

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

ITA No.59/AGR/2025
(Assessment Year: 2017-18)

Prashant Gupta Legal Heir of Late Surendra Kumar Gupta, Bajariya Brandavan, Kamganj, Farrukhabad, UP	Vs.	ITO, Ward-4(2)(2), Farrukhabad
(Appellant)		(Respondent)
PAN: BCWPG7301M		

Assessee by :	None
Revenue by:	Shri Anil Kumar, Sr. DR
Date of Hearing	18/08/2025
Date of pronouncement	17/09/2025

ORDER

1. The appeal in ITA No. 59/AGR/2025 for AY 2017-18, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Id. NFAC', in short] dated 07.11.2024 against the order of assessment passed u/s 144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 09.12.2019 by the Assessing Officer, ITO, Ward-4(2)(2), Farrukhabad (hereinafter referred to as 'Id. AO').

2. At the outset, I find that there is a delay in filing of appeal by the assessee represented by 25 days before me. Considering the reasons adduced in the condonation petition, I am inclined to condone the delay and admit the appeal of the assessee for adjudication.

3. The Ground Nos. 1 and 2 raised by the assessee are challenging the validity of the appellate order passed by the Learned CIT(A) in the name of

deceased person. I find that assessee Late Surendra Kumar Gupta had expired on 11-12-2023 and order of the Learned CIT(A) was passed on 7-11-2024. But on perusal of the order of Learned CIT(A) and the documents placed on record, I find that there is no evidence to prove that the legal heirs of the assessee had duly intimated the date of death to the Learned CIT(A). It is to be noted that the assessee Late Surendra Kumar Gupta had passed away during the pendency of the first appellate proceedings. Hence it is duty-bound on the part of the legal heir of the assessee to intimate the fact of death to the Learned CIT(A) so as to bring the legal heirs on record and pass the appellate order in the name of the legal heir. Since the same was not intimated to the Learned CIT(A) by the assessee, the order passed in the name of deceased cannot be faulted with and accordingly the Ground Nos. 1 and 2 raised by the assessee are hereby dismissed.

4. With regard to the other grounds, the only effective issue to be decided on merits in this appeal is as to whether the Learned CIT(A) was justified in confirming the addition of Rs. 21,83,500/- made by the Learned AO on account of cash deposits made during the demonetization period in IndusInd Bank Ltd. as unexplained money under Section 69A read with section 115BBE of the Act in the facts and circumstances of the instant case.

5. During the course of assessment proceedings, the Learned AO asked the assessee to explain the source of cash deposits made in the sum of Rs. 21,83,500/- in the bank account. The assessee submitted that the said bank account is in the name of M/s Baba Constructions in which cash has been deposited during the demonetization period and that the said bank account belongs to his son, Mr. Prashant Gupta and that Mr. Prashant Gupta has shown the said bank account in his return and the cash transactions have been duly considered in his return. It was submitted that Baba Constructions was

originally owned by the assessee but which was later taken over by his son, Mr. Prashant Gupta. This fact is also evident from the VAT returns which were furnished before the Learned AO. The Learned AO, however, ignored these contentions and proceeded to treat the cash deposits made during the demonetization period as unexplained money under section 69A read with section 115 BBE of the Act and completed the assessment.

6. The revenue's case is that the KYC obtained from the bank revealed that the bank account belonged only to the assessee and that he is the only authorized signatory thereon. TIN issued by the UP sales tax department showed that the documents are signed by the assessee as the proprietor of Mrs. Baba Constructions. The assessee's son, Mr. Prashant Gupta had signed and filed his returns for Assessment years 16-17 and 17-18 on the same day of 17-11-2017 post demonetization. All the four quarters of VAT returns of financial year 2015-16 were filed on 16-12-2016 during the demonetization period on the same date. Similarly, the first and second quarter of the VAT returns for financial year 16-17 were both filed on 21-11-2016 during the demonetization period. All these facts were confronted to the assessee by the Learned AO vide show cause notice dated 3-12-2019 which stood uncomplained by the assessee and culminating in the form of an addition on account of cash deposits made during demonetization period in the hands of the assessee. This action of the Learned AO was upheld by the Learned CIT(A).

7. I find that the main contention of the assessee is that the cash was deposited in a particular bank account and that the said bank account belonged to Mr. Prashant Gupta and not to Late Surendra Kumar Gupta. The assessee also submitted that Mr. Prashant Gupta in his income tax returns had duly considered the entire bank account including the cash deposits made during the demonetization period in the said bank account in his income tax

returns. However, the business of Baba Constructions and the profits derived thereon were also stated to have been shown in the income tax returns of Mr. Prashant Gupta. Since the entire bank transactions had been stated to be owned up by Mr. Prashant Gupta, it would be necessary and pertinent to examine the income tax returns of Mr. Prashant Gupta by the Learned AO. Hence in the interest of justice and fair play, I deem it fit and appropriate to restore this issue to the file of Learned AO for de novo adjudication in accordance with law. The Learned AO is also directed to examine the returns of Mr. Prashant Gupta and in case the entire bank account transactions where the cash has been deposited during demonetization period had been duly considered in the income tax returns of Mr. Prashant Gupta, then the same shall not be subject matter of any addition in the hands of the deceased Late Surendra Kumar Gupta. With these directions, the grounds raised by the assessee are allowed for statistical purposes.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 17/09/2025.

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 17/09/2025
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi