

**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.4/Agr/2025
[Assessment Year: 2015-16]**

Shushil Kumar Gautam, S/o-Komal Prasad, Hisail, Post-Hisail Gabhana, Aligarh, Uttar Pradesh-202142	Vs	Assessing Officer-4(1)(1), Marris Road, Aligarh, Uttar Pradesh-202001
PAN-BHYPG3157Q		
Appellant		Respondent

Appellant by	Shri Deepak Singh, Adv.
Respondent by	Shri Shailender Shrivastava, Sr. DR

Date of Hearing	24.04.2025
Date of Pronouncement	18.07.2025

ORDER,

PER BRAJESH KUMAR SINGH, AM,

This appeal filed by the assessee is directed against an order dated 17.10.2024 of the National Faceless Appeal Centre, Delhi/Ld. CIT(A), relating to Assessment Year 2015-16 arising out of order u/s 147 r.w.s. 144B of the Income Tax Act, 1961 (hereinafter referred to 'the Act') dated 06.03.2023.

2. The grounds of appeal raised by the assessee are as under:-

- 1. Because the assessment was wrongly reopened u/s 147 of the act.*
- 2. Because the assessment order was wrongly passed u/s 144 of the act.*
- 3. Because the Ld CIT(A) has erred in stating that no compliance was made to any of the notices issued by him. He has erred in not giving reasonable opportunity to the appellant.*

4. Because addition of Rs 83,46,879 was wrongly made u/s 69A on account of alleged unexplained cash deposit in bank account. The Ld CIT(A) has erred in confirming the said addition

5. Because the tax has been wrongly charges u/s 115BBE of the act.

6. Because the addition was wrongly made u/s 28 by disallowing expenses under business head amounting to Rs 3,11,134.”

3. Brief facts of the case:-The assessee had not filed his return of income for AY 2015-16 u/s 139 of the Act. On the basis of information available with the Assessing Officer that the assessee had made cash deposit of Rs.90,03,279/- in his account maintained with Punjab National Bank, a notice u/s 148 of the Act issued on 27.03.2022. In response, the assessee filed his return of income on 26.07.2022 declaring income of Rs.3,45,266/- as income from business covered by section 44AD of the Act on the presumptive income of Rs.6,56,400/-.

3.1. The Assessing Officer noted that the presumptive income of Rs.6,56,400/- was to be considered as income from profession within the scope of section 28 of the Act. The Assessing Officer further held that since the assessee did not maintain any books of accounts, the assessee is not considered to claim any deduction u/s 30 to 38 of the Act, which the assessee also failed to establish.

3.2. The Assessing Officer further noted that there was a specific information that the assessee had made cash deposits of Rs.90,03,279/- in the bank account maintained with Punjab National Bank out of which the assessee disclosed Rs. 6,56,400/- and the source of the balance cash of Rs.83,46,879/- remained unexplained.

3.3. In this regard, the Assessing Officer issued a show-cause notice on 19.02.2023 allowing the assessee opportunity of being heard, on 24.02.2023. The Assessing Officer noted at the concluding session of the assessment, the assessee complied for the first time on 27.02.2023 with a fresh claim that Rs.84,03,050/- was deposited by the relatives in his bank account on account of sale of agricultural land. The Assessing Officer did not accept the above explanation of the assessee and added a sum of Rs.83,46,879/-(Rs.90,03,279/- -

Rs.6,56,400/-) u/s 69A of the Act r.w.s. 115BBE of the Act. Further, the Assessing Officer disallowed the claim of the expenses amounting to Rs.3,11,134/-.

4. Aggrieved with the said order, the assessee filed an appeal before the Ld. CIT(A). The ld. CIT(A), as per details noted in para-5 of the appellate order, noted that the assessee neither complied nor any adjournment was sought for on the five occasions when the said appeal was fixed for hearing. The ld. CIT(A) taking note of the above fact and also the fact that the assessee had not submitted any explanation to contradict the finding of the Assessing Officer, confirmed the addition of Rs.83,46,879/- on account of unexplained money u/s 69A of the Act. Further, the Ld. CIT(A) also confirmed the disallowance of deduction claimed at Rs.3,11,134/-.

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

6. During hearing before us, the ld. Counsel for the assessee filed a paper book containing pages 1 to 105, in which there was a written submissions at pages 1 to 3, which is reproduced as under:-

The appellant above named begs to submit as under-

(1) That Assessee is a medical practitioner and engaged in human treatment.

During assessment year 2015-16, he used to deposit cash in bank account, out of the professional fees received from his patient.

(2) That during the Financial Year 2014-15, assessee has deposited cash of Rs 90,03,279 In Punjab national Bank Account. The details are as under:

a. Rs 6,03,279 was deposited out of Gross receipts during the year. Income Tax return is attached herewith at page No 4 to 7.

b. Rs 84,00,000 was deposited on behalf of appellant's relatives (wife's brothers). The relatives had ancestral agricultural lands here, however, now they have moved out and are presently settled in Raisingh Nagar Distt.

Ganganagar, Rajasthan, which is more than 600 Kms from here. The agriculture lands are situated at Village Madangarhi, Tehsil Koil, Aligarh U.P The details of sale deeds and name of relatives is attached at page No 8.

Copy of bank a/c of appellant is attached at page No 9 to 10.

c. These persons received cash on account of sale of three Agriculture land through sale deeds Dated 26.04.2014, 26.04.2014 and 10.10.2014. (Copy of sale deeds for the same are filed herewith at page No 11 to 58.

d. That as mentioned in all the sale deeds, sale consideration was received in cash (i.e. Rs 84,00,000). It was not practically possible to carry such a huge amount of cash through any transport from security pointy of view from Aligarh to Shri Ganga Nagar, Rajasthan. These persons also don't have any Bank Account in Aligarh. So above cash amount was deposited in appellant's bank account and transferred back to all undermentioned persons.

<i>S. No.</i>	<i>Name</i>	<i>Amount</i>
<i>1</i>	<i>Shri Rakesh Kumar Gautam</i>	<i>26,80,000/-</i>
<i>2</i>	<i>Shri Pavan Kumar Gautam</i>	<i>13,74,600</i>
<i>3</i>	<i>Shri Jay Prakash Gauta</i>	<i>18,73,560</i>
<i>4</i>	<i>Shi Indra pal Gautam</i>	<i>15,72,690</i>
<i>5</i>	<i>Shri Raj Kumar Gautam</i>	<i>6,52,200/-</i>
<i>6</i>	<i>Smt Shanti Devi</i>	<i>2,50,000/-</i>
	<i>Total</i>	<i>84.03,550/-</i>

That details of date and mode of transfer of above amount is mentioned in page No 59 to 61. Details of all the 6 relatives i.e, confirmation in form of affidavit, their Bank account, Aadhar and PAN are attached herewith as following pages No 62 to 105.

(3) That the transfers in their bank accounts and their confirmation are in sense the ultimate evidence the appellant is required to present as per law.

And the source of funds in their hands is proven by the sale deeds. The appellant has fully discharged his burden in proving the source of deposits in his bank account.

(4) That the cash amount Rs 84,00,000 deposited in bank account does not belong to appellant. As explained above these were deposited by the above said relatives for security point of view in appellant's bank a/c. Subsequently respective amounts were transferred to these persons to whom it actually belonged which is clearly affirmed by them in their affidavits. Hence the sources of funds stand fully explained within the periphery of I.T. Act 1961.

(5) That the contention of the A.O. that the amounts should have been deposited within one or two days before the sale deed is wrong because the deals were settled much before the date of sale deeds and the money was received in various instalments from the purchasers from time to time and was deposited in the bank of the appellant. The purchasers are villagers hence they paid in cash and also in instalments as they were not able to arrange money at one go. The deposits of Rs. 75,40,000 before 26/04/2014 related to the two deeds registered on 26/04/2014 as well as advance for the deed registered on 10/10/2014. The deposits of Rs.9,02,000 between 16/09/2014 to 06/09/2014 related to the sale deed registered on 10/10/2014. It is further clarified that due to certain family matters Smt. Shanti Devi, who is mother of appellants wife, preferred to keep the money with the daughter and she took it at a later date. 6) That the A.O. has himself accepted that out of Rs.84,00,000 an amount of Rs.82,88,270 was transferred to these relative's bank a/c. According to his own admission there is

shortfall of Rs. 1,11,730, this amount was given in cash to them by the appellant.

(7) That in view of above facts and the legal position the addition of Rs.83,46,879 may please be deleted.”

7. The Id. Sr. DR relied upon the orders of the authorities below.
8. We have heard the rival contentions and perused the material available on record. The assessee in his written submission as reproduced above and the documents in support of said claim before us submits that a sum of Rs.84,00,000/- was received as the sale consideration of the land in cash out of which a sum of Rs.84,03,050/- was deposited in cash in the assessee' bank account by the relatives of the assessee. As noted above, the assessee had filed his claim that the source of cash deposits in his bank account was out of sale of land was submitted at the concluding session of the assessment order. The assessee did not appear before the Id. CIT(A) and the case was decided *ex-parte* by the Id. CIT(A). On perusal of the documents and the explanation filed by the assessee, we are of the view that the documents and explanation filed by the assessee before us requires factual verification. Therefore, in the interest of justice, we, set-aside the order of the Id. CIT(A) and restore the matter relating to addition of Rs.83,46,879/- u/s 69A r.w.s 115BBE of the Act and a sum of Rs.3,11,134/- on account of variation in respect of income u/s 28 of the Act back to his file for fresh adjudication after giving reasonable opportunity of being heard. The assessee is also directed to appear before the Id. CIT(A).
9. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 18th July, 2025.

Sd/-
[SUNIL KUMAR SINGH]
JUDICIAL MEMBER
Dated 18.07.2025.

Sd/-
[BRAJESH KUMAR SINGH]
ACCOUNTANT MEMBER

Shetkar

Copy forwarded to:

1. Appellant
2. Respondent

3. PCIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, Agra