

**IN THE INCOME TAX APPELLATE TRIBUNAL
AGRA BENCH, AGRA**

**Before Sh. Satbeer Singh Godara, Judicial Member
&**

Sh. M. Balaganesh, Accountant Member

ITA No. 206/Agr./2023 : Asstt. Year: 2016-17

Shailendra kumar, Prakash Nagar, Manikpur Jalesar Road, Sadabad, Hathras, Uttar Pradesh-281306	Vs	NFAC/Ward-1(1)(2), Agra
(APPELLANT)		(RESPONDENT)
PAN No. EJXPK88594K		

Assessee by : Sh. Rajendra Sharma, Adv.

Revenue by : Sh. Shailener Shrivastava, Sr. DR

Date of Hearing: 03.02.2025

Date of Pronouncement: 03.02.2025

ORDER

Per Satbeer Singh Godara, Judicial Member:

This assessee's appeal for Assessment Year 2016-17, arises against the CIT(A)/NFAC, Delhi's DIN & order No. ITBA/NFAC/S/250/2023-24/1056687061(1) dated 30.09.2023, in proceedings u/s 147 r.w.s. 144 of the Income Tax Act, 1961 (in short "the Act").

2. Heard both the parties at length. Case file perused.

3. Learned counsel representing assessee presses for the assessee's sole substantive ground on merits that both the learned lower authorities have erred in law and on facts in

adding an amount of Rs.28,90,000/- as unexplained u/s 69 r.w.s. 115BBE of the Act. The assessee infact appears to have purchased an immovable property during the relevant financial year for Rs.1,11,57,000/- out of which he could not explained a sum of Rs.38,61,034/- as per para 2 of the assessment order dated 21.03.2022. He then stated to have received varying sums *inter alia* from Smt. Malti Devi, Smt. Kamlesh Devi, sh. Lalit Mohan, Sh. Bireridra Singh and Sh. Shalendra Yadav which was rejected by the Assessing Officer and upheld in the lower appellate discussion. All this leaves the assessee aggrieved.

4. We have given our thoughtful consideration to the assessee's pleadings and Revenue's vehement contentions reiterating their respective stands. We find no reason to express our concurrence with either party's arguments in entirety. This is for the precise reason that the assessee all along has filed his cogent and supportive evidence explaining source of the above stated parties which could not be simply brushed aside as has been done by the learned lower authorities.

5. Faced with this situation and keeping in mind the assessee's and his relatives' socio economic status, we are of the considered view that a lump sum addition of Rs.12,00,000/-

only in the given facts, would be just and proper with a rider that the same shall not be treated as a precedent. The assessee is accordingly held entitled for relief of Rs.16,90,000/- in other words. Necessary computation shall follow as per law.

6. So far as assessee's assessment under Section 115BBE is concerned, we quote S.M.I.L.E Microfinance Limited Vs. The ACIT CC-1 in W.P.(MD) No.2078 of 2020 & W.M.P. (MD) No. 1742 of 2020 held that the said provision applied for transactions done on or after 01.04.2017 only. The assessee is accordingly directed to be assessed under normal provisions only.

7. This assessee's appeal is partly allowed.

Order Pronounced in the Open Court on 03/02/2025.

Sd/-
(M. Balaganesh)
Accountant Member

Sd/-
(Satbeer Singh Godara)
Judicial Member

Dated: 03/02/2025

Subodh Kumar, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR