

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

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER
(Through Video Conferencing)**

ITA No.37/DDN/2024
Assessment Year: 2017-18

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| Sh. Abhinav Rastogi, TCP Market Joshimath, Chamoli, Uttarakhand | Vs. | Income Tax Officer, Ward-1(4)(4), Srinagar, Uttarakhand |
| PAN :CCRPR7932M | | |
| (Appellant) | | (Respondent) |

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|---------------|-----------------------|
| Assessee by | Sh. Neeraj Mangla, CA |
| Department by | Sh. A.S. Rana, Sr. DR |

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| Date of hearing | 17.03.2025 |
| Date of pronouncement | 13.06.2025 |

ORDER

PER SATBEER SINGH GODARA, JM

This assessee’s appeal for assessment year 2017-18, arises against the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre [in short, the “CIT(A)/NFAC”], Delhi’s DIN and order no. ITBA/NFAC/S/250/2023-24/1063418590(1), dated 26.03.2024, involving proceedings under sections 144 of the Income-tax Act, 1961 (hereinafter referred to as ‘the Act’).

Heard both the parties. Case file perused.

2. It transpires during the course of hearing that the learned lower appellate authority has partly upheld the Assessing Officer's addition, *inter alia*, treating cash deposits of Rs.26,53,400/- as unexplained to the extent of Rs.24.40 lakhs under section 69A; credit entries taken as unexplained cash credits of Rs.17,50,900/- to the extent of Rs. 11,39,922/- and the cash deposits in savings account of Rs.2,67,500/- herein; respectively, vide the following detailed discussion:

“8.1 Cash deposits of Rs 2653400 – according to taxpayer it is out of cash available with him on 8/11/2016. Assessee avails cash credit facility from P N B & current account facilities which is available for business purposes. The assessee states that there was total cash in hand of Rs 2668200 out of which he deposited Rs 2653400 in his bank accounts. The deposits in bank account relates to sale proceeds of business of jewellery. Assessee deposited cash aggregating to Rs 2653400 out of which Rs. 2440000 is deposited as SBN during demonetisation period. The total turnover of assessee's business is only Rs 4219878. When only this is the turnover assessee cannot claim a cash deposit of Rs 2440000. There is no correlation between the sales turnover and cash deposits. The arguments of the assessee are factually incorrect. The cash in hand as on 8/11/2016 is 85590. The amount of Rs 85590 is given credit. Moreover, the assessee was not interested in agitating the appeal which is discernible from the demeanor of the assessee. There was no compliance to the notices u/s 142(1), show cause notices, there is no correlation between sales and cash deposits, the amount of Rs 2354510 (Rs 2440000 – Rs 85590) is treated as unexplained money/cash deposit taxable u/s 69A. The addition of Rs 2440000 is upheld.

Addition upheld:2440000/-

8.2 Assessee has total credit entries of Rs.1750900/- (excluding cash deposited made by the assessee in SBN during demonetization period) in his current & CC bank accounts. During the course of assessment proceeding the assessee was asked to explain source of

these credit amounts of his bank account. In compliance, AR of the assessee submitted that alleged credited entries pertain to business of the assessee. But he could not furnish any plausible supporting documentary evidences to prove that alleged credit entries pertains to his business of trading Jewellery. Therefore, same remains unexplained and treated as unexplained money of the assessee u/s 69A of the Income tax Act and accordingly an addition of Rs. 1750900/- is made in the income assessee under the head 'Income from other sources.'

During appeal proceedings also no new submission was made by the taxpayer. The assessee is having total credit entries of Rs 610978 in current and cc account. Though assessee could not prove the correlation between credit entries and business of the assessee, the credit entries lying in the current and cc bank accounts is treated as explained. The difference of Rs 1139922 is brought to tax as unexplained credits u/s 68. Since the assessee could not explain the nature and source of credits appearing in the bank accounts, the amount of Rs 610978 in current and cc account is allowed and the remaining amount of Rs 1139922 is upheld as unexplained credit. Addition upheld:1139922/-

8.3 Savings in bank account – Rs 267500 was deposited in his bank accounts which is past years savings. No documentary evidence was produced to prove this point. An amount of Rs 75000 is given credit out of Rs 267500 as a relief considering the fact that some savings could be possible over the years. Addition upheld:75000/-

8.4 Assessee has also earned interest of Rs. 2745/- on deposits in banks, same is being added to the income of the assessee under the head 'Income from other Sources.' This addition is also upheld since it is taxable under the provisions of the Act.

9.0 In the result the appeal is partly allowed.”

3. We make it clear first of all that the assessee has himself fair enough in not processing for the above last addition of impugned interest of Rs.2745/- arising from his bank account which has been treated as income from “other” sources. Rejected in very terms.

4. Next come all three foregoing substantive issues wherein the assessee's explanation is that his above cash deposits inter alia represent cash withdrawals and sales turnover etc. in principle which has been rejected in both the lower proceedings.

5. The department could hardly dispute that not only the assessee/appellant had availed current account cash credit facility from Punjab National Bank for business purposes having total cash of Rs.26,68,200/- followed by deposits of Rs.26,53,400/- but also the learned lower authorities have not doubted his regular business turnover of Rs.42,19,878/- in para 8.1 extracted hereinabove. That being the clinching case, the only inference which would arise in the given facts is that the assessee had re-deposited his cash withdrawals of Rs.26,53,400/- out of the cash in hand withdrawn from current account/cash credit facility and the latter sum of credit entries of Rs.17,50,900/- *prima facie* represents his business turnover receipts, although not specifically reconciled to the entire satisfaction of both the learned lower authorities. We thus deem it appropriate in the larger interest of justice that a lumpsum addition of Rs. 50,000/- each under both these former twin heads would be just and proper with a rider that

the same shall not be treated as a precedent. The above former addition of Rs.24.40 lakhs and 11,39,922/- stand deleted to the extent of Rs.23.90 lakhs and 10,89,922/- in other words.

6. So far as the third addition of Rs. 2,67,500/- deleted to the extent of Rs.75,000/- in the CIT(A)'s order is concerned, we are of the considered view that keeping in view the assessee's socio-economic status etc., there is no merit to sustain the same in the larger interest of justice. Deleted accordingly.

7. We further direct the learned Assessing Authority to finalize its consequential computation under normal provision than under section 115BBE of the Act in light of S.M.I.L.E. Microfinance Ltd. Vs. ACIT, W.P. (MD) No.2078 of 2020 & 1742 of 2020, dated 19.11.2024 (Madras) which has settled the issue that the same applies only for the corresponding transactions on or after 01.04.2017. Ordered accordingly.

8. This assessee's appeal is partly allowed.

Order pronounced in the open court on 13th June, 2025

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 13th June, 2025.

RK/-

Copy forwarded to:

1. Appellant

2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi