

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC": NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
(Through Virtual Hearing)**

ITA No.322/AGR/2025
(Assessment Year: 2017-18)

Shri Surya Kant Gupta Legal heir of Late Shri Ram Babu Gupta 274, Gali No. 1, Pameshwar Gate, Firozabad – 283203 PAN: AIDPG6713H	Vs.	Income Tax Officer, Ward-2(2)(1), UP
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Assessee by :	Shri Sahib P. Satsangi, CA
Revenue by:	Shri Anil Kumar, Sr. DR
Date of Hearing	20/08/2025
Date of pronouncement	12/09/2025

ORDER

1. The appeal in ITA No.322/AGR/2025 for AY 2017-18 arises out of the order of the Id. Commissioner of Income Tax (Appeals)/ JCIT(A), Gurugram [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No. 109/16-17/CIT(A)-14/,New Delhi dated 01.01.2019 against the order of assessment passed u/s 144 of the Income-tax Act, 1961 dated 31.03.2016 (hereinafter referred to as 'the Act') by ITO, Ward-41(2), Delhi (hereinafter referred to as 'Id. AO').
2. Though the assessee has raised several grounds before me, the only issue to be decided in this appeal is as to whether the Id JCIT(A) was justified in confirming the addition of Rs. 10,89,500/- made on account of cash deposit in Canara Bank Account as unexplained money u/s 69A read with Section 115BBE of the Act in the facts and circumstances of the instant case.
3. I have heard the rival submissions and perused the material available on record. The assessee is an individual having retired from State Govt. Service in

Education Department deriving income from pension. The return of income for AY 2017-18 was filed on 07.03.2018 declaring total income of Rs. 2,67,306/-. The case was picked up for limited scrutiny to verify the cash deposit made in the bank account. The notice u/s 143(2) of the dated 08.08.2018 and notice u/s 142(1) of the Act dated 28.01.2019 stood issued to the assessee. The assessee filed another return of income on 11.02.2019 declaring total income of Rs. 3,19,380/- which include income from bangle business on presumptive basis u/s 44AD of the Act. The Id AO noticed that the assessee had deposited cash of Rs. 10,89,500/- during the year under consideration. During the course of assessment proceedings, the Id AO sought to examine the veracity of bangle business being carried out by the assessee. The assessee submitted that he is engaged in bangle business and income thereon have been offered u/s 44AD of the Act. In support of the said business, the assessee furnished purchase invoices dated 05.05.2016 issued by M/s Astha Bangle, Lohiya Nagar, Jalesar Road, Firozabad and invoice dated 08.02.2017 issued by M/s AM Sandeep Bangle Store, Pamashwar Gate, Firozabad. Notice u/s 133(6) of the Act stood issued to these parties which were returned unserved by the postal authorities. Thereafter the Inspector attached to the office of the Id AO was deputed to conduct full enquiry. The Inspector in his report dated 20.11.2019 stated that those firms exist in the given address. Despite this, the Id AO concluded that the assessee had not proved the existence of glass bangle business being carried out and disbelieved the sale proceeds of glass bangles as a source for making the cash deposits. The Id AO accordingly completely ignored the second return filed by the assessee on 11.02.2019 offering additional income and proceeded to complete the assessment by taking the original return of income of Rs. 2,67,040/- and added the cash deposits made in Canara Bank Account in the sum of Rs. 10,89,500/- as undisclosed income u/s 69A read with Section 115BBE of the Act.

4. Before the Id NFAC/ JCIT(A), the assessee explained that he had two bank accounts i.e. Saving bank account No. 2167101009157 in Canara Bank and Saving Bank Account No. 10834120815 in State Bank of India and furnished details containing date wise withdrawals of cash and deposits made in the bank account during the FYs 2015-16 and 2016-17 together with cash flow statement for both the years. The cash flow statement submitted by the assessee for both the years are reproduced herein:-

The cash flow statement for the F.Y 2015-16 is reproduced as under:-

Particulars	Amount	Particulars	Amount
Opening Balance on 01.04.2015	61,250	Cash deposit in Canara Bank	67,500
Cash withdrawals from Canara Bank	5,72,400	House hold withdrawals	72,000
Cash withdrawals from SBI	36,500	Closing Balance on 31.03.2016	5,30,650
	6,70,150		6,70,150

The cash flow statement for the F.Y 2016-17, relevant to the A.Y. 2017-18 is reproduced as under.

Particulars	Amount	Particulars	Amount
Opening Balance on 01.04.2016	5,30,650	Cash deposit in Canara Bank	10,89,500
Cash withdrawals from Canara Bank	9,34,700	Cash deposit in SBI	4,87,000
Cash withdrawals from SBI	2,90,500	House hold withdrawals	75,000
		Closing Balance on 31.03.2017	1,04,350
	17,55,850		17,55,850

5. From the above, it could be seen that the assessee has sufficient cash balance for making cash deposits in the bank account. In fact the assessee had made cash deposits of Rs. 10,89,500/- in Canara Bank and cash deposits of Rs. 4,87,000/- in State Bank of India. Both these deposits were out of available cash balance emanating out of cash withdrawals from the bank account. Hence, even if the assessee's explanation given before the Id AO that there was some sale proceeds of bangles is to be disbelieved, still I find that assessee is having sufficient cash balance as a source for making the cash deposits which is evident from the aforesaid table. I hold that onus is on the revenue to prove with cogent evidence that the cash withdrawals made by the assessee earlier were utilized by

the assessee and that the same is not available as a cash source for explaining the cash deposits made in the bank account. My view is further fortified by the decision of the Hon'ble Karnataka High Court in the case of S.R. Venkataratnam Vs. CIT reported in 127 ITR 807 (Kar).

6. In view of the above and respectfully following the decision of the Hon'ble Karnataka High Court (supra), I hold that no part of the cash deposit made in the bank account remains unexplained by the assessee. Hence, there is no case for making any addition by treating the cash deposits as unexplained money u/s 69 read with Section 115BBE of the Act. In any event, I find that the Hon'ble Madras High Court in the case of S.M.I.L.E Microfiber Vs. ACIT in WP(MD) No. 2078 of 2020 and WMP (MD) No. 1742 of 2020 order dated 19.11.2024 had held that enhanced rate of tax at the rate of 60% prescribed by the amended section 115BBE of the Act could be imposed by the revenue only for the transactions commencing from 01.04.2017 onwards and not upto 31.03.2017. Accordingly, grounds raised by the assessee are allowed.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 12/09/2025.

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 12/09/2025
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi