

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

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER &
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

**ITA No. 58/Agr./2024
(Assessment Year 2017-18)**

Vijaya Joshi Joshi Bhawan, Near Bharat, Talkies, Lashkar, Gwalior, M.P.-474001	Vs.	CIT(A)/NFAC, Delhi
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: ABQPJ1611D		
Appellant	..	Respondent

Appellant by :	Sh. Rama Kant Gupta, CA Sh. Amit Singhal, CA
Respondent by :	Sh. Shalender Shrivastava, Sr. DR

Date of Hearing	10.02.2025
Date of Pronouncement	10.02.2025

ORDER

PER SATBEER SINGH GODARA, JUDICIAL MEMBER:

This assessee's appeal for assessment year 2017-18 arises against Additional/Joint Commissioner of Income Tax(Appeals)/National Faceless Appeal Centre [in short, the "Addl./JCIT(A)"]-5, Mumbai's DIN & Order No. ITBA/APL/S/250/2023-24/1059376740(1) dated 04.01.2024, involving proceedings u/s 143(3) of the Income-tax Act, 1961, [hereinafter referred to as the 'Act'].

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

3. It emerges during the course of hearing that both the lower authorities have added the assessee's cash deposits during the demonetization amounting to Rs.16 lac; as unexplained u/s 69A r.w.s. 115BBE of the Act, in the course of assessment framed on 13.12.2019 and upheld in the lower appellate discussion. The assessee claims to have withdrawn Rs.16 lacs into two branches i.e. Rs.7 lacs and Rs.9 lacs on 5 & 6.04.2016; respectively, followed by re-deposits thereof.

4. Learned counsel has reiterated the assessee's stand adopted in the forgoing terms. The Revenue could hardly dispute that although the assessee has not satisfactorily discharged the onus of proving source of these cash deposits, he has indeed sought to explain that source of the said cash deposits as attributable to earlier withdrawals.

5. That being the case, we deem it proper in larger interest of justice to restrict the impugned addition of Rs.16 lacs to lump sum amount of Rs.1 lac only with a rider that the same shall not be treated as precedent. The assessee gets relief of Rs.15 lacs in other words. Necessary computation shall follow as per law.

6. 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.

7. This assessee's appeal is partly allowed.

Order pronounced in the open court on 10.02.2025

Sd/-
(Manoj Kumar Aggarwal)
ACCOUNTANT MEMBER

Sd/-
(Satbeer Singh Godara)
JUDICIAL MEMBER

Dated 10.02.2025

PS: Rohit/Subodh, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR

ITAT AGRA