

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“SMC” BENCH, AGRA**

**BEFORE HON’BLE SHRI SATBEER SINGH GODARA, JM AND  
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**आयकरअपील सं./ ITA No.214/Agr/2024**  
**(निर्धारणवर्ष / Assessment Year: 2017-18)**

<b>Shri Sanjay Agrawal</b> Swana Yamuna Jewellers Krishna Balaram Market Meerganj, Tilak Dwar UP – 281 001	<b>बनाम/ Vs.</b>	ITO Ward 1(3)(1) Mathura
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. <b>ADPPA-9601-B</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकीओरसे/ <b>Appellant by</b>	:	Shri M.M. Agarwal (CA) – Ld. AR
प्रत्यर्थीकीओरसे/ <b>Respondent by</b>	:	Shri Shailendra Shrivastava – Ld. Sr. DR

सुनवाईकीतारीख/ <b>Date of Hearing</b>	:	18-02-2025
घोषणाकीतारीख / <b>Date of Pronouncement</b>	:	18-02-2025

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year (AY) 2017-18 arises out of the order of learned Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 19-05-2024 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 30-12-2019. Having heard rival submissions and upon perusal of case records, the appeal is disposed-off as under. The assessee is stated to be engaged in trading of ornaments under proprietorship concern by the name M/s Swarn Yamuna Jewellers.

2. During assessment proceedings, it transpired that the assessee made transaction of Rs.29.75 Lacs on 29-11-2016 with M/s Olivia Tradelinks Ltd. with regard to sale of 1 Kg bullion. Since no business activity was carried out by that entity, the receipts of Rs.29.75 Lacs as received by the assessee in his bank account from that entity was held to be bogus and added as unexplained cash credit u/s 69A r.w.s. 115BBE. The Ld. CIT(A) confirmed the same against which the assessee is in further appeal before us.

3. It is apparent that the assessee has treated the impugned receipts as sale transaction whereas Ld. AO has added the same u/s 69A which would be subjected to higher rate of tax @60%. However, Hon'ble High Court of Madras in the case of **S.M.I.L.E. Microfinance Ltd. vs. ACIT (WP (MD) No.2078 of 2020 dated 19-11-2024)** has held that the revenue is empowered to impose 60% rate of tax for the transactions from 01.04.2017 onwards and not prior to the said cut-off date. In such a case, the nature of transaction would become immaterial. In other words, whether the impugned receipts are treated as business receipts or income from other sources, the same would be subjected to normal rate of tax. Therefore, we direct Ld. AO to accept the impugned transaction as sale turnover only.

4. The appeal stands allowed.

*Order pronounced on 18<sup>th</sup> February, 2025.*

*Sd/-*

*Sd/-*

**(SATBEER SINGH GODARA)**  
न्यायिक सदस्य / JUDICIAL MEMBER

**(MANOJ KUMAR AGGARWAL)**  
लेखक सदस्य / ACCOUNTANT MEMBER

Dated: 18-02-2025

Mks