

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

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

**ITA No. 319/Agr/2025  
Assessment Year: 2010-11**

Ram Naresh, Vill.- Nariyara, Jarar, Post- Bah, Mandi Road, Agra.	<b>Vs.</b>	Income-tax Officer, Ward 2(1)(2), Agra.
<b>PAN : ANEPT1020A</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Sh. Anurag Sinha, Advocate
Department by	Sh. Shailendra Srivastava, Sr. DR

Date of hearing	15.10.2025
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 07.11.2024 passed in Appeal No. CIT (Appeal) 2, Agra/10742/2017-18 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 2010-11, wherein the Id. CIT(Appeals) has dismissed assessee's first appeal.

2. Brief facts state that the assessee did not file any return of income for A.Y. 2010-11. However, the department had an information that the assessee transferred half share in the immovable property situated in Mohalla-Gandhi Nagar, Pargana-Konch, District-Jalaun on 21.01.2010 for a consideration of Rs.33,00,000/-, whereas the value adopted for the purpose of payment of stamp duty was Rs.1,35,00,000/-. It appears that during the assessment proceedings, assessee died and the assessee's legal heir refused to take service of the notice u/s. 148 of the Act. Ld. Assessing Officer, therefore, completed assessment u/s. 144 read with section 147 of the Act and added capital gain of Rs.64,34,000/- (half share) in the income of the assessee.

3. Aggrieved, assessee filed an appeal before learned CIT(Appeals), who dismissed assessee's appeal on the ground that no rejoinder against the remand report was filed by the assessee despite sufficient opportunity.

4. Appellant assessee has preferred this second appeal on the ground, in addition to others, that the impugned order has been passed in violation of the principles of natural justice.

5. Perused the records and heard learned representative for assessee and learned Sr. DR for revenue.

6. Learned AR submitted that the appeal has been dismissed merely on the ground that no rejoinder against the remand report could be filed

by the legal heir of the deceased assessee. Ld. AR submitted that an opportunity be granted to the assessee (legal heir) to file the said rejoinder of the remand report and to direct the first appellate authority to pass order afresh after considering assessee's submissions.

7. Ld. Sr. DR supports the impugned order.

8. It appears from the perusal of the impugned order that learned CIT(Appeals) called for remand report from the Assessing Officer during the first appellate proceedings, wherein Ld. Assessing Officer informed that the legal heir refused to take the notice, hence, submitted the remand report, wherein the assessee's point of view could not be included. Assessee failed to file any rejoinder against the remand report during the first appellate proceedings. In such circumstances and in the interest of justice, we deem it just and proper to restore the matter back to the first appellate authority for afresh adjudication. Assessee is directed to file required rejoinder against the remand report submitted by the Id. Assessing Officer. Assessee is further directed to make his submissions without seeking unnecessary adjournments before the first appellate authority. Learned CIT(Appeals) shall decide the matter a fresh after considering assessee's response along with required rejoinder, if any. Assessee's appeal is liable to be allowed for statistical purposes accordingly.

9. In the result, assessee's appeal is allowed for statistical purposes.

The impugned order dated 07.11.2024 is 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