

आयकर अपीलिय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "SMC-Bench" JAIPUR

श्री गगन गोयल, लेखा सदस्य एवं श्री नरेन्द्र कुमार, न्यायिक सदस्य के समक्ष
BEFORE: SHRIGAGAN GOYAL, AM& SHRI NARINDER KUMAR, JM

आयकर अपीलसं./ITA No. 1039/JPR/2025
निर्धारण वर्ष / AssessmentYear : 2013-14

Kamlesh Kumar Sharma 392 Shanti Nagar, Gopalpur Bypass, Jaipur.	बनाम Vs.	The ACIT, Central Circle-2, Jaipur.
स्थायीलेखा सं./जीआईआरसं./PAN/GIR No. BLVPS7479A		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assesseeby : Shri Vijay Goyal, C.A.
राजस्व की ओरसे / Revenue by: Shri Gautam Singh Choudhary, Addl.CIT

सुनवाई की तारीख / Date of Hearing : 24/09/2025
उदघोषणा की तारीख / Date of Pronouncement: 26/09/2025

आदेश / ORDER

PER: NARINDER KUMAR, JUDICIALMEMBER .

On 22.05.2025, Learned CIT(A) passed order u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act"), against the assessee-appellant, thereby dismissing his appeal, relating to the assessment year 2013-14, and upholding the assessment order dated 14.04.2021, whereby two additions i.e. one of Rs. 2,67,500/- on account of undisclosed

investment/unaccounted business of lending cash and the other of Rs. 9,600/-, by way of interest on the cash loan advanced during F.Y. 2012-13, were upheld.

2. Arguments heard. File perused.

3. As per record, on 06.09.2018, a search and seizure action u/s 132 of the Act, and /or survey action u/s 133A of the Act, was carried out by the Income Tax Department, on the members of Oswal Shop Group, of which the assessee is stated to be one of the members.

On 16.07.2019, notice u/s 153A of the Act was issued and served upon the assessee, whereupon the assessee filed return of income declaring his income of Rs. 1,98,200/-. The Assessing Officer perused the return of income. Ultimately, notice u/s 143(2), followed by notices u/s 142(1) of the Act, came to be issued to the assessee.

4. As per allegation leveled by the department, during the above said search proceedings, from the residence of the assessee in the area of Santipur, Durgapura, Tonk Road, Jaipur, a diary was seized, in proof of which inventory was prepared.

Said diary was found to contain details of loans and advances, which according to the Assessing Officer, remained undisclosed. Details of the 15 pages of the diary were recorded in the form of an Excel Sheet. Same have been reproduced at page 5 and 6 of the assessment order.

5. On perusal of the abovesaid entries, it transpired that at serial no. 1, as regards F.Y. 2012-13 (assessment year 2013-14), there was an entry of interest of Rs. 9,600/- received by the assessee on 06.05.2012. As noticed above, one of the two additions pertains to the said entry of Rs. 9,600/-.

6. Ld. AR for the appellant, has raised only one contention before us i.e. the other addition of Rs. 2,67,500/-, has been made without taking into consideration that in the diary, no date of the entries at pages No. 7 to 9 of the said diary found mentioned, but the Assessing Officer considered as if 5 entries i.e. at page no. 7, another entry at page no. 8, and still another at page no. 9 pertained to the financial year 2011-12.

The contention is that in absence of any date regarding the said entries, the Assessing Officer could not observe that the said 5 entries pertained to the F.Y. 2012-13.

7. Ld. DR for the department admits that as regards the Financial Year 2012-13, the only entry of receipt of interest of Rs. 9,600/- was of 06.05.2012.

It is also not in dispute that other entries, on the basis of which addition of Rs. 2,67,500/- was made, did not bear any date.

8. In the given situation, we find merit in the contention raised by Ld. AR for the appellant that in absence of any date as against the 5 entries available at page no. 7 to 9, the Assessing Officer could not frame assessment while treating said entries as if the same pertained to the F.Y. 2012-13.

Consequently, said addition of Rs. 2,67,500/- deserves to be set aside.

9. As regards the second addition of Rs. 9,600/-, stated to be the ground of interest on cash loans, when there is nothing on record to suggest that any cash loan was advanced by the assessee during F.Y. 2012-13, but, in absence of any material from the side of the department, as to the transaction of advances or loans, such addition of receipt of interest during F.Y. 2012-13 also cannot be sustained.

Result

10. In view of the above discussion and findings, the impugned order passed by Learned CIT(A) deserves to be set aside. Consequently, the appeal is allowed and the impugned order is set aside.

File be consigned to the record room after the needful is done by the office.

Order pronounced in the open court on 26/09/2025.

Sd/-
(गगन गोयल)
(GAGAN GOYAL)
लेखा सदस्य / Accountant Member
जयपुर / Jaipur

Sd/-
(नरेन्द्र कुमार)
(NARINDER KUMAR)
न्यायिक सदस्य / Judicial Member

दिनांक / Dated:- 26/09/2025

*Santosh

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- Kamlesh Kumar Sharma, Jaipur.
2. प्रत्यर्थी / The Respondent- ACIT, Central Circle-2, Jaipur.
3. आयकरआयुक्त / The CIT
4. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्डफाईल / Guard File ITA No.1039/JPR/2025)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar