

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

**ITA No. 155/AGR/2025**  
**(Assessment Year: 2020-21)**

Sumit Kumar, Village Rampura, Gwalior Road, Agra	Vs.	ITO, Ward-1(1)(2), Agra
(Appellant)		(Respondent)
<b>PAN: BUQPK7461L</b>		

Assessee by :	Shri Gaurav Agarwal, CA
Revenue by:	Shri Anil Kumar, Sr. DR
Date of Hearing	20/11/2025
Date of pronouncement	26/11/2025

**ORDER**

1. The appeal in ITA No. 155/AGR/2025 for AY 2020-21, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Id. NFAC', in short] dated 24.01.2025 against the order of assessment passed u/s 143(3) r.w.s. 144B of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 27.08.2022 by the Assessing Officer, Agra (hereinafter referred to as 'Id. AO').

2. The assessee has raised the following grounds of appeal:-

*"1. The order of the learned CIT(A) (NF AC) is bad based on the facts of the case as the appellant has purchased goods and not paid commission to the parties mentioned in the order.*

*2. The learned CIT(A) has failed to appreciate that the payments made are well below the threshold limit prescribed under section 40(A)(3) of the income tax act, 1961.*

*3. The learned CIT(A) has failed to appreciate the confirmation which were filed during the assessment proceedings from the respective parties."*

3. I have heard the rival submissions and perused the materials available on record. The Assessee is a proprietorship concern engaged in the business of shoe trading under the name and style of Garg Enterprises. The Assessee used to sell his goods through e-commerce portal for which commission was paid to e-commerce operators like Amazon, Flipkart, Paytm, etc. The return of income for the assessment year 2020-21 was filed by the Assessee on 27-08-2020 declaring total income of Rs. 9,60,980/-. The case was selected for scrutiny through CASS for the reason of "business expenses / large commission expenses and low net profit". During the course of assessment proceedings, the Learned AO verified the large commission expenses incurred by the Assessee and they were found to be in order. However, on another issue of payment for unregistered purchases in cash, the Learned AO made an addition of Rs. 33,37,900/- on account of violation of provisions of Section 40A(3) of the Act totally ignoring that all payments were well below the statutory limit of Rs. 10,000 per day and also to this effect, confirmations were duly filed by the respective parties and were placed on record before the Learned AO.

4. The three parties from whom Assessee had made purchases are as under :-

a) Bhagavathi Prasad - PAN CFCPP4974F – Rs 11,29,850/-

b) Pavan Kumar - PAN ISUPK0695H - Rs 9,61,800/-

c) Rajat Kumar - PAN FYIPK0314J – Rs 12,46,250/-

Total Purchases made from three parties – Rs 33,37,900/-

5. It is pertinent to note that the parties had filed their confirmations together with their bank statements directly before the Learned AO in response to notices issued under section 133(6) of the Act. The Assessee had also submitted that those parties were not having taxable

income and hence had not filed their income tax returns. Despite all these explanations and documentary evidences, the Learned AO proceeded to disallow the purchases made from the aforesaid three parties under section 40A(3) of the Act. The Assessee furnished the copy of ledger account of all the three parties before the Learned CITA which are enclosed in pages 5 to 24 of the paper book. The Learned CITA however ignored the contentions of the Assessee and dismissed the appeal of the Assessee completely on wrong facts that Assessee had made commission payments to the aforesaid three parties, whereas no commission payments were made by the Assessee to these parties and only purchases were made from the aforesaid three parties. On perusal of the ledger account of these three parties which are enclosed in pages 5 to 24 of the paper book, I find that on none of the days, the Assessee had made purchases more than Rs 10,000 either in singular transaction or in the aggregate, had made payments in cash more than Rs 10,000. Hence the provisions of section 40A(3) of the Act per se could not be made applicable to the facts and circumstances of the instant case. Accordingly the disallowance made by the Learned AO which stood confirmed by the Learned CITA is hereby directed to be deleted. The grounds raised by the Assessee are allowed.

6. In the result, the appeal of the Assessee is allowed.

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