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

BEFORE: SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER
AND
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER

ITA No. 309/Agr/2026
Assessment Year: 2018-19

Pooja Agarwal, 207, Durga Nagar, Firozabad (UP)-283203	**Vs.**	ITO, Ward 2(2)(1), Firozabad (UP)- 283203
PAN :BNWPA2824A		
(Appellant)		**(Respondent)**

Assessee by	Sh. Rajesh Malhotra, CA
Department by	Ms. Sangeeta Yadav, CIT/DR

Date of hearing	16.09.2026
Date of pronouncement	04.11.2026

ORDER

PER : BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER:

This appeal is directed against the impugned order dated 23.05.2025 passed in appeal No. NFAC/2017-18/10037368 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 the "Act") for the A.Y. 2018-19, wherein ld. CIT(A) has dismissed assessee's appeal.

2. At the very outset, it is noticed that this second appeal has been filed on 07.04.2026 by a delay of about 250 days. The assessee has prayed to condone the said delay through his delay condonation application supported by an affidavit dated 07.04.2026. The relevant extract of the said affidavit is reproduced as under:

> "1. That the deponent, an individual having PAN - BNWPA2824A resident of 207, Durga Nagar Firozabad 283203 and is well verse with the facts of the case.
> 2. That the Ld Commissioner of Income Tax (Appeals) has passed an order under section 250 of the Act was merely uploaded on E-portal and was not served by other modes as specified under section 282 of the Act.
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> 3. That the deponent is not techno savy, therefore the order uploaded on portal did not come to her notice.
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> 4. That finally on 3rd March 2026, the Consultant of the deponent, on login to Income Tax Portal came to know about order dated 23.05.2025 uploaded on the Portal.
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> 5. That the deponent was advised to file appeal before the Hon'ble Income Tax Appellate Tribunal, Agra.
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> 6. That due to reasons mentioned above, there occurred delay in filling of appeal before the Hon'ble ITAT, Agra.
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> 7. That the reason for delay in filing of appeal is stated above. Since, there is genuine reason for delay in filing of appeal, the same may be condone in the interest of justice.
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> 8. It is humbly prayed to the Hon'ble member of ITAT to condone the delay in filing of appeal in the interest of justice."

2.1 We have carefully considered the above reasons and treat the cause shown as sufficient and condone the said delay caused in filing this appeal. The appeal is admitted for hearing.

3. Brief facts of the case: The assessee is an individual and filed her return of income on 23.07.2018 declaring total income of Rs.3,20,150/-. The AO noted that during the year under consideration, there has been cash deposit amounting to Rs.3,69,92,943/- in assessee's two bank accounts, against which the assessee had reported a meagre turnover of Rs.4,97,756/-. The AO asked the assessee to explain the source of cash deposits in her two bank accounts.

3.1 In response, the assessee submitted that the assessee earns income of commission on cash handling business as Pooja & Co. and income from handicraft work as Pooja Handicrafts u/s. 44AD of the Act and some interest income. It was further submitted that the assessee was maintaining two bank current accounts at ICICI bank bearing a/c no 080801001016 (a/c is closed during the year) and a/c No. 080805001037 and these accounts relates to the commission business of the assessee from cash handling business on commission. Regarding cash deposit in her bank accounts and payment to persons in Firozabad, it was submitted that the assessee during the year was engaged in doing cash handling business on commission basis as apparent from the bank's statements of the assessee's bank accounts placed on record. It was

submitted that the bank statements clearly show that almost every day of the year the amounts are deposited in the accounts by various parties from different parts of the country and withdrawals are made there from by the assessee to make payments to these parties. The assessee also submitted that it is impossible even to assume that assessee runs to various far fetches cities every day and deposits the money and therefore the deposits in bank account of the assessee cannot be treated as undisclosed income/investment of the assessee. It was further submitted that it was not practically feasible to have names and complete address of the customers and that the non-disclosure/non availability of names and address of the customers does not ipso facto means that the amounts deposited in bank account was the undisclosed income of the assessee. Further, the assessee stated in her reply before the AO stated that day wise detailed list of persons whom payment is made from the money withdrawn from the bank account along with the commission earned thereon was being submitted. The assessee further submitted that the turnover of commission income was of Rs. 1,84,956/- while deposits in bank accounts are Rs.3,69,92,943/- which is Rs 500/- per lac as per the bank account detail with party payment detail. The assessee also placed reliance on Umesh Chandra Garg vs ACIT (2004) 91TTJ 0549].

3.2 The AO considered the above explanation of the assessee but did not accept the same. The AO noted that Firozabad is a big township area where the explanation of the assessee in cash dealing was not acceptable because the banking channels were available in Firozabad. The AO also observed that the cash had been deposited from across the country like Margaon, Hospet, Aurangabad, Imphal, Guwahati, Chatra, Vapi, Lakshmipur, Gaya etc. and the moot question was how the people from across the country got to know about the bank accounts of the assessee where the cash was required to be deposited. The AO also noted that the assessee stated that it was not possible to provide names and complete addresses of the parties, who deposited the amounts in her bank account, but observed that the assessee could have at least provided list of 40-50 parties with names, PAN, address, amount and eventual payment made to the "unregistered trader" of Firozabad. The AO also noted that even if the submission of the assessee is found to be correct then also, it is not understandable why said depositors would get the cash deposited in the bank account of the assessee, who then withdrew the cash and eventually made payment to the "unregistered traders", when the said parties could have withdrawn the cash from any of the banks/ATMs in Firozabad. Thereafter, the AO analysed the pattern

of cash deposit and cash withdrawals between 06.04.2017 to 12.04.2017 and noted that there was a cash deposit of Rs. 8,19,000/- during this period and the assessee withdrew cash of Rs. 8,00,000/- on 13.04.2017. The AO further observed that if the amount was to be paid to the unregistered traders, then the amounts should have been immediately withdrawn and paid to the traders and the assessee would have maintained proper accounts of the same. The AO also noted that the cumulative cash deposit in assessee's bank account was Rs. 8,19,000/- from 06.04.2017 to 12.04.2017 whereas withdrawal of Rs. 8,00,000/- was made on 13.04.2017 and the commission of the same would be Rs. 4,000/- only but the assessee kept a sum of Rs. 19,000/- in her bank account. Accordingly, the AO observed that the claim of commission income of the assessee does not hold good. The AO further noted that from 13.04.2017 to 17.04.2017, there was cash deposit of Rs.1,20,000/-, whereas the withdrawal is Rs.1,50,000/- out of brought forward balance of Rs. 7,50,000/-. Accordingly, the AO observed that there was no co-relation between the cash deposited and cash withdrawal. The AO also noted that in majority cases the cash deposit was Rs.1 lakh and commission being Rs. 500/- per one lakh of cash deposit then how the assessee was calculating her commission income. Accordingly, the AO issued a show cause notice to the assessee as to why the cash deposit

of Rs. 3,69,92,943/- should not be taxed u/s. 69A of the Act. In reply, the assessee reiterated her submissions made earlier.

3.3 The AO on the basis of the facts discussed in the assessment order made the following inferences in para no. 7 of the assessment order which is reproduced as under:

> "7. In view of the facts mentioned above the following inferences are drawn.
>
> a) There prima facia appears to be no need for the outside parties to make cash deposits in assessee's accounts considering vide spread reach of internet payments, e-payments and banking facilities. These amounts can be directly deposited in the accounts of the trades as jandhan bank accounts have been opened across the country under major flagship project of the govt.
>
> b) There is no co relationship between amount deposited & withdrawn. Thus, it is not clear how the assessee makes out from whom the money is received and to whom it is to be paid.
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> c) It is not clear whether the assessee deals with only select parties (1or 2 parties) from each city. If that being so, how do these parties make purchases - from one trader or many. If the traders are many, how does the assessee get instruction whom to pay.
>
> d) The issue of how the assessee charges her commission is also not clear. Especially in wake of the fact that 90% of the amounts received are less than Rs.1,00,000/-. If that being does assessee maintain ledger account party wise. That being so, she should have furnished the same but she has not.
>
> e) The case law relied upon by the assessee is of pre-demonetization period. Post demonetization, the economic scenarios has changed substantially. Moreover in the instant case, the assessee has not been able to substantiate any of her claims made by way of same documentary proof except bank statement which only give details of cash deposits & withdrawals made.
>
> 8) In view of the facts mentioned the contentious made by the assessee are rejected. Since the assessee has failed the

> substantiate the source of each deposits made, therefore the same are held as unaccounted/unexplained. Thus, the unexplained cash deposits of Rs3,69,92,943/- is herby taxed u/s 69A of Income Tax Act, 1961. Section 69A states as under - *Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, Jewellery or valuable articles is not recorded in the books of account, if any maintained by him for any source of income and the assessee offers no explanation about the nature and source of acquisition of the money bullion jewellery or other valuable articles or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the money and the value of the bullion, jeweller or other valuable article may be deemed to be the income of the assessee for such financial year*."

3.4 After considering has reply of the assessee, the AO added the sum of Rs. 3,69,92,943/- u/s 69A of the Act.

4. Aggrieved with the said order, the assessee filed an appeal before the learned CIT(A). The learned CIT(A) dismissed the appeal of the assessee. The relevant extract of the order of learned CIT(A) is reproduced as under:

> "6.1.6 On careful perusal of the submissions, it is noted that the appellant never bothered to submit the details of parties to whom payment made by her in the requisite format, she simply resubmitted the names of the parties, place and the amount paid. She did not furnish the complete address and the contact number so that those persons might have been examined to ascertain the facts of the claims made by appellant to have made the payments to the bangle traders.
>
> 6.1.7 This only conveys she does not want this office to verify the genuineness of the submission of the appellant.
>
> 6.1.8 Also, the careful perusal of the copy of the bank statement enclosed by her with her submissions dtd 15.5.2025 it is very evident that only cash deposits and cash withdrawals were being

> transacted in her bank account with no clarity/identity about the person to whom such payments were made. Thus, not only the credits even the debits in the bank account of the appellant remains unexplained by her except for mere statement. Thus, there is absolutely no evidence brought on record by the appellant to support her claim that she is into commission business playing the role of cash handler in the bangle trade between the purchaser and the seller in Firozabad.
>
> 6.1.9 Under these circumstances without submitting fool proof evidence for the nature of business engaged into by the appellant, it is not appropriate for her to simply rely on various judgements alone and seeking the relief. With due respect to all those judicial judgements relied upon by the appellant, it is noticed that in those judgements it is established that those assessee's have been engaged in the bank drafts discounting or cash collection business as it is explicitly stated in the case of Priti Agarwal Vs ACIT. However, in the case of the appellant the nature of business itself is not established even after giving ample opportunity both during the assessment proceedings and during the appeal proceedings. The deposits made into her bank account remained unexplained, such unexplained deposits which in turn has been utilised for making the payment only displays the application of money received from the unexplained source has been made without revealing the identity and the genuineness of the transactions. Thus, the failure of the appellant to submit the evidence either for the cash deposits or for the payments made by her from her bank account only clearly proves the stand taken by the AO in the assessment order is correct. Therefore, the grounds of appeal 1 to 9 are dismissed, and the addition made by the AO u/s 69A rws 115BBE stands upheld."

5. Aggrieved with the said order, the assessee is in appeal before us on the following grounds of appeal:

> "1. Because the impugned order dated 23.05.2025 passed by Ld. CIT(A), NFAC under section 250 of the Act is bad in law as the same has not been passed in accordance with the provisions of section 250 of the Act.
>
> 2. Because the impugned order passed by the Ld. CIT(A), NFAC under section 250 of the Act is bad in law as the same has not been passed in accordance with the provisions of sub-section (6) of section 250 of the Act. The grounds of appeal were disposed

off without proper adjudication and the Ld. CIT(A) failed to give his specific finding on the grounds raised by the appellant resulting the order becomes non-speaking and nonenforceable.

3. Because the addition of Rs. 3,69,92,943 made under section 69A of the Act is wholly illegal. The amount deposited in Bank represents cash deposits from different locations by various persons (buyers of goods and the same was paid to the suppliers from whom goods were purchased by these persons persons((buyers of goods) after withdrawing from Bank Account. Income earned on rendering cash handling service has been disclosed in Income Tax return. This is an undisputed fact that the appellant is engaged in the business of cash handling service, therefore provisions of section 69A cannot be invoked. The Ld. CTT(A) erred in confirming the addition made by the id AO under section 69A of the Act ignoring the submission made by the Appellant. In its submission the Appellant submitted the details of suppliers to whom payment was made on behalf of various persons who had deposited cash in Bank Account of the Appellant. The Id CTT(A) passed an order confirming the addition made by the Id AO

4. Because, the Ld. CIT (A) erred both in law and facts in confirming the addition of Rs. 3,69,92,943 made by Ld. AO under section 69A of the Act for alleged failure to record amount in the books of account. The Ld. CIT (A) has miserably failed to appreciate the explanation given by the Appellant regarding the modus operandi of the business explained during the course of assessment proceedings and Appellate proceeding. The addition, being wholly illegal and is liable to be deleted.

5. Because the Ld. CIT (A) has erred in law and facts to appreciate that the Id AO had accepted the business activity of the appellant and business profit disclosed in income tax return. It is settled principle of law once the business activity is established and the money deposited in bank account relates/pertains/belongs to business activity being carried on by the appellant, no addition can be made under section 69A of the Act.

6. Because, the Ld. CIT (A) failed to appreciate the patterns of cash deposit as well cash withdrawal, which establishes the nature of business. Due credits must be given to the withdrawals made from bank account by the appellant if the deposits are treated as income of appellant, however the Ld. AO and CIT(A) failed to consider the withdrawal made from Bank Account.

> 7. Because upon the facts and in overall circumstances of the case, the action of the Ld. CIT (A) of not considering the nature of business and past history of the Appellant is patently illegal and bad in law. The Act of Ld. CIT (A) is in gross violation of settled principals of consistency as laid down by the Honble Supreme Court in case of Radhasoami Satsang v. CIT, wherein it has been categorically held that when the facts and circumstances pertaining to an assessee remain same across different assessment years, the department cannot take contradictory stand in subsequent years without demonstrating a change in facts, law OR circumstances. In the present case, nature of business activity remained same as in earlier year and has been accepted by the department. The nature of business and income disclosed in income tax return has been accepted by the Ld. AO in earlier assessment years AY 2017-18 in scrutiny under section 143(3) of the Act by Department."

6. At the time of hearing the learned AR reiterated the submissions made before the learned CIT(A) and stated that the AO added entire cash deposit, but no credit of the withdrawal was given. It was further submitted that the assessee was providing her services to the traders who were engaged in the business of bangles and deposited cash in the bank account of the assessee at their place of business from all over the country and the assessee after deducting the commission made the payments to the sellers of bangles at Firozabad. The learned AR also referring to the chart of cash deposit and cash withdrawals placed at page No. 5 of the paper book, stated that out of the total cash deposited by various parties amounting to Rs.3,51,47,940/- and further deposit through NEFT/RTGS amounting to Rs.18,45,003/- (Total Rs. 3,69,92,943/-), a sum of Rs. 3,73,69,422/- was withdrawn in cash, which

proves the submission of the assessee that it was not her income and she was only charging commission income in respect of the said cash deposits and cash withdrawals. The ld. AR also referred to the assessment order dated 30.10.2019 passed u/s. 143(3) of the Act for the immediately preceding assessment year, i.e., 2017-18 in the case of the assessee, wherein the AO in the assessment order noted that '*on perusal of the details submitted by the assessee, it is noticed that during the year under consideration the assesee enjoyed income from commission'*. The assessee also relied upon various case laws as per the index, which is reproduced as under:

