

**INCOME TAX APPELLATE TRIBUNAL**  
**AGRA BENCH "SMC": AGRA**  
**BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER**  
(Through virtual hearing)

**ITA No. 227/AGR/2025**  
(Assessment Year: 2015-16)

Lipi Jain Family Trust, Ward No. 18, Subhash Ganj Ashok Nagar, Ashok Nagar, MP	Vs.	ITO (Exemption), Ward Gwalior
<b>PAN: AABTL3606J</b>		

Assessee by :	Shri Subhash Chand Jain, CA
Revenue by:	Shri Anil Kumar, Sr. DR
Date of Hearing	20/08/2025
Date of pronouncement	12/09/2025

**ORDER**

1. The appeal in ITA No.227/AGR/2025 for AY 2015-16 arises out of the order of the Id. JCIT(A), Faridabad [hereinafter referred to as 'Id. JCIT(A)', in short] dated 19.03.2025 against the order of assessment passed u/s 143(1) of the Income-tax Act, 1961 dated 19.10.2017 (hereinafter referred to as 'the Act') by CPC, Bangalore (hereinafter referred to as 'Id. AO').

2. The assessee has raised the following grounds:-

*"1. On the facts and in the circumstances of the case and in law the Learned CIT(A) has erred in dismissing the appellant's appeal by solely relying on the fact that the revised return was filed after the processing of the original return, without considering the provisions of the Income Tax Act, 1961 and the statutory rights available to the appellant to file another return to rectify mistake due to a bonafide inadvertently mistake on the part of appellant and such return would not be a revised return under section 139(5).*

*2. On the facts and in the circumstances of the case and in law the Learned CIT(A) has erred in considering that revised return was filed within the permissible time frame prescribed under section 139(5) for the appeal assessment year, and the fact that the return was filed after the processing*

*of the original return by CPC should not be a ground for rejecting its consideration because an intimation u/s 143(1) is not assessment.*

*3. On the facts and in the circumstances of the case and in law the Learned CIT(A) has failed to appreciate that the purpose of filing a revised return is to correct any mistakes, errors, or omissions in the original return due to a bonafide inadvertence mistake on the part of the assessee, and the appellant has made an earnest attempt to comply with the provisions of the Act.*

*4. On the facts and in the circumstances of the case and in law the Learned CIT(A) has erred in not considering as CPC has failed to process the revised return, despite being filed in compliance to correct mistake which was occurred due to oversight by old tax consultant.*

*5. On the facts and in the circumstances of the case and in law the Learned CIT(A) is not justified in holding that the assessee trust was not entitled to filed revised return which was resulted in an using form no. 7 in place of Form no. 5 Thus process of the original is incomplete or inaccurate, and the same should be rectified by allowing the revised return to be processed.*

*6. On the facts and in the circumstances of the case and in law the Learned CIT(A) has failed to provide a fair opportunity for the appellant to have the revised return processed, which has resulted in a tax assessment based on incorrect form of ITR.*

*7. On the facts and in the circumstances of the case and in law the Learned CIT(A) is not justified in confirming that appellant has no right to file a revised return to correct any mistakes, and also erred in holding that the failure to process the revised return by CPC constitutes a fair processing of the return.*

*8. On the facts and in the circumstances of the case and in law the Learned CIT(A) has erred in confirming to action of the AO CPC who considered the Status of appellant as charitable trust instead of Individual/AOP being private discretionary trust.*

*9. On the facts and in the circumstances of the case and in law the Learned CIT(A) has erred in confirming the action of learned AO CPC who wrongly calculated to the tax liability Rs. 115670/- in the intimation u/s 143(1) of the assessee trust by confirming to tax at Maximum Marginal rate instead of Normal Rate because appellant trust is only trust which was created through single will of Late Baboolal Jain and beneficiaries of the trust is not having any source of income.”*

3. I have heard the rival submissions and perused the material available on record. The assessee trust filed original return of income on 18.02.2017.

The assessee is a private specific family trust created by Shri Babulal Jain for the single beneficiary Lipi Jain vide trust deed dated 29.02.2004. It was submitted that the beneficiary Lipi Jain does not have any taxable income on her own. It was submitted that the income tax return income was wrongly filed in ITR-7 instead of ITR 5 by inadvertence. The return was processed by the Id CPC by taxing the income at maximum marginal rate without considering the nature of trust and fact of non taxability of beneficiary.

4. The sole issue involved in this appeal is with respect to taxability of income of the assessee as per Maximum Marginal Rate as against the normal rate of tax. The Id AR submitted that identical issue was subject matter of adjudication by this Tribunal in assessee's own case for AY 2016-17 in ITA No. 78/AGR/2025 dated 29.05.2025. For the sake of convenience, the said order is reproduced herein:-

*"This is an appeal filed by the assessee against the order of the Id. Commissioner of Income Tax (Appeals), Faridabad [CIT(A) in short] in Appeal No. Addl./JCIT(A), Faridabad/10001/2015-16 dated 23.01.2025 passed u/s 250 of the Income Tax Act, 1961 (the Act, in short) for Assessment Year 2016-17.*

*2. The sole issue involved in this appeal with respect to the taxability of the income of the assessee as per maximum marginal rate("MMR") as against the normal rate of the tax. The CPC has processed the return in terms of the order dated 19.10.2017 wherein the tax is calculated on MMR by ignoring the fact that the assessee is a private family trust where the beneficiary is not having any taxable income. The assessee against such order filed an appeal before the Ld. CIT(A) who vide impugned order dismissed the appeal of the assessee by observing that the assessee has filed the return of income in form ITR-7 and not in form ITR-5 though the same was filed at a later stage along with the application u/s 154 of the Act and, therefore, there is no error in the order of CPC and dismissed the appeal of the assessee.*

*3. Before us, the Ld. AR submit that the assessee has filed the revised return along with rectification application and, therefore, the tax has to be calculated on the normal rate of taxes. He further submit that inadvertently return of income was filed in ITR-7. The assessee is private discretionary trust where beneficiary is not having taxable income, due to inadvertent error, tax should not be charged on MMR.*

4. On the other hand, the Ld. CIT-DR supports the order of the lower authorities and requested for the confirmation of the same.

5. We have heard the rival submissions and perused the material available on record. In the instant case, it is seen that at first occasion, the assessee has filed the return in form i.e. ITR-7 which is not meant for private trust, however, along with rectification application, the assessee has filed the ITR-5 and submit that where the trust is created solely for the benefit of specified beneficiaries, tax should not be charged at MMR, more particularly when the beneficiary is not having any taxable income. As the assessee trust was created by will of Shri Babulal Jain exclusively for the benefit of relatives dependent for their support and maintenance, therefore, it is private family trust. Assessee since beginning claimed that it had no beneficiary who is having taxable income. In view of the fact and in view of the proviso to section 164(1) of the Act, income of the assessee is to be taxed at the normal rate. Therefore, we direct the AO to charge tax at normal rate of tax as against MMR charge on the income declared by the assessee.

6. In the result, the appeal of the assessee is allowed. Order pronounced in the open Court on 29.05.2025.”

5. The Id DR vehemently relied on the orders of the lower authorities. Since, the issue in dispute is already considered by this Tribunal in assessee's own case for AY 2016-17 wherein, the Tribunal had allowed the appeal, the grounds raised by the assessee for AY 2015-16 are also allowed in the above mentioned terms.

6. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 12/09/2025.

-Sd/-  
**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**

Dated: 12/09/2025  
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT

4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi