

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

**BEFORE : SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

ITA No. 233/Agr/2025
Assessment Year: 2019-20

Mahesh Kumar Sharma, In front of Shiv Utsav Vatika, Ater Road, Ward-1, Bhind (MP)	Vs.	Income-tax Officer, Ward 2(1), Gwalior.
PAN :AZBPS6878C		
(Appellant)		(Respondent)

Assessee by	Sh. Rajendra Sharma, Advocate
Department by	Sh. Anil Kumar, Sr. DR

Date of hearing	21.08.2025
Date of pronouncement	26.09.2025

ORDER

PER : SUNIL KUMAR SINGH, JUDICIAL MEMBER:

This appeal has been preferred by assessee against the impugned order dated 26.02.2025 passed in Appeal No. NFAC/2018-19/10330543 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 2019-20, wherein the Id. CIT(Appeals) has dismissed assessee's first appeal exparte.

2. Brief facts state that the assessee is a non-filer. Based on the information available with the department that the assessee had made

cash deposits including deposits through bearer's cheque in his current account with Central Bank of India, amounting to Rs.1,19,04,250/-, the Assessing Officer initiated proceedings u/s. 147 and issued notice u/s. 148 of the Act, which remained un-responded. Thereafter, several statutory notices were issued, but for no avail. Hence, the Assessing Officer added and assessed total income of Rs. 1,19,04,250/- u/s. 69A r.w.s 115BBE, vide assessment order dated 21.02.2024 passed u/s. 147 r.w.s. 144 and 144B of the Act.

3. Aggrieved assessee preferred an appeal before Id. CIT(Appeals), who dismissed assessee's first appeal ex parte.

4. This second appeal has been filed on the ground, in addition to others on merits, that the impugned order is liable to be set aside, having not been passed in accordance with section 250(6) of the Act without providing proper opportunity of hearing to the assessee.

5. Perused the records. Heard Id. Representative for assessee and Id. DR for revenue.

6. Learned AR, though initially prayed to remand the matter back to the Id. CIT(Appeals) in accordance with ground No. 1 of the appeal, but at the later stage of the arguments, it was vehemently submitted that the assessment order too was passed u/s. 144 r.w.s. 147 of the Act for want of any submission on behalf of the assessee to explain the source

of impugned deposits in the bank account. He, therefore, corrected his arguments and prayed to remand the matter back to the file of Assessing Officer to provide one more opportunity to the appellant assessee to explain and verify the cash deposits in the bank account.

7. Learned DR has supported the orders of authorities below.

8. It transpires from the perusal of the assessment order that due to irresponsible conduct of the assessee, learned Assessing Officer was compelled to pass best judgment assessment u/s. 144 of the Act. Similarly, Id. CIT(Appeals) was also compelled to pass ex parte impugned order due to non-submission on behalf of the assessee despite various notices dated 07.10.2024, 28.10.2024, 21.11.2024 and 05.02.2025 issued to the appellant assessee. Such an irresponsible and reluctant conduct of the assessee is unacceptable, however, in the totality of facts and circumstances and in the interest of justice, we deem it just and proper to afford an opportunity to the appellant assessee to make his submissions and explain impugned cash deposits before the Assessing Officer. The matter is thus remitted back to the file of Assessing Officer for passing order afresh in accordance with law after taking assessee's submissions into consideration. We further direct the assessee to be diligent and cooperative in attending the proceedings and making submissions before the learned Assessing Officer for the

expeditious and effective disposal. Needless to say that learned Assessing Officer shall ensure the observance of the principles of natural justice.

9. In the result, appeal is allowed for statistical purposes. The impugned order dated 26.02.2025 and assessment order dated 21.02.2024 stand set aside.

Order pronounced in the open court on 26.09.2025.

**Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

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

Dated: 26.09.2025

*aks/-

Copy forwarded to:

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

Asst. Registrar, ITAT, Agra