.O.

4. Whether on the facts and in the circumstances of the case, the Ld. CIT (A) has erred in law and in fact in deleting the addition of Rs.1,81,00,000/- made by the A.O. on account of unexplained cash receipt from sale of property at Indore, in spite of the facts on records that the assessee has failed to produce any admissible evidence during the course of assessment proceeding before the A.O."

5. Perused the records and heard learned Departmental Representative for appellant/Revenue and learned authorized representative for respondent/assessee.

6. Learned DR has submitted that the assessee was afforded ample opportunities by the Assessing Officer to produce any admissible evidence during the assessment proceedings. Therefore, Assessing Officer has rightly assessed assessee's income by making aforesaid additions. He prayed to set aside the impugned order and confirmed the assessment order.

7. Learned representative for the assessee has submitted that during the assessment proceedings, Assessing Officer did not specifically asked for the PAN and confirmation of TR Associates from whom assessee received Rs.9,50,201/- nor specifically asked for the Mandi bills or crop-wise land holding details and other details before concluding the assessment. Ld. AR has further stated that Id. CIT(Appeals) has rightly admitted assessee's uncontroverted additional evidences and passed impugned order in accordance with law. Prayed to dismiss Revenue's appeal.

8. After going through the entire material available on record, we propose to deal with the issues relating to all the grounds chronologically as under:

9. As regards addition of Rs.9,50,201/- made u/s. 69 of the Act on account of unexplained cash credits, it transpires that the respondent/assessee was not asked by the Assessing Officer for furnishing PAN and confirmation from TR Associates and the contention of the assessee before the Id. CIT(Appeals) was that credit entry of Rs.9,50,201/- was received back of loan amount from TR Associates, which was given in earlier year and was also reflected in assessee's balance sheet for A.Y. 2009-10 as debit balance. Ld. Assessing Officer has also not controverted this factual aspect in response to the remand report summoned by Id. CIT(Appeals). Hence, there was no justification for addition of Rs.9,50,201/- as unexplained cash credit, which is rightly deleted by Id. CIT(Appeals) on the basis of admissible evidences.

10. As regards addition of Rs.5,25,000/- made as unexplained cash receipts, it appears from the perusal of the impugned order that the assessee discharged his onus by proving that the cash receipts and the seized documents did not belong to him, which were related to A.Y. 2009-10 and the amount shown was already added in the assessment of the assessee for A.Y. 2009-10. It was further explained by the assessee before first appellate authority that the credit entries belonged to M/s. Vast Appro Combines P. Ltd. as mentioned in the seized documents and M/s. Vast

Appro Combines Pvt. Ltd. was assessed by Hon'ble Income-tax Settlement Commission (ITSC), Mumbai Bench wherein cash receipts of Rs.5,25,000/- were also taken and settled. In this view of the matter, the aforesaid addition in the hands of assessee cannot be said to be justified. Ld. CIT(Appeals) has rightly deleted aforesaid addition.

11. As far as the addition of Rs.63,990/- on account of disallowance in respect of agricultural income is concerned, Mandi bills for sale of agricultural produce and agricultural receipts, payment/sale vouchers, title deeds of agricultural land, agricultural land holding details and other records of the assessee were also submitted in the additional evidences produced before first appellate authority. The same were sent for verification by the first appellate authority directing the Assessing Officer to submit remand report. Nothing adverse to the contents of the aforesaid documents could be submitted by the Assessing Officer before first appellate authority. Therefore, Ld. CIT(Appeals) was right in taking agriculture income of the assessee as genuine on the basis of documentary evidences and rightly deleted addition of Rs.63,990/-.

12. As regards addition of Rs.1.81 crores as unexplained cash receipts from sale of property at Indore, the assessee has already discharged his onus before the first appellate authority that neither the cash receipts nor the

seized documents belonged to the assessee. Rather the credit entry belonged to M/s. Vast Appro Combines Pvt. Ltd. , which is also said to be mentioned on the top of the seized documents for A.Y. 2007-08 to A.Y. 2011-12, which was settled by Hon'ble ITSC, Mumbai Bench wherein the cash receipts of Rs.1.81 crores was also settled after due consideration. Ld. CIT(Appeals) has, thus, rightly deleted this addition.

13. In view of the aforesaid discussion we notice that the Id. CIT(Appeals) has very elaborately examined the additional evidences adduced by the assessee during first appellate stage and left no stone unturned to examine the veracity and genuineness of the same, on the basis of which the impugned order has been passed, which contains well explained reasons leading to the logical deductions. We accordingly sustain the impugned order.

14. In the result, Revenue's appeal is dismissed. The impugned order dated 16.11.2016 is confirmed.

Order pronounced in the open court on 29.04.2025.

Sd/-

**(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER**

Sd/-

**(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

Dated: 29.04.2025

*aks/-

Copy forwarded to:

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

Asst. Registrar, ITAT, Agra