

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

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

**ITA No. 286/Agr/2025
Assessment Year: 2018-19**

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| Income-tax Officer, Ward 1(1)(2), Agra. | Vs. | Rameshwar Singh, House No.85, Sector-1, Avas Vikas Colony, Sikandra, Bodla, Agra. |
| PAN :CAGPR8250R | | |
| (Appellant) | | (Respondent) |

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|---------------|-----------------------------------|
| Assessee by | None |
| Department by | Sh. Shailendra Srivastava, Sr. DR |

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| Date of hearing | 14.10.2025 |
| Date of pronouncement | 27.10.2025 |

ORDER

PER : SUNIL KUMAR SINGH, JUDICIAL MEMBER:

This appeal has been preferred by revenue against the impugned order dated 03.03.2025 passed in Appeal No. NFAC/2017-18/10228404 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 2018-19, wherein the Id. CIT(Appeals) has partly allowed assessee's appeal.

2. Brief facts state that assessee did not file his return of income for A.Y. 2018-19. An information was available with the department that the assessee made cash deposit of Rs.1,18,73,880/- in current account and cash withdrawals of Rs.27,580/- from current account maintained with State Bank of India during the year under consideration. Notice u/s. 148A(b) of the Act was issued to the assessee on 12.03.2022 with prior approval of PCIT-1, Agra. The assessee was served but did not respond to such notice. The case was reopened u/s. 147 by issuing notice u/s. 148 of the Act on 29.03.2022. Assessee did not furnish return of income in response thereof. Further, statutory notices u/s. 142(1) were issued and show cause notices on various occasions were also issued. Assessee remained irresponsive. In such circumstances, Assessing Officer completed the best judgment assessment u/s. 144 of the Act and assessed total income of assessee at Rs.1,19,01,460/-.

3. Aggrieved, assessee preferred first appeal before learned CIT(Appeals). Learned CIT(Appeals), after considering appellant's submissions, found that the appellant was a milk distributor, doing his business for a very small margin of profit, who was found to have made cash deposit in the bank account out of his sales made on daily basis and that amount was transferred to the suppliers on daily basis. Ld.

CIT(Appeals) was satisfied with respect to the cash deposit in the bank account. Hence, addition of Rs.1,18,73,880/- as unexplained money added u/s. 69A r/w s. 115BBE and Rs.27,580/- as unexplained expenditure added u/s. 69C r/w section 115BBE of the Act were deleted and relief was accordingly granted to the assessee.

4. Aggrieved, revenue has filed this second appeal on the following grounds :

“1. That the CIT(A) has erred on facts and in law in deleting the additions of Rs.1,18,73,880/ u/s.69A r.w.s.115BBE and addition of Rs.27,580/- u/s.69C r.w.s. 115BBE of the Act, made by the AO in the assessment order, by holding that submissions filed by the assessee through ITBA on 23.03.2023, the day when the assessment order was passed by the AO, were available to the AO at the time of passing the assessment order without any verification or seeking clarification from the AO as to whether the said submission was indeed accessible to him at the relevant point in time.

2. That the CIT(A) has erred on facts and in law in deleting the additions of Rs. 1,18,73,880/- u/s.69A r.w.s. 115BBE and addition of Rs.27,580/- u/s.69C r.w.s. 115BBE of the Act, made by the AO in the assessment order without allowing the Assessing Officer a reasonable opportunity to examine and rebut the submissions/documentary evidences produced by the assessee at the time of appellate proceedings, which is in violation of Rule 46A of the I.T. Rules 1962.

3. That the CIT(A) has erred on facts and in law in concluding that the Assessing Officer failed to consider the written submission and supporting documentary evidences filed by the assessee through ITBA on 23.03.2023 ignoring the fact that documents filed by the assessee on 23.03.2023 i.e. on the same day when the AO passed the assessment order, may not be accessible to the Assessing Officer at the time of passing the assessment order, due to technical issues in the ITBA system. Therefore, submission and documents filed by the assessee during appellate

proceedings would constitute additional evidences under Rule 46A of the Income-tax Rules, 1962 and hence, an opportunity of being heard to the AO must be provided on additional evidences before being considered in the appellate proceedings.....”

5. Perused the records. Heard learned Sr. DR for appellant revenue.

None responded for the assessee.

6. Learned Sr. DR for the appellant revenue has submitted that the Id. CIT(Appeals) has directly considered the additional evidence filed before him under Rule 46A of the Income-tax Rules, 1962, whereas additional evidence was required to be verified at the end of the Assessing Officer. Prayed to set aside the impugned order and supported the assessment order.

7. The main point for determination under appeal is as to whether Id. CIT(Appeals) has erred in deleting the additions made by Assessing Officer without seeking verification/clarification from the Assessing Officer in respect of assessee's submissions/documentary evidence produced by the assessee at the time of appellate proceedings.

8. We have gone through the records and, after hearing the Id. DR, note that Id. CIT(Appeals) has observed, vide para -7 of the impugned order that the appellant/assessee was found to have made submissions

along with documentary evidences on 23.03.2023 during the course of assessment proceedings (as seen from ITBA portal) and the same documentary evidences have also been provided during the course of appellate proceedings. We notice that such documentary evidences were filed during the assessment proceedings on 23.03.2023, i.e., the day on which the assessment order was passed. Assessing Officer ignored such documentary evidences submitted electronically by the assessee before him. Ld. CIT(Appeals), thus rightly considered such documentary evidences during the appellate proceedings. We, thus, do not find any fault, error or infirmity in the impugned order. Ld. CIT(Appeals), having co-terminus powers at par with the Assessing Officer, was competent to consider such evidence. Argument of Id. DR cannot, thus, be accepted that such evidence be treated as evidence filed under Rule 46A of the IT Rules. The aforesaid point is accordingly decided in negative against the revenue and in favour of assessee. The appeal is thus, liable to be dismissed.

9. In the result, revenue's appeal is dismissed.

Order pronounced in the open court on 27.10.2025.

Sd/-

**(S. RIFAUH RAHMAN)
ACCOUNTANT MEMBER**

Sd/-

**(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

Dated: 27.10.2025

*aks/-

Copy forwarded to:

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

Asst. Registrar, ITAT, Agra