

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**

आयकरअपीलसं./ ITA No. 33/Agr/2024
(निर्धारणवर्ष / Assessment Year: 2017-18)

Smt. Shanti Devi Kushwaha C-162, Ranjeet Nagar Bharatpur, Rajasthan	बनाम/ Vs.	ACIT-Circle-4(2)(1) Farukhabad
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. DPBPK-5044-H		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	None
प्रत्यर्थीकीओरसे/ Respondent by	:	Shri Shailendra Shrivastava – Ld. Sr. DR

सुनवाईकीतारीख/ Date of Hearing	:	13-02-2025
घोषणाकीतारीख / Date of Pronouncement	:	28-03-2025

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 (Appeals), NFAC [CIT(A)] dated 27-12-2023 in the matter of an assessment framed by Ld. AO on *best judgment* basis u/s 144 of the Act on 13-11-2019. At the time of hearing, none appeared for assessee and accordingly, the appeal was proceeded with the able assistance of Ld. Sr. DR who pleaded for dismissal of the appeal.
2. It could be seen that the assessment has been framed on *best judgment* basis. The assessee was engaged in civil contract work and it failed to produce its books of accounts before Ld. AO. Accordingly,

the books were rejected and business income was estimated @8% of contractual receipts. The assessee reflected sundry creditors of Rs.14.15 Lacs which were separately added u/s 68 r.w.s. 115BBE. The Ld. CIT(A) confirmed the assessment against which the assessee is in further appeal before us.

3. It is quite clear that the assessee has failed to furnish requisite books of accounts to substantiate its book results. Left with no option, lower authorities have rightly estimated the income of the assessee. The addition u/s 68 has been made considering the fact that the assessee could not substantiate the same. This addition could separately be made as per various judicial decisions as cited by Ld. CIT(A) in the impugned order. However, the higher rate of tax u/s 115BBE would not apply for this year as per the decision of Hon'ble High Court of Madras (Madurai Bench) in **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 60% rate of tax for the transactions from 01.04.2017 onwards and not prior to the said cut-off date. Therefore, the addition so made would be subjected to normal rate of tax only. The Ld. AO is directed to re-compute the income of the assessee.

4. The appeal stand partly allowed as indicated upon conclusion of hearing.

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. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AGRA