

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

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

ITA No.199/Agr/2024  
Assessment Year: 2017-18

Garima Jain, 17, Gopalkunj, New Agra, Agra-282005(UP).	<b>Vs.</b>	Income-tax Officer, Ward 2(1)(1), Agra.
<b>PAN : AFPPA1393G</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Sh. Rajni Kant Verma, Advocate
Department by	Sh. Shailendra Srivastava, Sr. DR

Date of hearing	03.04.2025
Date of pronouncement	18.06.2025

**ORDER**

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

This appeal has been preferred by the assessee against the impugned order dated 29.03.2024 passed in Appeal No. CIT(Appeal)-2, Agra/10547/2019-20 by the Ld. Commissioner of Income-tax (Appeals), NFAC, Delhi u/s. 250(6) of the Income-tax Act, 1961 (hereinafter referred to as "the Act") for the assessment year (AY) 2017-18, wherein the Id. CIT(Appeals) has dismissed assessee's first appeal upholding, the assessment order dated 09.12.2019 passed u/s. 143(3) of the Act.

2. Briefly stating, the appellant/assessee e-filed her return of income on 18.01.2018 for A.Y. 2017-18, declaring an income of Rs.18,52,750/-.

The assessee was found to have deposited a sum of Rs.52,00,000/- in cash in her bank account during the demonetization period. Statutory notices u/s. 143(2) and 142(1) were issued and served upon the assessee. Assessee vide reply dt. 06.11.2016, submitted before the Ld. Assessing Officer that she declared total silver bullion of the value of Rs.43,36,451/- on 01.06.2016 under IDS 2016. She sold the silver for Rs.51,99,632/- during the year under consideration and has duly recorded the sale of silver in the books of account. The Assessing Officer, though observed that the said sale of silver was disclosed by the assessee under the Income Disclosure Scheme(IDS), 2016 after paying tax @ 45% on silver disclosed under IDS. Leaned Assessing Officer was, however, not satisfied with the submission of the assessee due to non procurement of sale details and assessed total income of assessee at Rs.62,22,656/- vide assessment order dated 09.12.2019.

3. Aggrieved, the assessee preferred appeal before learned CIT(Appeals), who dismissed assessee's first appeal.

4. The appellant/assessee has approached this Tribunal on the following grounds :

1. Because, the order passed by the Learned Commissioner of Income tax (Appeals) is illegal, arbitrary and bad in law as Learned Commissioner of Income tax (Appeals) remained totally failed in adjudicating the case before him by not considering the arguments placed by the appellant before him at all. Even the Additional grounds raised by the appellant also have neither been

considered nor rejected before disposing the appeal. Moreover, the order passed by the Learned Commissioner of Income tax (Appeals) is non speaking order, which deserves to be quashed.

2. Because, the assessee denies her liability to be assessed under the provisions of section 143(3) of the Income Tax Act as no valid notice under provisions of section 143(2) of the Income Tax Act has been issued by the Assessing Officer having territorial jurisdiction over the assessee.

3. Because, the notice under section 143(2) of the Income tax Act issued by the DCIT (Central Circle), Agra was null and void as she has no valid jurisdiction upon the assessee during the previous year relevant to the assessment year under consideration.

4. Because, having regard to the facts of the case the Learned Assessing Officer also erred in law, in not issuing notice under section 143(2) of the Income Tax Act, as issuance of notice under section 143(2) is sine qua non for framing assessment under section 143(3) of the Income Tax Act.

5. Because, in absence of notice under section 143(2) of the Income Tax Act, assessment passed under section 143(3) of the Income Tax Act dated 09.12.2019 is void-ab-initio and also deserves to be quashed.

6. Because, the Learned Commissioner of Income tax (A) has also erred both in law and on the facts in confirming the impugned addition to the total income of the Appellant wrongly invoking provisions of section 69A r.w.s. 115BBE of the Act.

7. Because, the Authorities below have also failed to take note of the fact that the provisions of Section 69A are not applicable in the case of appellant as the assessee had duly recorded transactions of cash deposits in bank account during demonetization period in the books of accounts and section 69A applies only to those unaccounted assets which are not recorded in books of accounts [Sunny Kapoor Vs. Income-tax Officer [2022] 142 taxmann.com 577 (Lucknow - Trib.)]

8. Because, having regard to the facts and circumstances of the case Authorities below have also erred both in law and on the facts in confirming the impugned addition to the total income of the Appellant for the previous year relevant to the assessment year under consideration as undisclosed income of the appellant of Rs.43,69,906/-under section 69A read with section 115BBE of the Income tax Act.

9. Because, upon due consideration of facts and in the overall circumstances of the case the Authorities below had fallen in error of fact and in law in sustaining the high pitch assessment at income of Rs.62,22,656/- as against the income of Rs.18,52,750/- disclosed in the return of income by the appellant without going into the facts of the case, how a huge income can be earned in a year without having any source of income and further no escapement can be presumed merely on account of some cash deposit in the bank account of the appellant as Bank deposits do not constitute income of the appellant.

10. Because, the impugned addition and order passed by the Learned Assessing Officer is bad in law, illegal, based on incorrect assumptions, erroneous as well as based on conjectures and surmises.”

**Additional ground of appeal:**

“Because the Authorities below have also erred in not following the Instructions of the CBDT issued by Instruction No. 1/2011 dated 31.1.2011 wherein the monetary limit has been fixed for the Assessing Officers in the mofussil areas.

5. Perused the records. Heard learned representative for the assessee and learned departmental representative for the Revenue.

6. Learned Representative for the appellant/assessee has, at the very outset, submitted that the assessee raised additional grounds before learned CIT(Appeals), which are ground No. 2 to 5 in this second appeal and grounds No. 1 to 4 in assessee’s paper book as ‘written submissions’ before the learned CIT(Appeals), yet the same has not been considered and disposed of by the Id. CIT(Appeals). Prayed to set aside the impugned order, not being based on reason.

7. Learned DR has supported the impugned order.

8. We have perused the records and the impugned order passed by learned CIT(Appeals). It appears that the Id. CIT(Appeals) has reiterated the three grounds raised by the assessee in Form-35 but without mention of the additional ground as stated hereinabove. Learned CIT(Appeals) further mentions at para 4 of the impugned order as under :

“During the course of appellate proceedings, the appellant filed written submissions. All the submissions filed by the appellant have been taken into consideration while disposing the present appeal.”

9. Learned CIT(Appeals), though, generally mentions that all the submissions filed by the assessee were considered by him, but nothing in respect of the assessee's additional grounds No. 1 to 4 has been discussed at any place. When the assessee raised the additional grounds before the Id. CIT(Appeals), more particularly with respect to the jurisdiction, learned CIT(Appeals) was required to decide the same while passing impugned order. There does not seem to be due care or proper application of mind or any critical analysis or objective consideration in the matter. It is well settled principle that the 'reason' is the life of law. It is that filament that injects soul to the order. Absence of analysis, not only evinces non-application of mind but also mummifies the core spirit of the order. Learned CIT(A) was expected to have stated the points for determination more particularly when the additional grounds were raised by the assessee and to have passed the order thereafter with reasons for

such decision as provided u/s. 250(6) of the Act. 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 CIT(A) for adjudication afresh on merits after considering the additional grounds raised by the assessee. The Id. CIT(Appeals) is directed to pass speaking and reasoned order. We direct the assessee to be cooperative in attending the hearings and making submissions before the learned CIT(A) for the expeditious and effective disposal. Needless to say, that learned CIT(A) shall ensure the observance of the principles of natural justice. It is made clear that we have not made any observation in respect of the merits of the case. The appeal is, thus, liable to be allowed for statistical purposes.

10. In the result, the appeal is allowed for statistical purposes. Impugned order dated 29.03.2024 is set aside.

***Order pronounced in the open court on 18.06.2025.***

**Sd/-  
(BRAJESH KUMAR SINGH)  
ACCOUNTANT MEMBER**

**Sd/-  
(SUNIL KUMAR SINGH)  
JUDICIAL MEMBER**

Dated: 18.06.2025

\*aks/-

Copy forwarded to:

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

Asst. Registrar, ITAT, Agra