

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DELHI**

Before Sh. Satbeer Singh Godara, Judicial Member

ITA No. 1702/Del/2024 : Asstt. Year: 2017-18

Vandana Kathuria, House No. 35, D Block, Malka Ganj, Delhi-110007 (APPELLANT)	Vs	Income Tax Officer, Ward-34(5), New Delhi-110002 (RESPONDENT)
PAN No. AMWPK5354R		

**Assessee by : None (Adjournment Petition Rejected)
Revenue by : Sh. Sanjay Kumar, Sr. DR**

Date of Hearing: 06.01.2025	Date of Pronouncement: 06.01.2025
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ORDER

This assessee's appeal for Assessment Year 2017-18, arises against the CIT(A)/NFAC, Delhi's DIN & order No. ITBA/NFAC/S/250/2023-24/1062700080(1) dated 15.03.2024, in proceedings u/s 143(3) of the Income Tax Act, 1961 (in short "the Act").

2. Case called twice. None appears at the assessee's behest. It is accordingly proceeded *ex-parte*.

3. Learned departmental representative vehemently argues during the course of hearing that both the learned lower authorities herein have rightly assessed the assessee's cash deposits amounting to Rs.7,65,900/- in ICICI bank and

Rs.45,300 in IDBI bank, respectively, as unexplained u/s 69A r.w.s. 115BBE of the Act.

4. I have given my thoughtful consideration to the assessee's pleadings and Revenue's foregoing vehement contentions. I find no reason to accept either party's stand in entirety. This is for the precise reason that although the assessee appears to have been assessed for her commission income on presumptive basis going by Form 26AS stating an amount of Rs.13,13,847/-, she has not satisfactorily proved the source of the cash deposits forming subject matter of adjudication. The department also could hardly dispute the fact that neither any benefit of accumulated past savings nor that of her social economic status has been considered in the learned lower authority's respective orders.

5. Faced with this situation, it is deemed appropriate in the larger interest of justice to restrict the impugned addition of Rs.7,65,900/- to a lump sum figure of Rs.1,00,000/- only with a rider that the instant estimation would not be treated as a precedent. The assessee gets relief of Rs.6,65,900/- in other words.

6. So far as the assessee's assessment u/s 115BBE is concerned, case law SMILE Microfinance Ltd. Vs. ACIT, W.P. (MD) No. 2078 of 2020 & 1742 of 2020 dated 19.11.2024 (Mad.) has settled the issue against the department that the impugned statutory provisions would come into effect on the transaction done on or after 01.04.2017. The assessee accordingly directed not to be assessed u/s 115BBE of the Act in very terms.

7. This assessee's appeal is partly allowed.

Order Pronounced in the Open Court on 06/01/2025.

Sd/-

(Satbeer Singh Godara)
Judicial Member

Dated: 06/01/2025

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR