

**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. 456/Agr/2025
Assessment Year : 2009-10**

Rajav Jain Ward No. 18, Purana Bazar, Ashok Nagar M.P. - 473 331	V	ITO, Ashok Nagar M.P. - 473 331
PAN : ANMPJ1439M		
(Appellant)		(Respondent)

Assessee by	Shri Amit Sogani, Adv.
Department by	Shri Anil Kumar, Sr. DR

Date of hearing	16/02/2026
Date of pronouncement	16/02/2026

ORDER

PER SUNIL KUMAR SINGH, JUDICIAL MEMBER

This appeal has been preferred against the impugned order dated 05.08.2025 passed in Appeal no. CIT(A), Gwalior/10185/2017-18 by the Ld. Commissioner of Income-tax(Appeals)/National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred to as the "CIT(A)") u/s. 250 of the Income tax Act, 1961 (hereinafter referred to as "Act"] for the Assessment year |A.Y. 2009-10, wherein learned CIT(A) has dismissed assessee's first appeal.

2. The facts in brief are that the appellant, a non-filer. Assessing officer noticed that an amount of Rs. 56,01,800/- was deposited as cash in his Bank Account No. 30391664224 in the SBI Branch at Ashok Nagar. An interest of Rs. 2,82,832/- was also received on the aforesaid account. The case was reopened u/s 147 and notice u/s 148 of the Act was issued. The assessee remained unresponded. Statutory notice u/s 142(1) was also issued but for no avail. The assessing officer completed the best judgment assessment u/s 144 of the Act, and determined the total income of the assessee at Rs. 58,84,630/-(Rs. 56,01,800/- +2,82,832).

3. Aggrieved, assessee preferred an appeal before Ld. CIT(A), who dismissed assessee first appeal.
4. Appellant assessee has preferred this second appeal on the ground that Ld. CIT(A) erred in confirming the additions made by Assessing officer, ignoring the fact that the cash deposit of Rs. 56,01,800/- was pertaining to the joint account of assessee with his mother and the interest of Rs. 2,82,832/- was earned by the two co-owners by way of FDR.
5. Perused records. Heard Ld. representative for the appellant assessee and Ld. Sr.DR for the respondent revenue.
6. The main point for determination under appeal is as to whether Ld.CIT(A) has erred in confirming the aforesaid addition of Rs. 58,84,630/- in the total income of the assessee for the assessment year 2009-10, further ignoring the fact of wrong opening of the assessee's case u/s 148 of the Act?
7. Ld.AR has submitted that the assessee has the agriculture land of around 8 bighas. Assessee's mother Smt. Poonam Devi Jain also has 4 bighas. The assessee was running a dairy farm in his name and assessee's mother was running a restaurant in her name, which was inherited by her from her deceased husband. The said bank account is maintained jointly by the assessee and his mother. The revenue's authorities have wrongly determined assessee's total income against the deposits held in the joint account. Further, submitting that the assessee had no taxable income. Prayed to allow assessee's appeal.
8. Ld. Sr. DR has supported the impugned order.
9. The aforesaid point for determination is a mixed issue of law and fact. It is undisputed that neither assessee nor his mother Smt. Poonam Devi Jain filed the return of Income Tax for the assessment year under consideration. Ld. AR has filed a paper book, which contains the facts of the case along with bank statements and other details to show that the assessee was not the sole depositor but deposited only a sum of Rs. 25,00,800/- and balance Rs. 31,01,000/- was deposited by the co-owner/mother in the joint bank account. It is a factum that AO had no occasion to consider the bank statements as the assessee remained unresponded during the assessment proceedings which was completed u/s 144 of the Act. Assessee filed additional evidence along with bank statements before the Ld. CIT(A) who called for the remand report from the AO. It further transpires from the perusal of the

ITA No. 456/Agr/2025

Rajav Jain, Ashok Nagar v

ITO, Ashok Nagar

impugned order that AO failed to submit any comment in respect of the additional evidences submitted by the assessee. However, opposed the admission thereof. Ld. CIT(A), admitted the additional evidence and held that the assessee is the primary holder of the account followed by his mother Smt. Poonam Devi Jain, therefore held that the assessee is liable for the cash deposit in the joint account. We fail to understand that after admission of the additional evidence, Ld. CIT(A) has not considered the same in the true spirit so as to appreciate the submissions of the assessee in respect of the cash deposit in the joint account as suggested by the assessee. In such circumstances, we remit the matter back to the file of the assessing officer who shall verify the parts of the cash deposits made by assessee and his mother in the joint account and pass order a fresh in accordance with law. Assessee is directed to procure the relevant bank statements and make submissions before the Ld. AO. Needless to say that the Ld. AO shall ensure the observance of the principles of natural justice. The aforesaid point is accordingly determined and the appeal is liable to be allowed for statistical purposes.

10. 10. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the open court on 16.02.2026

Sd-

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

Dated: 16.02.2026

Sd-

**(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

Copy forwarded to:

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

Asst. Registrar,
ITAT, Agra