

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक

**IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK
(THROUGH VIRTUAL HEARING)**

श्री जार्ज माथन, न्यायिक सदस्य एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष ।

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND**

SHRI RAJESH KUMAR, ACCOUNTANT MEMBER

आयकर अपील सं/ITA No.147/CTK/2025

(निर्धारण वर्ष / Assessment Year : 2017-2018)

Muktikanta Swain, R.N.Betara, Barikpur, Bhadrak- 756112	Vs	Income Tax Officer, Bhadrak
PAN No. : CQKPS 4614 N		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri S.K.Sarangi, AR
राजस्व की ओर से / Revenue by	:	Shri Vijay Singh, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	25/09/2025
घोषणा की तारीख/ Date of Pronouncement	:	25/09/2025

आदेश / ORDER

Per Bench :

This is an appeal filed by the assessee against the order of Ld.JCIT(A), Patna in appeal number CIT(A),Cuttack/10408/2019-20 dated 04/10/2024 for the assessment year 2017-2018.

2. It was the submission that the assessee is a retired government servant. It was the submission that the assessee retired in 2013. It was the submission that during the demonetization period the assessee had deposited Rs.10,10,000/- in his bank account maintained in Andhra Bank, Bhadrak Branch, Bhadrak. The Ld. AR has placed before us the copy of the bank account. The deposits are on 11.11.2016, 12.11.2016 and 13.11.2016. It was the submission that the same was explained to the AO as advance in respect of sale of a property. It was the submission that the AO verified the transactions and found that the alleged purchaser had denied the transactions. It was the submission that there was also

withdrawal of Rs.4,00,000/- on 11.07.2016. It was the submission that the assessee may be granted the benefit of the cash withdrawal as also the benefit of past savings. It was the prayer that the addition made by the AO and confirmed by the Addl./JCIT may be deleted.

3. In reply, the Ld. Sr. DR submitted that the assessee has explained before the AO that the transaction is an advance receipt for sale of property, but the purchaser has denied the transactions. It was the submission that this itself shown that the explanation given by the assessee is false. It was the submission that the addition made by the AO and confirmed by the Addl./JCIT, is liable to be upheld.

4. We have considered the rival submissions. The facts clearly shows that the assessee has given an explanation before the AO. The explanation has been denied by the purchaser. A perusal of the bank account also shows that out of Rs.10,10,000/- deposited in the bank account, Rs.5,00,000/- has been transferred to a fixed deposit on 13.11.2016. The balance Rs.5,10,000/- continues to remain in the account and has been used. Admittedly, this shows that the money belongs to the assessee. The assessee has admittedly withdrawn Rs.4,00,000/- on 11.07.2016. The assessee having withdrawn the said amount, this amount is available to the assessee for redeposit in the bank account. This being so, out of the amount of Rs.10,10,000/-, an amount of Rs.4,00,000/- should be accepted as explained. It is also an admitted fact that demonetization came as a surprise. It is also known that most families had certain savings and the government had also prescribed that up to Rs.2,50,000/- the demonetized currency would not be questioned. In this

circumstances, to that extent also, the amount should be treated as explained. Thus, the total explained amount would become Rs.6,50,000/-. Admittedly, the assessee has not been able to give explanation for the balance of Rs.3,60,000/- and the Id.CIT(A) has already allowed Rs.10,000/-. Therefore, the balance of Rs.3,50,000/- is remained to be treated as unexplained income of the assessee. In this regard, Id. AR placed reliance on the decision of coordinate bench of the Tribunal in the case of Ms. Comal Ramachandran Gayathri, passed in ITA No.1268/CHNY/2025, order dated 01.08.2025, to submit that the AO may be directed to calculate the tax at the normal rate applicable to the assessee instead of rate applied by the AO @60% u/s.115BBE of the Act. We have gone through the order of the coordinate bench of the Tribunal wherein the Tribunal relying on the judgment of the Hon'ble Madras High Court in the case of S.M.I.L.E Microfinance Limited, passed in W.P(MD) No.2078 of 2020 and W.M.P.(MD) No.10742 of 2020 (Judgment dated 19.11.2024), in para 10 to 12 has held as follows :-

10. As regards the assessee's ground of appeal (Ground 7) that tax ought to be calculated at the rate of 30% instead of 60% u/s.115BBE of the Act, we are of the view that it is well settled that Income-tax Act as it stands amended on the first day of April of any financial year must apply to the assessment for that year. Any amendments in the Act which come into force after the first day of April of a financial year, would not apply to the assessment for that year, even if the assessment is actually made after the amendments come into force. In this context, we rely on the judgment of the Hon'ble Apex Court in the case of Karimtharuvi Tea Estate Ltd., vs. State of Kerala reported in 60 ITR 262 (SC).

11. The Hon'ble Madras High Court in the case of S.M.I.L.E Microfinance Ltd., supra had categorically held that higher rate of tax at 60% u/s.115BBE of the Act will apply only to transactions from 01.04.2017 onwards and not prior to the said cutoff date. It was further held by the Hon'ble Jurisdictional High Court that for the prior transaction the Revenue is empowered to impose tax only

30% rate of tax. The relevant finding of the Hon'ble Madras High Court in the case of S.M.I.L.E Microfinance Ltd., supra reads as follows:-

17. In the aforesaid objects and reasons nowhere it is stated that due to "demonetization" the unaccounted money ought to be charged 60% rate of tax. It only states that step had been taken to curb black money by withdrawing Specified Bank Notes of denomination of Rs.500 and Rs.1000. And also states the people may find illegal ways of converting their black money into black again, hence as per experts advice heavy penalty ought to be levied. From the language of the object "that instead of allowing people to find illegal ways of converting their black money into black again", it is evident that the government is intended to impose the same for future transactions. Especially the use of word "again" in the object would clearly indicate it is for future transactions i.e. from 01.04.2017. Therefore this Court is of the considered opinion that the revenue is empowered to impose 60% rate of tax for the transactions from 01.04.2017 onwards and not prior to the said cut-off date. And for prior transaction the revenue is empowered to impose only 30% rate of tax.

12. In light of the aforesaid judgment of the Hon'ble High Court, we direct the AO to calculate tax at the rate of 30% on the amount sustained by us i.e., Rs.11,66,500/-. It is ordered accordingly.

5. Respectfully following the decision of the coordinate bench of the Tribunal in the case referred to supra, we direct the AO to compute tax at the normal taxation rate applicable to the assessee on the balance amount of Rs.3,50,000/-.

6. In the result the appeal of the assessee is partly allowed.

Order pronounced in the open court on 25/09/2025.

Sd/-

(राजेश कुमार)

(RAJESH KUMAR)

लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-

(जार्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य / JUDICIAL MEMBER

दिनांक Dated 25/09/2025

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant- Muktikanta Swain,
R.N.Betara, Barikpur,
Bhadrak- 756112
2. प्रत्यर्थी / The Respondent- ITO, Bhadrak
3. आयकर आयुक्त(अपील) / The CIT(A),

4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR, ITAT, Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ by ORDER,

(Assistant Registrar)

आयकर अपीलीय अधिकरण, कटक/ITAT, Cuttack