

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

**BEFORE SHRI YOGESH KUMAR U.S, JUDICIAL MEMBER &
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

[THROUGH VIRTUAL MODE]

ITA No.5/DDN/2024

[Assessment Year : 2017-18]

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| Dinesh Chand 4, Ramol Gaon, Bayar Gaon, Chamba Sarot, Tehri, Uttarakhand-249132 PAN-BCEPC3916N | vs | ITO Wazron Ka Bagh Srinagar, Tehri Gharwal, Tehri, Uttarakhand-2490001 |
| APPELLANT | | RESPONDENT |
| Assessee by | Shri Pancham Sethi, CA | |
| Revenue by | Shri A.S.Rana, Sr.DR | |
| Date of Hearing | 05.08.2025 | |
| Date of Pronouncement | 30.10.2025 | |

ORDER

PER MANISH AGARWAL, AM :

The present appeal is filed by the assessee against the order dated 14.11.2023 by Ld. Commissioner of Income Tax (A), National Faceless Appeal Centre (“NFAC”), Delhi [“Ld.CIT(A)”] in Appeal No. CIT(A), Dehradun/10338/2019-20 passed u/s 250 of the Income Tax Act, 1961 [“the Act”] arising from the assessment order dated 22.10.2019 passed u/s 144 of the Act pertaining to assessment year 2017-18.

2. Brief facts of the case are that assessee had not filed return of income within stipulated time provided u/s 139(1) of the Act whereas information available on ITBA portal revealed that assessee

had made cash deposit of INR 35,00,000/- during demonetization period i.e. from 09.11.2016 to 30.12.2016 in his bank account No.343802010120024 maintained with Union Bank of India, Chham Branch in Specified bank notes (SBN). Therefore, notice u/s 142(1) was issued to substantiate the source of cash deposit during demonetization period. The assessee did not comply nor any return of income was filed. Thereafter, a notice u/s 133(6) of the Act was issued on 18.03.2019 to the Branch Manager, Union Bank of India, Chamm Branch to provide statement of above mentioned bank account, KYC details, account opening form etc., in respect of the assessee which were provided. Thereafter, fresh notice u/s 142(1) was issued on 03.05.2019 alongwith questionnaire where the assessee was asked to explain nature and source of cash deposit of INR 35,00,000/- in SBN. The assessee did not comply with the notice. Thereafter, AO passed the order, assessed the income of the assessee at INR 35,00,000/- u/s 144 of the Act vide assessment order dated 22.10.2019.

3. Against the said order, assessee filed an appeal before Ld. CIT(A) who vide order dated 14.11.2023, partly allowed the appeal of the assessee.

4. Aggrieved by the order of Ld.CIT(A), assessee is in appeal before the Tribunal by taking following grounds of appeal:-

1) *“That the Learned Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre, Uttarakhand has erred in law and facts by confirming the addition u/s 69A r.w.s. 115BBE to the extent of Rs.22,00,000/- out of the total addition of Rs.35,00,000/- made by the Ld.*

Assessing Officer, Ward 1(4)(5), Tehri u/s 144 being cash deposited in saving bank account.

2) That the Ld. CIT(A) has erred in law and facts by failing to provide personal hearing through Virtual Conference as mandated by Rule 12(3)/(4) of Faceless Appeal Scheme, 2021 on request made by the appellant.

3) That the Ld. CIT(A) has erred in law and facts by failing to provide reasonable opportunity of being heard.

4) That the Ld. CIT(A) has erred in law and facts by directing the Ld. AO to initiate penalty u/s 271D of the Income Tax Act, 1961.

5) That the Appellant assessee craves the right to add, amend, alter, modify, or delete any or all of the ground of the appeal before or at the time of hearing.”

5. Before us, Ld.AR submits that out of total cash deposits of INR 35 Lakhs, Ld. CIT(A) has accepted the source of cash of INR 13 Lakhs comprising of INR 12 Lakhs of the sale consideration of the property and INR 1 Lakh as the past savings as genuine and deleted the addition to this extent. However, the Ld. CIT(A) has not accepted the sales of Poplar Trees as well as the loans taken from the friends and relatives. Ld.AR submits that the assessee alongwith his brothers and mother owned the land which was sold during the year. On the said land, there are Poplar Trees which were sold during the year for a consideration of Rs. 15.00 lacs. In this regard, assessee filed copy of the certificate issued by the Revenue authorities confirming the fact that there were Poplar Trees on the lands owned by the assessee and his family members which were sold during the year. Ld.AR also filed copy of the sale receipts and other relevant documents with respect to the claim of the sale of Poplar Trees. With regard to the claim of INR 3,15,000/- deposited out of pin money of the mother of the assessee. Ld.AR submits that

Ld.CIT(A) accepted a sum INR 1.00 Lakh as her saving however, had confirmed the addition of balance amount of INR 2,15,000/- by holding the same as unexplained, by ignoring the fact that assessee's mother was around 65 years of age and in her affidavit, had admitted the fact that she had given the cash comprising of sale consideration of sale of land as well as past savings to her son i.e. the assessee for deposits in the bank during the demonetization period. Ld.AR submitted that the AO has failed to make any inquiry in this regard when the mother of the assessee who has filed the affidavit. With respect to the remaining amount of INR 4,85,000/ as loans taken from various persons, ld. AR submits that he has received loans from friends which were deposited in the bank account and the sole purpose of these loans was for purchase of new land. Ld.AR submits that before Ld.CIT(A), assessee has filed the details of the persons from whom loans were taken and therefore, requested for the deletion of the addition so confirmed by Ld.CIT(A). In the last, it is prayed that the provision of section 115BBE of the Act should not be invoked in the case of the assessee.

