

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

(Through Physical/Virtual Hearing)

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

**ITA Nos.29 and 30/Agr/2025
[Assessment Years: 2016-17 and 2017-18]**

Mr. Sanjiv Kumar Gupta, 105, Nai Basti, Firozabad, Uttar Pradesh-283203	Vs	Income Tax Officer, Ward-2(2)(4), Income Tax Department, Dabarai, Firozabad, Uttar Pradesh-283203
PAN-AEQPG6958P		
Appellant		Respondent

Appellant by	None
Respondent by	Shri Shailender Srivastava, Sr. DR

Date of Hearing	02.04.2025
Date of Pronouncement	02.04.2025

ORDER

PER BRAJESH KUMAR SINGH, AM,

These two appeals filed by the same assessee are against the respective ex-parte order dated 22.12.2013 for Assessment Year 2016-17 and dated 05.01.2023 for Assessment Year 2017-18 of the First Appellate Authority (hereinafter referred to 'FAA') arising out of order u/s 144 of the Income Tax Act, 1961 (hereinafter referred to 'the Act') dated 26.11.2018 and 28.11.2019 respectively passed by the Income Tax Officer, Ward-2(2)(4), Firozabad.

2. None appeared on behalf of the assessee. However, the appeals are being decided after hearing the ld. Sr. DR and on the basis of material available on record. First, we will take up the appeal in ITA No.29/Agr/2025, relating to Assessment Year 2016-17.

ITA No.29/Agr/2025 (AY 2016-17)

3. Brief facts of the case: The assessment in this case was completed u/s 144 of the Act, wherein, addition of Rs.9,56,174/- was made by the Assessing Officer as undisclosed income. The Assessing Officer on the basis of ITS information and copies of bank statement collected from the banks found that the assessee had deposited a sum of Rs.2,33,22,024/- cash deposit in four bank accounts. The Assessing Officer as per the analysis made in the assessment order noted that cash deposits/credits amounting to Rs.1,19,52,184/- was not disclosed. The Assessing Officer treated it as undisclosed sales/turnover and an amount an equal to 8% of Rs.1,19,52,184/- being Rs.9,56,174/- was added.

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 on the ground that no submission was furnished/filed by the assessee despite several opportunities given.

5. We have heard the ld. DR and perused the material available on record. On perusal of ground no.3, it is seen that the assessee submits that none of the notice issued by the Assessing Officer came to knowledge of the assessee and thus he was prevented by sufficient cause beyond his control to participate in the limited scrutiny assessment proceedings and make compliance with various notices issued by the Assessing Officer and defend his case properly and judiciously. In this ground, it is further requested that the assessment order may be restored back to the Assessing Officer for *de novo* assessment. In view of the above submissions, we are of the considered view that in the interest of justice,

one more opportunity be given to the assessee to represent his case effectively before FAA. We, therefore, set-aside the assessment order and the order of the Id. FAA and restore the matter to the file of FAA for passing order afresh after giving a reasonable opportunity of being heard to the assessee. Further, the assessee is also directed to represent his case before the FAA. Accordingly, grounds of appeal raised by the assessee are allowed for statistical purposes.

8. In the result, the appeal for the assessee is allowed for statistical purpose.

ITA No.30/Agr/2025 (AY 2017-18)

9. The assessment in this case was completed u/s 144 of the Act. As per SFT data before the Assessing Officer, the assessee had deposited cash of Rs.19,62,500/- (Rs.9,00,000/- + Rs.9,00,000/- + Rs.1,62,500/-) in three bank accounts maintained in three different banks as mentioned in the assessment order. No compliance was made during the assessment proceedings. Further, during the assessment proceedings, it was noticed by the Assessing Officer that the assessee had made cash deposits of Rs.95,21,200/- and there were other credit entries appearing in the bank account amounting to Rs.36,01,2019/- totalling to Rs.1,31,22,419/-. The Assessing Officer treated the cash deposits of Rs.19,62,500/- during the demonetization period as unexplained money u/s 69 r.w.s. 115BBE of the Act. In respect of balance credit entries amounting to Rs.1,11,59,919/-, (Rs.1,31,22,419/- - Rs.19,62,500/-) the Assessing Officer treated an amount equal to 8% of total credits as net profit and added a sum of

Rs.8,92,794/-to the total income of the assessee. The Ld. CIT(A) dismissed the appeal ex-parte of the assessee.

10. Ground No.3 raised in ITA No.29/Agr/2025 is similar to ground no.3 raised in ITA No.30/Agr/2025 decided by us in earlier part of this order. Therefore, our above decision would apply *mutatis-mutandis* to this ground of the appeal. Accordingly, the grounds raised by the assessee are allowed for statistical purpose.

11. Finally, both appeals of the assessee are allowed for statistical purpose.

Order pronounced in the open court on 2nd April, 2025.

Sd/-
[SUNIL KUMAR SINGH]
JUDICIAL MEMBER
Dated 04.04.2025.

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,