

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'B' BENCH: CHENNAI**

श्री मनु कुमार गिरि, न्यायिक सदस्य एवं  
श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष

**BEFORE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND  
SHRI S.R.RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.2444/Chny/2025  
निर्धारण वर्ष/Assessment Year: 2017-18

Devaraj Ilavarasan, 2/217-C, Siddar Koil Main Road, Sivathapuram, Salem 636 307.	v.	The ITO, Ward 1(6), Salem.
[PAN: ABOPI2465G]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri S. Bhupendran, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Ms. Gouthami Manivasagam, JCIT
सुनवाईकीतारीख/Date of Hearing	:	04.12.2025
घोषणाकीतारीख /Date of Pronouncement	:	08.12.2025

**आदेश / ORDER**

**PER MANU KUMAR GIRI, JM:**

The captioned appeal by the assessee is arising out of the order of the Ld. Commissioner of Income Tax (Appeals)/NFAC, Delhi dated 02.07.2025 for AY 2017-18.

2. The assessee filed an original return of income declaring turnover of Rs.10,76,50,000/- and income of Rs.9,26,500/-. No audit report was furnished. A revised return dated 01.08.2019 was later filed declaring turnover of Rs.13,76,50,000/- along with the audit report.



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The Assessing Officer ("AO") treated the revised return as non est and completed assessment u/s 144 of the Act, estimating business profit @ 8% of turnover and further adding Rs.60,00,000/- as unexplained investment allegedly noted during survey u/s 133A in the "D. Devaraj group" cases.

3. On further appeal to Id.CIT(A), who confirmed the assessment order.

4. Aggrieved, assessee is in appeal before this Tribunal.

5. Before us, the assessee has raised multiple grounds, including the assessment order is bad in law and the CIT(A) erred in not appreciating records properly. The estimation of income @ 8% is without basis. Most importantly, in the cases of the assessee's father Shri D. Devaraj [ITA Nos.689-694/Chny/2024 dated 26.07.2024] and mother Smt. Ellammal [ITA No.696/Chny/2024 dated 26.07.2024], arising from the same survey proceedings on 07.02.2018, the Tribunal had restricted the profit estimation to 4%. Ld.AR further submitted that the addition of Rs.60,00,000/- ought to have been deleted since the transaction was reflected in the return filed on 01.08.2019 and the assessee had sources. He also pleaded that authorities below wrongly applied section 115BBE of the Act.

6. Per contra, the Id.DR strongly relied upon the order of the Id.CIT(A). However, did not controvert the factum of Tribunal order in the case of



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assessee's father Shri D. Devaraj and mother Smt. Ellammal referred supra.

7. We have heard the rival submissions and perused the record and Tribunal order as referred above. We note that the AO adopted 8% merely based on non-production of books. No comparable cases, past history of the assessee, or industry norms were referred to. Critically, in the cases of the assessee's own parents, Shri D. Devaraj and Smt. Ellammal arising from the very same survey operation on identical facts the Coordinate Bench of the Tribunal has held that estimating profit @ 8% was excessive and that 4% was reasonable. Hence, we are of the considered view that a taxpayer cannot be placed in a worse position than similarly-situated family members assessed out of the same survey evidence, unless distinguishing facts are demonstrated by the revenue. No such distinction has been shown. Therefore, respectfully following the earlier orders of the Coordinate Bench in the parents' cases, we direct the AO to restrict the profit estimation to 4%.

As far as, application of section 115BBE is concerned, since the substantive additions themselves have been deleted or reduced, discussion on the applicability of the increased tax rate under section 115BBE becomes academic. Nevertheless, we note that the Judicial Precedent of the Madurai Bench of Madras High Court in *S.M.I.L.E Microfinance Ltd.* supports the assessee's position that the amended rate



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is not applicable to transactions prior to AY 2017-18. In conclusion, profit estimation restricted to 4% of turnover, in line with Tribunal orders in the cases of the assessee's parents. Appeal of the assessee is partly allowed.

8. Result The appeal of the assessee is partly allowed.

Order pronounced in the open court on 08<sup>th</sup> day of December, 2025 at Chennai.

**Sd/-**  
(एस. आर. रघुनाथा)  
**(S.R.RAGHUNATHA)**

लेखा सदस्य/**ACCOUNTANT MEMBER**

**Sd/-**  
(मनु कुमार गिरि)  
**(MANU KUMAR GIRI)**

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,  
दिनांक/Dated: 08<sup>th</sup> December, 2025.

**TLN**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF