

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
DELHI BENCH: "SMC" NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER**

ITA Nos.1736 & 1737/Del/2025  
Assessment Year: 2017-18

Sh. Punit Bhola, 502, Joy Kunj, Sector-56, Gurgaon	<b>Vs.</b>	Income Tax Officer, Ward-3(1), Gurgaon
<b>PAN :AGFPB4269B</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Sh. Suresh K Gupta, CA
Department by	Sh. Manoj Kumar, Sr. Dr

Date of hearing	30.06.2025
Date of pronouncement	30.06.2025

**ORDER**

These assessee's twin appeals ITA No.1736 & 1737/Del/2025 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 orders, both dated 24.01.2025 having DIN and order no. ITBA/NFAC/S/250/2024-25/1072535462(1) and ITBA/NFAC/S/250/2024-25/1072535500(1), involving proceedings under section 143(3) and 147 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

Heard both the parties. Case file perused.

2. Coming to the assessee's former appeal ITA No. 1736/Del/2025 involving the first round of section 143(3) assessment proceedings, it emerges during the course of hearing with the able assistance coming from both the parties that the learned lower authorities have inter alia added the corresponding sums of Rs.4,92,684/-, Rs.11,749/-, Rs.12,014/- and Rs.25 lakhs representing difference of purchases going by TCS compliance, interest on sales tax and TDS and unexplained cash credits; respectively, in the course of assessment framed on 27.12.2019 and upheld in the lower appellate discussion.

3. I have given my thoughtful consideration to the assessee's and the department's respective vehement rival submissions. Coming to the first and foremost issue of difference in purchases, the assessee could hardly dispute that its suppliers concerned had complied with the TCS provisions thereby upholding the corresponding details in the Form 26AS. That being the case and in absence of very serious dispute raised at the assessee's behest, it is deemed appropriate to conclude that the impugned difference *prima facie* represent the assessee's out of books sales although strictly contested at his behest.

4. Be that as it may, it is deemed appropriate in these peculiar facts that a *lumpsum* addition of Rs.50,000/- only representing profit element would be just and proper with a rider that the same shall not be treated as a precedent. The assessee gets the relief of Rs.4,42,684/- in other words. Necessary computation shall follow as per law.

5. So far as the assessee's second and third substantive grounds seeking to reverse both the learned lower authorities' action disallowing its interest on sales tax and interest on TDS (supra) are concerned, the Revenue could hardly dispute that both these heads do not represent any penal component therein since compensatory in nature. I thus see merit in the assessee's instant twin grounds to delete these two disallowances/additions. Ordered accordingly.

6. Lastly comes the 4<sup>th</sup> issue of correctness of section 68 r.w.s. 115BBE addition of Rs. 25 lakhs made in both the lower proceedings despite the fact that the assessee had duly proved opening balance of Rs.65,25,090/- as on 11.11.2016 although not reconciled to the entire satisfaction of the learned lower authorities. It is thus deemed appropriate in these peculiar facts that a *lumpsum* addition of Rs.1 lakh only would be just and proper since

the above opening balance could indeed be treated as source of the impugned assessee's cash deposits. The assessee gets relief of Rs.24 lakhs in other words. Its instant "lead" appeal herein ITA No. 1736/Del/2025 is partly accepted.

7. So far as the assessee's latter appeal ITA No. 1737/Del/2025 is concerned, the department could hardly dispute that the assessee is a purchaser who could not have been subjected to section 50C of the Act; and, therefore, the corresponding above Rs.12 lakhs addition herein made stands deleted. Ordered accordingly.

8. It is made clear before parting that so far as the applicability of section 115BBE in the assessee's case is concerned, hon'ble Madras high court in S.M.I.L.E. Microfinance Ltd. Vs. ACIT, W.P. (MD) No.2078 of 2020 & 1742 of 2020, dated 19.11.2024 (Madras) has settled the issue against the department that the same is applicable for transaction carried out on or after 01.04.2017. The assessee is accordingly directed to be assessed under normal provision.

9. To sum up, the assessee's former appeal ITA Nos.1736/Del/2025 is partly allowed and latter appeal ITA Nos.

1737/Del/2025 is allowed in above terms. A copy of this common order be placed in the respective case files.

***Order pronounced in the open court on 30<sup>th</sup> June, 2025***

***Sd/-***  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

Dated: 30<sup>th</sup> June, 2025.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi