

**INCOME TAX APPELLATE TRIBUNAL
AGRA BENCH "DB": AGRA
SHRI S. RIFAUH RAHMAN, ACCOUNTANT MEMBER
AND
BEFORE SHRI SUNIL KUMAR SINGH, ACCOUNTANT MEMBER
(Through virtual hearing)**

**ITA No.329/AGR/2025
(Assessment Year:2016-17)**

Maa Kailadevi Oil Industries, Bheem Nagar, Ater Road, Porsa, Morena, MP	Vs.	Pr. CIT, Gwalior
(Appellant)		(Respondent)
PAN:AASFM4432G		

Assessee by :	Shri Ramakant Gupta, CA
Revenue by:	Shri Arun Kumar Yadav, CIT DR
Date of Hearing	16/10/2025
Date of pronouncement	30/10/2025

ORDER

PER SHRI S. RIFAUH RAHMAN:

1. This appeal has been filed by the Assessee against the order of the Id. Pr. Ld. Commissioner of Income Tax, Gwalior["Ld. Pr. CIT", for short], dated 30.03.2024 for Assessment Year 2016-17.
2. At the outset, we find that there is a delay of 366 days in filing of appeal before us by the assessee. The assessee filed application for condonation of delay and in the application filed for the condonation, the assessee submitted that the tax matters of the assessee being looked after by another professional advisor who failed to update the same to the assessee in a timely manner and remedy available to the assessee against the order passed u/s 263 of the Act. Because of these reasons assessee remained unaware of the statutory requirement to file the appeal within prescribed limitation period. As per advice by the present advisor, the assessee has filed the appeal immediately and the delay is

caused neither deliberate nor due to negligence on the part of the assessee and it was occurred solely due to absence of necessary information and guidance of the relevant time and prayed for condonation of delay. On the other hand, the Id DR objected to the same.

3. Considering the submissions of the assessee and we find that delay in filing the appeal is justified. Accordingly, we condone the delay.

4. Brief facts of the case are that the assessee is engaged in the business of manufacturing and trading the mustard oil, mustard seeds, mustard cake, etc. The case of the assessee was reopened u/s 147 of the Act after recording reasons for belief wherein jurisdictional AO had treated the transaction amounting to Rs. 70,65,000/- entered by the assessee firm with Super Shine Industries as accommodation entry. Accordingly, the case was reopened u/s 147 of the Act after approval obtained from Competent Authority. Accordingly, notice u/s 148 was issued on 31.03.2021 and the same was served on the assessee as well as notice u/s 142(1) notice was also issued by the JAO on 05.11.2021. Thereafter, the case was assigned to Faceless Assessment Unit under the Faceless Assessment Scheme. In response, the assessee filed its return of income declaring total income of Rs. 1,57,220/-. The assessee has requested for supply of reasons for reopening vide his letter dated 26.02.2022. Consequently, notice u/s 143(2) dated 03.03.2022 was issued and duly served on the assessee. The assessment u/s 147 r.w.s. 144B of the Act was completed on 29.03.2022 by accepting the return of income file by the assessee without making any addition.

5. Subsequently, Id PCIT, Gwalior while verifying the assessment order passed by the AO u/s 143(3) r.w.s. 147r.w.s. 144B of the Act and he noticed that return income was accepted. He observed that is search and seizure proceeding u/s 132 of the Act was carried out in the case of

Shree Basant Group at Agra on 26.09.2017. During the search proceedings, it was found that Shree Basant Group has operated various dummy bank accounts and concerns in the name of their employees. It was revealed that the dummy concerns managed by employees of Shree Basant Group, who provided accommodation entries to various entities which include the assessee also. Further, he observed that the information received from DCIT, Central Circle, Agra, whereby it was summarized that a concern namely Super Shine Industries proprietor Shri Deepak Kumar provided accommodation entries amounting to Rs. 70,65,000/- through its bank account with ICICI bank to the assessee during the assessment year 2016-17. Similarly, another concern Prithivi Traders proprietor Shri Subhash Chandra Gupta also provided accommodation entry of Rs. 50,85,000/- through its bank account with Central Bank of India for AY 2016-17. Further, he observed that however, in this case it is mentioned AY 2017-18, DCIT (Central), Agra in their information. He observed that assessee received a total amount of Rs. 1,21,50,000/- from both the entities in its bank account with Central Bank of India, Porsa Branch, Morena. On the basis of above information, the case of the assessee was opened for re-assessment u/s 147 of the Act for AYs 2016-17 and 2017-18. During the assessment for AY 2017-18, the AO noted that credit entries received from Prithivi Traders amounting to Rs. 50,85,000/- belongs to financial year 2015-16 relevant to AY 2016-17. Therefore, proceeding initiated u/s 147 of the Act for AY 2017-18 was dropped by the AO and communicated the same to the JAO to take proper action. In view of the above facts and circumstances, the assessment proceedings for AY 2017-18 had been dropped by the faceless AO and the transactions recorded were not belonged to AY 2017-18. He further observe that it is worth mentioning that assessment for AY 2016-17 was also in progress with the faceless AO but he failed to examine the transaction done with Prithibi Traders amounting to Rs. 50,85,000/-. Apart from the above, the faceless AO

had not examined properly and ignored the information receipt from DCIT (Central Circle), Agra. As a result, he did not make addition on account of accommodation entry done with Super Shine Industries to ₹70,65,000/- in the AY 2016-17 also. In view of the above observation, the order passed by the AO was considered to be erroneous in so far as it was prejudicial to the interest of the revenue. Accordingly, a detailed show cause notice u/s 263 was issued to the assessee through ITB portal. In response to the 263 notice issued on 26.03.2024, the assessee submitted as under:-

"Now, additional fact mentioned in the subject notice for which assessee has already submitted all details in response to the notice issued for AY 2017-18 which is again mention in the subject notice. Further, the AO in AY 2016-17 did not therefore make any reference to the credit of Rs. 50,85,000 with M/s Prathvi Traders.

It is submitted that as held in the case of Jai Kumar Kankaria 251 ITR 707 (Cal), That there is no scope u/s 263 to reopen an assessment only on the basis of facts which were placed before the AO. For AY 2016-17, the assessment was not reported about the transaction of Rs. 50,65,000 from M/s Prathvi traders nevertheless, this nature was examined by the AO during the course of assessment for assessment year 2016-17. Copy of assessment order for 2016-17 is enclosed in Annexure B. The Assessment Order for the AY 2016-17 was passed after examine of all facts as mention in Show Cause Notice dated 21.3.22 having all queries related to AY 2016-17

This assessment made is neither erroneous nor prejudicial to the interest of revenue hence the proceedings u/s 263 be dropped as warranted in fact and in law.

Since this proceeding is related to assessment year 2016-17 and not related to 2018-19, so it is requested to drop the pending proceeding related to AY 2018-19."

6. After considering the submission of the assessee, Id PCIT rejected the same and held that the order passed by the Id AO for AY 2016-17 is erroneous and in so far as prejudicial to the interest of the revenue as he failed to verify and investigate the transactions made with Prithivi Traders amounting to Rs. 50,85,000/- in the same bank account which are being investigated by him in case of transaction with Super Shine

Industries amount to Rs. 70,65,000/-. Since the AO failed to examine the material available on records in the form of information received from DCIT (Central Circle), Agra wherein a detailed investigation report was attached to it, and he relied on the various statements recorded during the search proceedings in the case of Shree Basant Oil Ltd. In view of the same, he treated the assessment order u/s 147 r.w.s. 144B for AY 2015-16 in so far, it is prejudicial to the interest of the revenue. In view of the same, he set aside the order and directed the AO to examine the issue and make de novo assessment by relying on various case laws.

7. Aggrieved with the above order, assessee is in appeal before us.

8. At the time of hearing, Id AR brought to our notice the findings of the Id PCIT at page 5 of the impugned order and submitted that the assessment order reopened only to verify the purchase transaction with Super Shine Industries. In this regard, he brought to our notice at page 45 and 46 of the paper book, which is the assessment order wherein AO has reopened assessment in order to verify the purchase transaction with Super Shine Industries case for AY 2016-17 and assessee has submitted the detail before the AO and AO after verifying the same has accepted the transaction with Super Shine Industries and also filed an affidavit regarding sales to M/s. Aryan Enterprises and corresponding payment received from Super Shine Industries. He submitted that AO has verified the above transaction in detail and completed the assessment order. He submitted that now, Id PCIT has raised a new issue, which is not subject matter of reopening proceedings. The Id PCIT is of the view that similar transactions related to Prithivi Enterprises was not verified by the AO, he submitted that this issue was never part of the proceedings initiated u/s 147 of the Act by the AO, therefore, this new issue raised by the Id PCIT, which has no relevance to the assessment

order completed u/s 147 of the Act. He prayed that the initiation of proceeding u/s 263 is bad in law and beyond jurisdiction.

9. On the other hand, Id DR brought to our notice at page 4 of the 263 order wherein the Id PCIT has brought on record that the assessment was re-opened u/s 147 of the Act for AY 2016-17. Therefore, the issue involved is of two assessment years where AO failed to verify the transactions in AY 2017-18. Therefore, he relied on the findings of the Id PCIT.

10. Considered the rival submissions and material available on record, we observe that based on the information received by the AO and the outcome of search proceedings in the case of Shree Basant Group at Agra and by recording the reasons for reopening after obtaining approval from the competent authority, AO proceeded to reopen the assessment order u/s 147 of the Act to verify the purchase transaction in the case of Super Shine Industries amounting to ₹70,65,000/- for assessment year 2016-17. Based on the information supplied by the Assessee after due verification, accepted the transaction and completed the assessment u/s 147 r.w.s. 144B of the Act. The Id PCIT has raised another fresh issue relating to purchase transaction made by the assessee with Prithivi Traders amounting to Rs. 50,85,000/- and there was a communication gap between the AO and DCIT, Central Circle, Agra and the above communication gap was highlighted by Id PCIT to initiate the proceeding u/s 263 of the Act after considering the information available on record we observe that based on the information, AO has initiated the proceedings u/s 147 of the Act and completed the assessment after due verification and based on the reasons recorded by the AO. The respective authorities have approved the initiation of proceedings based on the material available on record/ reasons recorded by the AO. Now the proceedings initiated u/s 263 of the Act, without non verification of another purchase transaction, which was not the subject matter of the

reasons recorded by the AO. The same cannot be a reason to treat the assessment order as erroneous in so far as prejudicial to the interest of the revenue. If there is any issue relating to non-verification of the purchase transaction and subsequent proceedings i.e. for assessment year 2017-18 or for AY 2016-17, the revenue may initiate a separate fresh proceedings may be initiated as per law and the proceedings completed u/s 147 of the Act for assessment year 2016-17 cannot be disturbed as per the information available on record. Therefore, we are inclined to set aside the order passed u/s 263 of the Act.

11. In the result, the appeal of filed by the assessee is allowed.

Order pronounced in the open court on 30/10/2025.

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Dated:30/10/2025
A K Keot

Copy forwarded to

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

ASSISTANT REGISTRAR
ITAT, New Delhi