

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AGRA BENCH 'DB' AGRA**

**(Through Physical/Virtual Hearing)**

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

**ITA No.81/Agr/2025  
[Assessment Year: 2015-16]**

Hardayal Milk Products Private Limited, 318, Shambhoo Nagar, Shikohabad, Uttar Pradesh-205135	Vs	DCIT, Circle-2(2)(1), Aayakar Bhawan, Dabrai, Firozabad, Uttar Pradesh-283203
<b>PAN-AABCH7576E</b>		
Appellant		Respondent

Appellant by	Shri Sahib P. Satsangi, CA
Respondent by	Shri Shailender Srivastava, Sr. DR

<b>Date of Hearing</b>	<b>03.04.2025</b>
<b>Date of Pronouncement</b>	<b>03.04.2025</b>

**ORDER**

**PER BRAJESH KUMAR SINGH, AM,**

This appeal filed by the assessee is directed against the ex-parte order dated 29.01.2025 of National Faceless Appeal Centre, Delhi, relating to Assessment Year 2015-16 arising out of order u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to 'the Act') dated 30.12.2017 passed by the Dy. Commissioner of Income Tax, Circle-2(2)(1), Firozabad.

3. Brief facts of the case: The assessee is a company engaged in the business of processing of Milk, manufacturing of Milk Products such as Pasteurized Milk, Ghee, butter etc. The manufacturing plant of the assessee company is located at Etah Road, Shikohabad, Firozabad. In this case, the return of income was filed in ITR-6 on 30.09.2015 under e-filing,

declaring total income at Rs1,18,92,250/-. The case was selected for scrutiny under compulsory selection guidelines of CBDT and statutory notice u/s 143(2) was issued and served on the assessee. Notices u/s 142(1) and questionnaire was subsequently issued and served on the assessee. The Assessing Officer for the reasons stated in the assessment order rejected the books of account of the assessee by invoking the provisions of section 145(3) of the Act and considering the comparative profits by others in similar line of business which was in the range of 1.0 to 1.50% adopted the net profit @ 1.25% of the total turnover and estimated the net profit at Rs.2,32,64,681/-. Further, the Assessing Officer added a sum of Rs.2,79,729/- on account of depreciation and passed the assessment order u/s 143(3) of the Act on 30.12.2017 accordingly.

4. Aggrieved with the said order, the assessee filed an appeal before the Ld. CIT(A). The ld. CIT(A) dismissed the appeal of the assessee by observing that the assessee miserably failed to file any compliance and neither the assessee nor its AR filed any written submission or filed any adjournment letter apart from what was stated earlier on page 3 of the order of the Ld. CIT(A). The ld. CIT(A), thus, held that since the assessee miserably failed to substantiate the grounds taken by him with supporting documents, the action of the Assessing Officer was justified.

5. Aggrieved with the said order, the assessee is in appeal before us.

6. The Ld. AR submitted that the ld. CIT(A) disregarded the principle of natural justice and genuineness of reasons for seeking adjournment before him and passed an ex-parte order and therefore the matter may be set-

aside to the file of the Id. CIT(A) to give an opportunity to the assessee to represent his case. In this regard, the Id. AR referred to the ground no.1 of the appeal which is reproduced as under:-

*“1. That having regard to facts and circumstances of the case the learned CIT(A) NFAC has erred both on facts and in law in dismissing the appeal disregarding the principles of natural justice and genuineness of reasons for seeking adjournment before him.”*

7. The Id. DR supported the orders of the authorities below.

8. We have heard both the parties and perused the material available on record. The assessee's adjournment letter dated 17.08.2024 as referred on page 3 of the order of the Ld. CIT(A) is reproduced as under:-

Before the Learned Commissioner of Income Tax (Appeals),  
National Faceless Appeal Centre (NFAC)  
Income Tax Department  
Delhi

Reg. : **M/s Hardayal Milk Products Private Limited**  
**318, Sambhoo Nagar,**  
**Shikohabad – 205135**  
**PAN : AABCH7576E**  
**Assessment Year : 2015-16**

**Appeal No. : CIT(Appeal) 2. Agra/10686/2017-18**

Ref. : **DIN : ITBA/NFAC/F/17/2024-25/1067626067(1)**

With reference to your honour's letter vide DIN & Letter No. ITBA/NFAC/F/17/2024-25/1067626067(1) dated 14.08.2024 requiring the appellant to submit/upload his written submissions with supporting documents with respect of the grounds of appeal raised, it is respectfully submitted that on account of death of the counsel, Shri R.K. Agarwal, who was handling the appeal matters, the appellant is taking his records and engaging another counsel. The copy of the death certificate of Shri R.K. Agarwal is enclosed.

In view of above facts and circumstances, hearing fixed be adjourned and time be allowed for preparation and submissions of replies on the Grounds of Appeal.

Yours faithfully,

For Hardayal Milk Products Private Limited

Sd/--

Director

17.08.2024

Encls. :  
Death Certificate of Shri R.K. Agarwal

9. On perusal of the said letter of the assessee, we find that there was a genuine reason for seeking adjournment and its difficulty in appearing before the Ld. CIT(A). Therefore, the order of the Ld. CIT(A) dismissing the

appeal of the assessee ex-parte cannot be sustained and the same is set-aside to the file of the ld. CIT(A) to pass an order afresh after giving a reasonable opportunity of being heard to the assessee. The assessee is also directed to represent its case before the ld. CIT(A). Accordingly, grounds of appeal raised by the assessee are allowed for statistical purposes.

10. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 3<sup>rd</sup> April, 2025.

**Sd/-**  
**[SUNIL KUMAR SINGH]**  
**JUDICIAL MEMBER**

**Dated** 03.04.2025.

*Shekhar*

Copy forwarded to:

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

**Sd/-**  
**[BRAJESH KUMAR SINGH]**  
**ACCOUNTANT MEMBER**

Asst. Registrar,  
ITAT, New Delhi,