S.No.	Description	Page Numbers	Relevant para and page
1	Ahmedabad ITAT in ITA Number 885/Ahd/2026 Ashaben Atul Kumar Patel vs ITO.	1 to 11	Para 5, page 3, Para 13, page 5 Para 14, page 10
2	Bombay High Court in PCIT VS Alag Securities Private Ltd, 1512/2017.	12 to 21	Para 20, page 8 Para 21 page 9
3	ITAT, Mumbai Bench in ITA 2934/Mum/2024 in Jagmandri Finvest Private Ltd vs ITO, Wd 9(2)(1), Mumbai.	22 to 28	Parra 9, page 6
4	Chennai ITAT in 1539/Chny/2026 Vinayagam Balamurugan vs ITO ITO.	29 to 34	Para 11, page 5
5	Honble Allahabad High Court in CIT, Gorakhpur vs Abdul Haseeb, Prop J.B. Silk	35 to 40	Page 6

7. On the other hand, learned CIT/DR supported the orders of the authorities below and also filed a written submission. In the written submission, the learned CIT/DR narrated the facts noted by the AO and the ld. CIT(A) and stated that in absence of the complete details of the traders along with their addresses, the assessee failed to prove the identity of any of the customers and unless the assessee provides the identity of the customers/sellers, no enquiry could be made by the AO. Further, it was submitted that in this case, peak credit cannot be applied because the same can be applied only when the assessee is able to prove that the assessee was engaged in the business and the cash belonged to the business transactions. In this regard, the relevant extract of the submission of the learned CIT/DR is reproduced as under:

> "5.2 Further, the assessee cannot simply aggregate all cash withdrawals made during the entire year and set them off against the aggregate cash deposits for the purpose of applying the peak theory. The application of peak theory necessarily requires evidence of actual rotation or recycling of the same funds, with a demonstrable nexus between the withdrawals and subsequent deposits. In the present case, no such nexus or continuity of funds has been established by the assessee.
>
> 5.3 Moreover, the assessee has taken a contradictory stand regarding the ownership of the cash. On the one hand, it has been contended that the cash represented money belonging to customers; however, the assessee has failed to substantiate this claim by establishing the identity of the customers, the nature of the transactions, or any supporting documentary evidence. On the other hand, the claim of availability of the cash through the assessee's own withdrawals has also not been established. Thus, neither the contention that the cash belonged to the assessee nor the alternative contention that it belonged to customers has been satisfactorily substantiated. Consequently,

> the assessee has failed to establish the availability, continuity, and actual rotation of the cash so as to justify adjustment of the deposits against the withdrawals or application of the peak theory.
>
> 6. Further, the assessee has merely mentioned the names of the cities, without providing any further details such as the complete address of the parties.
>
> 6.1 In the absence of audited books of account and complete details establishing the identity of the buyers and sellers, the genuineness of the entire transaction remains unsubstantiated, and the transaction appears to be sham.
>
> 6.2 Where there is not a single party wise transaction detail is available to show that how much amount was utilize for purchasing any good and what commission has been charged on such transactions it cannot be simply said that the withdrawals of cash represent the same cash deposited in the bank account. There is no ledger, general account, purchase/sale bill, or any party wise, entity wise details of sale/purchase/commission received. Assessee has given only a general statement that she takes Rs. 500 per 1 lakh but which customer has paid what amount of commission is not established unless the requisite bills ledger or any documentary evidence justifying the identity of the customer or seller is given.
>
> 6.3 In the absence of any documentary evidence establishing the source of the cash deposited in the bank accounts amounting to ₹3,69,92,943/-, it is evident that the assessee has failed to explain the nature and source of the cash deposits made during the financial year relevant to Assessment Year 2018-19.
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> 7. It is apparent from the facts of the case that the cash deposits aggregating to ₹3,69,92,943/- made in the bank accounts during F.Y. 2017-18 remained unexplained and appear to have been from undisclosed sources. The assessee has also failed to substantiate, with supporting evidence, that such substantial cash was available with her in the ordinary course of her business or from any other disclosed and legitimate source."

