

**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. 370/Agr/2025
Assessment Year: 2013-14**

Akhlesh Kumar Tiwari, Jamuna Gali, Fatehabad, Agra.	Vs.	Income-tax Officer, Ward 2(1)(1), Agra.
PAN :ABUPT3928R		
(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:

This appeal has been preferred by assessee against the impugned order dated 07.05.2024 passed in Appeal No. NFAC/2012-13/10134606 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 2013-14, wherein the Id. CIT(Appeals) has dismissed assessee's first appeal ex parte.

2. Briefly, stated, the facts are that the assessee e-filed his return of income for A.Y. 2013-14 on 31.03.2014, declaring income of Rs.2,00,000/-. Assessing Officer noticed that the assessee had sold two plots of Rs.6,98,000/- and Rs.14,18,000/- situated at Taj Nagari, Agra totaling to Rs.21,16,000/-. On the sale of first plot, the assessee claimed short term capital loss of Rs.51,050/- and on sale of second plot, he claimed long-term capital gain of Rs.7,33,457/-, claiming its deduction u/s. 54F of the Act on the ground that the assessee had invested Rs.25,85,000/- in purchase of new residential property. Case was reopened u/s. 147 of the Act by issuing notice u/s. 148 of the Act, in response to which the assessee filed return of income on 02.09.2021, declaring the same income, but the said return was treated as non-est by Assessing Officer for want of e-verification thereof. Since, no reply/submission in response to the statutory notice issued u/s. 142(1) was filed by assessee, the Assessing Officer issued show cause notice u/s. 144 of the Act on 23.03.2022, in response to which assessee filed his reply on 26.03.2022, claiming deduction of Rs.7,33,467/- u/s. 54F of the Act, but the same was disallowed by Assessing Officer and added to the declared income of assessee on the ground that the assessee did not file any purchase deed in support of his claim of purchasing new house property worth Rs.25,85,000/-.

3. Aggrieved, assessee preferred an appeal before Id. CIT(Appeals), who dismissed assessee's first appeal ex parte.

4. Appellant assessee has filed this second appeal on the ground, in addition to others, that Ld. CIT(Appeals) has erred in dismissing the appeal without adjudicating the issues raised on merits, solely on the ground of non-filing of written submissions, thereby violating the principles of natural justice.

5. Perused the record. None responded on behalf of the appellant assessee. Heard learned Sr. DR for revenue.

6. At the very outset, we notice that this second appeal was filed on 24.07.2025 against the impugned order dated 07.05.2024 by a delay of about 383 days. In order to ensure the expeditious disposal, we condone the delay caused in filing this appeal.

7. It transpires from the perusal of the impugned order that the assessee did not file any submission in response to notices issued by the first appellate authority on 14.12.2023, 10.04.2024 and 19.04.2024. It is, however, noticed that learned CIT(Appeals) passed ex-parte impugned order without any substantial discussion on the merits of the case, 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. Perusal of assessment order also shows that due to non-compliance of notice u/s. 142(1), learned Assessing Officer has passed best judgment assessment u/s. 147 r.w.s. 144 and 144B of the Act and has rejected assessee's claim of

deduction u/s. 54F for want of any evidence to support purchase of new house property. In the totality of circumstances and in the interest of justice, we deem it just and proper to afford an opportunity to the appellant assessee to make his submissions and file the requisite evidence before the Assessing Officer in support of his claim. The matter is thus remitted back to the file of Assessing Officer for passing order a fresh in accordance with law after taking assessee's submissions/evidence into consideration. We further direct the assessee to be diligent and cooperative in attending the proceedings and making submissions and filing required evidences before the learned Assessing Officer 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.

8. In the result, assessee's appeal is allowed for statistical purposes. The impugned order dated 07.05.2024 is set aside.

Order pronounced in the open court on 26.11.2025.

Sd/-
(S. RIFAUH 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