

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

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

**आयकरअपील सं./ ITA No.260/Agr/2024**  
**(निर्धारणवर्ष / Assessment Year: 2017-18)**

Shri Kushal Pal Singh Gupta 18/149, Fatehabad Road Agra – 282001	<b>बनाम/ Vs.</b>	ACIT Circle 1(1)(1) Agra
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. <b>ABCPG-3930-E</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

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

सुनवाईकीतारीख/ <b>Date of Hearing</b>	:	20-02-2025
घोषणाकीतारीख / <b>Date of Pronouncement</b>	:	28.03.2025

**आदेश / ORDER**

**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 (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 27-06-2024 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 04-12-2019. Having heard rival submissions, the appeal is disposed-off as under.

2. Pursuant to survey operations u/s 133A, the assessee surrendered income of Rs.83.02 Lacs. The same was stated to be source of cash deposits in the bank account as well as investment in a partnership firm. Since the same was not admitted in the return of income, Ld. AO added the same u/s 68 which would be subjected to higher rate of tax of 60%

u/s 115BBE. The Ld. CIT(A) confirmed the assessment against which the assessee is in further appeal before us.

3. It emerges that the assessee has surrendered impugned income of Rs.83.02 Lacs which has subsequently been deposited in the bank account and invested in a partnership firm. This is undisputed fact. The only dispute is with respect to rate of tax. We would hold that the higher rate of tax as prescribed u/s 115BBE would not apply for this year as per the decision of 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)** holding that the revenue is empowered to impose higher rate of tax for the transactions from 01-04-2017 onwards and not prior to the said cut-off date. Respectfully following the same, we direct Ld. AO to apply normal rates of tax on total income.

4. The appeal stands partly allowed.

*Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal) Rules, 1963.*

Sd/-  
(SATBEER SINGH GODARA)  
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-  
(MANOJ KUMAR AGGARWAL)  
लेखा सदस्य / ACCOUNTANT MEMBER

Dated: 28.03.2025

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AGRA