

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AGRA (SMC) BENCH, AGRA**

BEFORE : SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER

**ITA No. 609/Agr/2025
Assessment Year: 2022-23**

Subodh Gupta 71, Saket Colony Shahganj Agra Agra	Vs.	ITO, Ward 1(1)(2), Agra
PAN : ADQFS4617N		
(Appellant)		(Respondent)

Assessee by	Shri Prarthna Jalaan, CA
Department by	Shri Anil Kumar, Sr. DR

Date of hearing	17.02.2026
Date of pronouncement	17.02.2026

ORDER

The assessee has filed this appeal against the order of the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 30.10.2025 for the Assessment Year 2022-23.

2. Aggrieved, the assessee is in appeal before ITAT, raising following grounds:

1. That the Commissioner of Income-tax (Appeals), Income Tax Department has erred in law and on facts in sustaining the addition of Rs. 4,20,000/-by disallowing the remuneration paid to partners and another addition of Rs.9,67,806/-by charging notional interest on loans advanced.

2. That the learned authorities below have erred in law as well as on facts in disallowing remuneration to partners amounting to Rs. 4,20,000, despite the same being well within the ceiling prescribed under section 40(b) of the Income-tax Act, 1961 and expressly authorized by the partnership deed of the firm. The

learned CIT(A) has incorrectly rejected the partnership deed merely on the presumption that it was an afterthought intended to regularize an otherwise disallowed claim. The partnership deed is an original document duly executed on notarized stamp paper, and no adverse finding has been recorded regarding its genuineness. Mere late submission of the deed does not render it unreliable, or invalid in law.

3. That the learned authorities have erred in law as well as on facts in making an addition of Rs. 9,67,806/ on account of alleged notional interest on loans advanced, by disregarding the assessee's explanation that the said advances were made out of interest-free funds.

4. That it is being respectfully reiterated that the loans were advanced from tax paid capital of the firm accumulated over the years and the balance of the said loans from interest free unsecured loans of the business. The addition has been made merely on presumptions relating to 'business conduct', which is legally untenable, as the decision whether to charge interest on advances or not is purely at the discretion of the assessee.

5. That the authorities below have made additions on the basis of presumption, hypothesis and conjectures and completely brushed aside all the evidences along with explanations regarding the interest free source of loans and partnership deed provided by the assessee.

The appellant craves leave to add, alter or vary the grounds of appeal before or at the time of hearing.

3. Brief facts of the case are, the assessee, is a partnership firm operating in Agra, filed its Income Tax Return for the AY 2022-23. The case was selected for scrutiny under CASS due to the low income disclosed from liquor receipts on which Tax Collected at Source (TCS) had been deducted, raising the possibility of underreporting taxable profits. Notices under sections 143(2) and 142(1) of the Act were issued, seeking detailed business activity notes, director details, books of accounts, computation of income, bank account details, creditors, purchases, evidence of excise

duties and other expenditures, and reconciliation of GST versus income tax turnover. The gross and net profits for the year were found lower than the preceding year, despite an increase in turnover, and the appellant was asked to explain the substantial profit reduction.

Partial replies and documents were received from the assessee, including profit and loss accounts, balance sheets, and select bank statements, but several key details and supporting documents for expenditures were not submitted.

Show Cause Notices were issued regarding further discrepancies including details of rent paid, partnership deed, excise duty documentation, proof of sundry payables. and justification for claimed fees (renewal, tender, processing, license). The assessee's replies failed to address partnership deed submission and particulars of advances and interest income, resulting in specific disallowances. Additions to the assessed income included Rs. 12 lakh for remuneration claimed without supporting partnership deed, and Rs. 9.67 lakh as ad hoc addition for unsubstantiated interest on loan advances.

After due consideration of submissions and analysis, the department concluded with a disallowance of remuneration of Rs. 4.2 lakh for certain partners, and upheld Rs. 9.67 lakh as business income addition for interest

on advances. The total income determined after variations was Rs. 23.97 lakh, as compared to Rs. 10.09 lakh admitted by the assessee.

4. Aggrieved with the above order, assessee preferred an appeal before Ld CIT(A), however, not complied to various notices issued by him. Based on the material available with him, he completed the appeal proceedings and sustained the additions made by the AO.

5. Aggrieved with the above order, the assessee is in appeal before us.

6. At the time of hearing, Ld AR submitted that the assessee could not comply to the notice due to his personal reasons and prayed that Ld CIT(A) had not addressed the issue on merit and merely sustained the addition made by the AO. He submitted that only three notices were issued and assessee could have been given one more opportunity to submit the relevant information.

7. On the other hand, Ld DR objected to the above submissions and submitted that the assessee had not utilized the opportunities given by the lower authorities, however, he has no objection to remit this issue back to the file of Ld CIT(A).

8. Considered the rival submissions and material placed on record. We observed that the Ld. CIT(A) has dismissed the appeal of the assessee due to non prosecution and non cooperation from the assessee side. Since the Ld CIT(A) had not addressed the issue on record and also the assessee was not given opportunity to place the relevant record to make his case, we are inclined to remit this case back to the file of CIT(A) with the direction to give one more opportunity to the assessee for the sake of overall justice. It is needless to say that the assessee may be given proper opportunity of being heard.

9. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 17.02.2026

**Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

Dated:19.02.2026

*Ganesh Kumar, Sr. PS

Copy forwarded to:

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

Asst. Registrar, ITAT, Agra