

**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 No.65/Agr/2025
[Assessment Year: 2012-13]**

Dinesh Kumar, S/O-Jaldhari, 1A Nagariya, Bah, Agra, Uttar Pradesh-283104 PAN-CNPPK6440Q	Vs	Income Tax Officer, Ward-2(1)(1), Aayakar Bhawan, Sanjay Place, Agra, Uttar Pradesh-282002
Appellant		Respondent

Appellant by	Shri Deependra Mohan, CA
Respondent by	Shri Shailender Srivastava, Sr. DR

Date of Hearing	03.04.2025
Date of Pronouncement	03.04.2025

ORDER

PER BRAJESH KUMAR SINGH, AM,

This appeal filed by the assessee is directed against the ex-parte order dated 08.02.2024 of Addl./JCIT(A)-3 Mumbai, First Appellate Authority (hereinafter referred to 'FAA'), relating to Assessment 2012-13 arising out of order u/s 144/147 of the Income Tax Act, 1961 (hereinafter referred to 'the Act') dated 18.11.2019 passed by the Income Tax Officer, Ward-2(1)(1), Agra.

2. This appeal has been filed with a delay of one year. In this regard, the assessee has filed a condonation application dated 01.02.2025 which is reproduced as under:-

“Sub: Condonation of delay

We are filing an appeal against the order passed u/s 250 by the learned Commissioner of Income-tax (Appeals), NFAC, Delhi dated 08.02.2024. The said appeal was to be filed by 08.04.2024 but could not be filed within the due time as the said order was not received by the appellant.

The reason for the delay in filing the appeal is that the Appellant did not receive the order within the prescribed time. This was due to the fact that the registered email ID associated with the Appellant's account was incorrect and does not belong to the Appellant. As a result, the Appellant did not receive any notice or the appeal order and remained completely unaware of the proceedings. Further, the Appellant, being a farmer, is not well-versed with the technological aspects concerning income tax and appellate proceedings. It was only when the Appellant opted for the Vivad Se Vishwas (VSV) Scheme that he became aware of the appellate order passed

Therefore, we request you to condone the delay in filing of appeal in light of the principal of natural justice and acknowledge the receipt of the same.”

2.1. The explanation of the assessee has been considered and it is found to be reasonable and *bona fide*. We, therefore, condone the delay and admit this appeal for hearing.

3. Brief facts of the case: In this case, the assessment was completed u/s 144/147 of the Act on 18.11.2019 by making addition of Rs.15,13,500/- on account of cash deposit in his bank account maintained with Vijaya Bank, Agran Cantt. Agra.

4. Aggrieved with the said order, the assessee filed an appeal before the Ld. CIT(A). The Ld. FAA decided the appeal ex-parte and confirmed the addition made by the Assessing Officer on the ground that there was no concrete evidence on record to controvert the findings of the AO.

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

6. The assessee in its statement of fact filed before the First Appellate Authority submitted as under:-

“The appellant that the assessee Dinesh Kumar is a man residing in a village in Bah, Agra. He is a simple farmer. During the year under consideration the assessee had deposited Rs. 15,13,500 in his bank account against which the notice under section 142(1) dated 17.08.2019 was issued and later on non-compliance, the assessment was completed ex parte by the Assessing Officer under section 144 of the Income-tax Act, 1961. The Assessing Officer assessed the income of the assessee at Rs.15,13,500/- on account of cash deposited in saving bank account maintained with Vijaya Bank for the AY 2012-13. However, according to the assessee, no such account is maintained with Vijaya Bank rather assessee has deposited this cash in Punjab National Bank. The assessee runs a business of growing and selling of potatoes, millets, mustard and wheat and considers it as an agricultural income. The cash deposits made during the AY 2012-13 were out of opening cash held by the assessee, sales made during the year along with money received from sale of agricultural land made by the assessee during FY 2011-12. The assessee being a villager belonging to rural area and being illiterate and ignorant fellow not aware of the importance of income tax and its proceedings could not make the compliance of Income Tax Department notices and other statutory compliances. Therefore the compliance could not be done. However, the Assessing Officer on 18.11.2019 had issued notice of demand under section 156 of the Income-tax Act, 1961 amounting to Rs.8,79,440/-. Without considering the above facts, the Assessing Officer proceeded in making additions and issuing a demand notice under section 156 of the Income Tax Act, 1961. Thus, the additions made as unexplained income of Rs. 15,13,500 and demand raised under section 156 of Rs.8,79,440/- on such impugned addition is unjust and uncalled for.

7. The Ld. DR supported the orders of the authorities below.
8. We have heard the both the parties and perused the material available on record. On perusal of the statement of facts of the assessee and submission of the ld. Counsel for the assessee, 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 the ld. FAA. We, therefore, set-aside the order of the Assessing Officer and ld. FAA and restore the matter to the file of the AO to pass an order afresh after giving a reasonable opportunity of being heard to the assessee. Further, the

assessee is also directed to appear before the AO. Accordingly, grounds of appeal raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 3rd 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,