

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

**BEFORE: SHRI M BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITA No. 529/Agr/2025
Assessment Year: 2023-24**

ITO, Etawah, (U.P)- 206001	Vs.	Anurag Porwal, 24, Mandir Dan Sahay, Girdharipura, Bharthana, Etawah- (U.P) 206242
PAN : CLDPP7311K		
(Appellant)		(Respondent)

Assessee by	None
Department by	Shri Anil Kumar, Sr DR

Date of hearing	21.01.2026
Date of pronouncement	21.01.2026

ORDER

PER: SUNIL KUMAR SINGH, JM.

The assessee preferred this appeal against the impugned order dated 10.09.2025 passed in Appeal No NFAC/2022-23/10459942 u/s. 250 of the Income Tax Act, 1961(hereinafter referred to as the 'Act), wherein Id CIT(A) has deleted the addition of Rs. 1,99,83,660/- made vide assessment order dated 20.03.2025 passed u/s. 143(3) r.w.s 144B of the Act.

2. The brief facts relating to the appeal state that assessee e-filed return of income for the A.Y. 2023-24 on 31.12.2023, declaring total income at Rs. 4,09,390/-. Assessee had further shown income from business and profession at Rs. 3,50,880/- as presumptive income u/s 44AD out of gross

receipts of Rs. 7,29,138/- the return was processed u/s. 143(1) of the Act. Assessee's case was selected for scrutiny under CASS to examine the nature of high value cash withdrawals and the correctness of turnover. Statutory notices u/s. 143(2) r.w.s 142(1) of the Act and various show cause notices were issued. Assessee did not file any reply in response thereof. The ex-parte assessment was thus completed u/s. 143(3) r.w.s 144B of the Act, vide assessment order dated 20.03.2025. The assessee's income from business was estimated at the rate of 6% of gross turnover or gross receipts of Rs. 33,89,09,000/- and after adjusting the declared income, the balance of Rs. 1,99,83,660/- was added in the total income of the assessee.

3. Assessee, preferred an appeal before the Id CIT(A), who deleted the said addition of Rs. 1,99,83,660/-.

4. Aggrieved, revenue has preferred this second appeal against the impugned order on the following grounds:

"1. The learned Commissioner of Income tax Appeals CIT Appeal erred in law and on facts by admitting and relying upon fresh evidence material, particularly the ATM Service Agreement Annexure II and OR additional explanations documentation relating to the nature of bank transactions, without affording a proper and effective opportunity to the Assessing Officer for examination and necessary verification. This action is in violation of Rule 46A of the Income Tax Rules, 1962, and the principles of natural justice.

2. The learned CIT Appeal erred in law and on facts in deleting the addition of Rs. 1,99,83,660 by wrongly holding that the gross receipts of Rs. 33,89,09,000 credited in the assessee's bank account were merely pass through transactions and not the assessee's turnover OR gross receipts for the purpose of the Income Tax Act.

3. The learned CIT Appeal erred in accepting the net income (commission income) approach as the sole measure of taxable profit, thereby treating a substantial cash flow, gross receipt as non-taxable, without a conclusive and verifiable legal finding that such a method of accounting is correct OR permissible under the facts of the case, especially when the assessee did not maintain books OR get them audited.
4. That the appellant craves leave to add OR DELETE OR alter OR modify any one OR more grounds of appeal during the appellate proceedings.”
5. Appellant revenue is represented by the Id Sr DR. None responded for the respondent assessee. Perused the records and heard Id Sr DR for the appellant revenue.
6. The main point for determination under appeal is as to whether the Id CIT(A) has erred in deleting the addition of Rs. 1,99,83,660/- by accepting and relying on the additional evidences without affording an opportunity to the assessing officer in violation of Rule 46A of the Income Tax Rules, 1962.
7. Ld Sr DR for the appellant revenue has submitted that the assessee miserably failed to file response before the assessing officer despite various opportunities. Ld CIT (A) has granted relief to the assessee on the basis of fresh evidence produced before it without any verification in violation of Rule 46A of the Income Tax Rules, 1962. Ld Sr DR supports the assessment order and prays to allow revenue’s appeal.
8. We notice that during the assessment proceedings, the respondent assessee was issued notices u/s. 143(2) dated 19.06.2024, notice u/s.

142(1) dated 01.07.2024, centralized communication dated 04.10.2024, notice u/s. 142(1) dated 05.11.2024, notice dated 25.11.2024 and show cause notice dated 03.03.2025. Assessee failed to respond to any of these notices but once seeking an adjournment. Ld assessing officer was thus compelled to complete assessment proceedings ex-parte. During the first appellate stage, assessee submitted before the Id CIT(A) that the assessee operates as ATM cash loading vendor under a contractual agreement with India 1 Payments Ltd (formerly B.T.I) and under ATM Service Agreement, India 1, regularly transferred large sums of cash into designated current bank accounts in the name of Mr. Porwal. Assessee further submitted that he immediately withdrew these funds and physically loaded them into India1's white-label ATMs as per RBI's guidelines. He explained that all such cash receipts were operational reimbursements, not revenue or profit. It was further submitted that all commission fees for these services were invoiced monthly and accounted as the assessee's only receipts. It was further submitted that the only revenue earned by the assessee was the agreed commission which was fully disclosed in the return and all large cash movements were passed through transactions. Ld CIT(A), accepted assessee's submissions as stated hererinbefore and held that assessee earned only revenue i.e. the agreed commission fully disclosed in the return and all large cash movements were passed through transactions and

deleted the said amount added by the assessing officer. We, however, notice that no such account statements, commission invoices and contractual agreement etc, got verified by Id CIT(A), either at its own or at the end of the assessing officer in accordance with rule 46A of the IT Rules, 1962. We deem it just and appropriate to restore the matter back to the file of Id assessing officer, before whom all the aforesaid evidences shall be produced by the assessee. The assessing officer shall examine and verify the same after affording proper opportunity of hearing to the assessee, and pass order a fresh in accordance with law. We order accordingly the appeal is liable to be allowed for statistical purposes.

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

Order pronounced in the Open Court on - 21.01.2026

Sd/-
(M BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Dated: 17.04.2026

*Aamir Siddiqui, PS

Copy forwarded to:

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

Asst. Registrar, ITAT, Agra