

**INCOME TAX APPELLATE TRIBUNAL
AGRA BENCH "DB": AGRA
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER
(Through virtual hearing)**

**ITA No. 100/AGR/2025
(Assessment Year: 2017-18)**

Shivendra Singh Chauhan, 1, Durga Naga Tirwa, Kannauj- 209732	Vs.	ACIT, Circle-4(2)(1), Farrukhabad
(Appellant)		(Respondent)
PAN: AGVPC5211C		

Assessee by :	Shri Anurag Singh, Adv
Revenue by:	Shri Sukesh Kumar Jain, CIT(DR)
Date of Hearing	15/09/2025
Date of pronouncement	04/12/2025

ORDER

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No. 100/AGR/2025 for AY 2017-18, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Id. NFAC', in short] dated 31.12.2024 against the order of assessment passed u/s 144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 07.11.2019 by the Assessing Officer, ACIT, Circle-4(2)(1), Farrukhabad (hereinafter referred to as 'Id. AO').
2. The assessee has raised the following grounds of appeal:-

"1. That the Commissioner of Income Tax (Appeals), NFAC has erred in law and on facts in dismissing the appeal vide order u/s 250 bearing DIN

& Order No.ITBA/NFAC/S/250/107172367(1) dated 31.12.2024 without properly appreciating the facts brought on record by the Appellant.

2. That the learned Assessing Officer has erred in law and on facts in invoking the provisions of section 145(3) in absence of the books of account without considering the fact that a specific request vide Written reply dated 29.09.2019 was made for granting permission to submit the books of account on Department's portal which was neither considered nor denied.

3. That the 1st Appellate Authority has failed to appreciate contention of the Assessee that the Assessing officer without quoting similar case has applied N.P.rate at 8% by ignoring the past history of the case of the Assessee where lower N.P.rates has been accepted by the Department.

4. That the learned Commissioner of Income tax (Appeals) has grossly erred in law and on facts in confirming addition amounting to Rs. 6,51,295/- made on account of income from other sources in place of business income shown by the Assessee.

5. That the 1st Appellate Authority has failed to appreciate that on account of not providing adequate opportunity by the Assessing Officer to furnish the required list of sundry creditors amounting to Rs. 1,68,95,692/-, the Assessee could not be able to furnish the same.

6. That the 1st Appellate Authority has further erred in law and on facts in confirming the addition amounting to Rs. 1,08,13,700/-on account of brought forward liability of sundry creditors.

7. That the Video confessing in the present case may kindly be granted for better argumentation of the case.

8. That the Appellant craves to leave, add, alter or amend any or all the grounds of appeal during or before hearing of the appeal under reference.”

3. We have heard the rival submissions and perused the materials available on record. The assessee is an individual and had filed his return of income for the assessment year 2017-18 on 22-06-2018 declaring total income of Rs. 30,47,250/-. During the course of assessment proceedings, the assessee despite having given sufficient opportunities could not produce the books of accounts before the Learned AO. Accordingly, the

Learned AO proceeded to reject the book results of the assessee under section 145(3) of the Act and proceeded to estimate the net profit of the assessee at 8% of the turnover. The Learned AO also made an addition of Rs. 6,51,295/- on account of interest income earned on fixed deposits and savings bank under the head income from other sources as against income offered by the assessee as business income. Further, the Learned AO added the increase in sundry creditors in the sum of Rs. 1,68,95,592/- as bogus liability under section 68 of the Act. Further the Learned AO made an addition of Rs 1,08,13,700/- on account of cessation of liability in terms of section 41(1) of the Act. The action of the Learned AO had been upheld by the Learned CITA.

4. Before us, the Learned AR prayed for one more opportunity to be given to the assessee stating that the assessee would be able to produce the books of accounts and explain the additions made by the Learned AO in detail with supporting evidences. Per Contra, the learned D.R. vehemently objected for restoring this appeal to the file of learned AO as sufficient opportunities had been granted to the assessee and the assessee had not bothered to avail the same. Having considered the rival submissions, in the interest of substantial justice and fair play, we deem it fit and appropriate to restore this appeal to the file of learned AO for de novo adjudication in accordance with law, qua the issues in dispute before us, with the direction to the assessee to cooperate with the learned AO by furnishing the requisite details and documentary evidences together with the books of accounts. Needless to mention that the assessee be given reasonable opportunity of being heard. With these observations, the grounds raised by the assessee are restored to the file of learned AO and allowed for statistical purposes.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 04/12/2025.

-Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 04/12/2025
A K Keot

Copy forwarded to

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

ASSISTANT REGISTRAR
ITAT, New Delhi