8. We have heard both the parties and perused the material on record. The undisputed fact in this case is that there has been cash deposit of Rs. 3,69,92,943/- in assessee's two bank accounts across

several cities in the country and there has been subsequent cash withdrawal of Rs. 3,73,69,422/- by the assessee from her bank accounts. The assessee claims that the cash deposits are made by bangle traders across the country who deposit their money to be transferred to the sellers of the said bangles, wherein the assessee submits that she deducts a commission of Rs.500/- in respect of deposit of Rs.1,00,000/- in cash in the bank account of the assessee and facilitates the payments to the sellers of the bangles at Firozabad. The assessee submits that she does not keep any record of such transaction and she had shown profit in respect of said commission income u/s. 44AD of the Act. Now, the issue in this appeal is whether the cash deposited amounting to Rs.3,69,92,943/- represents her undisclosed income to be added u/s. 69A of the Act or not? In this regard, it is seen that the cash of Rs.3,69,92,943/- has been deposited in the two bank accounts of the assessee at various locations in the country. In this regard, no evidence has been brought on record by the AO to demonstrate that the assessee was having any business activity either at her place of business i.e. Firozabad or in the various cities across the country wherein she had the capacity to earn such amounts to be deposited in her two bank accounts. In absence of any such evidence, the cash deposit of Rs.3,69,92,943/- cannot be considered as undisclosed income of the assessee. In this

regard, from the sample taken by the AO in the assessment order, as discussed earlier in this order, we observe that the contention of the assessee that she is facilitating the traders of bangles from across various cities in the country and making payment to the bangle traders based in Firozabad, cannot be rejected. Moreover, in the immediately preceding year, the AO had noted that '*on perusal of the details submitted by the assessee, it is noticed that during the year under consideration the assessee enjoyed income from commission'* In this regard, the relevant extract of the order u/s 143(3) of the Act dated 30.10.2019 is reproduced as under:

> " Return declaring income of Rs.2,48,570/-was e-filed on 03.08.2017 through e-filing. The case was selected under Limited Scrutiny through CASS. Accordingly notice u/s 143(2) dated 09.08.2018 was issued. Since it was a limited scrutiny case, the issues identified were mentioned in the notice u/s.143 (2) dated 09.08.2018. The date fixed for compliance was 20.08.2018. However on this date no compliance was made by the assessee on the e-filing portal.
>
> Thereafter on 28.01.2019 a notices u/s 142(1) of the I.T. Act, 1961 alongwith questionaaire was issued to the assessee fixing compliance on 12.02.2019. Thereafter again notices were issued asking the assessee to make compliance of the questionnaire issued. Thereafter, the assessee e-filed its reply to the questionnaire which has been examined and placed on the records. On perusal of the details submitted by the assessee, It is noticed that during the year under consideration the assessee enjoyed income from commission.
>
> 5. After considering the reply filed, the documents submitted, explanation filed, the assessment is completed on the returned income of Rs.2,48,570/- after verification."
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> (emphasis supplied by us)

8.1 It is true that *res judicata* does not apply in Income-tax proceedings, but in view of the facts as stated above, the findings of the AO remain unsupported that the cash deposits in the bank account of the assessee represents the undisclosed income of the assessee to be added u/s 69 of the Act. Accordingly, we are of the considered view that the addition of Rs.3,69,92,943/- is not sustainable in the case of the assessee and the same is deleted. Accordingly, the appeal of the assessee deserves to be allowed.

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

Order pronounced in the open court on 04 /11 /2026.

Sd/-	***Sd/-***
(SUNIL KUMAR SINGH)	**(BRAJESH KUMAR SINGH)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Dated: 04/11/2026

*aks/-

Copy forwarded to:

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

SAG blog

Aamir Siddiqui

Digitally signed by Aamir Siddiqui
Date: 2026.11.04 17:26:51 +05'30'

Asst. Registrar, ITAT, Agra