

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

**BEFORE: SHRI M BALAGANESH, ACCOUNTANTMEMBER
AND
SHRI SUNIL KUMAR SINGH, JUDICIALMEMBER**

**ITA No.75/Agr/2026
Assessment Year: 2020-21**

PanaquaTradecom Pvt Ltd, Shop No. 1, H.No. 510/08, Near Shiv Mandir, NawadSahed Road, Shivpuri, Gwalior-473551	Vs.	ITO, Ashok Nagar, Aayakar Bhawan, Gwalior-474001
PAN : AAICA6715F		
(Appellant)		(Respondent)

Assessee by	Shri Sanjay Singh, Adv
Department by	Shri Shailendra Srivastava, Sr(DR)

Date of hearing	18.03.2026
Date of pronouncement	19.05.2026

ORDER

PER: SUNIL KUMAR SINGH, JM.

This appeal has been preferred against the impugned order dated 22.12.2025 passed in Appeal No NFAC/2019-20/10482652 by the Id Commissioner of Income Tax, NFAC(Delhi) [hereinafter referred to as the "CIT(A)] u/s. 250 of the Income Tax Act, 1961 (hereinafter referred to as the 'Act), for the A.Y. 2020-21, wherein Id CIT(A) has remanded the assessment order dated 30.03.2025 passed u/s. 147/144 of the Act by invoking the powers under the proviso to clause (a) of sub-section (1) of section 251 of the Act, directing the assessing officer for making fresh assessment order.

2. At the very outset, we notice that assessee has raised 13 various grounds under this second appeal. Ld AR submits that one of the grounds raised by the assessee is that the Id CIT(A)/ NFAC erred in merely setting aside the assessment without adjudicating the legal grounds, despite the reassessment itself being void ab initio. Assessee has also raised other legal grounds in respect of the assessment having been done against a non existing entity and the assumption of jurisdiction u/s. 147 of the Act is invalid being contrary to section 148,148A and 151 etc.

3. Ld Sr DR has supported the impugned order, being in accordance with the newly inserted proviso to section 251(1)(a) of the Act,w.e.f 01.10.2024 vide, Finance Act, 2024.

4. Perusal of the impugned order shows that the Id CIT(A) has remanded/ set aside the assessment order passed u/s. 147/144 of the Act, by invoking the powers vested in him vide, proviso to section 251(1)(a) of the Act, which was inserted with effect from 01.10.2024 by Finance Act, 2024.This proviso provides that where such appeal is against the order of assessment made u/s. 144, he may set aside the assessment and render the case back to the assessing officer for making a fresh assessment. It is important to note that the legislature has used the word “may” which shows that the Id CIT(A) is not mandated to always set aside the assessment,

having been framed u/s. 144 of the Act. Where the assessee is able to show that the assessing officer has incorrectly or invalidly assumed the jurisdiction for initiating the reassessment proceedings u/s. 147, the power of remand/ set aside in such a case may not be exercised and the first appellate authority, should decide the issue at its own. Mere framing of assessment u/s. 144 of the Act will not automatically give the Id CIT(A) a blanket discretion to always set aside the assessment for being redone in a routine manner.

5. At the outset, we find that the Id AO had formed a belief that income of the assessee had escaped assessment to the tune of Rs. 54,99,90,000/. First of all the show cause notice issued u/s 148A(b) of the Act dated 22.03.2024 enclosed in pages 118 and 119 of the paper book does not even mention the nature of transaction, name of the party and whether the sum of Rs. 54,99,90,000/- represent receipt of the assessee or payment made by the assessee. The assessee in response to the show cause notice u/s 148A(b) of the Act had responded vide letter dated 28.03.2024 stating that assessee had received Rs. 54,99,90,000/- against the sale proceeds. The explanation given by the assessee in this regard is reproduced herein:-

"2. During the year under consideration. Assessee has sold Guar Seeds, Gold \$8 Silver to MisAstringeile&JewelleryPvt.Ltd. for Rs.3,11,78,34,353/- (Rs.

3,07,42,58.215 + GST Rs 4.15,76,138) against which Assessee has received 54,99,90,000/- as follows:

Sr. No.	Name of Bank	Date	Amount
1	Equitas Small Finance Bank	18-10-2019	9,99,90,000
2.	Kotak Mahindra Bank	30-03-2020	9,00,00,000
3.	Kotak Mahindra Bank	30-03-2020	9,00,00,000
4	Kotak Mahindra Bank	30-03-2020	9,00,00,000
5	Kotak Mahindra Bank	30-03-2020	9,00,00,000
6	Kotak Mahindra Bank	30-03-2020	9,00,00,000
	Total		54.99.90.000

Copy of Bank Statement highlighting the above transaction is attached as Annexure-4.

Balance of Rs.2,56,78,44,353/- (3,11,78,34,353-54,99,90,000) is reflected as closing balance in balance confirmation which is attached as Annexure-5.

3. Summary of sales register showing total sales of Rs.3,11,78,34,353/- with Astrogems&JewelleryPvt.Ltd. which is matching with balance confirmation is attached as Annexure - 6.

4. Detail sales register including taxable sales of Rs.6,64,81,91,241/- which is matching with financials is attached as Annexure -7.

5. Financials of PanaquaTradecom Private Limited is attached as Annexure-8.

6. In light of the facts, supporting documents referred above, it is clear that the transaction is of Rs.54,99,90,000/-which represents receipt from Astrogems&JewelieryPvt.Ltd. has been offered as income and not escaped from assessment. Therefore, it is not proper to hold that Rs.54,99,90,000/-income has escaped assessment.”

6. This reply has been completely ignored without any basis by the Id AO while passing an order u/s 148A(b) of the Act on 30.03.2024 and consequent issuance of notice u/s 148 of the Act dated 30.03.2024. From

the aforesaid reply of the assessee which is reproduced supra, it is very clear that the assessee had already included the sum of Rs. 54,99,90,000/- in the sale proceeds as income of the assessee. While this is so, where is the question of income escaping assessment in the hands of the assessee. Hence, we have no hesitation to hold that the very assumption of jurisdiction of the Id AO u/s 147 of the Act is totally flawed as there is no income escaping assessment at all.

7. Since, the entire reassessment is quashed on this limited aspect, the adjudication of other grounds raised by the assessee become academic in nature and they are left open.

7. In the result, the appeal of the assessee is allowed.

Order pronounced on – 19.05.2026

Sd/-
(M BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Dated: 19.05.2026

*Aamir Siddiqui, PS

Copy forwarded to:

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

Asst. Registrar, ITAT, Agra