

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

ITA No. 85/AGR/2025
(Assessment Year: 2011-12)

Rameshwar Dayal, Ward No. 2, Chitrkoot Colony, Near Fojawali School, Kotputli, Jaipur, 303 108, Rajasthan	Vs.	Income Tax Officer, Ward-3(2), Gwalior
(Appellant)		(Respondent)
PAN: AFEP A7981H		

Assessee by :	Shri Devang Gargiega, Adv
Revenue by:	Shri Anil Kumar, Sr. DR
Date of Hearing	18/09/2025
Date of pronouncement	30/09/2025

ORDER

1. The appeal in ITA No. 85/AGR/2025 for AY 2011-12, arises out of the order of the Id. National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Id. NFAC, in short] dated 23.12.2022 against the order of assessment passed u/s 143(3)/144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 03.11.2018 by the Assessing Officer, ITO, Ward-3(2), Gwalior (hereinafter referred to as 'Id. AO').

2. At the outset, I find that there is a delay of 727 days in filing of appeal by the assessee before this Tribunal. Considering the reason adduced in the condonation petition, in the interest of substantial justice, I am inclined to condone the delay in filing of appeal before this Tribunal and admit the appeal of the assessee for adjudication.

3. The only effective issue to be decided on merits is challenging the addition of cash deposits made in ICICI Bank in the sum of Rs 10,05,000/-

4. I have heard the rival submissions and perused the materials available on record. The Learned AO obtained AIR information from ICICI bank wherein it was informed that a sum of Rs 10,05,000/- stood deposited in cash in the bank account of the assessee. Since there was no return of income filed by the assessee, the Learned AO issued notice under section 148 of the Act on 20-3-2018 which was served through DAK as well as email to which, there was no response from the assessee. This was followed by a notice under section 142(1) of the Act which was also not responded to. Finally a show cause notice was issued proposing an addition of Rs 10,05,000/- on account of cash deposits for want of explanation for source, there was no compliance. Hence the Learned AO was compelled to frame the assessment by making an addition of Rs 10,05,000/- on account of cash deposits treating it as unexplained.

5. Before the Learned CITA, the assessee submitted that he is an ex-army serviceman and retired from Government service in financial year 2009-10. During the year under consideration, the assessee has income from pension of Rs 45,256/- and that the same was below the maximum amount not chargeable to tax and hence there was no obligation for the assessee to file his income tax return. With regard to the source of cash deposits made in the bank account, the assessee submitted that he had received sale proceeds of agriculture land situated at village Kerki, Mukkar, Paniyala, Kotputli. It was submitted that the said agriculture land was in the name of his wife, Smt Premavati and he and his wife jointly held a bank account and the sale proceeds of land was deposited in the said joint bank account in cash. Since assessee's wife is illiterate and there was no savings

bank account maintained in her individual capacity, the sale proceeds received thereon stood deposited in the joint bank account of the assessee and his wife. The assessee also submitted that the said agriculture land is situated more than 8 kilometres from the local limits of municipality and hence would fall within the definition of capital asset and hence not chargeable to capital gains tax. The Learned CITA, however, observed that all the submissions made by the assessee were only merely self-serving statements not supported by any documentary evidences and accordingly upheld the addition made by the Learned AO.

6. The assessee before me had stated that he had furnished the complete bank statements of ICICI bank and SBI bank account for the period 1-4-2010 to 31-3-2011 together with the copy of sale deed dated 7-3-2011 executed by his wife wherein she had received the sale proceeds of land which was deposited in the joint bank account of assessee and his wife. The assessee also submitted the individual sources of cash deposit made in ICICI bank in a tabular form. I find that all these documentary evidences are also placed in the paper book filed before me. I find that the Learned CITA had dismissed the contentions of the assessee on the ground that no supporting evidences were filed whereas, supporting evidences were duly filed by the assessee. However a factual finding is required to be given on these documentary evidences by the Learned AO. Hence, I deem it fit and appropriate in the interest of justice and fair play, to restore this appeal to the file of Learned AO as the assessment was also framed without securing the presence of the assessee. Hence, in the interest of substantial justice, the entire appeal is restored to the file of Learned AO for denovo adjudication in accordance with law qua the issue in dispute before me. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 30/09/2025.

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 30/09/2025
A K Keot

Copy forwarded to

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

ASSISTANT REGISTRAR
ITAT, New Delhi