

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, KOLKATA

BEFORE SHRI DUVVURU RL REDDY, VICE PRESIDENT

AND

SHRI RAJESH KUMAR, ACCOUNTANT MEMBER

आयकर अपील सं/ITA No.2307/KOL/2024

आयकर अपील सं/ITA No.532/KOL/2025

(निर्धारण वर्ष / Assessment Year : 2017-2018)

Dr. Laxmi Agarwal, 6, Ram Mohan Saha Lane, Burtolla, Kolkata-700006	Vs	The ACIT, Circle-22, Kolkata
<b>PAN No. :ACMPA 8985 E</b>		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारित की ओर से /Assessee by	:	Shri P.J.Bhide, FCA
राजस्व की ओर से /Revenue by	:	Ms. Archana Gupta, Addl.CIT-Sr. DR
सुनवाई की तारीख / Date of Hearing	:	06/08/2025
घोषणा की तारीख/Date of Pronouncement	:	26/08/2025

**आदेश / ORDER**

**Per Rajesh Kumar, AM:**

ITA No.2307/KOL/2024 is filed by the assessee against the order dated 22.09.2023, passed by the Id. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, for the assessment year 2017-2018. ITA No.532/KOL/2025 is a duplication of ITA No.2307/KOL/2024.

2. At the outset we note that there is delay of 473 days in filing the appeal by the assessee. The Id counsel submitted that the assessee has filed the appeal against the appeal effect order passed by the Id. AO giving effect to the appellate order. This appeal is also listed today. The bench on the last hearing directed the bench that this appeal is not maintainable as the assessee should have filed the appeal against the order of appellate authority. Accordingly the appeal was filed by the assessee with a delay of 478 days for which the assessee can not be held

responsible. Therefore considering the reasons to be bonafide and genuine , we are inclined to condone the delay.

3 First we shall take the appeal of the assessee in ITA No.2307/KOL/2024. The only issue raised by the assessee in Ground No.1 out of the various grounds of appeal, is against the action of the Id. CIT(A) holding that the AO was justified in determining the tax payable by the assessee on the duly accounted for professional receipts of Rs.28,27,000/- as per Section 115BBE of the Act. Grounds No.2 & 3 are in support of the ground No.1.

4. Brief facts of the case are that the assessee is a doctor by profession and filed her return of income on 27.10.2017 declaring total income at Rs.71,29,150/-, which was selected for scrutiny. Subsequently the AO completed the assessment determining total income of the assessee at Rs.1,02,39,650/- after making two additions i.e addition u/s.68 of the Act and addition on account of capital expenditure of Rs.4,05,000/-.

5. In the appellate proceedings, the Id. CIT(A) observed that the assessee has deposited the cash during the demonetization period and in the Financial Year 2015-2016, the assessee's receipt was Rs.6.63 lakhs and cash deposits were Rs.4,10,000/-. It was the observation of the Id. CIT(A) that the assessee has been periodically depositing the unutilised cash in bank. It was further observed by the Id.CIT(A) that the other factors relating to the reason for retention of cash in hand and its deposit

after demonetization could not conclusively prove that the said deposit represents receipts of fees. Therefore, the Id. CIT(A) held that the source of cash deposit stood unexplained. Accordingly, upheld the addition made by the AO treating the same as unexplained income and also held the same is liable for taxation at the rate of 60% by virtue of provisions of Section 115BBE of the Act.

4. After hearing the rival contentions and perusing the material available on record, we find that the assessee is a doctor by profession. As per the AO the assessee has made cash deposits during demonetization period from 09.11.2016 to 31.12.2016 amounting to Rs.28,27,000/- appearing in the bank account of the assessee which remained unexplained u/s.68 of the Act and added the same to the total income. Accordingly the AO assessed the income of the assessee and taxed u/s.115BBE of the Act at the rate of 60%, which has also been confirmed by the Id. CIT(A). In our opinion, the said action of the CIT(A) is not correct as the assessee was having income from her medical profession only and the assessee has explained the same during the course of assessment proceedings that the fees were received in cash was only 1/3<sup>rd</sup> of total fees. In this regard, the assessee has also provided the cash receipt and deposit in the bank which has been tabulated by the AO in its order at page 5. Therefore, it is clear that the amount deposited in the bank account was her accounted money. Accordingly, we set aside the order of the Id. CIT(A) by holding that provisions of section 115BBE of

the Act are not applicable in the assessee's case. Thus, this appeal of the assessee in ITA No.2307/KOL/2024 is allowed.

5. With regard to ITA No.532/KOL/2025, at the outset, it was brought to our notice that this appeal is not maintainable and therefore may be dismissed as withdrawn. Accordingly we dismiss the same.

6. In the result, appeal of the assessee in ITA No.2307/KOL/2024 is allowed and ITA No.532/KOL/2025 is dismissed.

Order pronounced in the open court on 26/08/2025.

**SD/-**  
**(DUVVURU RL REDDY)**

**उपाध्यक्ष / VICE PRESIDENT**

**SD/-**  
**(RAJESH KUMAR)**

**लेखा सदस्य/ ACCOUNTANT MEMBER**

**कोलकाता** Kolkata; दिनांक Dated 26/08/2025  
*Prakash Kumar Mishra, Sr.P.S.*

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, **कोलकाता** / DR,  
ITAT, Kolkata
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

**आदेशानुसार/ BY ORDER,**

**(Assistant Registrar)**  
**Income Tax Appellate Tribunal, Kolkata**