

**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. 276/Agr/2025
Assessment Year: 2018-19

Bhagwan Swaroop, Prop. M/s. Dileram Agrawal, C-8, Naveen Mandi, Herduaganj, Aligarh-202125 (UP).	Vs.	Income-tax Officer, Ward 4(1)(1), Aligarh.
PAN : FHOPS3817K		
(Appellant)		(Respondent)

Assessee by	Sh. Naveen Gargh, Advocate
Department by	Sh. Anil Kumar, Sr. DR

Date of hearing	16.07.2025
Date of pronouncement	30.07.2025

ORDER

PER : SUNIL KUMAR SINGH, JUDICIAL MEMBER:

This appeal has been preferred by assessee against the impugned order dated 20.03.2025 passed in Appeal No. NFAC/2017-18/10268901 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") for the assessment year 2018-19, wherein the Id. CIT(Appeals) has dismissed assessee's first appeal ex parte as non-maintainable, being barred by limitation.

2. The brief facts of the case are that the assessment in the present matter was framed u/s. 147 r.w.s. sections 144 and 144B of the Income Tax Act, 1961, vide order dated 10.03.2023, making an addition of Rs.1,06,45,000/- on account of unexplained cash deposits in the bank account of the assessee. The assessee filed first appeal on 18.08.2023 against this assessment order dated 10.03.2023. As per assessee, the first appeal was filed within prescribed time limit of 30 days, as the assessment order was served upon him on 20.07.2023 as also mentioned in Form-35. However, the learned CIT(A) assumed a delay of 130 days, thereby treating the appeal as barred by limitation by reckoning the limitation period from the date of the order, i.e., 10.03.2023 and dismissed the appeal as non-maintainable without deciding the same on merits.

3. Perused the records and heard Ld. Representative for the assessee and Id. Departmental representative.

4. Ld. Representative for the assessee submitted that the Id. CIT(Appeals) was not justified in dismissing the appeal ex parte, in limine, without affording reasonable opportunity to the assessee/appellant. Further, it is submitted that only one notice was sent by the CIT(A) on an email address other than the one provided by the assessee in Form No. 35, thereby depriving the assessee of a

reasonable opportunity of being heard and to justify any purported delay. Such a procedural lapse clearly violates the principles of natural justice. It was further submitted that during the assessment proceedings as well, the show cause notices dated 27.01.2023 (fixing compliance date on 01.02.2023) and 01.03.2023 (fixing compliance on 06.03.2023) allowed a response period of less than 7 days, in contravention of the Standard Operating Procedure (SOP) issued by the Commissioner of the Faceless Assessment Centre, which mandates a minimum of 7 days' time for compliance of such notices. This hurried procedure significantly curtailed the assessee's right to present his case effectively and to explain the impugned cash deposits. Reliance is placed on decision of Hon'ble Calcutta High Court in Lake Gardens Saha Education Society vs. Assessment unit, NFAC, New Delhi (2024) 166 taxmann.com 443 (Calcutta) and of Hon'ble Spreme Court in R.B. Shreeram Durga Prasad & Fatehchand Nursing Das vs. Settlement Commission (1989) 43 Taxman 34(SC). Prayed to remit the matter back to the Assessing Officer for a fresh adjudication after giving the assessee an opportunity to explain the cash deposits and to get them verified.

5. Learned departmental representative supported the impugned order.

6. A perusal of the impugned order reveals the Ld. CIT(A) has issued only one notice to the assessee that too at the email address other than that mentioned in Form-35 and has dismissed the appeal in limine as non-maintainable without deciding the matter on merits. The time prescribed for filing of first appeal has to be computed from the date of information/service of assessment order upon the assessee on 20.07.2023. In such a scenario, Ld. CIT(Appeals) wrongly assumed the said delay. Be that as it may, a perusal of the assessment order reveals that the reassessment was also made u/s. 144 of the Act, for which the show cause notices issued, as noted above, do not give adequate time for response. Such hurried proceedings further curtailed the assessee's ability to properly explain and substantiate the source of impugned cash deposits. Considering the totality of facts and circumstances of the case, nature of addition and in the interest of justice, we are of the view that the assessee was indeed denied a reasonable and effective opportunity of being heard, both during the assessment and appellate stages and that proper verification and appreciation of evidences relating to cash deposits in the bank account can be better adjudicated at the assessment stage. Accordingly, we deem it fit to set aside the orders of both the authorities below and remit the matter back to the file of the Assessing Officer for a fresh adjudication. The Assessing Officer shall

afford a proper opportunity of hearing to the assessee to present its case and explain the nature and source of the cash deposits in question. The assessee is also directed to cooperate in the proceedings and submit the requisite details/evidences as required by the Assessing Officer. The appeal is liable to be allowed accordingly.

7. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the open court on 30.07.2025.

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

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

Dated: 30.07.2025

*aks/-

Copy forwarded to:

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

Asst. Registrar, ITAT, Agra