

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

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

**ITA No. 420 & 421/Agr/2025
Assessment Year: 2017-18**

Rahul Jain, M/s. Ankita Sales Agencies, Sadar Bazar, Porsa, Morena (MP).	Vs.	Income-tax Officer, Ward 1, Morena.
PAN :ABCPJ3801H		
(Appellant)		(Respondent)

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

Date of hearing	16.10.2025
Date of pronouncement	26.11.2025

ORDER

PER : SUNIL KUMAR SINGH, JUDICIAL MEMBER:

These appeals have been preferred by assessee against separate impugned orders each dated 29.08.2024 passed in Appeal No. NFAC/2016-17/10254463 and NFAC/2016-17/10254462 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 2017-18, wherein the Id. CIT(Appeals) has dismissed assessee's first appeals, confirming the assessment order dated

06.12.2019 passed u/s. 144 of the Act and affirming the penalty order dated 17.02.2022 passed u/s. 271AAC(1) of the Act.

2. Since, the penalty order passed u/s. 271AAC(1) of the Act is consequential to the assessment order, both these appeals are being disposed of by the consolidated order for the sake of convenience and brevity. The facts of ITA No. 420/Agr/2025 only are being narrated as under:

3. At the very outset, it is noted that both these appeals were filed on 27.08.2025 against the impugned orders each dated 29.08.2024 by a delay of 301 days each. In order to avoid further delay and to ensure expeditious disposal of these cases, we take note of the well established principle of law that the substantial justice cannot be denied on technical aberrations. In an adversarial justice system like ours, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. Justice is the goal of jurisprudence. Any interpretation which eludes or frustrates the recipient of justice, is not to be followed. The object of prescribing certain time period for filing an appeal is to expedite the proceedings before the concerned authorities and to advance the cause of justice. Accordingly, we condone the delay caused in filing both these appeals before the Tribunal.

ITA No. 420/Agr/2025:

4. Briefly stating, the facts are that the assessee did not file any return of income for A.Y. 2017-18. Based on the information gathered by department, the Assessing Officer noticed that the assessee had deposited cash to the tune of Rs.12,63,000/- in his SBI, Porsa Bank account No. 630247836544 maintained with State Bank of India during demonetization period (from 9th November, 2016 to 30th December, 2016). Statutory notice u/s. 142(1) of the Act was issued to the assessee on various occasions, but the assessee failed to furnish the required details/reply. After examining the bank statements furnished by the concerned bank in response to notice u/s. 133(6), the Assessing Officer calculated the cash deposit and/or credits made during the F.Y. 2016-17 at Rs.74,62,000/- in the aforesaid account of the assessee. Thereafter various statutory notices u/s. 142(1) and show cause notice, as tabulated by Assessing Officer at page 5 of the assessment order, were also issued to the appellant assessee, requiring him to explain the source and nature of cash deposits and credits in the said bank account, but no compliance was made on behalf of the assessee. Assessing Officer, thus, made addition of Rs.74,62,000/- as unexplained money u/s. 69A r.w.s. 115BBE of the Act. The Assessing Officer further noticed that an amount of Rs.6,75,000/- was credited in

assessee's bank account by way of RTGS/FEGT etc. during F.Y. 2016-17, which was treated as business receipts of assessee and profit on such receipts @ 6% amounting to Rs.40,500/- was added as business income of the assessee. Accordingly, total income of assessee was assessed at Rs.75,02,500/-, vide assessment order dated 06.12.2019 passed u/s. 144 of the Act.

5. Aggrieved, assessee preferred an appeal before learned CIT(Appeals), who dismissed assessee's first appeal ex parte for want of any submission made by assessee in the first appellate proceedings.

6. Assessee has approached this Tribunal in second appeal on the ground, in addition to others, that the impugned order is not sustainable, having been passed against the principles of natural justice and fair play.

7. Perused the records. None is present on behalf of the assessee. Heard learned Sr. DR for revenue.

8. Perusal of the impugned order shows that the Id. CIT(Appeals) had issued various notices on 15.04.2024, 24.04.2024, 03.05.2024, 10.05.2024, 21.05.2024, 30.05.2024 and final show cause notices on 03.07.2024 and 23.08.2024, but the assessee did not file any submission before the first appellate authority. It is however, noticed that the learned CIT(Appeals) has

decided assessee's appeal ex parte without any substantial discussion on merits, whereas learned CIT(Appeals) was expected to state the points for determination, decision thereon and the reasons for the decision as provided u/s. 250(6) of the Act. We further note that the Assessing Officer has also made best judgment assessment u/s. 144 of the Act, as no response was filed by appellant assessee in compliance to various notices issued by Ld. Assessing Officer. Such a non-responsive and reluctant attitude of the assessee cannot be appreciated. In the totality of facts and circumstances of the case, we deem it just and appropriate to remit the matter back to the file of Assessing Officer for passing order afresh after affording proper opportunity of hearing to the assessee. We further direct the assessee to be diligent and cooperative in attending the proceedings and making submissions before the learned Assessing Officer explaining cash deposits/credits in his bank account, for the expeditious and effective disposal. Needless to say that learned Assessing Officer shall ensure the observance of the principles of natural justice. The appeal is, thus, liable to be allowed for statistical purposes.

ITA No. 421/Agr/2025:

9. Since the issue relating to the quantum addition has been remanded back to the file of the learned Assessing Officer for fresh adjudication, and

as the present appeal pertains to the penalty imposed under section 271AAC(1) of the Act, which is consequential to the said quantum addition, we consider it appropriate to remit this penalty matter also to the file of the learned Assessing Officer for passing order a fresh in accordance with law. Accordingly, this appeal also deserves to be allowed for statistical purposes.

10 .In the result, both the appeals ITA No. 420 & 421/Agr/2025 are allowed for statistical purposes. The impugned orders each dated 29.08.2024 are set aside.

Order pronounced in the open court on 26.11.2025.

Sd/-

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

Sd/-

**(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

Dated: 26.11.2025

*aks/-

Copy forwarded to:

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

Asst. Registrar, ITAT, Agra