

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

**ITA No. 446/AGR/2025
(Assessment Year: 2012-13)**

Pramod Kumar Gupta, House No. 393, Bhelasee Baldev Gargh, MP (Appellant)	Vs.	ITO, Tikamgarh (Respondent)
PAN: AUUPG5954D		

Assessee by :	None
Revenue by:	Shri Anil Kumar, Sr. DR
Date of Hearing	18/11/2025
Date of pronouncement	26/11/2025

ORDER

1. The appeal in ITA No. 446/AGR/2025 for AY 2012-13, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'ld. NFAC', in short] dated 13.03.2023 against the order of assessment passed u/s 147 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 21.12.2018 by the Assessing Officer, ITO, Ward-Takamgarh (hereinafter referred to as 'ld. AO').

2. At the outset, I find that there is a delay in filing of appeal by the Assessee before this Tribunal by 846 days. Considering the reasons adduced in the condonation petition, I am inclined to condone the delay in the interest of substantial justice and admit the appeal of the Assessee for adjudication.

3. The Assessee has raised the following grounds of appeal before this Tribunal:-

"Ground No.1: That the learned CIT(A) has erred both in law and on facts in confirming the addition of 224,06,405/- as unexplained cash deposit under Section 69A of the Income Tax Act, 1961. That the learned CIT(A) has erred in not properly considering the documentary evidence including Form 26AS, which reflects commission income from Vodafone Idea Pvt. Ltd. clearly supporting the source of deposits.

Ground No.2:- That the entire addition is based on mere surmise and suspicion without any proper verification of the facts or calling for confirmation from Vodafone Idea Pvt. Ltd, or examining the nature of business operations. That the orders passed by the lower authorities are against die principles of natural justice and have caused undue hardship to the appellant.

Ground No.3:- He appellant craves leave to add, amend, after, modify or substitute any ground at the or before hearing of appeal."

4. None appeared on behalf of the Assessee. The appeal is taken up for hearing and disposed of on perusing the materials available on record and based on the written submissions placed by the Learned AR through email.

5. The Assessee is engaged in the activity of providing mobile recharge, SIM distribution and other related services of Vodafone Idea Ltd at Tikamgarh. It was submitted that the Assessee operates only as a commission agent, earning commission on prepaid recharge and related transactions. The Assessee received amounts from customers towards mobile recharge and immediately deposited the same into the bank account as per the instructions and business model of Vodafone Idea Ltd. It was submitted that the Assessee's income is limited only to the commission, which is already reflected in Form 26AS and duly subjected to deduction of tax at source in terms of section 194 H of the Act. The return of income for the assessment year 2012-13 was filed by the Assessee on 4-10-2012 declaring commission income as per Form 26AS. It was submitted that Vodafone Idea Ltd provided only turnover details on a percentage basis (approximately 1.5%) and no further records were available because the company later closed its operations, making it impossible to retrieve the old data for verification. Pursuant to the query raised by the

Learned AO with regard to the cash deposits made in the bank account in the reassessment proceedings, the Assessee submitted that the same represent business receipts collected from customers on behalf of Vodafone Idea Ltd and the same does not constitute the income of the Assessee except the commission portion. During the course of re-assessment proceedings, due to non-cooperation of the Assessee by furnishing the requisite details, the re-assessment stood completed under Section 144 / 147 of the Act on 21-12-2018 determining total income of the Assessee at Rs. 7,03,618/- as against the returned income of Rs. 1,35,840/-.

6. On perusal of the order of the learned NFAC, I find that the learned NFAC had decided the issue ex parte without adjudicating the issue on merits giving its independent finding. Hence, in the interest of justice and fairplay, I deem it fit and appropriate to restore this appeal to file of learned NFAC for de novo adjudication in accordance with law. Needless to mention the assessee be given reasonable opportunity of being heard. The assessee is directed to cooperate with learned NFAC for expeditious disposal of the appeal by not taking unwarranted adjournments. Hence, 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 26/11/2025.

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 26/11/2025
A K Keot

Copy forwarded to

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

ASSISTANT REGISTRAR
ITAT, New Delhi