

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

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

ITA No. 86/Agr/2025  
Assessment Year: 2012-13

Sarman Rai, 39, Indihar Nagar, Jhansi – 284001 (UP).	<b>Vs.</b>	Income-tax Officer, Ward 2(3)(3), Jhansi.
<b>PAN : AISPR4990C</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Sh. Sahib P. Satsangee, C.A.
Department by	Sh. Shailendra Srivastava, Sr. DR

Date of hearing	21.05.2025
Date of pronouncement	29.05.2025

**ORDER**

**Per Sunil Kumar Singh, Judicial Member:**

This appeal has been preferred by assessee against the impugned order dated 15.02.2024 passed in Appeal No. CIT (Appeal)-2, Agra/10348/2019-20 by the Ld. Commissioner of Income-tax (Appeals), NFAC, Delhi u/s. 250 of the Income-tax Act, 1961 (hereinafter referred to as “the Act”), wherein the learned CIT(Appeals) has dismissed assessee’s first appeal.

2. Briefly stating, the assessee filed his return of income on 31.08.2012 for the year under consideration declaring income of Rs.3,47,710/-. Based on the information available with the department, the Assessing Officer

noticed that the assessee had deposited cash of Rs.13,90,000/- in his bank account maintained with PNB, Baruasagar, Jhansi. The Assessing Officer, therefore, initiated reassessment proceedings u/s. 147 by issuing notice u/s. 148 of the Act on 29.03.2019, which stood un-responded on behalf of the assessee. Thereafter, notices u/s. 142(1) were issued on various occasions, but for no avail. Show cause notice issued u/s. 144 to the assessee was also not complied with. The Assessing Officer, after seeking bank statement of the assessee from the concerned bank and for want of assessee's submissions, made addition of the aforesaid unexplained cash deposit amounting to Rs.13,90,000/- as unexplained income u/s. 69A of the Act, vide assessment order dated 14.10.2019 passed u/s. 144 r.w.s. 147 of the Act.

3. Aggrieved, the assessee preferred first appeal before Id. CIT(Appeals), who dismissed the same vide impugned order.

4. The assessee has filed this appeal before the tribunal on the following grounds :

"1. That under the facts and circumstances of the case the learned Authorities below have erred both on facts and in law with prima facie belief that the cash deposited in the Bank Account was out of unexplained sources and therefore the income has escaped assessment without considering the return filed by the appellant.

2. That under the facts and circumstances of the case the learned Authorities below have erred both on facts and in law initiating reassessment proceedings with mere information without application of mind for forming of such belief that the cash deposited

in the Bank Account represented undisclosed income of the appellant.

3. That under the facts and circumstances of the case the learned Authorities below have erred both on facts and in law adding a sum of Rs. 13,90,000 under section 69A of the LT. Act, 1961 without appreciating the source of cash deposited in the bank account of the appellant out of the sales credited to the Audited Profit & Loss Account for the impugned year recorded in the books of account maintained by the appellant.

4. That under the facts and circumstances of the case the learned Authorities below have erred both on facts and in law in making addition under section 69A of the I.T. Act, 1961 on mere presumption, surmises and conjectures without rejecting the explanation and the books of accounts maintained during the regular course of business by the appellant.”

5. Perused the records and heard the Id. Representative for the assessee and the learned Departmental Representative for the Revenue.

6. At the very outset, Id. Representative for the assessee has pressed delay condonation application and prayed to condone the delay of 306 days in filing this appeal on the ground that appellant filed reply on 10.07.2021 in response to the notice issued by Ld. CIT(Appeals). The appellant was not aware of notice dated 05.02.2024 and there was no information of the impugned order. It was only on receipt of demand notice, the assessee became aware of the impugned order and took immediate steps to file the appeal on 15.02.2025. Assessee has filed an affidavit in support of delay condonation application, which is un-controverted on record. In the interest of justice, we treat assessee’s explanation as sufficient and condone the delay in filing this appeal.

7. Learned AR has further submitted that the Revenue authorities have erred in making aforesaid addition merely on the presumption, surmises and conjectures without rejecting the explanation and the books of account maintained by the assessee during the regular course of business. It was further submitted that the appellant deals in retail sale of country liquor, where sale in cash is a regular phenomena and the cash deposit in the bank account is out of such sale proceeds in cash. The Assessing Officer has not doubted the declared turnover of Rs.89,27,121/- of assessee. Hence, cash deposit of Rs. 13,90,000/- cannot be doubted, being the part of such turnover. Prayed to set aside the impugned order.

8. Learned DR has supported the impugned order.

9. Perusal of the impugned order shows that the assessee did not respond to the various notices issued by the Assessing Officer in the assessment proceedings. He has also not filed return of income in pursuance to notice u/s. 148. Perusal of the impugned order shows that the Id. CIT(Appeals) has dismissed the first appeal of the assessee on the premise that that the assessee could not substantiate its contention by furnishing copies of cash book, sale invoices, ledger accounts or any documentary evidence in support of his case before the Assessing Officer. It is, however, seen that the assessment order has been passed u/s. 144 of the Act, where the assessee could not make any submission and explain

the cash deposits in the bank account. The nature of appellant's business is not disputed. In the circumstances and in the interest of justice and fair play, we deem it just and appropriate to remit the matter back to the file of learned Assessing Officer for framing the assessment order afresh after seeking explanation of the assessee as to the source of the aforesaid cash deposits in the bank account. We order accordingly. We further direct the assessee to be diligent and cooperative in attending the assessment proceedings and making submissions before the Assessing Officer for the expeditious and effective disposal. Assessee shall refrain from seeking any adjournment but for compelling and unavoidable reasons. Needless to say that learned Assessing Officer shall ensure the observance of the principles of natural justice. The appeal is liable to be allowed accordingly.

10. In the result, the appeal is allowed for statistical purposes. Impugned order dated 15.02.2024 and assessment order dated 14.10.2019 are set aside.

***Order pronounced in the open court on 29.05.2025.***

***Sd/-***

**(MANISH AGARWAL)  
ACCOUNTANT MEMBER**

***Sd/-***

**(SUNIL KUMAR SINGH)  
JUDICIAL MEMBER**

Dated: 29.05.2025

\*aks/-

Copy forwarded to:

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

Asst. Registrar, ITAT, Agra