

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

**Before Sh. Satbeer Singh Godara, Judicial Member
&
Sh. M. Balaganesh, Accountant Member**

ITA No. 150/DDN/2024 : Asstt. Year : 2017-18

Uttranchal Social Development Centre Pvt. Ltd., 4-A, Race Course, Dehradun-248001 (APPELLANT)	Vs	Income Tax Officer, Ward-1(2)(5), Dehradun-248001 (RESPONDENT)
PAN No. AAACU7812K		

Assessee by: Sh. Anil Jain, Adv.

Revenue by: Sh. A. S. Rana, Sr. DR

Date of Hearing: 21.03.2025	Date of Pronouncement: 25.04.2025
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ORDER

Per Satbeer Singh Godara, Judicial Member:

This assessee's appeal for Assessment Year 2017-18, arises against the CIT(A)/NFAC, Delhi's DIN & order No. ITBA/NFAC/S/250/2024-25/1068908760(1) dated 20.09.2024, in proceedings u/s 143(3) of the Income Tax Act, 1961 (in short "the Act").

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

3. It emerges during the course of hearing that the assessee had deposited the specified bank note "SBN" of Rs.1,09,45,000/-, in the relevant previous year which stood added as unexplained cash credit u/s 68/69 r.w.s. 115BBE of the Act, in the assessment order herein passed on 31.12.2019

and partly restricted to Rs.54,72,500/- in the lower appellate discussion, reading as under:

"7.5 From the proper evaluation and appreciation of the findings of the AO with regard to addition of Rs. 10945000 u/s 68 on account of undisclosed income and appellant's submission/reply filed during appellate proceedings, it is seen that AO has made addition of Rs 10945000 treating the deposit in his bank account during the assessment year 2017-18 (during demonetization period i.e., 09.11.2016 to 30.11.2011) as unexplained income. The AO has not accepted the explanation that cash deposit is out of "cash in hand" available with appellant company on 08.11.2016. The AO has noted that there was no business activity during the year and therefore there was no need to withdraw cash deposits from the bank account of the appellant company. The AO has raised the issue of the frequent withdrawal from the bank account of the appellant company. The AO has held that the explanation submitted by appellant company is nothing but a polished story to cover up the unaccounted income of the appellant company which has been deposited in cash during the demonetization period. The AO has also noted that mere furnishing the details of availability of funds with appellant company is not enough to prove the source of the cash deposit and it cannot absolve the appellant company from discharging the burden of proving the source of cash deposit. The AO has also rejected the apparent explanations for withdrawal cash from the bank for setting up goushala and dairy farm and has held that there was hardly any expenditure by the appellant company during the year on such intended project. Therefore, this explanation that money was withdrawn from the bank account for setting up dairy and goushala is not acceptable. Furthermore, it is seen that AO has also discussed the facts and circumstances of the case and has relied on the test of human probability under given circumstances and has held that no prudent business enterprise will keep such huge cash in hand without utilizing it for some specific purpose. Based on the above findings, the AO held that appellant company has failed to explain the source of cash deposit in the bank account amounting to Rs. 10945000. On the other hand, the appellant company has highlighted the fact that it had enough cash in hand on 08.11.2016 to prove the source of cash deposit during demonetization period. The appellant company has furnished the audited balance sheet, cash book, cash flow statement and bank statement during assessment proceedings and has also

argued that the AO has not pointed out any mistake/irregularity from them. This is undisputed fact that appellant company has clearly shown the cash withdrawal from its bank account during the FY 2016-17 and has explained that the cash amount of Rs. 10945000 was re-deposited in the bank in the wake of demonetization announcement. The AO has not found any irregularity/defects in the bank statement and cash withdrawal during the year. However, this fact also cannot be denied that during the year under consideration, there have been no business transaction by the appellant company except the sale of fixed asset (Agricultural land). Therefore, it is very hard to believe the explanation of the appellant that the purpose of withdrawal of cash during the year was setting up dairy farm and goushala. Moreover, the appellant company has not spent single penny on the intended project of setting up goushala/dairy farm except signing MOU with two separate persons. Considering, the totality of facts, explanation of the appellant company with regard to source of cash deposit in the bank account and circumstances of the present case, a balance view has to be taken. The reasoning of the appellant that there is cash in hand available with appellant company on 08.11.2019 (well supported by documentary evidence of date wise withdrawal from May 2016 to October 2016) to explain the source of cash deposit goes to some extent in favour of appellant yet it cannot be said with certainty that amount withdrawn earlier has been deposited by the appellant company during demonetization period. More so when appellant company was not engaged in any business activity during the year under consideration and need of cash withdrawal is not fully explained. Hence, taking a balance view I am inclined to partially accept explanation of the source of cash deposit in the bank account and therefore it is held that appellant company may be allowed 50% relief on account of cash deposit in the bank account. Accordingly, AO is directed to restrict the addition at Rs. 5472500 (50% of total addition of Rs.10945000) u/s 68 of I.T Act. Therefore, this ground of appeal is partly allowed."

3.1 This leaves the assessee aggrieved.

4. We have given our thoughtful consideration to the assessee's and Revenue's vehement respective stands. Suffice to say, it has come on record that the CIT(A)/NFAC has already

recorded a categorical finding of fact in assessee's favour that it had re-deposited the cash withdrawals amounting to Rs.1,10,37,131; as on 08.11.2016, in the relevant previous year. This forms the precise reason that the CIT(A)/NFAC to grant relief to the assessee to the extent of 50% only on estimation basis (supra). We are of the considered view that such an approach adopted by the learned lower authorities in accepting the explanation regarding source of the cash deposits and still partly confirming the impugned addition, would hardly satisfy the test of law in the given facts and circumstances of the case. Be that as it may, we are of the considered view in these peculiar facts and circumstances of the case, a lump sum addition of Rs.1,00,000/- only in the assessee's case would be just and proper to cover up all the alleged shortcomings in its explanation filed before the lower authorities. The assessee gets relief of Rs.53,72,500/- in other words. Necessary computation shall follow as per law.

5. So far as assessee's jurisdiction 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.

6. This assessee's appeal is partly allowed.

Order Pronounced in the Open Court on 25/04/2025.

Sd/-

Sd/-

(M. Balaganesh)
Accountant Member

(Satbeer Singh Godara)
Judicial Member

Dated: 25/04/2025

Subodh Kumar, Sr. PS

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Appellant

1. Respondent

2. CIT

3. CIT(Appeals)

4. DR: ITAT

ASSISTANT REGISTRAR