6. On the other hand, Ld. Sr. DR for the Revenue supported the orders of the lower authorities and submits that AO after thorough verification of the fact, has held that claim of the assessee of sale of Poplar Trees was not supported by any evidences thus could not be admitted. With regard to the cash from mother, ld. Sr. DR submits that except her affidavit, which is self-serving document, no other evidence was filed to support that the cash was available with the

mother of the assessee. He submits that Ld.CIT(A) has been fair enough in allowing the credit of the sale consideration of land and past savings of Rs. 1.00 lacs and thus the remaining amount of Rs. 2.15 lacs cannot be held as explained in the hands of the mother of the assessee. Regarding the loans of INR 4,85,000/-, Ld. Sr. DR submits that except submitting the names of the persons from whom loans were taken, the assessee has failed to substantiate such claim by filing their identity and creditworthiness and therefore, the same cannot be accepted as genuine. Ld. Sr. DR thus prayed for the confirmation of the additions uphold by ld. CIT(A).

7. Heard the contentions of both parties and perused the material available on record. In this case, the total addition of INR 35.00 Lakhs was made on account of cash deposits in bank account in SBN during the period of demonetization. The immediate source was stated by the assessee as receipt of INR 12 Lakhs from sale of land and further receipts of INR 15 Lakhs out of the sale of Poplar Trees, INR 3,15,000/- was claimed as received from his mother Smt. Chandra Devi who accumulated the same out of past savings and remaining amount of INR 4,85,000/- as loans received from friends and relatives in cash.

8. After conspiring the submissions made by the assessee and documents filed in support of the claim, we find that the assessee has been able to demonstrate that there were Poplar Trees on the land owned by him and his family members and since the sale of such trees was exempted from tax therefore, no official document of

sale of such trees were available with the assessee. However, the assessee has been able to file the certificate from the Revenue authorities wherein it is duly verified that Poplar Trees were grown on the land owned by the assessee and they are under exempt category.

9. After going through these documents, we are of the opinion that the claim of INR 15 Lakhs as received in cash from the sale of Poplar Trees cannot be doubted and therefore, the addition of Rs. 15.00 is hereby deleted.

10. With respect to the receipt of INR 3,15,000/- from the mother of the assessee, we find that Ld.CIT(A) has already accepted INR 1.00 Lakh as explained in the hands of the mother of the assessee and allowed the credit of the same. Further, looking to the fact that she was of more than 65 years of age and was having agricultural income and therefore, further savings of INR 1 Lakh could be held as explained and accordingly, we uphold the addition of INR 1,15,000/- as unexplained accordingly, assessee further get relief of INR 1.00 Lakh out of the total receipt of 3.15 lakhs from his mother.

11. With respect to the claim of loans of INR 4,85,000/- received from three close relatives namely, Shri Inder Singh Bhandari of INR 1,65,000/-, Shri Khem Raj Singh Bhandari of INR 1,50,000/- and Shri Praveen Singh Makhloga of INR 1,70,000/-, no further evidences is filed by the assessee to establish the identity and

creditworthiness of the lenders in support of the loans received from them. aMerely stating that loans were received without establishing the creditworthiness and the genuineness of the transaction, the same could not be accepted as explained in the hands of the assessee and therefore, we do not accept the contention of the assessee and accordingly, the source of INR 4,85,000/- remained unexplained.

12. Thus, out of the total additions of INR 22.00 Lakhs sustained by Ld. CIT(A), the assessee will get further relief of INR 16 Lakhs and remaining addition of INR 6 Lakhs is hereby, upheld.

13. With regard to the application of provision of section 115BBE of the Act, we find merit in the contentions of the assessee. The Hon'ble Madras High Court in the case of **SMILE Microfinance Ltd. v. ACIT** in **WP(MD) No. 2078 of 2020 & 1742 of 2020 dated 19.11.2024 (Mad.)** has settled the issue that Section 115BBE applies on transactions on or after 01.04.2017 only. We thus, direct the AO not to invoke the provisions of section 115BBBE of the Act on the additions sustained by us and charge tax at normal rate of tax on the same. With this the grounds of appeal No. 1 to 3 raised by the assessee are partly allowed.

14. **Ground of appeal No.4** is with respect the initiation of penalty proceedings u/s 271D of the Act by Ld.CIT(A).

15. Heard the parties. We find that assessee claimed that he had received cash loan in excess of INR 20,000/- during the year from three persons in SBN which stood deposited in the bank account during the demonetization period, which is in violation to the provision of section 269SS of the Act. Therefore, Ld. CIT(A) has rightly invoked the provision of section 271D of the Act. Accordingly, Ground of appeal No.4 raised by the assessee is dismissed.

16. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open Court on 30.10.2025.

Sd/-

(YOGESH KUMAR U.S)
JUDICIAL MEMBER

Date:- 30.10.2025

Amit Kumar, Sr.P.S

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT
6. Guard File

Sd/-

(MANISH AGARWAL)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT